



## State of New Jersey

Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**PHILIP D. MURPHY**  
*Governor*

**SHEILA Y. OLIVER**  
*Lt. Governor*

**CARL J. RICHKO**  
*Chairperson*

**LISA J. PLEVIN**  
*Executive Director*

### **PUBLIC NOTICE: JULY 16 HIGHLANDS COUNCIL MEETING TO BE HELD BY TELECONFERENCE**

Please be advised that the Highlands Council meeting scheduled for Thursday, July 16 at 4 p.m. will be held via teleconference. There will be no in-person meeting at the Highlands Council office in Chester. Call-in information is below. An agenda and meeting materials will be available on the Highlands Council website prior to the meeting at:  
[www.nj.gov/njhighlands/about/calend/2020\\_calendar.html#Jul16](http://www.nj.gov/njhighlands/about/calend/2020_calendar.html#Jul16).

#### **Call in information:**

Phone number: 1 (929) 436-2866

Meeting ID: 98759191285

Participant ID: when prompted for a participant ID, press #

Members of the public will be muted upon joining the call. To make a comment during designated public comment periods, members of the public will press \*9, which will signal to the moderator that you would like to be heard. Complete instructions will be provided during the meeting and are available at: [www.nj.gov/njhighlands/about/calend/virtual.html](http://www.nj.gov/njhighlands/about/calend/virtual.html).

Members of the public may also submit written comments in advance of the meeting and/or after the meeting, up to close of business on Friday, July 17, 2020, via email to [highlands@highlands.nj.gov](mailto:highlands@highlands.nj.gov).

DATE OF NOTICE: July 10, 2020



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### **MEETING AGENDA** **Thursday, July 16, 2020 at 4pm**

#### **Dial in information**

Phone number: 1 (929) 436-2866

Meeting ID: 98759191285

Participant ID: when prompted for a participant ID, press #

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT STATEMENT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF HIGHLANDS COUNCIL MINUTES – June 18, 2020
6. CHAIR’S REPORT
7. EXECUTIVE DIRECTOR’S REPORT
8. CONSIDERATION OF RESOLUTION – Consideration of the Motion to Stay Highlands Council Resolution No. 2020-03 Filed with the Highlands Council by DPF Chester, LLC (*voting matter with public comment*)
9. CONSIDERATION OF RESOLUTION - Executive Session – Litigation Matters
10. OLD & NEW BUSINESS
11. PUBLIC COMMENTS (*to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes. Questions raised in this period may not be responded to at this time but, where feasible, will be followed up by the Council and its staff.*)
12. ADJOURN

PUBLIC COMMENT SUBMITTED AT HIGHLANDS  
COUNCIL MEETING ON JULY 16, 2020

**From:** [Edward Ng](#)  
**To:** [Highlands](#)  
**Cc:** [Chester Historical Society, Inc.](#)  
**Subject:** [EXTERNAL] Please forward this note to the Highlands Council for their July 16 meeting  
**Date:** Wednesday, July 15, 2020 4:59:35 PM

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|  
Christine LaRocca, Chief Counsel  
Via email to: [highlands@highlands.nj.gov](mailto:highlands@highlands.nj.gov)  
Highlands Water Protection and Planning Council  
100 North Rd.  
Chester, NJ 07930

July 15,

2020

Dear Counsel LaRocca,

Would you please forward this note to the Council for their meeting on July 16, 2020. Thank you.

**Re: Agenda Item 8. CONSIDERATION OF RESOLUTION – Consideration of the Motion to Stay Highlands Council Resolution No. 2020-03 Filed with the Highlands Council by DPF Chester, LLC**

I am writing with regards to historic buildings and a mention of the “Chester Historical Society” on page 5 of Mason Thompson LLC’s letter memorandum to Christine LaRocca of March 25, 2020.

Because a building is not listed on the National Registry of Historic Places that does not mean it is not historic. Registration requires advocacy and support of the owners which was not forthcoming for the two buildings in question. However, Sunnyside and the Isaac Corwin House (also known as Larison’s Turkey Farm Inn) have been recognized as historic by three different entities: 1. Both are on the Morris County Historic Sites Survey (1406-125 and 1406-126, respectively). 2. The New Jersey State Historic Preservation Office Opinion (9/25/2001) states that the Isaac Corwin House (ID#3870) is eligible for the National Registry of Historic Places and that Sunnyside could be if more information were forthcoming. 3. The Isaac Corwin House was only one of three buildings in Chester, listed and documented, in the 1933 Historic American Buildings Survey.

The “unsafe structure” mentioned on page 5 is the historic house known as Sunnyside. A reasonable observation is that the structure is unsafe due to “demolition by neglect”. This building was offered to the Chester Historical Society, but too late for us to meet the application deadline for a Morris County Historic Preservation Grant. So we declined the offer.

With regards to Chester Borough’s ordinances for Historical Preservation and Architectural Review for Sunnyside and the Isaac Corwin House, Chester Historical Society’s pleading for preservation to the Chester Borough Land Use Board, have not been successful. Development has trumped adaptive reuse and preservation of these historic buildings. I believe the ordinances with respect to private property are inadequate to prevent demolition of Chester Borough’s historic assets and

need to be amended.

Respectfully yours,

Edward Ng  
President Chester Historical Society

--

**Learn lifelong**  
**Play to your strengths**  
**Create and share positive energy**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

**PRESENT**

**VIA TELECONFERENCE:**

CARL J. RICHKO	)	CHAIR
KURT ALSTED	)	VICE CHAIR
TRACY CARLUCCIO	)	COUNCIL MEMBERS
TIMOTHY P. DOUGHERTY	)	
MICHAEL R. DRESSLER	)	
MICHAEL FRANCIS	)	
ROBERT HOLTAWAY	)	
BRUCE JAMES	)	
MICHAEL SEBETICH	)	
JAMES VISIOLI	)	
RICHARD VOHDEN	)	
ROBERT G. WALTON	)	

**CALL TO ORDER** 175<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council was called to order at 4:10pm by teleconference due to COVID-19.

**ROLL CALL**

Roll call was taken. Member Francis was absent. All other Council Members were present via teleconference. *The following staff members were present via teleconference: Lisa J. Plevin, Christine LaRocca, James Humphries, Gabrielle Gallagher, Keri Green, Herbert August, Annette Tagliareni, Carole Ann Dicton, and Tom Tagliareni. Also present via teleconference were Lauren Nathan-LaRusso, Senior Counsel, Governor's Authorities Unit; and Jason Kane, Deputy Attorney General (DAG).*

**OPEN PUBLIC MEETINGS ACT** was then recited.

**PLEDGE OF ALLEGIANCE** was then recited.

**APPROVAL OF HIGHLANDS COUNCIL MINUTES OF JUNE 18, 2020**

Chairman Richko asked for a motion on the Highlands Council Minutes of June 18, 2020.

*Member Visioli made a motion to approve the Highlands Council Minutes of June 18, 2020. Member Dressler seconded it.*

*A roll call vote was taken. The Highlands Council Minutes of June 18, 2020 were APPROVED 11-0.*

**CHAIRMAN'S REPORT**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

Chairman Richko reported that the New Jersey State Board of Education announced in early June its new Student Learning Standards, incorporating Climate Change education across all content areas in kindergarten through high school graduation.

## **EXECUTIVE DIRECTOR'S REPORT**

Ms. Plevin highlighted the following updates and staff activities:

### **COVID-19 Response**

#### Chester Office Closure/Remote Work

The Highlands Council office in Chester continues to remain closed in support of Executive Order 104. All staff members are fully functional and working remotely. Operations continue without interruption.

#### Interagency Council on Climate Resilience

On June 30, 2020, Governor Murphy and the NJDEP issued the [2020 New Jersey Scientific Report on Climate Change](#), which will allow us to better understand the effects Climate Change will have on New Jersey and to develop a Statewide Climate Resilience Strategy. Highlands Council staff provided significant input on this issue, resulting in a report that includes significant analysis of issues that will directly affect the Highlands region. These issues include flooding, drought, increased frequency and intensity of storms, agricultural viability, invasive species and pest management, water and wastewater systems, and impacts on other critical infrastructure.

The report provides Highlands Council staff with a crucial baseline from which to expand our research and implement necessary adjustments to our policies and programs to ensure a healthy, vibrant, and resilient future for the Highlands region.

### **Plan Conformance Updates**

Parsippany's Petition for Plan Conformance was deemed complete 7/6/20. The Township needs to respond to our draft review, following that the petition will be posted for the 30-day public comment period.

### **Municipally Issued Exemptions**

Since Ms. Plevin's prior report, the Highlands Council has been notified of sixteen (16) municipally issued exemptions – all in Washington Township, Morris County and all Exemption #5s.

### **Project Review Updates**

- Staff completed one (1) Water Allocation Permit modification review related to maintenance issues at a quarry in Pohatcong Township, Warren County. Highlands staff determined there to be no impact on Net Water Availability and thus the modification was found to be consistent with the RMP.
- Staff initiated three (3) new Water Quality Management Plan amendment reviews:
  - One for a proposed residential project in Franklin Borough, Sussex County;
  - One for a combination of residential and commercial development, in Chester Borough, Morris County;
  - One for residential development in Mine Hill Township, Morris County.
  - All three reviews are still in progress.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

- Staff also provided comments to NJDOT on the potential historic and cultural impacts of an NJDOT project in Wharton Borough and Rockaway Township, Morris County. Consistent with the findings of the NJ Historic Preservation Office, Highlands staff found no expected impacts to historic or cultural resources.

### **Open Space Update**

In late June, the Highlands Council closed on a farmland preservation project in Franklin Township, Warren County. The nearly 400-acre Hart farm had been a preservation target for Warren County for many years. The Highlands Council provided nearly half the \$1.3 million purchase price. The project marked a significant milestone for Warren County as the 300<sup>th</sup> farm preserved in the County. Warren County holds the distinction of having the most preserved farms and the most total preserved farmland acreage of any Highlands County.

### **TDR/HDC Update**

Since last month's report, staff closed on a 103-acre residential property in Mount Olive Township, Morris County. The HDC Bank purchased 35.75 HDCs for \$572,000. An important side note about this transaction: as of this closing, there are no additional pending HDC transactions waiting to close.

### **Outreach and Constituent Assistance**

Staff continues to provide guidance to landowners and their representatives regarding the NJDEP Highlands Area Rules and the RMP.

The next Council Meeting is scheduled for August 20, 2020.

Chairman Richko announced the next agenda item: consideration of a Motion to Stay Highlands Council Resolution No. 2020-03, filed with the Highlands Council by DPF Chester, LLC.

At this time, James Humphries, Director of Planning and Science, provided Council with background on this resolution.

Chairman Richko then announced that the attorney for DPF Chester, LLC and Chester Borough have been offered an opportunity to make a brief statement to the Council.

At this time, John Wisniewski, Esq., (Wisniewski & Associates, LLC) attorney for DPF Chester, LLC announced that he was present (via teleconference) and provided a brief statement to the Council.

Chairman Richko noted that Brian Mason, Esq, representing Chester Borough indicated by letter that he declined an opportunity to make a statement. Brian Mason, Esq., attorney for Chester Borough announced that he was present (via telephone conference) and concurred that he would not give a full presentation, but was available for any questions by the Council.

### **Resolution – Executive Session**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

Chair Richko announced that Council would enter into Executive Session so that Council's Deputy Attorney General can provide the Council with legal guidance for deliberation of the resolution. Chief Counsel Christine LaRocca read the Executive Session resolution into the record.

*Chairman Richko asked for a motion on the resolution to enter Executive Session.*

*Member James made a motion. Member Holtaway seconded it.*

There was no Council discussion.

*A roll call vote was taken. The Resolution was approved 11-0.*

*Public portion of the meeting was temporarily dismissed at 4:36pm.*

[EXECUTIVE SESSION]

*The New Jersey Highlands Water Protection and Planning Council public meeting resumed at 4:58pm.*

**ROLL CALL**

Roll call was taken: Member Francis was absent. All other Council members were present via teleconference.

**Resolution - Consideration of the Motion to Stay Highlands Council Resolution No. 2020-03 Filed with the Highlands Council by DPF Chester, LLC**

*Chairman Richko asked for a motion on the resolution.*

*Member James made a motion. Member Holtaway seconded it.*

**Council Comment**

Member Holtaway observed that in its brief, the Appellant contended that, in considering the Amended Petition for Plan Conformance in January, the Council relied on information that was incomplete and had missing information. Mr. Humphries responded that the report, in his opinion, was not incomplete and conformed with all Plan Conformance procedures adopted in 2019 and the center designation complied with all standards. Member Holtaway also asked if the affordable housing portion of the report is considered an inherently beneficial use. Mr. Humphries declined to respond on whether the site would qualify as an inherently beneficial use, as he is unsure of the inclusionary percentage of the site that would be part of the consideration of an inherently beneficial use determination.

Member Vohden asked if it is correct to say that in voting to deny the Stay, the Council made a right decision in the original resolution and now we are voting to prevent the landowner from appealing the previous decision. Chief Counsel Christine LaRocca responded that the resolution that is before the Council to deny the Stay does not have any bearing on the underlying Council decision. The Council must consider the legal standard for the Stay and may decide that the appellant (DPF Chester, LLC) did not

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

meet that legal standard for the Stay request. Ms. LaRocca added it does not mean that the Council is making any determination on the underlying Petition.

Member Vohden further asked does Council's vote to deny the Stay prevent the landowner from appealing further. Ms. LaRocca responded that it would not stop the appeal process. Ms. LaRocca responded that if the Council votes to deny the Stay, the Appellant could make a similar application to the Appellate Division for injunctive relief and has every opportunity to proceed with the litigation and the appeal of the Petition.

Lastly, Member Vohden asked, if Council does not deny the Stay, how will the case go forward. Ms. LaRocca responded that the underlying case in the Appellate Division will proceed. In the interim period, Chester Borough will not be able to take any steps towards implementation of the underlying Petition and it also means that the Council will be prevented from taking any implementation steps.

Public Comment

**David Shope – Lebanon Township, NJ** – Mr. Shope was confused by Chester Borough's primary concern in its request. In his opinion, Mr. Shope can site two concerns: failing septic systems and affordable housing.

**George Cassa** – Mr. Cassa agreed with Mr. Shope on that the Stay request is somewhat confusing. Mr. Cassa asked if the Fair Share Housing Settlement Agreement is still binding on the Borough after it's reviewed by the Highlands Council. Mr. Cassa supports the Council's decision to deny the Stay.

**Elliott Ruga, New Jersey Highlands Coalition** – Mr. Ruga commented that the Coalition supports the denial of the request for a stay, but agrees with the petitioner regarding the loss of historic resources., He further clarified that the issue of the historic resources alone should not justify a stay of Resolution 2020-03.

**Wilma Frey, on leave from New Jersey Conservation Foundation** – Ms. Frey agrees with Mr. Ruga's comments regarding the protection of historic resources and the character of buildings located in the Borough. Ms. Frey also added that the spatial aspect of the current historic structure should be maintained, instead of tearing it down.

*Member Francis was present via teleconference at 5:19pm.*

**Edward Ng, President of Chester Borough Historical Society** – Mr. Ng commented on the historic buildings and mention of the "Chester Historical Society" on page 5 of Mason Thompson LLC's letter memorandum. Mr. Ng, in agreement with previous commenters, stated that as part of the center designation conditions there should be a review of Chester Borough's historical preservation ordinances. Mr. Ng's comments were submitted for the record.

Council Comment

Member Holtaway commented that the hardships brought forth do not rise to the level of a Stay.

*A roll call vote was taken. The resolution was APPROVED 9-2, with one (1) abstention by Member Francis.*

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

**OLD/NEW BUSINESS:**

*Member Visioli left the meeting via teleconference at 5:25pm.*

There was no old/new business reported.

Chairman Richko opened the meeting to the public for any other comments.

**Public Comment**

**Hank Klumpp, property owner, Tewksbury, NJ** – Mr. Klumpp commented on the climate change for schools. Mr. Klumpp suggested that perhaps funding may be found for the harmed landowners. Mr. Klumpp also asked if it would be possible for Council staff to send him a copy of all meeting materials for Council meetings.

Chairman Richko asked Mr. Klumpp to contact Ms. Plevin to discuss his request regarding meeting materials.

**David Shope, property owner, Lebanon Township** – Mr. Shope commented on articles in the publication Lancaster Farming and what is happening in the farm community regarding bankruptcy and mental health issues.

*Member Holtaway made a motion to adjourn the meeting. Member Walton seconded it. All were in favor. The meeting was adjourned at 5:33pm.*

**CERTIFICATION**

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 7/24/2020

Name: Annette Tagliareni  
Annette Tagliareni, Executive Assistant

DRAFT - FOR CONSIDERATION AT THE SEPTEMBER 17, 2020  
MEETING OF THE HIGHLANDS COUNCIL

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
MEETING MINUTES OF JULY 16, 2020

<b>Vote on the Approval of Minutes</b>	<b>Motion</b>	<b>Second</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Councilmember Alstede						
Councilmember Carluccio						
Councilmember Dougherty						
Councilmember Dressler						
Councilmember Francis						
Councilmember Holtaway						
Councilmember James						
Councilmember Sebetich						
Councilmember Visioli						
Councilmember Vohden						
Councilmember Walton						
Chairman Richko						

**RESOLUTION 2020-11**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**EXECUTIVE SESSION**

**WHEREAS**, the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., permits the holding of closed sessions by public bodies in certain circumstances, and the Highlands Water Protection and Planning Council (“Council”) is of the opinion that those circumstances presently exist; and

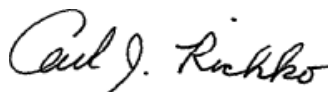
**WHEREAS**, the Council will discuss litigation matters within the meaning of N.J.S.A. 10:4-12(b)(7);

**NOW, THEREFORE, BE IT RESOLVED**, that the Council may enter into closed session at its public meeting of July 16, 2020 for that purpose. It is anticipated at this time that the nature of the closed session will be made public upon completion or resolution of the issues to be discussed, except any matter protected by the attorney-client privilege will not be disclosed.

This Resolution shall become effective upon a roll-call vote of the Council.

**CERTIFICATION**

I hereby certify the foregoing to be a true copy of the Resolution adopted by the Highlands Water Protection and Planning Council at its regular meeting held on the 16<sup>th</sup> day of July 2020.



\_\_\_\_\_  
Carl Richko, Chairman

**RESOLUTION 2020-11  
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING  
COUNCIL EXECUTIVE SESSION**

**Vote on the Approval of  
This Resolution**

	<u>Motion</u>	<u>Second</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede			✓			
Councilmember Carluccio			✓			
Councilmember Dougherty			✓			
Councilmember Dressler			✓			
Councilmember Francis						✓
Councilmember Holtaway		✓	✓			
Councilmember James	✓		✓			
Councilmember Sebetich			✓			
Councilmember Visioli			✓			
Councilmember Vohden			✓			
Councilmember Walton			✓			
Chair Richko			✓			

## **RESOLUTION 2020-12**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL CONSIDERATION OF THE MOTION TO STAY HIGHLANDS COUNCIL RESOLUTION NO. 2020-03 FILED WITH THE HIGHLANDS COUNCIL BY DPF CHESTER, LLC**

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, N.J.S.A. § 13:20-15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may voluntarily revise and conform their local master plans and development regulations, as they relate to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan (RMP) at any time; and

**WHEREAS**, the Highlands Act provides that an approval of a Petition for Plan Conformance entitles the conforming municipality with specific benefits including planning grants, technical assistance, state aid, priority for projects, tax stabilization funds, a strong presumption of validity and extraordinary deference in the event of legal challenge; and

**WHEREAS**, by Resolution 2019-13, the Highlands Council has adopted RMP Amendment 2019-02, Plan Conformance Procedures, that sets forth Highlands Center Designation Procedures; and

**WHEREAS**, Chester Borough is located entirely within the Planning Area; and

**WHEREAS**, on July 21, 2016, after due consideration and opportunity for public comment, the Highlands Council approved Chester Borough's Petition for Plan Conformance with conditions as set forth in Resolution 2016-6, as well as the Final Consistency Review and Recommendations Report dated August 29, 2016 and the Highlands Implementation Plan and Schedule; and

**WHEREAS**, in the process of completing its Petition for Plan Conformance, the Borough of Chester determined, and the Highlands Council concurred, that Highlands Center designation should be studied for the municipality; and

**WHEREAS**, the resultant analysis proposed designation of a Highlands Center within Chester Borough, which is intended to advance the goals and intent of both the Chester Borough Master Plan and the RMP; and

**WHEREAS**, Chester Borough adopted Resolution #2019-102 on August 12, 2019 to request the Highlands Council to amend the Borough's Petition for Plan Conformance to include a designated Highlands Center within the Borough; and

**WHEREAS**, Chester Borough submitted a Highlands Center Designation Feasibility Report to the Highlands Council on October 3, 2019 with a request that the Highlands Council amend the previously approved Petition for Plan Conformance to include the Highlands Center; and

**WHEREAS**, Highlands Council staff reviewed the Highlands Center Designation Feasibility Report and found it to be consistent with the RMP; and

## **RESOLUTION 2020-12**

### **NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL CONSIDERATION OF THE MOTION TO STAY HIGHLANDS COUNCIL RESOLUTION NO. 2020-03 FILED WITH THE HIGHLANDS COUNCIL BY DPF CHESTER, LLC**

**WHEREAS**, in consideration of the proposed Amended Petition, a revised Final Consistency Review and Recommendations Report and Highlands Implementation Plan and Schedule, which addresses funding needs relating to the Amended Petition, a Public Notice was posted, with the revised Petition materials, on the Highlands Council website for public review and comment on November 15, 2019; and

**WHEREAS**, no comments were received during the public comment period, which closed on December 16, 2019; and

**WHEREAS**, on January 16, 2020, the Highlands Council voted to approve Resolution 2020-03, Amended Petition for Plan Conformance, Chester Borough, Morris County, which granted Chester Borough's Amended Petition for Plan Conformance, adopted the Revised Consistency Review and Recommendations Report and Revised Highlands Implementation Plan for Fiscal Year 2020 and authorized additional funding in the amount of \$107,500 (subject to funding availability) as set forth in the Highlands Implementation Plan; and

**WHEREAS**, on February 12, 2020, an appeal of the Highlands Council's approval of Resolution 2020-03 was filed on behalf of DPF Chester, LLC (Appellant) (In Re New Jersey Highlands Water Protection Council's Approval of Resolution 2020-03); and

**WHEREAS**, R. 2:9-7 requires an appellant, on or after filing a notice of appeal with the Appellate Division of a state administrative agency decision, action or rule, to make a motion for ad interim relief or for a stay of the action under review, in the first instance to the agency whose order is being appealed; and

**WHEREAS**, on February 28, 2020, pursuant to R. 2:9-7, Appellant filed with the Highlands Council a motion to stay the enactment of Resolution 2020-03 pending the Appellant's appeal of the Highlands Council decision; and

**WHEREAS**, in support of its request for a stay, Appellant submitted a supporting brief to the Highlands Council dated March 16, 2020; and

**WHEREAS**, the attorney for Chester Borough submitted a brief in opposition to the Appellant's request for a stay dated March 25, 2020; and

**WHEREAS**, the Council has reviewed the Appellant's motion to stay the enactment of Resolution 2020-03 and brief in support of the motion and Chester Borough's opposition brief; and

**WHEREAS**, based on such review, the Highlands Council issues the attached ORDER denying the Motion to Stay Highlands Council Resolution 2020-03; and

**WHEREAS**, pursuant to N.J.S.A. § 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**RESOLUTION 2020-12**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
 CONSIDERATION OF THE MOTION TO STAY HIGHLANDS COUNCIL RESOLUTION  
 NO. 2020-03 FILED WITH THE HIGHLANDS COUNCIL BY DPF CHESTER, LLC

NOW, THEREFORE BE IT RESOLVED that the attached ORDER denying the Motion for a Stay of Highlands Council Resolution 2020-03 is ADOPTED.

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 16th day of July 2020.

*Carl J. Richko*

\_\_\_\_\_  
 Carl Richko, Chairman

**Vote on the Approval of  
 The Resolution**

	<b>Motion</b>	<b>Second</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Councilmember Alstede	_____	_____	✓	_____	_____	_____
Councilmember Carluccio	_____	_____	✓	_____	_____	_____
Councilmember Dougherty	_____	_____	✓	_____	_____	_____
Councilmember Dressler	_____	_____	✓	_____	_____	_____
Councilmember Francis	_____	_____	_____	_____	✓	_____
Councilmember Holtaway	_____	✓	✓	_____	_____	_____
Councilmember James	✓	_____	✓	_____	_____	_____
Councilmember Sebetich	_____	_____	✓	_____	_____	_____
Councilmember Visioli	_____	_____	✓	_____	_____	_____
Councilmember Vohden	_____	_____	_____	✓	_____	_____
Councilmember Walton	_____	_____	_____	✓	_____	_____
Chairman Richko	_____	_____	✓	_____	_____	_____

IN RE NEW JERSEY HIGHLANDS WATER PROTECTION COUNCIL'S APPROVAL OF RESOLUTION 2020-03 THE AMENDED PETITION FOR PLAN CONFORMANCE

Administrative Action

Order Denying  
Stay Request

Highlands Council  
Resolution 2020-03  
Approving Chester Borough's  
Amended Petition for Plan  
Conformance

**THIS MATTER** concerns a February 28, 2020 request for a stay of the New Jersey Highlands Water Protection Council (Highlands Council or Council) Resolution 2020-03 by DPF Chester, LLC (DPF). On January 16, 2020, Resolution 2020-03 was approved at a regular meeting of the Highlands Council granting Chester Borough's Amended Petition for Plan Conformance and authorizing additional funding to Chester Borough. The resolution was subsequently appealed by DPF to the Superior Court, Appellate Division, Docket No. A-2605-19.

For the reasons set forth herein, the stay request is **DENIED**.

**Background**

In 2004, the New Jersey Legislature enacted the Highlands Act (the Act) recognizing that the Highlands Region is an essential source of drinking water, provides clean and plentiful drinking water for over one-half of the State's population, contains other exceptional natural resources, such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State. N.J.S.A. 13:20-2. The Act establishes two distinct areas within the Highlands Region: the Preservation Area, an area with exceptional natural resource value to be subject to stringent

Pursuant to N.J.S.A.13:20-5j this Resolution shall have no force or effect until the completion of the Governor's review of the Highlands Council minutes

water and natural resource protection standards, policies, planning and regulation; and the Planning Area, an area intended to be part of a comprehensive planning approach that serves to protect the water and other significant resources of the entire Highlands Region while also accommodating appropriate patterns of development, redevelopment and economic growth. N.J.S.A. 13:20-2 and -7.

The Act also created the Highlands Council, a regional planning and protection entity, to develop, adopt, and periodically revise a Regional Master Plan (RMP) with a primary goal of protecting and enhancing the significant resources of the Highlands Region. N.J.S.A. 13:20-4, -7, and -10. The Legislature created a bifurcated system for municipal and county conformance with the RMP, "Plan Conformance," which is mandatory for any portion of a municipality or county located in the Preservation Area, and voluntary for lands in the Planning Area. N.J.S.A. 13:20-10. Municipalities and counties located wholly or partially in the Preservation Area were required to submit to the Highlands Council master plan and regulatory revisions as necessary conformed to the Preservation Area goals, requirements, and provisions of the RMP. N.J.S.A. 13:20-14. Municipalities and counties with lands in the Planning Area have the option to petition the Highlands Council at any time with master plan and regulatory revisions as necessary to conform them to the Planning Area goals, requirements, and provisions of the RMP. N.J.S.A. 13:20-15.

Chester Borough is a municipality within the Highlands Region entirely in the Planning Area. N.J.S.A. 13:20-7(a)(3) and (c). On July 21, 2016, after due consideration and opportunity for public comment, the Highlands Council approved Chester Borough's Petition for Plan Conformance (2016 Petition) with conditions as set forth in Resolution

2016-6, and adopted the August 29, 2016 Final Consistency Review and Recommendations Report, and a Highlands Implementation Plan and Schedule.

On October 3, 2019, Chester Borough submitted a Highlands Center Designation Feasibility Report (Feasibility Report) to the Highlands Council with a request that the Council amend the previously approved 2016 Petition to include a Highlands Center covering the entire Borough. A Highlands Center is an area within a municipality where development and redevelopment is encouraged and fostered, and supports sustainable economic growth while protecting critical natural and cultural resources. Chester Borough was seeking to address an upgrade to its existing wastewater treatment system and permit the extension of public sanitary sewer and public water to the Mill Ridge Lane site to accommodate proposed affordable housing developments.<sup>1</sup>

The RMP regulates the extension of public water and wastewater infrastructure through Land Use Capability Zones, a geographically identified area based on a number of environmental factors. There are three primary Land Use Capability Zones: the Protection Zone, the Conservation Zone and the Existing Community Zone. The Protection and Conservation Zones do not permit extensions of public water and wastewater infrastructure except under specific circumstances as these zones are meant for the protection of environmental and agricultural resources, respectively. The Existing Community Zone is identified as an area for growth and development, and therefore the extension of public water and public wastewater infrastructure is permitted. The Turkey Farm site continues

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<sup>1</sup> There is some discrepancy in the identification of the Turkey Farm Property referred to by DPF. The "Turkey Farm Property" contains two sites at Block 101, Lots 13, 14, 15 and 16 (Turkey Farm site) and Block 101, Lots 12.07 and 12.08 (Mill Ridge Lane site) both in Chester Borough, Morris County. These two sites are not physically adjacent or connected.

to be located in the Existing Community Zone since prior the 2016 Petition, and could have been developed without the Center Designation. The Mill Ridge Lane site is located in the Protection Zone, and requires the Center Designation to permit the development of affordable housing.

On November 15, 2019, Highlands Council staff issued a public notice, and published the Feasibility Report on the Council's website for public review and comment. No comments were received during the public comment period, which closed on December 16, 2019. Highlands Council staff reviewed the Feasibility Report and found it to be consistent with the RMP. The staff issued its findings in a Consistency Review and Recommendations Report (Recommendations Report). After reviewing information provided by the Borough's consultant in an October 9, 2019 memorandum summarizing information provided by New Jersey American Water and from the previously prepared Highlands Council funded Wastewater Treatment Plant Improvement Feasibility Study, staff reported that the Chester Borough Highlands Center is located in an area with sufficient water supply and wastewater capacity, and is appropriate for increased land use intensity. In addition, staff found that Center Designation will further the Borough's long-term planning goals, that the Center is heavily aligned with the Highlands RMP goals and objectives, particularly concerning smart growth and economic development, and that the Center is consistent with the resource protection standards of the RMP in accordance with the intent and purpose of the Highlands Act.

Based upon these findings, staff recommended that the Council approve the Amended Petition with conditions. These conditions included the Borough's continued progress toward completion of all remaining and new Plan Conformance Implementation

Tasks as set forth in the Highlands Implementation Plan and Schedule, including but not limited to master plan amendments, land use ordinance and zoning map amendments, wastewater management planning, redevelopment planning, and land stewardship planning. The recommendation also included grant funding for those items listed in Fiscal Year 2020 of the Highlands Implementation Plan and Schedule. Lastly, staff recommended the adoption of amendments to the Borough's previously adopted Highlands Land Use Ordinance to implement Highlands Environmental Resource Zones that were identified to protect sensitive environmental resource areas, including significant areas on the Turkey Farm property.

On January 16, 2020 at a public meeting of the Highlands Council, the Council considered the proposed Amended Petition and the Recommendations Report. Council staff and Chester Borough representatives explained the Amended Petition and responded to Council Member questions. The Council Members deliberated, and considered oral public comments at the meeting, including a comment by DPF. After a public vote of 8-3, the Highlands Council adopted Resolution 2020-03 granting Chester Borough's Amended Petition with the conditions as set forth in the Recommendations Report, and authorizing additional funding in the amount of \$107,500 as set forth in a Highlands Implementation Plan and Schedule.

### **Procedural History**

On March 1, 2020, DPF filed its appeal of Resolution 2020-03 in the Superior Court, Appellate Division at Docket No. A-2605-19. On February 28, 2020, DPF

requested a stay of Resolution 2020-03 pending the appeal.<sup>2</sup> On March 9, 2020, the Highlands Council acknowledged receipt of the stay request and set a briefing schedule. On March 16, 2020, DPF submitted a letter brief in support of its stay request, and on March 25, 2020, Chester Borough submitted a letter brief opposing the stay request.

### **Arguments of DPF**

DPF suggests that the Council must review the stay request as set forth in Crowe v. DeGioia, 90 N.J. 126, 132-34 (1982), as Resolution 2020-03 is a final agency action subject to judicial review.

First, DPF argues that it will suffer irreparable injury if a stay is not granted, claiming judicial review would be “rendered meaningless.” Further, DPF states that if the stay request is denied, “developers might be able to proceed with construction . . . and forever alter valuable historic structures and the environment,” at what is known as the Turkey Farm site, pursuant to an October 4, 2018 Settlement Agreement between Chester Borough, Larison’s Corner, LLC, and Turkey Farm Acquisitions, LLC (2018 Settlement Agreement). DPF alleges that such damages are “not something that can be corrected simply through monetary compensation” and amount to irreparable injury.

Next, DPF argues that there is a reasonable probability of success on the merits of the appeal as it believes the Council’s decision “was seriously flawed because important facts were not disclosed to the Highlands Council” in Chester Borough’s Feasibility Report. DPF claims that Chester Borough understated the “true extent” of the development

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<sup>2</sup> On February 18, 2020, the court notified DPF of a filing deficiency, resulting in the stay request being submitted to the Highlands Council prior to the March 1 accepted filing of the appeal.

contemplated at the Turkey Farm site, misstated impacts to wastewater treatment systems and water quality, and implicated the existence of historic assets. DPF also states that there were eight votes approving the resolution, noting that one vote would have changed the outcome of the decision on the resolution.

Lastly, DPF argues that the “equities, balance and consideration of the public interest” support a stay, in that “the building of the new development will at worst be delayed.” If the stay is not granted, DPF again argues that environmental and historic resources would be irreparably harmed.

Thus, DPF requests a stay of Resolution 2020-03 pending appeal.

#### **Arguments of Chester Borough**

Chester Borough alleges that its efforts for plan conformance is to “properly manage development in the Borough while protecting its environmental assets and regional resources, and to improve the health and public safety of its residents.” The Borough agrees with DPF that Crowe v. DeGioia should guide the Council in evaluating the stay request. The Borough does not believe DPF can meet the Crowe factors for a stay.

First, Chester Borough argues that DPF has no likelihood of success on appeal. The Borough argues that the standard of review on appeal will be whether the Council acted in an “arbitrary, capricious, or unreasonable” manner when it voted to approve Resolution 2020-03. The Borough argues that “allegations of ‘flawed’ decision-making” is insufficient to show arbitrary, capricious, or unreasonable agency action. The Borough also responds to DPF’s arguments, alleging that there are no structures at the Turkey Farm site that are designated as historic, that the proposed wastewater treatment plans for the site decommissions two old septic systems and installs a new, compliant temporary system,

and that development at the Turkey Farm site is limited by the 2018 Settlement Agreement and DEP stormwater management standards, which includes Highlands Council review.

Next, Chester Borough argues that DPF will not suffer irreparable injury if a stay is denied. The Borough claims that no structures are designated as historic at the Turkey Farm site, and any environmental concerns were addressed through the Center Designation process. The Borough also alleges that DPF's status as a commercial mall owner is relevant, claiming that DPF may lose CVS pharmacy as a tenant, which would constitute reparable, financial loss and not irreparable harm under the Crowe factors.

Lastly, Chester Borough argues that it will suffer greater hardship if the stay is granted than will be suffered by DPF if the stay is not granted. The Borough recognizes that DPF may "suffer financial damages" because of the anticipated redevelopment, but the hardship is "speculative, and completely irrelevant" in balancing hardships. The Borough notes that its goals for plan conformance are to achieve the goals of the Highlands Act in the Borough, satisfy the Borough's affordable housing obligations, and address the health and safety of its residents by improving wastewater management. The Borough explains how plan conformance satisfies the three goals, and notes that delays in the process would impede meeting the affordable housing goals and improvements to the wastewater management system.

Thus, Chester Borough requests the stay application be denied.

### **Discussion**

Rule 2:9-7 requires that a motion for a stay of an administrative agency decision be "made in the first instance to the agency whose order is appealed from and, if denied, to the Appellate Division." Under the so-called Crowe factors, a party seeking a stay must

demonstrate each of the following factors: (1) the threat of irreparable harm; (2) a reasonable probability of success on the merits; and (3) the relative hardships to the parties weigh in favor of a stay. Garden State Equality v. Dow, 216 N.J. 314, 320 (2013) (citing Crowe v. DeGioia, 90 N.J. 126, 132-34 (1982)). In addition, a “case that ‘presents an issue of significant public importance’ requires consideration of the public interest. N.J. Election Law Enf't Com'n v. DiVincenzo, 445 N.J. Super. 187, 196 (App. Div. 2016) (citing Garden State Equality, 216 N.J. at 320). The party seeking a stay bears the burden of demonstrating that it meets each of these criteria by clear and convincing evidence. Garden State Equality, 216 N.J. at 320.

Here, DPF has the burden of demonstrating each of the Crowe factors by clear and convincing evidence. As set forth below, DPF cannot adequately demonstrate any of the factors.

A. DPF does not demonstrate a threat of irreparable harm.

As mentioned, a party seeking a stay must show it will suffer irreparable harm if the stay is not granted. “Harm is generally considered irreparable . . . if it cannot be redressed adequately by monetary damages.” Garden State Equality, 216 N.J. at 328 (quoting Crowe, 90 N.J. at 132-33). The injury must also be “substantial and imminent.” Brown v. City of Paterson, 424 N.J. Super. 176, 183 (App. Div. 2012) (quoting Waste Mgmt. of N.J., Inc. v. Union Cnty. Utils. Auth., 399 N.J. Super. 508, 520 (App. Div. 2008)). DPF has not demonstrated that irreparable harm will occur if a stay is not granted.

DPF believes that the Council's denial of the stay request would render its appeal “meaningless.” The request to stay the implementation of Resolution 2020-03 pending DPF's appeal is separate and apart from the Appellate Division's consideration of the

merits of DPF's case. Further, DPF may still move before the Appellate Division for a stay. R. 2:9-7. The Council's decision to deny a stay would in no way constitute an irreparable injury to DPF. Moreover, as set forth below, denial of the stay would not cause immediate development of the Turkey Farm site, as the Amended Petition does not authorize development and numerous intervening applications and approvals would need to occur before development could take place.

DPF also argues that its irreparable injury is that the developers of the Turkey Farm site "might be able to proceed with construction pursuant to the 2018 Settlement Agreement" thereby altering valuable historic structures and the environment. Chester Borough responds that no registered historic structures exist at the Turkey Farm site, and any concerns about environmental impacts of the development are addressed through the Center Designation process or site plan approval process. Chester Borough further notes its belief that DPF is, in reality, concerned that CVS pharmacy will vacate its location at DPF's commercial mall for new retail space at the Turkey Farm site, and argues that any speculative damages would be monetary in nature and thus reparable.

DPF's notion that Resolution 2020-03 will result in irreversible damages to the Turkey Farm site by authorizing development is misguided. The approval of the Highlands Center under Resolution 2020-03 is not required to permit the development of the Turkey Farm site. The Turkey Farm site's proposed development footprint is located within the Existing Community Zone of the Highlands region, and could have and can proceed irrespective of the approval of a Highlands Center. The Highlands Center Designation is needed to permit the development of the proposed affordable housing located at the Mill Ridge Lane site. Furthermore, Resolution 2020-03 does not approve any development,

rather, it modifies the Land Use Capability Zones of the RMP to allow the extension of public infrastructure to the Mill Ridge Lane affordable housing site. The Amended Petition is not required for the Highlands Council to consider consenting to any necessary NJDEP permits for development to occur on the Turkey Farm site. However, Chester Borough acknowledges it would still need to submit development applications to State and local entities, including a public participation process, before any development could be considered and approved. As the resolution at issue does not approve development, DPF's claim that the resolution would cause irreversible loss due to development of the Turkey Farm site is without merit and would not be "immediate." We also note that even if Chester Borough's belief is true that DPF's real interest is retaining CVS as a tenant, such harm would be strictly monetary in nature and thus not irreparable. Crowe, 90 N.J. at 132-33.

Thus, DPF does not satisfy the irreparable harm Crowe factor.

B. DPF does not have a reasonable probability of success on the merits.

To be entitled to a stay, DPF must also show it has a reasonable probability of success on the merits of its appeal. This factor weighs against DPF's stay request because the court will afford the Council substantial deference in reviewing its decision to approve Resolution 2020-03, which was supported by adequate evidence in the record.

To succeed on the merits of an appeal from an agency decision, the challenger must make "a clear showing" that the agency's action "is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record." In re Hermann, 192 N.J. 19, 28 (2007); In re Proposed Xanadu Redevelopment Project, 402 N.J. Super. 607, 642 (App. Div. 2008); Worthington v. Fauver, 88 N.J. 183, 204-05 (1982). A decision is considered arbitrary and capricious where there is "no rational basis" or the decision is a "willful and unreasoning

action without consideration and in disregard of circumstances.” In re Proposed Xanadu Redevelopment Project, 402 N.J. Super. at 642 (quoting Bayshore Sewer Co. v. Dep't of Env'tl. Prot., 122 N.J. Super. 184, 199 (Ch. Div. 1973)). The court provides “considerable deference to the agency’s expertise, where such expertise is a relevant factor,” and does not “second-guess those judgments of an administrative agency which fall squarely within the agency’s expertise.” N.J. Highlands Coal. v. New Jersey Dep't of Env'tl. Prot., 456 N.J. Super. 590, 603 (App. Div. 2017) (quoting In re Petition of S. Jersey Gas Co., 447 N.J. Super. 459, 480 (App. Div. 2016); In re Stream Encroachment Permit No. 0200-04-0002.1 FHA, 402 N.J. Super. 587, 597 (App. Div. 2008)).

DPF argues that it will succeed in its appeal of Resolution 2020-03 because it believes the Council’s decision “was seriously flawed because important facts were not disclosed to the Highlands Council” in Chester Borough’s Feasibility Report. Chester Borough responds that “allegations of ‘flawed’ decision-making” do not satisfy the arbitrary and capricious standard.

DPF cannot make a “clear showing” that the Council’s decision is not “arbitrary, capricious, or unreasonable.” The Highlands Council thoroughly considered Chester Borough’s Amended Petition, as described in its Recommendations Report. In preparing the report, Council staff, who possess specialized technical expertise, considered Chester Borough’s Feasibility Report, which included whether the proposed Highlands Center is located in an area with sufficient water supply, and wastewater capacity, and is appropriate for increased land use intensity. Based on a review of information provided by the Borough’s consultant in an October 9, 2019 memorandum summarizing information provided by New Jersey American Water and from the previously prepared Highlands

Council funded Wastewater Treatment Plant Improvement Feasibility Study, Council staff recommended that the proposed Amended Petition should be approved with conditions as the Center Designation is consistent with the RMP. Council staff found, in its seven page Recommendations Report, that the Borough's Feasibility Report demonstrated conformance with the RMP's goals, policies, and objectives, and implementation procedures regarding the Borough's proposed boundaries of Highlands Environmental Resource Zones, public water service, wastewater service, resource protection, smart growth and low impact development, and land use. The Council's decision will receive "considerable deference" from the court, and is likely to be upheld.

DPF claims that certain details were not disclosed to the Council prior to its decision to approve Resolution 2020-03, such as the 2018 Settlement Agreement that describes the projected development for the Turkey Farm site differently than what was reported to the Council, noting that there was a concept plan attached to the settlement agreement that was not submitted to the Council.

DPF raises substantive challenges to the Council's decision as well.<sup>3</sup> Particularly, DPF is concerned that the Council did not consider impacts of eventual development at the Turkey Farm site to the "Sunnyside House" or the "Larrison-Corwin House." DPF calls these structures "historic assets" but does not allege that either structure is registered as historic with either the State or Federal government. Chester Borough notes that the

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<sup>3</sup> DPF did not submit a comment during the public comment period, and only presented a comment orally to the Council during the consideration of Resolution 2020-03. DPF's comment at the time of vote raised these issues, so they were before the Council before it made its decision, albeit after staff's review. Regardless, and as set forth herein, the facts alleged by DPF would not have changed the substantive review of the Borough's application.

alleged historic structures are either unsafe or untenable, and the owner represented that it is not economically feasible to restore the structures. Further, Chester Borough notes that the Borough and Chester Historical Society have both declined to operate the restaurant structure, and neither structure is designated as historic by the State or National registers. Chester Borough acknowledges that any concern DPF has about these structures would be handled through the Borough's Land Use Board.

DPF also claims that the Council's decision-making was flawed because Chester Borough's Feasibility Report differs from the 2018 Settlement Agreement concerning on-site septic systems. The Feasibility Report states that the Borough seeks to "expand wastewater treatment capacity and extend wastewater collection lines to eliminate an existing long-standing, undesirable and unsustainable condition of individual on-site septic systems on both residential and nonresidential substandard lots." The Settlement Agreement provides that a temporary septic system will be constructed until a centralized wastewater treatment facility is complete. DPF believes that the temporary septic system is inconsistent with the RMP goal of placing "restrictions on the number and location of septic systems." Chester Borough points out that the proposed plan for the site is to decommission two old septic systems, and install a "new fully compliant temporary system" in the interim before a wastewater plant is constructed and operational. Chester Borough believes that this procedure will improve water quality standards and is consistent with the Highlands Act.

DPF's concerns do not make approval of Resolution 2020-03 "arbitrary, capricious, or unreasonable." First, the Council did not receive the concept plan from either the Borough or DPF, and does not implicate the reasonableness of the Council's approval of

the resolution. The 2018 Settlement Agreement was not submitted or reviewed by the Council in consideration of the Resolution 2020-03. Again, Resolution 2020-03 does not approve or permit development on the Turkey Farm site, but rather, determines that Chester Borough's Amended Petition is consistent with the RMP. The concept plan and 2018 Settlement Agreement would not be part of the Council's review and thus did not need to be submitted to the Council as part of its decision on Resolution 2020-03. Any challenge to approvals of specific development at the Turkey Farm site would be premature and improper before the Council in a challenge to Resolution 2020-03.

Second, neither the "Sunnyside House" nor the "Larrison-Corwin House" are designated as historic, and any recourse involving the structures would be through Chester's local government entities or the Department of Environmental Protection State Historic Preservation Office. The RMP includes provisions to "encourage" municipalities to protect historic resources, but does not require it. As such, any review on the preservation of historic resources would be conducted during the local approval process.

As to DPF's wastewater concerns, the RMP does not place "restrictions on the number and location of septic systems" as DPF purports. Rather, it "encourages municipalities in the Planning Area to adopt and implement programs contained in the [RMP]" to set those restrictions. One of Chester Borough's plan conformance goals is to upgrade its wastewater treatment systems as the sewerage treatment system is currently exceeding capacity, creating a health and public safety issue. In its Recommendation Report, Council staff recommended the continuation of wastewater treatment facility upgrades and maintain current septic densities where public wastewater service was not proposed. The specific development plan for the Turkey Farm site was not under review

by the Council; the Council reviewed the Amended Petition, which again only designates the property as a site where development could occur if it meets other State and municipal standards. The Borough acknowledges this, and indicates that the proposed wastewater treatment plans for the site decommissions two old septic systems and installs a new, compliant temporary system. Thus, the Appellate Division would likely find the Council's decision on this aspect was reasonable.

DPF also argues that there is a reasonable probability of success on the merits as Resolution 2020-03 required eight votes for the resolution to pass, and the outcome would have differed with the change of a single vote. The Council takes formal action upon the "affirmative vote of a majority of the total authorized membership." N.J.S.A. 13:20-5(f). A decision is no less valid or official because the vote was a "close call," but rather still has full force and effect. The Appellate Division will review whether the ultimate decision of the Council was "arbitrary, capricious, or unreasonable" based on the record before the Council, not based on the number of votes in favor or against the application. Thus, the vote is inconsequential to whether the appeal of Resolution 2020-03 has a reasonable probability of success on the merits.

As set forth above, the Highlands Council thoroughly reviewed the information Chester Borough submitted with its Feasibility Report, recommending that the proposed Amended Petition with conditions met the RMP as indicated in its Recommendations Report, the Council did not approve the resolution arbitrarily, capriciously, or unreasonably. Thus, DPF does not have a reasonable probability of success on the merits on appeal.

C. DPF does not demonstrate that the relative hardships to the parties weigh in favor of a stay.

The third Crowe factor requires consideration of the relative hardship to DPF if a stay is not granted, and to Chester Borough if a stay is granted. The factor supports granting the stay if the “balancing of the equities and hardships favors injunctive relief.” Brown, 424 N.J. Super. at 183 (quoting Waste Mgmt. of N.J., Inc., 399 N.J. Super. at 520). DPF does not satisfy this factor. As discussed above, DPF would not experience irreparable harm from the Council’s denial of the stay, did not indicate any other harm it would incur, and to the extent its concern is development of the Turkey Farm site, DPF does not demonstrate irreparable harm as the Amended Petition does not approve or permit any development.

On the other hand, Chester Borough explains that in amending its petition its goal is to further the water quality, open space, and planned development goals of the Highlands Act, satisfy the Borough’s affordable housing obligations, and promote the health and safety of its residents. The Borough stresses that further obstacles to Resolution 2020-03 will delay improvements to ground and surface water quality, and will delay access to affordable housing for low- and moderate-income households.

Thus, as DPF’s alleged hardships from denial of the stay are speculative and unrelated to Amended Petition, while Chester Borough’s hardship from a grant of the stay is delay in implementation of a plan designed to meet legislative goals and promote public health and safety, this factor weighs in favor of denying the stay.

D. Consideration of the public interest does not weigh in favor of a stay.

If the agency action “presents an issue of significant public importance,” the agency should consider the public interest when evaluating whether to grant a stay. N.J. Election Law Enf't Com'n, 445 N.J. Super. at 196. DPF must prove that the “public interest will not be harmed.” Brown, 424 N.J. Super. at 183.

The Legislature has previously determined that the comprehensive approach to protection of the water and other natural resources of the Highlands area is in the public interest. N.J.S.A. 13:20-2. The goal of the RMP is to embody and implement that approach. N.J.S.A. 13:20-10. Thus, the consideration of whether Chester Borough's amended petition presents a plan that is consistent with the RMP is of “significant public importance,” and should be considered by the Council.

DPF argues that a stay is within the public interest because if the stay is denied, “permanent environmental and historic damage may be the result.” However, Resolution 2020-03 does not approve development, it approves Chester Borough's Amended Petition as consistent with the RMP. Thus, no harm to the environment or allegedly historic structures results directly from Resolution 2020-03. In fact, the proposed development of the Turkey Farm site could have proceeded without the Center Designation. Granting a stay in this matter would be against the public interest as the purpose of the plan conformance is to promote the RMP's resource protection goals, as well as public health and safety, and a stay delaying the implementation of the resolution would jeopardize those goals. As previously discussed, Chester Borough indicates its objectives to improve water quality and access to affordable housing in the municipality will be delayed if a stay is granted.

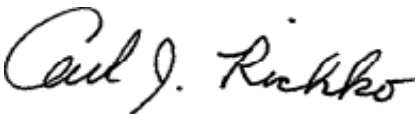
Thus, a stay would be against the public interest and this factor weighs in favor of denial.

**Conclusion**

For the reasons set forth herein, DPF has not demonstrated: (1) irreparable harm; (2) a likelihood of success on the merits of its appeal; or (3) that the balance of hardships favors a stay. DPF has also failed to show that a stay would be in the public interest. Accordingly, DPF's request for a stay is DENIED.

**SO ORDERED.**

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL

By:   
\_\_\_\_\_  
Carl Richko, Chairman



## State of New Jersey

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*Governor*

**SHEILA Y. OLIVER**  
*Lt. Governor*

**CARL J. RICHKO**  
*Chairperson*

**LISA J. PLEVIN**  
*Executive Director*

### MEMORANDUM

**To:** All Council Members

**From:** Christine LaRocca, Chief Counsel  
Jason Brandon Kane, Deputy Attorney General

**Re:** Consideration of Stay Request for Highlands Council Resolution 2020-03 Approving Chester Borough's Amended Petition for Plan Conformance

**Date:** July 10, 2020

On January 16, 2020 at a public meeting of the Highlands Council, the Council adopted Resolution 2020-03 granting an Amended Petition to Chester Borough for Center Designation, and authorized additional funding to the Borough.

On March 1, 2020, DPF Chester, LLC ("DPF"), filed an appeal of Resolution 2020-03 in the Superior Court, Appellate Division, Docket No. A-2605-19. On February 28, 2020, DPF requested the Council grant a stay of Resolution 2020-03 pending the appeal.<sup>1</sup> We received briefs from DPF and Chester Borough. These briefs are in your meeting packet. Please review the submissions and prepare to deliberate and vote upon the stay request at the July 16, 2020 public meeting.

The resolution should only be stayed if DPF satisfies the test of Crowe v. DeGioia, 90 N.J. 126, 132-34 (1982). Under that test, DPF must demonstrate, by clear and convincing evidence that:

- (1) there is a threat of irreparable harm;
- (2) DPF has a reasonable probability of success on the merits of its appeal; and
- (3) the relative hardships to the parties weigh in favor of a stay.

The public interest may also be considered in evaluating whether to grant a stay.

DPF argues that it demonstrates each of the three factors, discussing: irreparable harm primarily on pages 2-4, its reasonable probability of success on pages 4-9, and that the relative hardships weigh in favor of a stay on page 9. Chester Borough opposes a stay and responds that DPF does not

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<sup>1</sup> On February 18, 2020, the court notified DPF of a filing deficiency, resulting in the stay request being submitted to the Council prior to the March 1 accepted filing of the appeal.

July 10, 2020

Page 2

demonstrate the factors for a stay, discussing: irreparable harm on pages 6-7, that DPF does not have a reasonable probability of success on pages 4-6, and that the relative hardships weighs against a stay on pages 7-9.

If you have any questions concerning this application, please contact me. If you have any legal questions concerning this application, you can discuss them with DAG Kane by telephone appointment, or in Executive Session at the July 16 meeting, where he may provide legal advice to the Council.

cc: Lisa Plevin, Executive Director

March 16, 2020

**VIA E-MAIL & N.J. LAWYER'S SERVICE**

Christine La Rocca, Chief Counsel  
**Highlands Water Protection and Planning Council**  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322

**Re: Stay Pending Appeal of Resolution 2020-03  
In Re New Jersey Highlands Water Protection  
Council's Approval of Resolution No.: 2020-03  
Our File No. 6020.13406**

Dear Ms. LaRocca:

Pursuant to your letter dated March 9, 2020, please accept this letter brief in lieu of a more formal pleading in support of Appellant, DPF Chester, LLC, request to Stay Resolution 2020-03 (the "Resolution") pending appeal.

In considering whether to grant a stay the Resolution, it is important to understand the history that formed the basis of the Borough of Chester (the "Borough") petitioning the Highlands Water Protection and Planning Council (the "Highlands Council") for "Plan Conformance to include a designated Highlands Center." It begins in 2015 when the Borough filed a Declaratory Judgment Complaint under docket no. MRS-L-001661-15 (the "DJ Action") to approve the Borough's Housing Element and Fair Share Plan in response to *In Re Adoption of N.J.A.C. 5:96*, 221 N.J. 1 (2015). The Borough sought Highlands Center designation as part of a Settlement Agreement (the "Settlement Agreement")

(Exhibit A) in the DJ Action with Larison's Corner, LLC and Turkey Farm Acquisitions, LLC, to facilitate the construction of a mixed-use commercial, townhome and rental development on the site of the former Larison's Turkey Farm property. The Borough's sought-after Highlands Center designation will facilitate that development.

The request for a stay in this matter is similar in kind to injunctive relief. It has long been recognized that injunctive relief is available to "prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case." *Thompson v. City of Paterson*, 9 N.J.Eq. 634, 635 (E. & A. 1854). When a party demonstrates that there is both a probable right and probable danger that exists, a preliminary injunction is appropriate. *United States v. Paenick*, 197 F.Supp. 257, 260 (D.N.J. 1961). A party seeking a preliminary injunction must demonstrate: (1) that the requested relief is necessary to prevent irreparable harm; (2) that there exists a reasonable probability of success on the merits; and (3) that the equities, balance and consideration of the public interest weighs in favor of the requested relief. *Crowe v. DeGioia*, 90 N.J. 123, 132-34 (1982).

The Highlands Water Protection and Planning Act (the "Highlands Act") states that "[a]ny decision rendered or action taken by the [Highlands Council] ... **shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court** (emphasis added)." N.J.S.A. 13:20-26 If a Resolution of the Highlands Council was not stayed pending that appeal, the

statutory language making such decision subject to judicial review in the Appellate Division would be rendered meaningless. If the Highlands Council does not stay the Resolution it will effectively deny Appellant of its basic right to file an appeal under the enabling statute. Further, as stated above, the reason for the Borough's application is to facilitate a development in furtherance of the Settlement Agreement arising out of the DJ Action. The commencement of development activity pursuant to the Resolution could make any success on the merits before the Appellate Division difficult or impossible to implement.

In evaluating the accepted standards for preliminary injunction, the party's likelihood of success and the ability to make that party whole through monetary compensation must be considered. *Princeton Ins. Co. v. 349 Assoc., LLC*, 147 N.J. 337 (1997). If a party can be made whole through monetary compensation, the court is unlikely to grant the preliminary injunction. *Ibid.* However, if irreparable harm would ensue if the injunction was not granted and the greater harm would come to the party requesting the injunction than the opposing party if the application was denied, the relief should be granted. *Ispahani v. Allied Domecq Retail*, 320 N.J.Super. 494 (App. Div. 1999).

In the present matter, the implementation of the Resolution while an appeal is pending will cause harm as well as effectively prohibit the Appellant's right to appeal the Highlands Council's decision. As stated, the Court has established that injunctive relief is proper if the applicant will suffer an irreparable injury if the relief is denied. *Ibid.* In the present matter, if the stay is not granted, the developers

might be able to proceed with construction pursuant to the October 4, 2018 Settlement Agreement and forever alter valuable historic structures and the environment. Alterations or, even worse, permanent damage to the environment and historic structures is not something that can be corrected simply through monetary compensation.

Further, there exists a reasonable probability of success on the merits. In order to make this determination, an examination of whether appellant demonstrated that the material facts favored its position—in a setting that is highly “fact-intensive,” and, also, whether the law upon which plaintiff’s claim is based is well-settled. *Waste Management of New Jersey, Inc. v. Union County Utilities Authority*, 399 N.J.Super. 508 (App. Div. 2008).

In the underlying consideration of the Borough’s petition that resulted in the adoption of the Resolution, the Highlands Council’s decision making was seriously flawed because important facts were not disclosed to the Highlands Council in the Borough’s Feasibility Report (the “Report”) (Exhibit B). Further, the Consistency Review and Recommendations Report (the “Consistency Review”) (Exhibit C) upon which the Highlands Council relied upon in making their decision was flawed because it almost entirely relied upon the Report. For example, the Report understates the true extent of the development being contemplated for the Turkey Farm site. The Report states that the “Borough’s plan for this site includes: affordable housing (36 apartments), office development (approx. 25,000 sq. ft.) a new restaurant, organic farm and commercial farm stand.” (Exhibit B, page 3 of 15)

However, the Settlement Agreement describes the development as “36 [a]ffordable units in two buildings ... [, a] Medical Facility [of] 20,000 sq. feet [, an] Office Building [of] 5,000 [sq. feet] [, an] Organic Farm ... a restaurant of not more than 6,500 [sq.] feet [and a] CVS ... not [to] exceed 15,000 sq. feet.” (Exhibit A, ¶ 1.3) The total commercial development made part of the Settlement Agreement is eighty six percent (86%) higher than what the Report advised the Highlands Council of. Further, the Settlement Agreement has an Exhibit appended to depicting a Concept Plan of the proposed development of the Turkey Farm site. *Settlement Agreement*, Exhibit A. The Concept Plan was not made part of the Report and therefore not shared with the Highlands Council. Perhaps it wasn't included because the Concept Plan depicts the development of new buildings exactly where the existing Issac Corwin House and Sunnyside House historic structures are located. While the Report references the Borough historic character as one its major assets, it fails to mention that the development contemplated by the Borough, which would be facilitated by the Resolution, would likely destroy some of those historic “major assets.” According to the November 9, 2017 Chester Borough Land Use Board Minutes, Sunnyside House is designated as a historic site in the Chester Borough Master Plan, the County Register and is recognized by the Highlands Council (Exhibit C).

The concern for the continued existence of these historic assets is not idle speculation. In a September 19, 2019 article in the Daily Record, Mayor Hoven is quoted as saying that “[i]n discussions, the majority of the council said they were

fine if the Larrison-Corwin House was demolished in order to build a new restaurant.” (Exhibit D) It is understandable that this sentiment was never conveyed in the Report because it doesn’t square well with the statement therein that “Redevelopment Plans will be consistent with Chester Borough’s historic preservation.” *Report*, page 4 of 15. Pursuant to *N.J.S.A. 13:20-3*, protecting historic properties is included in the definition of conservation purposes. “Protection and preservation of the historic, cultural and archaeological resources” is one of the goals set forth in the Highlands Regional Master Plan (“HRMP”). See, Exhibit E, *Highlands Regional Master Plan*, page 182.

The Report also claims that the Highlands Center designation will enable the Borough “to eliminate an existing long-standing, undesirable and unsustainable condition of individual on-site septic system on both residential and nonresidential lots.” *Report*, page 1 of 15. Again, however, there is a disconnect between what the Report informs the Highlands Council and what the Settlement Agreement informs the Court and other parties. So, while the Borough advised the Highlands Council that it wants to do away with on-site septic systems, the Settlement Agreement authorizes the creation of a new one for nonresidential purposes;

The Parties agree that a temporary septic system, to be constructed ... adjacent to the proposed CVS will be permitted to facilitate the construction and use of the CVS until such time that the centralized treatment facility is complete,

*Settlement Agreement*. ¶ 3.1. This inconsistency was never made known to the Highlands Council. If it had been known, the Highlands Council could have easily identified that this proposal was not consistent with the HRMP goals placing “restrictions on the number and location of septic systems,” See, Exhibit E, *Highlands Regional Master Plan*, page 39, “all existing and future development in the Highlands Region that use public wastewater treatment systems are served by adequate and appropriate infrastructure.” See, Exhibit E, *Highlands Regional Master Plan*, page 172. The Highlands Council never had the opportunity to address the inconsistency of the Borough asking for Highlands Center designation to “eliminate long-standing, undesirable and unsustainable condition of individual on-site septic systems” while planning to add one more septic system. This is particularly concerning because the Highlands Council’s Consistency Review states that the Borough’s current sewerage system is “exceeding capacity” and “numerous failing cesspools and subsurface disposal systems are creating and public health and safety issue.” See, Recommendations Report Page 5. The Resolution essentially approves the creation on a new septic system in the Borough contrary to the goal set forth in the Highlands Act to protect, restore, or enhance the quality and quantity of surface and ground waters. See, *N.J.S.A.* 13:20-10(c)(1).

It is not only undisputed that the Consistency Review and the Report fail to address the new development’s effects on the permeability of the land and thus water quality. The 25-acre Turkey Farm Property is very lightly developed with a

majority of the surface open and pervious. The new development that will be facilitated by the requested Highlands Center designation will change that into a majority impervious surface. Further, as pointed out above, the intensity of the proposed development set forth in the Report understates the actual proposed development by eighty six percent (86%). This too runs contrary to the HRMP goals "to permanently restrict the amount of impervious surface," See, Exhibit E, *Highlands Regional Master Plan*, page 180, and "to protect, restore, and enhance the quality and quantity of surface and ground waters therein. N.J.S.A. 13:20-10(c)(1). The Turkey Farm property either includes or is adjacent to a conservation environmentally constrained subzone. These types of zones consist of significant environmental features "that should be preserved and protected from non-agricultural development," as stated in the HRMP. See, Exhibit E, *Highlands Regional Master Plan*, page 111. This is not mentioned in either the Report or the Consistency Review and no studies, tests, or information been produced to confirm that the potential development will not affect this area.

Further, it should be noted that in order for the Highlands Council to adopt a Resolution eight (8) votes are necessary. There were exactly eight (8) votes, with three (3) votes against the approval confirming that Appellant was not alone in its belief that the Report and/or Consistency Review did not form an adequate basis for the Highlands Council's vote. Vice Chair Alstede and Councilmember Walton voiced concerns over the sewer systems, but were not provided with any studies showing the potential effects of adding a septic system. See, Exhibit F, Transcript,

pages 46-48. Councilmember Carluccio voiced concerns over the lack of information available to the councilmembers. See, Exhibit F, Transcript, pages 49-51. If more information was available, a single vote could have prevented the enactment of Resolution 2020-03. Based on the foregoing, there is clearly a reasonable probability of success on the merits.

Lastly, the equities, balance and consideration of the public interest weighs in favor of the requested relief. The equities, balance and consideration of the public interest, in addition to the Highlands Council's interests, lies in environmental protection. This falls in line with a stay. If the stay is granted, the building of the new development will at worst be delayed, but no real harm will result. If the stay is denied, permanent environmental and historic damage may be the result. Damage that money will not be able to remedy.

In light of the foregoing, Appellate respectfully requests that the Highlands Council stay Resolution 2020-03 and the *status quo* be maintained until the Appellate Division can hear the appeal thus affording the Appellant the ability to exercise its statutory right to appeal a decision of an administrative agency. *N.J.S.A. 13:20-26.*

Respectfully Submitted,



John S. Wisniewski

CC: Jason Kane, Deputy Attorney General via *N.J. Lawyer's Service*  
Brian W. Mason, Esq. via *N.J. Lawyer's Service*  
DPF Chester, LLC via *e-mail only*

# **Exhibit A**

**SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** (“Agreement”) made this 4<sup>th</sup> day of October , 2018, by and between:

**BOROUGH OF CHESTER**, a municipal corporation of the State of New Jersey, County of Morris, having an address at 50 North Road, Chester, New Jersey 07930 (hereinafter the “**Borough**”);

**LARISON’S CORNER LLC**, a New Jersey limited liability company, with an address at 2 North Road, Warren NJ 07059,(hereinafter “**LC**”), the owner of the Mill Ridge Tract

And

**TURKEY FARMS ACQUISITIONS, LLC**, a New Jersey limited liability company **AND** with an address at 237 South Street, Morristown NJ 07960 (hereinafter “**TF**”), the owner of the Turkey Farm Tract;

Collectively, Larison’s Corner and Turkey Farms shall be referred to as “**Developer**”, and the Borough and Developer shall be referred to as the “**Parties.**”

**WHEREAS**, in response to the New Jersey Supreme Court’s decision In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 2, 2015, the Borough filed an action with the Superior Court of New Jersey (“**Court**”), entitled In the Matter of the Application of the Borough of Chester, County of Morris, Docket No. MRS-1661-15, seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related reliefs (the “**Compliance Action**”); and

**WHEREAS**, on or about August 14, 2015, LC and TF filed a Motion to Intervene in the Compliance Action (“**Developer Intervention**”) and such intervention was granted by the Court on September 14,2015; and

**WHEREAS**, TF is the owner of the real property located on the corner of Route 206 and West Main Street, with a street address of 2 West Main Street and designated as Block 101 Lots 13,14,15 & 16 on the Tax Map of the Borough of Chester (the “**TF Parcel**” or “**TF Site**”). LC is owner of vacant property located on Mill Ridge Lane and designated as Block 101, Lots 12.07, 12.08, 12.10 & 12.11. (the “**LC Parcel**” or “**MRL Site**”)(Collectively the TF Parcel and the LC Parcel are referred to as the “**Property**”); and

**WHEREAS**, through mediation supervised by the Court Master, Mike Bolan, P.P., the Parties have reached an agreement that Developer will develop the Property to include commercial development and 36 affordable units on the TF Site and up to 20 market-rate townhouses on the MRL Site. All development on the TF Site will occur in the existing community zone as depicted on the Highlands Regional Master Plan. The development to occur on the Property is referred to in this agreement as the “**Project**”.

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**WHEREAS**, LC and TF are amenable to fully and finally resolving the Developer Intervention and the Highlands Appeal A-38-16 T3, premised upon securing the right to construct the Project contemplated herein on the Property; and

**WHEREAS**, the Land Use Board is not a party to this Settlement Agreement but the Parties understand and anticipate that the Land Use Board will abide by the terms of this Agreement as set forth below for the purpose of facilitating a resolution of Developer's objection to the Borough's Affordable Housing Plan; and

**WHEREAS**, to ensure that the Project contemplated by this Agreement generates affordable housing credits to be applied to the Borough's Gap (1999-2015) and Round 3 (2015-2025) affordable housing obligations, the affordable units within the Project shall be developed in accordance with the COAH Prior Round regulations, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"), and all other applicable law, and said Project shall be deed restricted for a period of 30 years from the initial occupancy of the affordable units; and

**WHEREAS**, the Parties wish to enter into this Agreement, setting forth the terms, conditions, responsibilities and obligations of the Parties, and seek the Court's approval of this Agreement; and

**NOW, THEREFORE**, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereto, each binding itself, its successors and assigns, do hereby covenant and agree, each with the other, as follows:

**Definitions**

- i. **Developer**: Shall refer to Turkey Farms Acquisitions, LLC and Larison's Corner, LLC collectively.
- ii. **The Project**: Shall refer to the development of the Property substantially in accord with the concept plans attached hereto as Exhibits A and B and bulk standards set forth in Exhibits C and D and Townhome elevations set forth on Exhibit E.
- iii. **Existing Community Zone (ECZ)**: Shall have the same meaning as is utilized in the Highlands Regional Master Plan (RMP) and the mapping of the ECZ shall be interpreted as the boundaries as they are currently drawn as of the date of this Settlement (as may be modified pursuant to this agreement and collaboration with the Highlands Council.
- iv. **Under Construction**: Shall mean the process of building of a structure or structures that are authorized in this agreement after all legally required approvals are obtained, all required guarantees are posted and all UCC construction permits are secured.

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## ARTICLE I – REDEVELOPMENT PLAN

- 1.1** Purpose: The purpose of this Agreement is to settle the Developer Intervention and to create a realistic opportunity for the construction of the Project, and to generate 36 affordable housing units, plus applicable bonus credits, for the Borough to apply to its Gap (1999-2015) and Prospective Need (2015-2025) affordable housing obligations. The Project shall be substantially consistent with the concept plan for the development of the TF Parcel attached hereto and made a part hereof as Exhibit A and the concept plan for the development of the LC Parcel attached hereto and made a part hereof as Exhibit B, as well as the zoning bulk standards attached hereto and made a part hereof as Exhibits C and D, and the Townhome elevations attached hereto and made part hereof as Exhibit E, which have generally been reviewed and approved by the Borough and the Borough's professionals. The TF Site shall be governed by the redevelopment plan that will be adopted as part of Borough Zoning Ordinances in accord with the timeframes and standards set forth herein. At the Borough's sole discretion, the Mill Ridge Lane Site may be investigated as an area in need of redevelopment. The Borough can achieve the zoning contemplated in this Agreement for MRL by rezoning the site or including it holistically in a redevelopment plan for both the MRL Site and the TF Site.
- 1.2** The Borough shall designate the TF Site and the LC Site as an area of need of redevelopment and adopt a redevelopment plan substantially consistent with Exhibits A, B, C and D to achieve a permitted Project as described herein.
- 1.3** Subject to approval from the Highlands Council, the Borough of Chester shall permit the following construction and uses on the TF Site in accordance with the development concept plan entitled "Turkey Farm Concept Development Plan" prepared by Bowman Engineering, dated September 17, 2018 prepared by Bowman Engineering, and attached hereto as Exhibit A, and the zoning bulk standards set forth in Exhibit C:
- 1.3.1** Affordable Housing: 36 Affordable units in two buildings, which buildings may be connected by a community room/resident services structure. A playground shall be provided and may be located behind the Affordable housing units, outside the ECZ.
- 1.3.2** Medical Facility: The building shall not exceed two (2) stories and 20,000 sq. feet and shall only be used for medical services, medical office and related medical purposes.
- 1.3.3** Office Building: 5,000 Square Foot and no more than two (2) stories with a maximum building footprint of 2,600 sq. ft.
- 1.3.4** Organic Farm: In lieu of constructing any structures on this portion of the property consistent with existing zoning, TF shall apply to the Morris County Agriculture Development Board for the sale of the existing development rights through the Farmland Preservation Program, and shall accept the award granted through that program. Until such time as that application is made and the property

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is entered into the Farmland Preservation Program, the area described as the existing "Organic Farm" on Exhibit A shall remain in agricultural use. Consistent with TF's application, a non-severable exception area may be created on this portion of the property for the purpose of constructing a residence for the farm within the "Country Store". All existing agricultural structures, including the "Country Store" building, barn and farm equipment storage buildings shall be located on the Organic Farm, in substantially the location as shown on Exhibit A, consistent with the development restrictions that may be placed upon this land as part of any farmland preservation transaction.

- 1.3.5 Restaurant: A restaurant of not more than 6,500 square feet plus seasonal outdoor patio area shall be permitted and shall be developed in a manner consistent with the design and architectural standards of the existing Turkey Farm restaurant or as may be designated as historic design standards by ordinance; It is acknowledged that the existing restaurant building is not required to remain; however, the architectural design of the 6500 sq. ft. restaurant proposed on the Concept Plan shall be consistent with the Borough's ordinances.
- 1.3.6 CVS: The CVS shall not exceed 15,000 sq. feet, and shall include an attached drive through window situated at the west side of the building appropriately screened so as to preclude direct view from West Main Street.
- 1.3.7 On-site sewer package treatment facility in the location depicted in Exhibit A. In no event shall the sewer package treatment facility or its disposal fields be located outside the ECZ. A Utility easement no more than 50 feet in width shall be allowed in the forest protection zone to connect the sewer and water service from the MRL Site to the utilities and sewer treatment facility on the TF Site. The on-site sewer package treatment plant and collection facilities shall be designed to accommodate only the wastewater needs of the uses authorized in this agreement.
- 1.3.8 The above uses on the Turkey Farm Tract described in Article 1.2 shall be substantially consistent with the Concept Plan, which is attached hereto as Exhibit A.
- 1.3.9 Cell Tower: TF agrees to evaluate masking the cell tower in a silo, or similar stealth design feature, which evaluation and design options shall be documented in the redevelopment plan. In no event shall the stealth design include a pine tree branching stealth design. In the event that TF/Developer cannot achieve an acceptable stealth design solution for the existing cell tower, then there shall be no upgrades or replacements to the existing cellular antennas and/or transmission equipment or any other cellular antenna support facility without prior approval by the Land Use Board.
- 1.3.10 Existing Community Zone: All buildings associated with the Project as it relates to the TF Site shall be developed in the Existing Community Zone as currently constituted except to the extent the farming activities and related structures are

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permitted in conjunction with the preservation of the Organic Farm pursuant to Article 1.3.4 above

**1.3.11** All improvements associated with the Project on the TF Site shall be connected to a centralized treatment facility, which shall be located in the ECZ as currently constituted. However, for the Parties agree that the CVS will be serviced, temporarily, by the temporary septic connection detailed in Article 3.1 below. The temporary septic connection shall be located in the ECZ as shown in Exhibit A.

**1.4** Subject to approval from the Highlands Council, the Borough of Chester shall permit the following construction and uses on the LC Parcel in accordance with the development concept plan entitled “Mill Ridge Lane Multi-family Townhouse Concept Development Plan”, dated September 17, 2018 prepared by Bowman Engineering, and attached hereto as Exhibit B the zoning bulk standards attached hereto and made a part hereof as Exhibit D

**1.4.1** Townhomes: A maximum of twenty (20) fee simple subdivided plots to be situated on Lots 12.07 & 12.08. Townhomes to be 3 BR with den and an option for master bedroom down (i.e. first floor of the units);

**1.4.2** Single Family: One (1) single family detached dwelling on Lot 12.10 and one detached single-family dwelling on Lot 12.11

**1.4.3** The above uses on the LC Parcel described in Article 1.4 shall be substantially consistent with the Concept Plan attached hereto as Exhibit B, the zoning bulk standards attached hereto and made a part hereof as Exhibit D, which may include minor modifications prior to adoption by the governing body, and the Townhome building elevations attached hereto as Exhibit E.

**1.4.4** The design and appearance of the Townhomes shall be subject to Borough approval in consultation and coordination with the “working group” identified in Article 1.5.1 below, and consistent with adopted ordinances/zoning standards for design, architectural, landscaping, elevations and related features in substantial conformity with Exhibits B, D and E.

**1.5** The Parties mutually agree that the following general standards shall apply to the Project:

**1.5.1** The Borough agrees to establish a working group to assist the developer in the site and building design process, and assist the Borough in the adoption of appropriate ordinances.

**1.5.2** The Project shall be developed in a manner substantially consistent with Exhibits A, B, C, D and E to this Settlement Agreement. Prior to the adoption of the Redevelopment Plan, the Developer and the Borough shall meet and consult with the working group established per Article 1.5.1, which may include consultation with the Borough’s Historic Preservation Committee for consistency with the Borough’s Historic Preservation and Architectural Review Ordinance, in order to coordinate building architecture and site design details. Design standards shall be

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incorporated into the Redevelopment Plan. The Borough shall prepare and adopt a Redevelopment Plan that provides for the elements of development authorized for the TF and LC tracts under this Agreement.

- 1.5.3** Traffic Study: At its own expense, TF shall retain a traffic expert acceptable to the Borough to study the need for a traffic signal and/or crosswalk at the Project Driveway and W. Main Street. In the event that the TF expert concludes that a traffic signal is required, and the applicable County permits are issued to design and install the signal and crosswalk, TF shall be solely responsible for the costs to install the traffic signal. The Borough may retain its own traffic engineer to review and advise the Board on the traffic study findings and recommendations prepared by TF's traffic expert, and provide the Board with a separate traffic study that may include corroborating or divergent recommendations with TF's expert report, as the case may be. The services of the Board's traffic expert shall be paid as part of the Escrow pursuant to Article 1.8 below.
- 1.6** WQMP Amendment: The Parties acknowledge that the Project will require a WQMP amendment from the NJDEP. At no cost to the Borough, the Borough will endorse an application by TF to the NJDEP to modify the WQMP sewer service area to facilitate the development of the Project. The WQMP map amendment shall conform to NJDEP regulations. The Developer shall be responsible to reimburse the Borough for any costs incurred by the Borough to provide its endorsement of an application by the Developer to NJDEP for the WQMP amendment.
- 1.7** Highlands Approval of the Project: The Parties acknowledge that the Project will require approval from the Highlands Council, which may require relief from the current RMP designations and mapping as it relates to the LC Parcel. At no cost to the Borough, it will endorse an application by Developer to the Highlands Council for approval of the Project contemplated in this Agreement and the exhibits attached hereto ("Highlands Approval"). It is acknowledged that Highlands Approval may be achieved by RMP Map Adjustment, RMP Map Amendment, Waiver, or other available mechanisms authorized under the RMP. The Parties acknowledge that the Highlands Council is not bound by this agreement and acknowledge that depending on the relief sought, the timeline for Highlands Council approval is variable. The Parties agree to work in good faith to resolve these issues as quickly as practical.
- 1.8** Escrow: To the extent that the Borough's engineering, planning and legal professionals may be required to assist the Developer in securing these approvals, the Borough shall make available the Borough's professionals with the cost of their services to be paid by TF and LC, through an escrow account to be established by the Developer in the amount of \$75,000.00.

## ARTICLE II- DEVELOPER OBLIGATIONS

**2.1** Affordable Housing. TF shall have an obligation to deed-restrict thirty-six (36) of the residential units in the Project as very low, low and moderate-income affordable units.

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Any such affordable units shall comply with UHAC, applicable COAH affordable housing regulations, any applicable order of the Court, and other applicable laws, including the 13% very low income requirement (a minimum of 13% very low income units, very low income is defined as 30% or less of the regional income) embodied in the Fair Housing Act in lieu of the UHAC requirement as to low income.

2.2 In addition, the affordable units shall remain affordable rental units for a period of at least thirty (30) years from the date of their initial occupancy ("Deed-Restriction Period") and shall otherwise comply with UHAC in terms of duration of the controls, commencement of controls and all other requirements so that the Borough may count the units against its obligations to provide family rental affordable housing. This obligation includes, but is not limited to TF's obligation to comply with (1) bedroom distribution requirements (8 three bedroom units (2 very low, 2 low and 4 moderate), 21 two bedroom units (3 very low, 8 low and ten moderate) and 7 one bedroom units (1 very low, 3 low and 3 moderate), (2) income split requirements (5 very low income unit, 13 low income units and 18 moderate income units), (3) pricing requirements, (4) affirmative marketing requirements; (5) candidate qualification and screening requirements, (6) deed restriction requirements. The Borough reserves the rights to extend controls for an additional 30-year period, subject to the then applicable requirements for extension of controls. *HW MTB*

2.3 The distribution of the affordable housing units shall be in compliance with COAH's Round Two substantive regulations, N.J.A.C. 5:93, which the Parties believe will govern the issue, or as approved by the Special Master and the Court.

2.4 TF shall contract with the Borough's affordable housing administrative agent ("Administrative Agent") for the administration of the affordable units and shall have the obligation to pay all costs associated with properly deed restricting and affirmatively marketing and administering the affordable units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. TF shall work with the Borough and the Borough's Administrative Agent regarding any affordable housing monitoring requirements imposed by COAH or the Court.

2.5 The Parties agree that the affordability controls, including duration, commencement and termination shall be governed by Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("UHAC"). The Parties agree that the affordable units are to be included in the Affordable Housing Plan to be approved and credited by the Court in the Compliance Action, and that the credits will be applied against the Borough's gap (1999-2015) and Prospective Need (2015-2025) obligations.

2.6 The Parties acknowledge that Developer may seek public financing for the affordable units, including Low Income Housing Tax Credits ("LIHTC"), or other available financing for the construction of the affordable units. The Borough agrees that it shall cooperate with Developer in securing such financing, including approval of a Payment in Lieu of Taxes ("PILOT") for the affordable units in the form and amount required by HMFA (9% LIHTC) or 10% in the event of 4% LIHTC. Upon written notice, TF shall provide detailed information requested by the Borough, or the Borough's Administrative Agent, within 30 days concerning TF's compliance with UHAC and other applicable laws.

*Harold Narenty  
Mitchell & Beilant*

**2.7** Obligation Not To Oppose And To Support Borough's Application for Approval of its Affordable Housing Plan. As it pertains to the Borough's Application for Approval of its Affordable Housing Plan, TF shall not directly or indirectly oppose or undertake any further action to interfere with the Court's adjudication of the Borough's affordable housing obligations and compliance standards. TF shall also not directly or indirectly oppose or undertake any further action to interfere with the Court's approval and/or implementation of the Affordable Housing Plan, as it may be amended in any form, unless the Affordable Housing Plan deprives TF of any rights created hereunder, or unless any other defendants or interested parties undertake any action to obstruct or impede TF from securing such approvals as it needs to develop the Project on the Property.

**2.8** Obligation to Withdraw Objection To And Support The Borough's Affordable Housing Plan. Developer agrees that they will withdraw the current objection to the Borough's Affordable Housing Plan, and that Developer will not object further to the Borough's Affordable Housing Plan, as may be amended including any challenges to the calculation of the obligations, RDP, RDP compliance mechanisms and unmet need mechanisms.

**2.9** Withdrawal of Intervention and Highlands Appeal. Developer agrees to withdraw its intervention in the Borough's Declaratory Judgment Action (MRS-L-1661-15) and will support the global settlement with FSHC, which will resolve the Borough's DJ Action and Round 3 affordable housing obligations subject to Court Approval of the Agreement and Subsequent HEFSP. Developer agrees to withdraw its Highlands Appeal (DOCKET A-0038-16T4) upon a final resolution with the Highlands Council and Borough pursuant to Article 1.7 of this Agreement.

**2.10** Attorney Fees: TF shall pay the Borough \$200,000.00 to reimburse the Borough for costs and attorney fees associated with the resolution of this case to date. The \$200,000 payment shall be made as follows: (i) TF to pay \$50,000 to the Borough upon entry of a final Judgment of Compliance; (ii) Upon the issuance of a TCO for the CVS pursuant to Section III below, Developer shall make payment to the Borough in the amount of \$50,000 and (iii) Upon closing on the farmland preservation of the Organic Farm, as provided in Article 1.3.4, TF shall pay to the Borough a final payment to the Borough of \$100,000.00.

**2.11** Escrow for Redevelopment Plan and Ordinances: TF agrees as part of this final settlement agreement to place \$35,000.00 into a separate escrow for the purposes of paying the costs for the Borough's professionals to prepare a Redevelopment Plan and ordinances implementing this Agreement.

### **ARTICLE III – SEWER AND PHASING**

**3.1** The Parties agree that a temporary septic system, to be constructed in the location shown on Exhibit A adjacent to the proposed CVS, will be permitted to facilitate the construction and use of the CVS until such time that the centralized treatment facility is complete, provided, however, that a Temporary Certificate of Occupancy (TCO) will be issued until the CVS is connected to and operating via the centralized treatment facility at which point a CO will be issued as long as Developer complies with the affordable housing and sewer treatment plant

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phasing requirements in Article 3.4-3.8 of this Settlement. The temporary septic system shall be designed to accommodate only the needs of the CVS retail store and no other development shall be permitted to connect to the temporary septic system. The temporary septic system shall be abandoned once the CVS store is connected to the centralized treatment facility, at which time the area of the site utilized for the temporary septic system shall be restored, suitably landscaped and incorporated into final site design as open area to remain undeveloped.

**3.2** The Borough's primary consideration in exchange for this agreement is the production of affordable housing. To prevent the development of the CVS without additional development, including the affordable housing, Developer shall agree to post a performance bond for both the affordable housing units as contemplated in this Article and in an additional amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00) for the sewer package treatment facility.

**3.3** There shall be no construction permit issued for construction of the CVS until the WQMP amendment for centralized wastewater collection and treatment is secured in final and unappealable form from NJDEP. As a condition precedent for the issuance of a TCO for the CVS, Developer shall post the aforesaid sewer package plant performance bond for the sewer package treatment facility.

**3.4** 18 of the affordable units must be completed within two (2) years of the issuance of the TCO issued for the CVS. The TCO may be extended in the event that TF is diligently proceeding with the development and construction of the affordable units.

**3.5** Prior to the completion of the first 18 affordable units, the Parties agree that Certificates of Occupancy (CO) for the first five (5) Townhomes on the LC Tract may be granted provided that the 18 affordable units are under construction as defined in this Settlement.

**3.6** Upon completion of the first 18 affordable units (50% of the total affordable units), Developer shall be entitled to final COs for 50% of the total market project, including ten (10) townhomes, the CVS and the office building.

**3.7** LC may secure COs for Townhomes 11-20 upon posting of a performance bond with the Borough, naming the Borough as the secured party, to pay the full cost of construction and delivery of the remaining 18 affordable units, which shall be posted in the amount of not less than \$2,250,000. (\$125,000 per unit), or in an amount that may be determined by the Borough Engineer and Tax Assessor, whichever is less; alternatively, in the event that the affordable units receive LIHTC financing or other State aid, that award shall govern completion of the affordable units provided such financing is provided in an amount sufficient to construct and deliver the remaining 18 affordable units.

**3.8** The remaining market development (medical office, building and the restaurant) will be completed upon 25% building completion of the remaining 18 affordable units, and if issuance of the COs for the remaining 18 affordable units has not been completed at time of completion of Townhomes 11-20, COs may be issued upon posting of a performance bond in the amount of \$2.25 million as described in Article 3.7 above.

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**3.9** No construction permit for any development contemplated in this agreement shall be issued for any building other than the CVS until the WQMP amendment for centralized wastewater collection and treatment is authorized in an unappealable NJDEP approval and the wastewater collection and treatment facilities are constructed at the sole expense to the Developer.

#### **ARTICLE IV - OBLIGATIONS OF THE BOROUGH**

**4.1 Obligation To Adopt Redevelopment Plan.** The Borough shall adopt the a Redevelopment Plan, which permits the development and zoning standards attached hereto as Exhibits A-D within thirty (30) days following the court approval of this Settlement Agreement or approval of the project from the Highlands Council, whichever is later. The Redevelopment Plan shall be reasonably satisfactory to both the Borough and Developer. In connection with the above actions, the Borough shall comply with all applicable procedural requirements set forth in the Municipal Land Use Law and the case law interpreting same, including, but not limited to, legal notice requirements. All of the time periods set forth in this Article 4.1 may be subject to extension of time, which shall be reasonably agreed upon by the Parties, if at no fault of either Party the required actions cannot be completed within the time periods established. In connection with the above actions, the Borough shall comply with all applicable procedural requirements set forth in the Redevelopment Law and the case law interpreting same, including, but not limited to, legal notice requirements.

**4.2 Obligation To Preserve The Zoning Standards.** The Redevelopment Plan shall not be amended or rescinded except upon the application or consent of the Developer or by Order of the Court for a period of at least 30 years. The Developer's consent of an amendment to the Redevelopment Plan shall not be unreasonably withheld if the general terms of development authorized by this agreement remain unchanged by a Redevelopment Plan amendment that is proposed by the Borough to address public health, safety and the general welfare.

**4.3 Obligation to Process Developer's Land Use Applications with Reasonable Diligence.** The Parties expect and agree that the Borough Land Use Board shall process Developer's development applications with reasonable diligence following Court approval of this Agreement following a duly noticed Fairness Hearing in accordance with N.J.A.C. 5:93-10.1(a) and within the time limits imposed by the MLUL. In the event of any appeal of the Redevelopment Approvals, or Court approval of this Agreement, the Land Use Board shall process and take action on any development application by Developer for the Project, which decision may be conditioned upon the outcome of any pending appeal. To the extent permitted under applicable law, while not a party to this Agreement, it is expected that the Land Use Board will support and endorse and, if possible, sign, any applications of the Developer that are in accordance with this Agreement and to seek expedited Board review of the development applications. It is expected that the Land Use Board will process the development application with reasonable diligence, along with applications for building permits and other municipal permits. The Borough shall take all reasonable steps to foster and facilitate development of the Project in accordance with this Agreement. The Borough shall cooperate in all efforts of

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developer to secure necessary municipal, county and state permits and approvals in an expeditious fashion.

**4.4 Obligation to Refrain From Imposing Cost-Generative Requirements.** The Borough recognizes that the required land use approvals and this Agreement all contemplate the development of an inclusionary affordable housing development within the meaning of the Mount Laurel doctrine. Developer shall be entitled to any benefits, protections, and obligations afforded to developers of affordable developments, in addition to what Developer has agreed to in this Agreement. Therefore, the Borough will not impose development standards and/or requirements that have not been agreed to by the Parties, and would otherwise be considered to be "cost generative." Nothing shall prevent Developer from applying for a waiver or bulk variance from any standard imposed by the Redevelopment Plan and/or the Borough's Zoning and Development Ordinance, as applicable, and the standards set forth in the MLUL and/or the Redevelopment Law, as applicable, shall determine if Developer is entitled to this relief or to a waiver or *de minimus* exception to any standard or requirement of the Residential Site Improvement Standards under the applicable regulations. Notwithstanding the above, the Borough Council and the Land Use Board are under no obligation to grant or approve any request for a variance, waiver or *de minimus* exception. This provision shall not apply to the non-residential components of development that are authorized in this Agreement or by the redevelopment plan to be adopted.

**4.5 COAH Development Fees.** The parties agree that the residential components of the redevelopment plan Agreement shall be exempt from COAH developer fees in accordance with the law, unless Developer receives 9% tax credits, in which case the fees associated with the townhome element of the project shall be non-exempt. The non-residential components of the redevelopment plan as permitted by this Agreement shall not be exempt from COAH developer fees. The Borough acknowledges that TF has requested the Borough to consider utilizing COAH trust fund dollars for funding a portion of the waste water treatment plant which will service the affordable units. The Borough will not agree to an allocation of such fees as part of this Agreement, nor does the Borough concede that the same is required by law. However, TF agrees to provide a *pro forma* demonstrating whether such funding is required in order to create a realistic opportunity for the development to the Borough and the Borough agrees to work with TF in good faith to evaluate a *pro forma*, the need for additional funding for the construction of the sewer plant and the impact of such funding on the Borough's HEFSP and Spending Plan. The Borough reserves the right to retain its own expert to evaluate the *pro forma* and TF agrees that it will be solely responsible for costs associated with that review, **outside any escrow created in this Agreement.** TF has represented that 31% (8,100 gpd/ 26125 gpd) of the flow from the waste water treatment plant will be utilized by the affordable units. In no event shall any allocation of trust fund dollars **from those paid from non-exempt fees from this project** exceed the lesser of the following: **a)** fifty percent (50%) of the trust fund monies that are generated by that portion of the subject project which is not exempt from affordability assistance requirements under COAH's second round regulations (N.J.A.C. 5:93); or **b)** 50% of the portion of the waste water treatment plan associated with the affordable units (15.5% of the total flow). Nothing contained in this provision shall be interpreted as an acknowledgement that any sewer connection fee law in New

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Jersey requires this any expenditure from the Borough's trust fund contemplated herein including the 15.5% figure of the total flow as cited above, which serves as a cap and not an acknowledgment of any legal obligation.

**4.6 Support for Farmland Preservation.** The Borough agrees to adopt a resolution of support for any farmland preservation application made by TF to the Morris County Agricultural Development Board or to the State of New Jersey's Agricultural Development Board, as may be required.

**4.7. Demolition Permit for Sunnyside.** The Borough agrees that TF shall be issued a demolition permit for the building known as Sunnyside from the Construction Official, upon payment of the appropriate fee, without further application to the Land Use Board, subject to all other ordinances of the Borough.

#### ARTICLE V – MUTUAL OBLIGATIONS

5.1 Escrow Agreements. Within thirty (30) days of the fairness hearing pursuant to Article 7.2, the Borough and Developer shall enter into escrow agreements for the deposit of escrow amounts required in Sections 1.8 and 2.11 with the Borough to be utilized to tender payment of reasonable fees for professional services, including legal, engineering, planning services and construction inspection, being provided in conjunction with implementation of this Agreement. These escrows are independent of Developer's obligations in connection with subdivisions and site plan applications in accordance with the MLUL. The Borough may transfer funds between the escrow accounts required by this Agreement as needed, and the Borough may sweep any unused escrow funds into the Borough's Affordable Housing Trust Fund without credit to the Developer, which shall be exempt from Section 4.5, above.

5.2 Obligation To Comply with State Regulations: The Parties shall comply with any and all Federal, State, County and local laws, rules, regulations, statutes, ordinances, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses, approvals, and similarly binding authority, applicable to the Project or the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights in connection with this Agreement.

5.3 Mutual Good Faith, Cooperation and Assistance. The Parties shall exercise good faith, cooperate, and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, the approval of this Agreement by the Court, the Redevelopment Approvals, the development of the Property consistent with the terms hereof, and the defense of any challenge with regard to any of the foregoing.

5.4 Failure to Adopt Redevelopment Plan. If the Borough fails to adopt the Redevelopment Plan within the time frames set forth in Section 4.1, then, at the option of Developer, in its sole discretion and by prior written notice to the Borough in accordance with Article VIII of this Agreement, the Parties shall be restored to the status quo ante to the date

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hereof and all claims and defenses available now shall be available to the Parties. In the event that Developer decides that the Parties shall be restored to the status quo ante to the date hereof and all claims and defenses available now shall be available to the Parties, no Party shall be entitled to use this Agreement, or negotiations in conjunction therewith, to attempt to prejudice the other in any future proceedings.

5.5 Defense of Agreement. Each party exclusively shall be responsible for all costs that they may incur in obtaining Court approval of this Agreement and any appeal therefrom, or from obtaining any required approvals or the approval of the Affordable Housing Plan or any part thereof. The Parties shall diligently defend any such challenge.

#### **ARTICLE VI - COOPERATION AND COMPLIANCE**

6.1 Implementation And Enforcement Of Agreement: The Parties agree to cooperate with each other, provide all reasonable and necessary documentation, and take all necessary actions to satisfy the terms and conditions hereof and assure compliance with the terms of this Agreement, subject to prior written agreement between the Parties on payment by the requesting party of the requested party's direct costs and expenses in connection with such assistance. The Borough's obligation to cooperate shall be further conditioned upon Developer paying and maintaining current real estate taxes, subject to any Exemption for the Project.

#### **ARTICLE VII: FAIRNESS AND COMPLIANCE HEARING**

7.1 Global Resolution: This Agreement is conditioned upon a global resolution of the Borough's DJ Action with FSHC, which will provide the basis for a HEFSP and eventual Judgment of Compliance and Repose.

7.2 Fairness and/or Compliance Hearing: The final Settlement will be conditioned Court approval at a duly noticed fairness and/or compliance hearing.

#### **ARTICLE VIII – NOTICES**

8.1 Notices: Any notice or transmittal of any document required, permitted or appropriate hereunder and/or any transmittal between the Parties relating to the Property (herein "Notice[s]") shall be written and shall be served upon the respective Parties by facsimile or by certified mail, return receipt requested, or recognized overnight or personal carrier such as, for example, Federal Express, with certified proof of receipt, and, where feasible (for example, any transmittal of less than fifty (50) pages), and in addition thereto, a facsimile delivery shall be provided. All Notices shall be deemed received upon the date of delivery set forth in such certified proof, and all times for performance based upon notice shall be from the date set forth therein. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

MTB

**TO LARISON'S CORNER LLC:**

**Larison's Corner**  
2 North Road,  
Warren NJ 07059  
**Attention Mitchell Berlant**  
Email: [smyers@firstnjrealty.com](mailto:smyers@firstnjrealty.com)

**To TURKEY FARMS ACQUISITIONS, LLC,**

**Turkey Farms Acquisitions**  
237 South Street,  
Morristown NJ 07960  
**Attention Harold Wachtel**  
Email: [halwachtel@aol.com](mailto:halwachtel@aol.com)

**WITH COPIES TO:**

**Fox Rothschild, LLP**  
Attention: Henry L. Kent-Smith, Esq.  
997 Lenox Drive, Building 3  
Lawrenceville, NJ 08648  
Tele: 609- 896-3600  
Fax: 609-482-8901  
Email: [hkent-smith@foxrothschild.com](mailto:hkent-smith@foxrothschild.com)

**TO THE BOROUGH OF CHESTER:**

**Borough of Chester**  
50 North Road  
Chester, NJ 07930  
Attn: Denean Probasco  
Tele: 908 879-3660  
Email: [clerk@chesterborough.org](mailto:clerk@chesterborough.org)

**WITH COPIES TO:**

**Jeffrey R. Surenian and Associates, LLC**  
Attention: Michael Edwards, Esq.  
707 Union Avenue, Suite 301  
Brielle, NJ 08730  
Tele: 732-612-3100  
Fax: (732) 612-3101  
Email [MJE@Surenian.com](mailto:MJE@Surenian.com)

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

**ARTICLE IX – MISCELLANEOUS**

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**10.1 Severability:** Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provisions of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

**10.2 Successors Bound:** The provisions of this Agreement shall run with the land, and the obligations and benefits hereunder shall be binding upon and inure to the benefit of the Parties, their successors and assigns, including any person, corporation, partnership or other legal entity which at any particular time may have a fee title interest in the Property which is the subject of this Agreement. This Agreement may be enforced by any of the Parties, and their successors and assigns, as herein set forth.

**10.3 Governing Law:** This Agreement shall be governed by and construed by the laws of the State of New Jersey.

**10.4 No Modification:** This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

**10.5 Effect of Counterparts:** This Agreement may be executed simultaneously in one (1) or more facsimile or e-mail counterparts, each of which shall be deemed an original. Any facsimile or e-mail counterpart forthwith shall be supplemented by the delivery of an original counterpart pursuant to the terms for notice set forth herein.

**10.6 Voluntary Agreement:** The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

**10.7 Interpretation:** Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties, and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the person(s) executing it.

**10.8 Necessity of Required Approvals:** The Parties recognize that the site plans required to implement the Project provided in this Agreement, and such other actions as may be required of the Planning Board or Borough under this Agreement, cannot be approved except on the basis of the independent reasonable judgment by the Planning Board and the Borough Council, as appropriate, and in accordance with the procedures established by law. Nothing in this Agreement is intended to constrain that judgment or to authorize any action not taken in accordance with procedures established by law. Similarly, nothing herein is intended to preclude TF from appealing any denials of or conditions imposed by the Planning Board in accordance with the MLUL or taking any other action permitted by law.

MTB

**10.9 Schedules:** Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

**10.10 Entire Agreement:** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof except as otherwise provided herein.

**10.11 Conflict Of Interest:** No member, official or employee of the Borough or the Planning Board shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

**10.12 Effective Date:** Anything herein contained to the contrary notwithstanding, the effective date ("Effective Date") of this Agreement shall be the date upon which the last of the Parties to execute this Agreement has executed and delivered this Agreement.

**10.13 Waiver.** The Parties agree that this Agreement is enforceable. Each of the Parties waives all rights to challenge the validity or the ability to enforce this Agreement. Failure to enforce any of the provisions of this Agreement by any of the Parties shall not be construed as a waiver of these or other provisions.

**10.14 Captions.** The captions and titles to this Agreement and the several sections and subsections are inserted for purposes of convenience of reference only and are in no way to be construed as limiting or modifying the scope and intent of the various provisions of this Agreement.

**10.15 Default.** In the event that any of the Parties shall fail to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, unless such obligation is waived by all of the other Parties for whose benefit such obligation is intended, or by the Court, such failure to perform shall constitute a default of this Agreement. Upon the occurrence of any default, the non-defaulting Party shall provide notice of the default and the defaulting Party shall have a reasonable opportunity to cure the default within forty-five (45) days. In the event the defaulting Party fails to cure within forty-five (45) days or such reasonable period as may be appropriate, the Party(ies) for whose benefit such obligation is intended shall be entitled to exercise any and all rights and remedies that may be available in equity or under the laws of the State of New Jersey. Further, the Parties may apply to the Court for relief, by way of a motion for enforcement of litigant's rights.

**10.16 Notice of Actions.** The Parties and their respective counsel agree immediately to provide each other with notice of any lawsuits, actions or governmental declarations threatened or pending by third parties of which they are actually aware which may affect the provisions of this Agreement.

MTB

**10.17 Construction, Resolution of Disputes.** This Agreement has been entered into and shall be construed, governed and enforced in accordance with the laws of the State of New Jersey without giving effect to provisions relating to the conflicts of law. Jurisdiction of any litigation ensuing with regard to this Agreement exclusively shall be in the Superior Court of New Jersey, with venue in Morris County. Service of any complaint may be effected consistent with the terms hereof for the delivery of "Notices," hereinafter defined. The Parties waive formal service of process. The Parties expressly waive trial by jury in any such litigation.

**10.18 Conflicts.** The Parties acknowledge that this Agreement cannot be modified by the Compliance Action or any amendments to the Borough's Affordable Housing Plan or Land Use and Development Ordinances and this Agreement shall control with respect to those matters as applied to the Property. Upon the entry of a Judgment of Compliance and Repose in the Borough's Compliance Action, and after the Compliance Action is concluded, the Court shall retain jurisdiction to ensure compliance with the terms and conditions of this Agreement. As to any inconsistencies between the Redevelopment Approvals and this Agreement, the Redevelopment Approvals shall control.

**10.19 Recitals.** The recitals of this Agreement are incorporated herein and made a part hereof.

**THE REMAINDER OF THIS PAGE IS PURPOSEFULLY BLANK**

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

*Laurie A. LaVorgna*

Laurie A. LaVorgna  
Notary Public of New Jersey  
My Commission Expires  
February 27, 2021

TURKEY FARMS ACQUISITIONS, LLC

By: *Harold Nichte*

Name:  
Title: *managing partner*

Dated: *10-14-18*

Witness/Attest:

*Laurie A. LaVorgna*

Laurie A. LaVorgna  
Notary Public of New Jersey  
My Commission Expires  
February 27, 2021

LARISON'S CORNER, LLC

By: *Mitchell S. Pearlman*

Name: *MANAGING PARTNER*  
Title:

Dated: *October 4, 2018*

Witness/Attest:

*Denean Probasco*

DENEAN PROBASCO  
NOTARY PUBLIC-STATE OF NEW JERSEY  
MY COMMISSION EXPIRES  
APRIL 18, 2021

BOROUGH OF CHESTER

By: Janet Hoven  
as its MAYOR

By: *Janet Hoven*  
Janet Hoven, Mayor

Dated: *10.16.18*

*MTB*

**EXHIBIT A**

**CONCEPT PLAN FOR TF SITE**

*MTB*



# EXHIBIT B

## CONCEPT PLAN FOR MRL SITE

*MTB*

ZONE: MILL RIDGE LANE MULTI-FAMILY TOWNHOUSE  
 RESIDENTIAL DEVELOPMENT ZONE  
 BLOCK: LOT 12.07 & 12.08  
 AREA: 42.26 ACRES (P.P. # 43.462)

EXISTING USE: VACANT LOT  
 PROPOSED USE: 30 TOWNHOUSE RESIDENTIAL UNITS

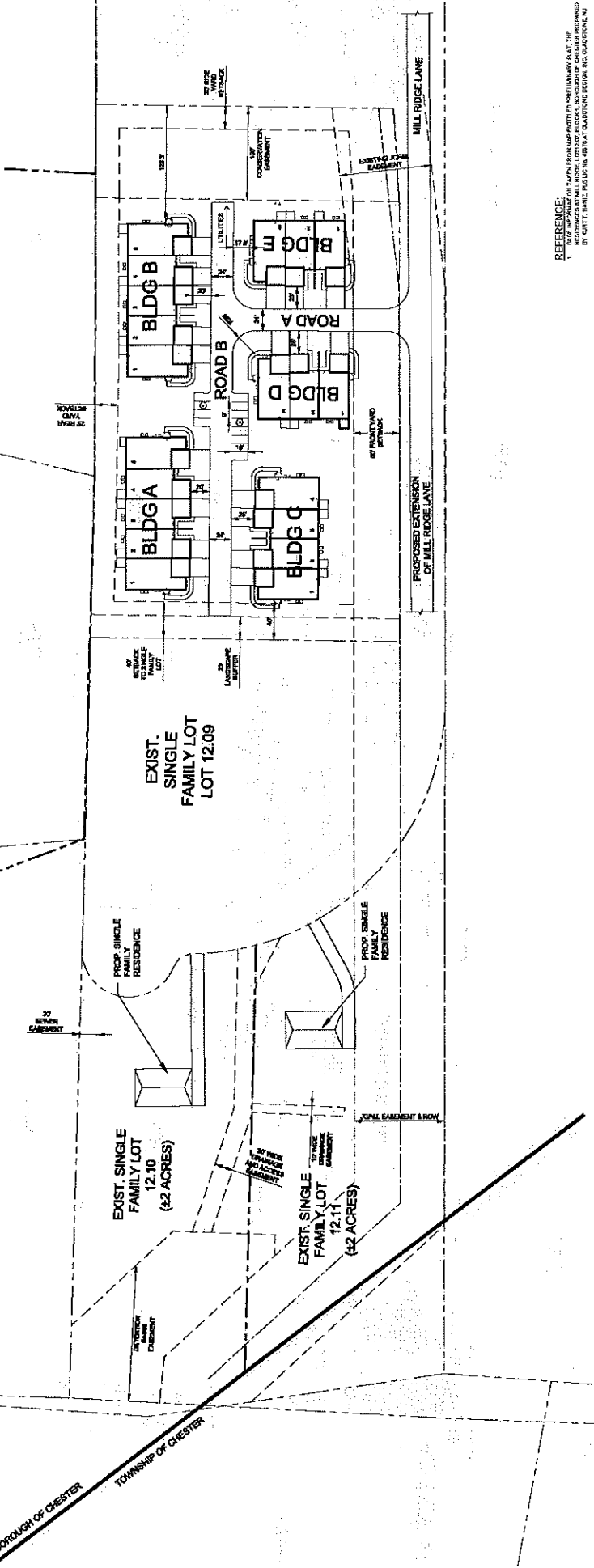
**PERMITS REQUIRED:**  
 ZONING  
 SUBDIVISION  
 PLANNING  
 ENVIRONMENTAL  
 HEALTH DEPARTMENT  
 FIRE DEPARTMENT  
 POLICE DEPARTMENT  
 PUBLIC WORKS DEPARTMENT  
 WATER DEPARTMENT  
 SEWER DEPARTMENT  
 STREETS DEPARTMENT  
 UTILITIES DEPARTMENT  
 TAX DEPARTMENT  
 RECORDS DEPARTMENT  
 ENGINEERING DEPARTMENT  
 INSPECTION DEPARTMENT  
 COMMUNITY DEVELOPMENT DEPARTMENT  
 LAND USE DEPARTMENT  
 PLANNING DEPARTMENT  
 ZONING DEPARTMENT  
 ENVIRONMENTAL DEPARTMENT  
 HEALTH DEPARTMENT  
 FIRE DEPARTMENT  
 POLICE DEPARTMENT  
 PUBLIC WORKS DEPARTMENT  
 WATER DEPARTMENT  
 SEWER DEPARTMENT  
 STREETS DEPARTMENT  
 UTILITIES DEPARTMENT  
 TAX DEPARTMENT  
 RECORDS DEPARTMENT  
 ENGINEERING DEPARTMENT  
 INSPECTION DEPARTMENT

**PROPOSED UNIT:**  
 48 SPACES  
 48 SPACES  
 48 SPACES

**PROPOSED UNIT:**  
 48 SPACES  
 48 SPACES  
 48 SPACES

**PROPOSED UNIT:**  
 48 SPACES  
 48 SPACES  
 48 SPACES

NO.	DESCRIPTION	AMOUNT
1	CONCRETE	1000
2	CEMENT	1000
3	BRICK	1000
4	WOOD	1000
5	GLASS	1000
6	STEEL	1000
7	ROOFING	1000
8	PAINT	1000
9	LANDSCAPING	1000
10	UTILITIES	1000
11	SEWER	1000
12	WATER	1000
13	STREETS	1000
14	TAXES	1000
15	RECORDS	1000
16	ENGINEERING	1000
17	INSPECTION	1000
18	COMMUNITY DEVELOPMENT	1000
19	LAND USE	1000
20	PLANNING	1000
21	ZONING	1000
22	ENVIRONMENTAL	1000
23	HEALTH	1000
24	FIRE	1000
25	POLICE	1000
26	PUBLIC WORKS	1000
27	WATER	1000
28	SEWER	1000
29	STREETS	1000
30	UTILITIES	1000
31	TAXES	1000
32	RECORDS	1000
33	ENGINEERING	1000
34	INSPECTION	1000
35	COMMUNITY DEVELOPMENT	1000
36	LAND USE	1000
37	PLANNING	1000
38	ZONING	1000
39	ENVIRONMENTAL	1000
40	HEALTH	1000
41	FIRE	1000
42	POLICE	1000
43	PUBLIC WORKS	1000
44	WATER	1000
45	SEWER	1000
46	STREETS	1000
47	UTILITIES	1000
48	TAXES	1000
49	RECORDS	1000
50	ENGINEERING	1000
51	INSPECTION	1000
52	COMMUNITY DEVELOPMENT	1000
53	LAND USE	1000
54	PLANNING	1000
55	ZONING	1000
56	ENVIRONMENTAL	1000
57	HEALTH	1000
58	FIRE	1000
59	POLICE	1000
60	PUBLIC WORKS	1000
61	WATER	1000
62	SEWER	1000
63	STREETS	1000
64	UTILITIES	1000
65	TAXES	1000
66	RECORDS	1000
67	ENGINEERING	1000
68	INSPECTION	1000
69	COMMUNITY DEVELOPMENT	1000
70	LAND USE	1000
71	PLANNING	1000
72	ZONING	1000
73	ENVIRONMENTAL	1000
74	HEALTH	1000
75	FIRE	1000
76	POLICE	1000
77	PUBLIC WORKS	1000
78	WATER	1000
79	SEWER	1000
80	STREETS	1000
81	UTILITIES	1000
82	TAXES	1000
83	RECORDS	1000
84	ENGINEERING	1000
85	INSPECTION	1000
86	COMMUNITY DEVELOPMENT	1000
87	LAND USE	1000
88	PLANNING	1000
89	ZONING	1000
90	ENVIRONMENTAL	1000
91	HEALTH	1000
92	FIRE	1000
93	POLICE	1000
94	PUBLIC WORKS	1000
95	WATER	1000
96	SEWER	1000
97	STREETS	1000
98	UTILITIES	1000
99	TAXES	1000
100	RECORDS	1000



REFERENCE:  
 1. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 2. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 3. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 4. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 5. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 6. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 7. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 8. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 9. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10  
 10. MORRIS COUNTY PLANNING BOARD RESOLUTION NO. 10-10-10

**MILL RIDGE LANE MULTI-FAMILY  
 TOWNHOUSE CONCEPT DEVELOPMENT PLAN**

BOROUGH OF CHESTER, MORRIS COUNTY, NEW JERSEY

DATE: 10/25/11  
 PROJ. NO.: 031024100.DWG

**Bowman**  
 CONSULTING

# EXHIBIT C

## AH ZONING ORDINANCE STANDARDS FOR TF SITE

*WCB*

# ZONE: TURKEY FARM REDEVELOPMENT ZONE

BLOCK 1, LOT 9, 10, 10.01, 11  
AREA = 1,156,739 S.F. (26.6 AC.)

EXISTING USE: TURKEY FARM / RESTAURANT / FARM

PROPOSED USE: OFFICE, MEDICAL, RETAIL, RESTAURANT & RESIDENTIAL

MEDICAL OFFICE - 2 STORY (20,000 SF)  
OFFICE - 2 STORY (5,000 SF)  
CVS - 15,000 SF  
COAH - 36 UNITS TOTAL  
RESTAURANT - 6,500 SF

## BULK REQUIREMENTS

<u>ITEM</u>	<u>PROPOSED</u>
MIN. LOT AREA	25 ACRES

## PRINCIPAL STRUCTURE SETBACKS

MIN. FRONT YARD SETBACK (WEST MAIN STREET)	75 FT
MIN. FRONT YARD SETBACK (ROUTE 206)	40 FT
MIN. SIDE YARD SETBACK	50 FT
MIN. REAR YARD SETBACK	50 FT
MAX. BUILDING COVERAGE (%)	10%
MAX. IMPERVIOUS COVERAGE (%)	30%
MAX. BUILDING HEIGHT	2 STORIES - 35 FT

## PARKING REQUIREMENTS \*

MEDICAL - 111 REQUIRED SPACES @ 1 SPACE PER 180 SF	111 SPACES PROPOSED
OFFICE - 20 REQUIRED SPACES @ 1 SPACE PER 250 SF	20 SPACES PROPOSED
COAH - 72 REQUIRED SPACES @ 2 SPACES PER 1 UNIT	72 SPACES PROPOSED
CVS - 84 REQUIRED SPACES @ 1 SPACES PER 180 SF	84 SPACES PROPOSED
RESTAURANT - 75 REQUIRED SPACES @ 1 SPACE PER 3 SEATS	225 SEATS 75 SPACES PROPOSED
COUNTRY STORE - 5 REQUIRED SPACES @ 1 SPACE PER 180 SF	5 SPACES PROPOSED

\* PARKING REQUIREMENTS FROM BOROUGH CODE ARE USED FOR ALL NON-RESIDENTIAL USES. RSIS STANDARDS IS USED FOR RESIDENTIAL USES.

BOROUGH WILL PERMIT "BANKED PARKING" IF IT IS DETERMINED THAT SPECIFIC USES DO NOT NEED THE FULL PARKING REQUIREMENT.

## NOTES:

1. PORCHES, DECKS, AND PATIOS ARE NOT INCLUDED IN MINIMUM SETBACK REQUIREMENTS.
2. THE REQUIREMENTS FOR THE TURKEY FARM REDEVELOPMENT ZONE SHALL NOT BE CONSTRUED TO PROHIBIT SUBDIVISION AND NO BULK STANDARDS WILL APPLY TO THE SUBDIVISION.

# EXHIBIT C (TURKEY FARM)

# EXHIBIT D

## AH ZONING ORDINANCE STANDARDS FOR MRL SITE

*MTB*

**ZONE: MILL RIDGE LANE MULTI-FAMILY TOWNHOUSE  
REDEVELOPMENT ZONE**

BLOCK 1, LOT 12.07 & 12.08

AREA = 192,935.6 S.F. (4.43 AC.)

EXISTING USE: VACANT LOT

PROPOSED USE: 20 TOWNHOME RESIDENTIAL UNITS

**BULK REQUIREMENTS**

<u>ITEM</u>	<u>PROPOSED</u>
DENSITY OF DEVELOPMENT	4.5 DU/ACRE
MIN. LOT AREA	4.0 ACRES

**PRINCIPAL STRUCTURE SETBACKS**

MIN. FRONT YARD SETBACK	50 FT
MIN. SIDE YARD SETBACK	25 FT
MIN. REAR YARD SETBACK	25 FT <sup>3</sup>
MAX. BUILDING COVERAGE (%)	30%
MAX. IMPERVIOUS COVERAGE (%)	50%
MAX. BUILDING HEIGHT (FT)	35 FT
MAX. NUMBER OF STORIES	2 STORIES

**PARKING REQUIREMENTS**

RESIDENTIAL PARKING - PER RSIS	70 SPACES PLUS
2.3 PARKING SPACES PER UNIT = 46 SPACES	12 GUEST SPACES

NOTE:

1. SETBACKS APPLY TO DECKS, PATIOS AND PORCHES.
2. THE REQUIREMENTS FOR THE MILL RIDGE LANE MULTI-FAMILY TOWNHOUSE REDEVELOPMENT SHALL NOT BE CONSTRUED TO PROHIBIT SUBDIVISION AND NO BULK STANDARDS WILL APPLY TO THE SUBDIVISION.
3. THERE SHALL BE MAINTAINED A 40' SIDE YARD SETBACK INCLUDING A 25' WIDE LANDSCAPED BUFFER COMPRISED OF A DENSE, STAGGERED ROW OF A MIX OF EVERGREEN AND DECIDUOUS TREES AND UNDERSTORY SHRUBS ALONG THE COMMON LOT LINE WITH LOT 12.09. A MINIMUM SETBACK OF 40' SHALL BE MAINTAINED BETWEEN ALL MULTI-FAMILY RESIDENTIAL DEVELOPMENT, INCLUDING PATIOS, DECKS AND PORCHES, AND THE COMMON PROPERTY LINE WITH LOT 12.09.

**EXHIBIT D (MILL RIDGE)**

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# EXHIBIT E

## TOWNHOME ELEVATIONS

*MLB*



# **Exhibit B**

Chester Borough  
Morris County

Highlands Center Designation Feasibility Report

Request for New Jersey Highlands Council Center Designation

Approved by Chester Borough Land Use Board:  
September 26 2019

Implementation Plan / Schedule Revisions  
& Submitted to NJ Highlands Council Staff:  
October 3, 2019

## **Introduction**

This is Chester Borough's Phase 1 Highlands Center Designation Investigation Report that identifies Chester Borough's planning considerations in support the Borough's request for Highlands Center designation from the Highlands Council. Chester Borough wishes to designate the municipality a Highlands Center and utilize the designation to support Center-based planning for development, redevelopment and infrastructure development that is appropriately scaled to address existing infrastructure needs and maintain Chester Borough's small-town quality of life and historic character.

The Borough of Chester is located in the southwest portion of Morris County surrounded by the Township of Chester. The Borough is 1.45 square miles and located at the cross-roads of State Route 206 and County Route 513. The Borough is a small residential community that is well-known throughout the region and the State for its picturesque historic character. Chester Borough's Main Street Historic District is well known for its attractive historic buildings, specialty shops and commercial services. In addition, the Borough's regional shopping centers along the US Route 206 state highway corridor serve the regional population and the traveling public that relies on this primary north/south access highway serving west Morris County. As of 2010, the Borough's population was 1,649 people and included approximately 650 (647) housing units in Chester Borough.

Chester Borough conformed the municipal Master Plan and development regulations to the New Jersey Highlands Regional Master Plan (RMP) in accordance with New Jersey Highlands Council RMP "Plan Conformance" procedures for the Highlands Planning Area. Chester Borough was previously recognized as an Identified Center in the NJ State Development and Redevelopment Plan. Under RMP procedures the Borough has the option to seek designation of the Borough as a New Jersey Highlands Center. In accordance with Highlands Center designation procedures, Chester Borough has prepared this Phase 1 investigation report for acceptance by the Highlands Council as a Highlands Center, subject to Highlands Council approval.

The Chester Borough Mayor and Council and the Land Use Board have investigated the Highlands Center designation and determined that designating the Borough a Highlands Center is consistent with and supports Chester Borough's long-term planning objectives to protect the character and scale of existing residential neighborhoods and non-residential areas in the Borough. Through the Highlands Center designation the Borough will seek to expand wastewater treatment capacity and extend wastewater collection lines to eliminate an existing long-standing, undesirable and unsustainable condition of individual on-site septic systems on both residential and nonresidential substandard lots. Addressing this condition in the Borough has been a long-standing planning objective.

In addition to correcting existing deficiencies, Chester Borough plans to utilize the Highlands Center designation planning opportunity to support the goal of providing for modest, incremental new residential and non-residential development planned at a scale appropriate to the Borough's community character protection goals and objectives. At the

same time, Chester Borough seeks to facilitate redevelopment through Center designation to repurpose lands capable of contributing to the general welfare by diversifying housing opportunities and facilitating appropriately-scaled new non-residential development to serve the needs of the community and the region.

### **Proposed Highlands Center Boundary**

Chester Borough's Historic District and the majority of non-environmentally constrained land is nearly built-out in traditional patterns of residential neighborhoods, a Main Street commercial center, in highway commercial centers and nodes of office and commercial uses that establish an important regional employment resource. At the same time local planning and capital investments have established a substantial inventory of active and passive open space and protected environmentally-sensitive lands that reinforce the Borough's small-town character. Chester Borough seeks to designate the entire Borough as a Highlands Center ([Figure 1](#)) and implement a Center management strategy that appropriately maintains and protects the form, function and character of the Borough's built and natural environment. Chester Borough Mayor and Council adopted Resolution No. R 2019-102 on August 13, 2019 designating the entire Borough a Highlands Center and identifying certain parcels for future Redevelopment Investigation by the Land Use Board.

### Land Use

Land use in Chester Borough is compact and efficient and it cannot reasonably be characterized as suburban or urban sprawl. Land use is constrained by the lack of adequate wastewater collection and treatment capacity. Less than one-half of existing residential land use is served by centralized wastewater collection and treatment facilities and a substantial portion of the nonresidential land uses on Main Street and West Main Street likewise rely on individual subsurface sewage disposal systems. Most development in Chester Borough is dependent upon individual subsurface disposal systems and is characterized by undersized lots. Additionally, centralized water serves less than one-half of the existing land use in Chester Borough. The municipality is near build-out with few remaining greenfield and infill development opportunities; however, meaningful redevelopment and incremental growth opportunities remain if infrastructure becomes available to first: remediate existing substandard wastewater treatment conditions; and second to support limited new growth.

Chester Borough's existing land use pattern is the product of more than two centuries of settlement, growth and development. Much of the Chester Borough's early historic settlement grew out of the rural farming economy of the 18<sup>th</sup> and 19<sup>th</sup> centuries that prevailed in west Morris County. The remnants of a local iron ore mining economic boom in the latter 19<sup>th</sup> century are etched in Chester Borough's Main Street Historic District architecture. Early development occurred along Main Street which today is a vital and very active center of community life. Post war era suburban shopping center and highway commercial development extended Chester Borough's commercial core south of

Main Street along Route 206 and to the west across Route 206 on West Main Street. The early 2000's brought a new shopping center on Route 206 and several 16,000 sq. ft. office buildings to the Borough.

The Borough's residential neighborhoods are primarily situated east of Route 206 and extend to the north and south Borough boundaries from the Main Street downtown commercial core. The Borough's housing stock is a diverse mix of higher- and medium-density historic, post war era, and latter 20<sup>th</sup> century suburban neighborhoods. Lower, rural-density neighborhoods adjoin Chester Township at the periphery of the Borough's boundaries. There were just 180 dwelling units in Chester Borough in 1950 accounting for less than 30% of the housing units in the Borough today. The majority of the housing units in Chester Borough are attributable to housing booms following 1950. The decades of 1960's, 1980's and 2000's each brought well over 50 dwelling units to the Borough; and the 1970's and 1990's each brought nearly 100 dwelling units to Chester Borough. (Figure 2).

As part of this Highlands Center investigation Chester Borough Mayor and Council identified a list of seven Redevelopment Investigation Areas for the Planning Board to investigate under the provisions of the NJ Local Redevelopment and Housing Law (LRHL) in a Phase 2 Highlands Center investigation. These include five (5) existing developed sites and three undeveloped sites. In addition, the Borough previously designated the Larison's Turkey Farm 25-acre site a Redevelopment Area in 2014 under the LRHL – this site is located at the Route 206 / West Main Street corner and was formerly the Larison's Turkey Farm and restaurant site. Chester Borough's plan for this site includes: affordable housing (36 apartments), office development (approx. 25,000 sq. ft.) a new restaurant, organic farm and commercial farm stand. On Mill Ridge Lane adjacent to the Turkey Farm tract, the Borough plans on the development of 20 townhouses on subdivided land and an improved road with existing developed drainage facilities that was previously approved and partially developed for single-family residential development, of which only one of the approved homes was ever developed.

The Phase 2 Redevelopment opportunities identified by Chester Borough for Center planning will be investigated and planned under the provisions of the NJ Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.) to determine if the physical conditions of each establish the need for redevelopment. Where determined to be appropriate and necessary, Chester Borough will identify appropriately-scaled land uses that promote the general welfare and reinforce the Borough's existing land use character and the planning goals (see section below on Goals and Objectives below). Among the redevelopment objectives that the Borough would seek to advance under this initiative are modest-scale additions to the Borough's land use inventory, including, but not limited to:

1. Small-lot detached residential development;
2. Mixed-use nonresidential and residential development, appropriately situated within the nonresidential fabric of the community;

3. Additional restaurants or other tourism-based uses capable of serving the needs and demands of residents and visitors to the region;
4. Additional diversification of housing choice, such as multi-family housing including affordable housing; and
5. Additional commercial, office and employment generating uses to serve the needs of residents in the region.

The sites authorized by Mayor and Council for Redevelopment Investigation by the Land Use Board are depicted on [Figures 1 – 6](#).

### Zoning

The zoning in the Borough reflects the existing historic land use pattern. The Borough's downtown core includes business and commercial districts that permit an assortment of small-scale commercial, retail, service and office uses consistent with the historic character of the area. General business/commercial, office and professional office zoning is established along the Route 206 corridor south of Main Street and along West Main Street on the west side of Route 206. Nonresidential zoning in the Borough is limited to the major thoroughfares: Route 206, Main Street and West Main Street. The remaining areas of Chester Borough are designated residential zones, which range from high density (R-HD), low density (R-LD), and Planned Low Density (R-PLD) ([Figure 3](#)).

Chester Borough intends to undertake an examination of zoning as part of the long-range Center planning process to identify where inconsistencies between existing land use and zoning regulations may exist. This examination will be directed at identifying whether and to what degree zoning amendments may be necessary to better align permitted uses, densities and intensities of development in the zoning ordinance with existing and desirable future conditions; and where needed to best implement the Borough's goals and objectives for existing and future land use. By way of example, the Borough's two residential zoning designations include minimum lot size requirements that render many existing developed lots nonconforming, which may indicate the need for adjustments to zoning.

Chester Borough will investigate Redevelopment Area designations as part of the Center planning process. The Borough will identify future land uses, development densities and intensities in Redevelopment Plans for sites that may be designated Redevelopment Areas. Redevelopment Plans will be consistent with Chester Borough's historic preservation and community character protection goals and objectives.

### Assets

Chester Borough's highly sought-after public-school education, the library, local parks and open space are among the prized assets of the community. The Borough's major assets include its historic character and treasured downtown core. The Chester Borough Historic District is listed on the NJ Register of Historic Places (Chester Historic District (ID#3869), SHPO Opinion 9/25/2001) and is identified on ([Figure 4](#)). The Borough's

Historic District retains its pre-World War II architecture and attracts residents and tourists alike to a variety of small scale tourism-oriented shopping, restaurants and businesses. Highway commercial shopping centers provide goods and services for residents and those residing outside the Borough in nearby communities within the west Morris County region. Chester Borough's stable, attractive and well-maintained residential neighborhoods embody quintessential small-town American life.

### Water and Wastewater Areas

Portions of Chester Borough are served by a mix of public water and wastewater facilities as well as private on-site facilities (Figures 5 & 6). The downtown core includes sewer and water infrastructure and portions of nearby residential neighborhoods that are also connected to the Borough's centralized public water and wastewater collection and treatment system. However, the majority of existing residential neighborhoods in the Borough, which are currently designated Highlands Existing Community on the RMP Land Use Capability Map, are undersized lots with private wells and individual subsurface sewage disposal systems, which is an undesirable, unsustainable, but correctable condition.

Chester Borough will seek to expand wastewater collection and treatment to serve virtually all land uses in the Borough through the Highlands Center designation process and applicable NJDEP wastewater management planning rules. Chester Borough's preliminary investigations with NJDEP that have been undertaken through Highlands Plan Conformance grant funding which indicate that expanded wastewater treatment capacity with construction of a new centralized sewage treatment facility is achievable under NJDEP rules and consistent with environmental and natural resource protection standards. Chester Borough's regional location along the Route 206 corridor, its compact land use patterns and wealth of regionally-oriented nonresidential land use assets combine to serve the region as a Center. It is appropriate to establish the infrastructure necessary to remediate existing health-safety issues, as well as accommodate land use changes that will further the objective of serving the needs of residents of the Highlands region and for Chester Borough to better function as a Center.

Designation of Chester Borough for a Highlands Center is not expected to cause secondary growth outside of the developed areas of the Borough or nearby in the Township. Rather, Highlands Center designation planning and sewer infrastructure development will respond to the need to serve existing development that is not connected to sewer service and allow for modest change and redevelopment of sites that are constrained from changing or expanding due to wastewater treatment capacity constraints.

### Relationship to Highlands Regional Master Plan

The Borough is almost entirely designated Existing Community Zone with pockets of Existing Community Environmentally Constrained found in select areas. The western portion of the Borough, and areas to the northeast, where areas of forests and wetlands

are found, are in the Protection Zone. These areas have not been developed, or are underdeveloped for the area given the environmental constraints. However, as part of the Center plan, the Borough envisions two minor incursions into the area currently designated Protection Zone for (1) residential development on Mill Ridge Lane adjacent to existing office and residential development; and (2) construction of a new wastewater treatment plant on Oakdale Road in the vicinity of the existing sewage treatment plant, which today is designated Protection Zone. It is not envisioned that remaining areas currently designated Protection Zone in Chester Borough will be programmed for change. Instead, the Borough will maintain these areas as they exist today to protect the integrity and function of the natural systems recognized by the Protection Zone designation.

### **Coordination with Chester Borough LUP Highlands RMP Goals and Objections**

Center designation will further the Borough's long-term planning goals and are heavily aligned with the Highlands RMP goals and objectives, in particular for smart growth and economic development.

The goals of the *Chester Borough 2002 Master Plan* are identified below with the corresponding Highlands RMP goals, objectives and policies located underneath.

*1. To promote an attractive quality of life for all residents, visitors, merchants, and others residing, conducting business or involved with leisure time activities in the Borough.*

**Goal 8A: SUSTAINABLE ECONOMIC DEVELOPMENT IN THE HIGHLANDS REGION.**

**Policy 8A1:** To maintain and expand the existing job and economic base by promoting appropriate, sustainable, and environmentally compatible economic development throughout the Highlands Region.

**GOAL8D: EXPANSION OF INNOVATIVE TECHNOLOGY AND ENTREPRENEURIAL BUSINESSES INCLUDING HOME OFFICE, ENERGY EFFICIENCY, AND RESOURCE CONSERVATION ENTERPRISES IN THE HIGHLANDS REGION.**

**Policy 8D1:** To ensure opportunities for home office, entrepreneurial, and other small business activities in the Highlands Region.

*2. To recognize the special qualities of the Main Street downtown area and preserve its historic character.*

**GOAL 4A: PROTECTION AND PRESERVATION OF THE HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES OF THE HIGHLANDS REGION.**

**Policy 4A3:** To ensure through local development review, where a municipality has adopted an historic preservation ordinance under Policy 4C2, that human development does not adversely affect the character or value of resources which are listed on the Highlands Historic and Cultural Resource Inventory to the maximum extent practicable.

**Policy 4A7:** To promote historic and cultural heritage tourism in the Highlands Region.

*3. To maintain a balance between the land use, infrastructure, and circulation elements of the plan thereby protecting existing residential neighborhoods.*

**GOAL 2K:** ALL EXISTING AND FUTURE DEVELOPMENT IN THE HIGHLANDS REGION THAT USE PUBLIC WASTEWATER TREATMENT SYSTEMS ARE SERVED BY ADEQUATE AND APPROPRIATE INFRASTRUCTURE.

**GOAL5C:** TRANSPORTATION IMPROVEMENTS WITHIN THE HIGHLANDS REGION THAT ARE CONSISTENT WITH THE HIGHLANDS REGIONAL MASTER PLAN.

**Policy 5C3:** To limit road improvements through local development review and Highlands Project Review where roads are constrained by topography, forested lands, or the community character of land uses fronting on the road.

**GOAL 6F:** SUPPORT OF COMPACT DEVELOPMENT, MIXED USE DEVELOPMENT AND REDEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITYZONE.

**Policy 6F5:** To ensure that development and redevelopment in the ECZ are compatible with existing community character.

*4. To permit development in a manner so as to protect environmentally sensitive areas and features.*

**GOAL 6E:** INCORPORATION OF REGIONAL DEVELOPMENT PATTERNS AND RELATED ENVIRONMENTALLY SENSITIVE AREAS WITHIN EXISTING COMMUNITYZONES.

**Policy 6E1:** To promote the location of sustainable and economically viable development activities in the Existing Community Zone where not constrained by existing environmentally sensitive resources.

**GOAL 6H:** GUIDE DEVELOPMENT AWAY FROM ENVIRONMENTALLY SENSITIVE AND AGRICULTURAL LANDS AND PROMOTE

DEVELOPMENT AND REDEVELOPMENT IN OR ADJACENT TO EXISTING DEVELOPED LANDS.

**Policy 6H4:** To promote compatible growth opportunities that include in-fill development, adaptive re-use, redevelopment, and brownfields redevelopment in existing developed areas.

*5. To provide regulations permitting a varied selection of housing types.*

**GOAL 6N:** USE OF SMART GROWTH PRINCIPLES, INCLUDING LOW IMPACT DEVELOPMENT, TO GUIDE DEVELOPMENT AND REDEVELOPMENT IN THE HIGHLANDS REGION.

**Policy 6N5:** To require through Plan Conformance that municipalities and counties incorporate programs for community and neighborhood design that support a variety of housing options, mixed uses, redevelopment, adaptive re-use of historic sites and structures, and infill development in their master plans and development regulations.

**GOAL 6O:** MARKET-RATE AND AFFORDABLE HOUSING SUFFICIENT TO MEET THE NEEDS OF THE HIGHLANDS REGION WITHIN THE CONTEXT OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS.

*6. To provide appropriate types, quantities, and quality of municipal facilities to serve the needs of the community.*

**GOAL 6O:** MARKET-RATE AND AFFORDABLE HOUSING SUFFICIENT TO MEET THE NEEDS OF THE HIGHLANDS REGION WITHIN THE CONTEXT OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS.

**Policy 6O5:** To locate and maintain community facilities and services that support compact development patterns, shared services, and provide a high level of service.

**Policy 6O6:** To require that conforming municipalities identify existing and planned community facilities and encourage shared service opportunities as part of the local Community Facility Plan element.

*7. To maintain a balance between residential and nonresidential uses to ensure a stable and sound community tax base and local employment opportunities.*

**GOAL 8A:** SUSTAINABLE ECONOMIC DEVELOPMENT IN THE HIGHLANDS REGION.

**Policy 8A6:** To require that conforming municipalities develop an economic plan element that provides strategies for achieving sustainable and appropriate economic development consistent with local desire and identifies any development, redevelopment, and brownfield opportunities.

**Objective 8A6a:** Coordinate with municipalities and counties as local and regional strategies are developed to improve the tax base and to create jobs and economic opportunities consistent with the policies and objectives of the RMP.

*8. To promote the conservation and preservation of the Borough's existing and potential historic sites and districts to ensure consistency with the Borough's architectural heritage.*

**GOAL 4A:** PROTECTION AND PRESERVATION OF THE HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES OF THE HIGHLANDS REGION.

*9. To avoid inappropriate and inconsistent development, while preserving the community's traditional design.*

**GOAL 6F:** SUPPORT OF COMPACT DEVELOPMENT, MIXED USE DEVELOPMENT AND REDEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITY ZONE.

**Policy 6F1:** To promote compatible development and redevelopment within the ECZ.

**Policy 6F5:** To ensure that development and redevelopment in the ECZ are compatible with existing community character.

*10. To encourage open communication between the Borough government and all parties with an interest in the private sector for the purpose of exploring common issues.*

**GOAL 10A:** MAXIMIZE MUNICIPAL PARTICIPATION TO ENSURE THE REGIONAL MASTER PLAN ACHIEVES ITS LONG TERM GOALS OF PROTECTING, ENHANCING AND RESTORING HIGHLANDS RESOURCES AND MAINTAINING A SUSTAINABLE ECONOMY IN THE HIGHLANDS REGION.

*11. To encourage recycling, resource recovery, and the use of energy efficient development.*

**GOAL 6N:** USE OF SMART GROWTH PRINCIPLES, INCLUDING LOW IMPACT DEVELOPMENT, TO GUIDE DEVELOPMENT AND REDEVELOPMENT IN THE HIGHLANDS REGION.

**Policy 6N1:** To establish smart growth programs and Low Impact Development principles for use within the Highlands Region to guide and control development and redevelopment throughout the Highlands Region.

*12. To encourage the stabilization of all neighborhood areas by updating and enforcing codes.*

**GOAL 6F:** SUPPORT OF COMPACT DEVELOPMENT, MIXED USE DEVELOPMENT AND REDEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITY ZONE.

**Policy 6F3:** To ensure that development activities within the ECZ are subject to standards and criteria which ensure that development and redevelopment incorporate smart growth principles and do not adversely affect natural resources.

**Policy 6F4:** To ensure that development and redevelopment within the ECZ are served by adequate public facilities including water supply, wastewater treatment, transportation, educational and community facilities.

**Policy 6F5:** To ensure that development and redevelopment in the ECZ are compatible with existing community character.

*13. To ensure the development of adequate infrastructure to support existing and future needs of the Borough.*

**GOAL 2K:** ALL EXISTING AND FUTURE DEVELOPMENT IN THE HIGHLANDS REGION THAT USE PUBLIC WASTEWATER TREATMENT SYSTEMS ARE SERVED BY ADEQUATE AND APPROPRIATE INFRASTRUCTURE.

**GOAL 6F:** SUPPORT OF COMPACT DEVELOPMENT, MIXED USE DEVELOPMENT AND REDEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITY ZONE.

**Policy 6F3:** To ensure that development activities within the ECZ are subject to standards and criteria which ensure that development and redevelopment incorporate smart growth principles and do not adversely affect natural resources.

**GOAL 6I:** CONFORMING MUNICIPALITIES AND COUNTIES INCORPORATE REGIONAL AND LOCAL LAND AND WATER RESOURCE PLANNING AND MANAGEMENT PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.

**Policy 6I1:** To require that conforming municipalities and counties include land and water resource planning and management programs in their master plans and development regulations.

*14. To ensure that the Borough's land use plan is compatible with those of adjacent municipalities, Morris County, and the State.*

**GOAL 10A:** MAXIMIZE MUNICIPAL PARTICIPATION TO ENSURE THE REGIONAL MASTER PLAN ACHIEVES ITS LONG TERM GOALS OF PROTECTING, ENHANCING AND RESTORING HIGHLANDS RESOURCES AND MAINTAINING A SUSTAINABLE ECONOMY IN THE HIGHLANDS REGION.

**Policy 10A1:** To ensure that programs and policies are effectively coordinated to promote the purpose and provisions of the RMP, through efforts with all levels of government, including local, county, regional, State, and federal agencies.

## Summary

This Highlands Center Feasibility Report presents a series of Chester Borough's planning goals, objectives and policy statements in consideration of Chester Borough's request for Highlands Council approval of a Highlands Center for the entire municipality. This report establishes a foundation for Chester Borough's request to the Highlands Council to approve the designation of the municipality as a Highlands Center. Chester Borough's goals, objectives and general policy orientation for Highlands Center planning are supported in the Highlands Regional Master Plan (RMP) and presented in this report.

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Attachments:

Map Set

Resolution No. R2019-102 (copy, not certified)

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## Center Implementation Plan

Chester Borough proposes two subsequent phases of planning the Highlands Center including a public participation phase and a "Center Implementation Plan" including preparation of the following specific planning tasks that will be incorporated into Chester Borough's Highlands Center Master Plan:

1. Investigations into the possible designation of Redevelopment Areas for at least the following sites:
  - a. 300 Main Street (Block 119, Lot 8), former Borough Hall
  - b. 280 Main Street (Block 119, Lot 6, 2.57-acres), adjacent to former Borough Hall;
  - c. 50 North Road (Block 115, Lot 6, 19.99-acres (portion)) open municipal land adjacent to municipal building and across from Stony Hill;
  - d. 7 North Road (Block 114, Lot 17, approx. .25-acres), 2 Oakdale Road at corner with North Rd. (Block 114, Lot 18, 1.372-acres) & 28 Oakdale Road (Block 114, Lot 19, .691-acres) and 42 Oakdale Road (Block 114, Lot 20, approx. .750-acres);
  - e. 65 Maple Ave, (Block 131, Lot 4, .98-acres) former Meenan Oil site;
  - f. 437 Main Street (Block 110, Lot 28, 4.88-acres) former Dangler site, vacant land adjacent to Redwoods;
  - g. 235 Route 206 (Block 101, Lot 11, .75-acres) & 263 Route 206 (Block 101, Lot 10, 1.01-acres) and
2. A Reexamination Report will be prepared and adopted that will identify updated goals and objectives derived from the Center Designation process, recommendations for adoption of enabling ordinances, and development and adoption of specific use, density and design ordinances to facilitate development of areas not requiring Redevelopment Area designation in the Center.
3. Redevelopment ordinances for adoption as well as Highlands Resource management ordinances, such as, but not limited to as Water Use and Conservation Management Plans, Habitat Conservation and Management Plans, Stream Corridor Restoration Plans, Stormwater Management, and Sustainable Economic Development Plans.

These will be the fundamental components of Chester Borough's Highlands Center Plan Element that will incorporate the background and policy statements contained in the Highlands Center Feasibility Report (contents of above report). In addition, Chester Borough will address other ordinances that are necessary and as may be required by the RMP for Implementation of the Center Plan, such as ordinances related to the Borough's centralized wastewater system expansion project.

The Highlands Center Master Plan Element will identify:

- i. Highlands Center Goals and Objectives.
- ii. Capacity Analysis to develop the capital improvement plan for expanded infrastructure to serve the Center.
- iii. Environmentally sensitive areas and natural resource areas to be protected and restricted from future development (these will essentially follow the contours of the RMP Land Use Capability Map Protection Zone designations in the Borough, and environmentally sensitive features, such as wetlands, floodplains, steep slopes, etc.).

- iv. Future planning initiatives, such as Water Use and Conservation Management Plans, Habitat Conservation and Management Plans, Stream Corridor Restoration Plans, Stormwater Management, and Sustainable Economic Development Planning.
- v. Affordable housing sites that are designated for affordable housing development as well as affordable housing opportunities in conjunction with redevelopment.

Implementation Plan & Schedule: Approximately 6 Months

- A. Center Boundary. As indicated and explained in the Center Feasibility Report, the entire Borough will be designated a Highlands Center. This designation will be memorialized by ordinance following the NJ Highlands Council's approval of the Borough's petition for Center designation. (i.e. 45 - 90-days following Center approval).
- B. Goals and Objectives. As explained in the Center Feasibility Report, the purpose, goals and objectives of the proposed Highlands Center are rooted in the goals and objectives of Borough's Master Plan. These may be refined during the Center Implementation Plan and public outreach process. Consistency between RMP goals and objectives and Chester Borough's Master Plan goals and objectives are detailed in the Center Feasibility Report. A reexamination of goals and objectives will be undertaken in conjunction with a Reexamination Report as explained in #2 above. (estimated 90-180 days in conjunction with Redevelopment Planning)
- C. Center Areas. The Center feasibility Report identifies the entirety of the Borough as the Highlands Center. Particular areas within the Borough will be the focus of Center Planning that the Borough has identified as possible Redevelopment Areas (see #1 above). These areas are generally described in the Center Feasibility Report. (Redevelopment Areas investigations and Redevelopment Plans – estimated 120-150 days)
- D. Community Participation. All Center planning activities will be undertaken at Municipal government meetings, including Mayor and Council meetings and Land Use Board meetings. The Borough will post Center planning announcements on the Borough website for all Highlands Center planning with invitations for public participation throughout the Center Planning Process. Individual property owners of sites that are the subject of Redevelopment Investigations and possible Redevelopment Area designation will be directly mailed notices of hearings on the Redevelopment Investigation and subsequent Redevelopment Plan, if any is to be adopted. (continual public outreach throughout Center planning process)
- E. Center Growth. The Borough's Center Feasibility Report explains the physical locations of sites within the Borough that will be considered for modest growth and redevelopment. With only minor exceptions, all sites for growth and redevelopment are designated Existing Community Zone in the RMP.

In addition to the several sites detailed for Redevelopment Investigations in the Feasibility Report, the most significant site that will benefit from Center designation is the Turkey Farm redevelopment area, which is approximately 25 acres of Existing Community Zone-designated land that is located at the corner of US Route 206 and West Main Street. This is explained in detail in the Highlands Center Feasibility Report (above).

- F. Center Infrastructure. The Borough's Feasibility Report explains and graphically depicts the existing limits of centralized wastewater collection and treatment facilities and public potable water service in the Borough and describes plans for future service. Future expansion of these systems is envisioned to serve (1) virtually all existing developed residential neighborhoods, (2) existing developed nonresidential developed sites that are not currently served; and (3) future redevelopment areas that are depicted in Center Feasibility Report mapping.
  - a. NJDEP approval of expanded wastewater collection and treatment facilities will require a NJ Highlands Council consistency determination that proposed future service areas are consistent with the RMP. Following that, NJDEP can grant the Borough an approval for an amended water quality management plan. Precedent to that, however, is submission of a revised wastewater management plan (WMP) to the NJDEP, which is currently being prepared. This may exceed the approximate 6-month time frame for the Highlands Center schedule.

## RESOLUTION NO. R2019-102

### A RESOLUTION OF THE BOROUGH OF CHESTER DESIGNATING THE ENTIRE BOROUGH AS A HIGHLANDS CENTER IN ACCORDANCE WITH THE NEW JERSEY HIGHLANDS REGIONAL MASTER PLAN AND ESTABLISHING THEREIN CERTAIN NON-CONDEMNATION REDEVELOPMENT INVESTIGATION AREAS

**WHEREAS**, the Borough of Chester has conformed its Master Plan and development regulations to the New Jersey Highlands Regional Master Plan (“Highlands RMP”, or “RMP”) in accordance with New Jersey Highlands Council RMP “Plan Conformance” procedures; and

**WHEREAS**, the New Jersey Highlands Council provides conforming municipalities with the option of designating a New Jersey Highlands Center (a “Highlands Center” or “Center”) in accordance with the provisions of the Highlands RMP; and

**WHEREAS**, a Highlands Center may include certain areas designated “Areas in Need of Redevelopment” as defined in N.J.S.A. 40A:12A-1 et seq., the New Jersey Local Redevelopment and Housing Law (LRHL) as well as areas deemed appropriate for future growth and development by the municipality and the New Jersey Highlands Council that may not exhibit conditions establishing the need for redevelopment; and

**WHEREAS**, on February 19, 2019 the Mayor and Council of the Borough of Chester identified certain areas within the Borough believed to be potentially suitable for designation as a “Non-condemnation Redevelopment Areas” and on that basis authorized the Chester Borough Land Use Board to investigate, consider and make recommendations concerning seven (7) areas for possible designation as Non-condemnation Redevelopment Areas, as follows.

- a. 300 Main Street (Block 119, Lot 8), former Borough Hall
- b. 280 Main Street (Block 119, Lot 6, 2.57-acres), adjacent to former Borough Hall;
- c. 50 North Road (Block 115, Lot 6, 19.99-acres (portion)) open municipal land adjacent to municipal building and across from Stony Hill;
- d. 2 Oakdale Road at corner with North Rd. (Block 114, Lot 18, 1.37-acres) & 28 Oakdale Road (Block 114, Lot 19, .69-acres);
- e. 65 Maple Ave, (Block 131, Lot 4, .98-acres) Former Meenan Oil site;
- f. 437 Main Street (Block 110, Lot 28, 4.88-acres) former Dangler site, vacant land adjacent to Redwoods; and

**WHEREAS**, by Resolution No. 2019-92, adopted on July 16, 2019, the Mayor and Council of the Borough of Chester amended the list of sites authorized on February 19, 2019 for the Chester Borough Land Use Board to conduct investigations and make recommendations for possible designation of “Non-condemnation Redevelopment Area[s]” in accordance with the conditions establishing the need for redevelopment as set forth at N.J.S.A. 40A:12A-5 “Determination of need for redevelopment”, to include additional properties for consideration.

**WHEREAS**, on August 8, 2019, the Land Use Board of the Borough of Chester investigated the issue of Highland Center Designation and “Non-condemnation Redevelopment Area[s]” and made

the recommendation that Chester Borough in its entirety should be designed as a Highlands Center and that the following properties should be investigated by the Land Use Board for possible designation as Non-condemnation Redevelopment Areas:

- a. 300 Main Street (Block 119, Lot 8), former Borough Hall
- b. 280 Main Street (Block 119, Lot 6, 2.57-acres), adjacent to former Borough Hall;
- c. 50 North Road (Block 115, Lot 6, 19.99-acres (portion)) open municipal land adjacent to municipal building and across from Stony Hill;
- d. 7 North Road (Block 114, Lot 17, approx. .25-acres), 2 Oakdale Road at corner with North Rd. (Block 114, Lot 18, 1.372-acres) & 28 Oakdale Road (Block 114, Lot 19, .691-acres) and 42 Oakdale Road (Block 114, Lot 20, approx. .750-acres);
- e. 65 Maple Ave, (Block 131, Lot 4, .98-acres) former Meenan Oil site;
- f. 437 Main Street (Block 110, Lot 28, 4.88-acres) former Dangler site, vacant land adjacent to Redwoods;
- g. 235 Route 206 (Block 101, Lot 11, .75-acres) & 263 Route 206 (Block 101, Lot 10, 1.01-acres) and

**WHEREAS**, at the regularly scheduled, duly noticed August 8, 2019 meeting of the Chester Borough Land Use Board, the Board reviewed, discussed and received public comment on the Highlands Center boundary and the list of non-condemnation investigation area sites; and

**WHEREAS**, on August 8, 2019 the Land Use Board determined that it agrees with and endorses (1) the designation of the entirety of Chester Borough as a Highlands Center; (2) that Highlands Center planning may be used to support Chester Borough's long-term planning objectives to protect the character and scale of existing developed residential neighborhoods and non-residential areas in the Borough; (3) that Highlands Center Planning provides Chester Borough with the opportunity to expand wastewater treatment capacity and the development of wastewater collection facilities to serve all existing residential development and allow for modest, incremental new non-residential development planned at a scale that is appropriate to the Borough's community character protection goals and objectives; and (4) that the proposed non-condemnation investigation area sites identified by the Borough Council are appropriate non-condemnation investigation areas that may foster modest-scale economically beneficial uses; and

**WHEREAS**, the Mayor and Council of the Borough of Chester deem it necessary and appropriate, and in the best interests of the citizens of Chester Borough to accept the recommendations of the Chester Borough Land Use Board;

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Chester, County of Morris, State of New Jersey, as follows:

1. Chester Borough in its entirety is hereby designed as a Highlands Center in accordance with the provisions of the New Jersey Highlands Regional Master Plan; and
2. The following areas are hereby designed as Non-condemnation Redevelopment Investigation Areas:
  - a. 300 Main Street (Block 119, Lot 8), former Borough Hall;

- b. 280 Main Street (Block 119, Lot 6, 2.57-acres), adjacent to former Borough Hall;
  - c. 50 North Road (Block 115, Lot 6, 19.99-acres (portion)) open municipal land adjacent to municipal building and across from Stony Hill;
  - d. 7 North Road (Block 114, Lot 17, approx. .25-acres), 2 Oakdale Road at corner with North Rd. (Block 114, Lot 18, 1.372-acres) & 28 Oakdale Road (Block 114, Lot 19, .691-acres) and 42 Oakdale Road (Block 114, Lot 20, approx. .750-acres);
  - e. 65 Maple Ave, (Block 131, Lot 4, .98-acres) former Meenan Oil site;
  - f. 437 Main Street (Block 110, Lot 28, 4.88-acres) former Dangler site, vacant land adjacent to Redwoods; and
  - g. 235 Route 206 (Block 101, Lot 11, .75-acres) & 263 Route 206 (Block 101, Lot 10, 1.01-acres).
3. The Borough's Administrator and professionals are hereby directed to take such actions as are necessary to implement this resolution.

ATTEST:

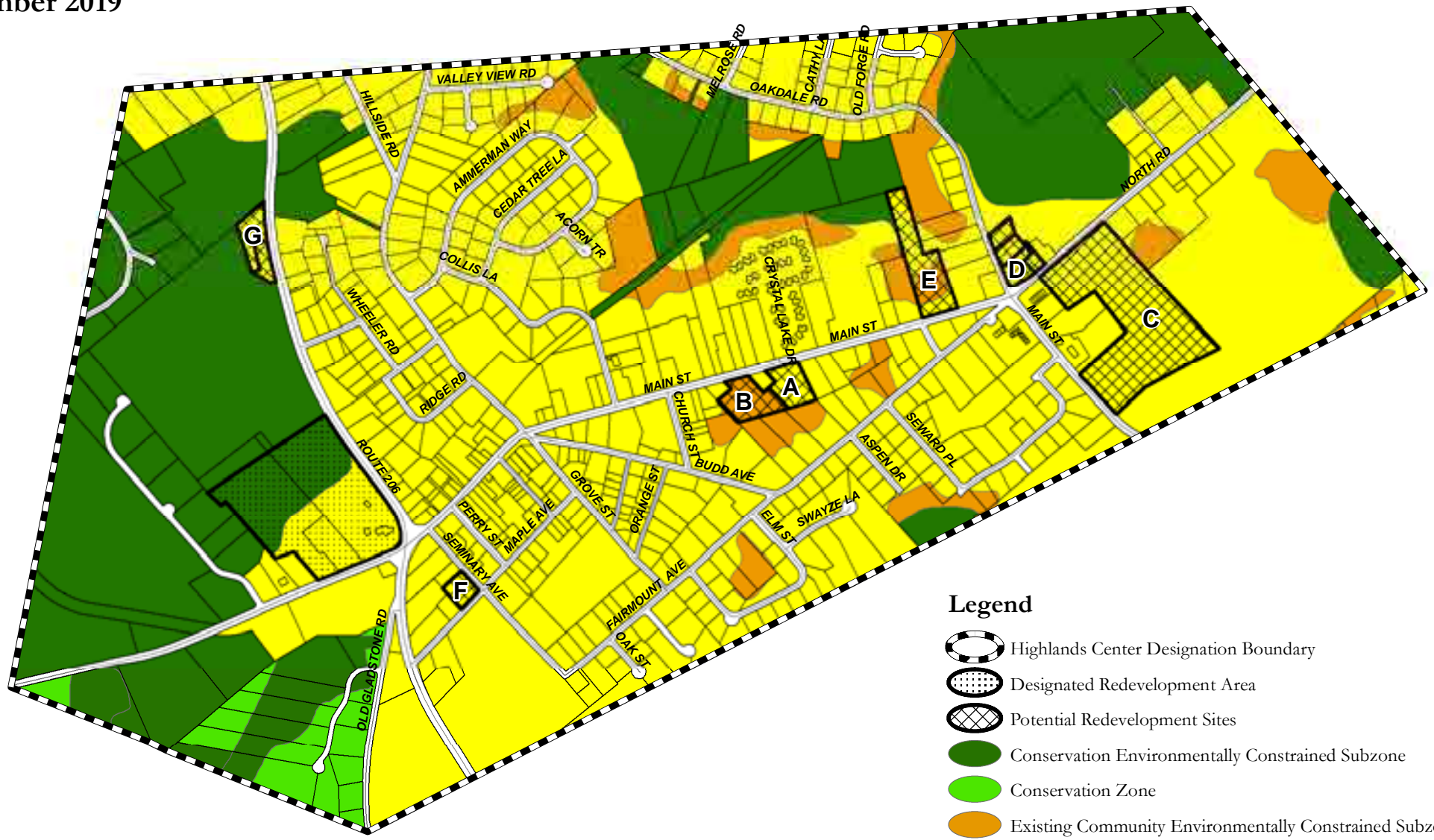
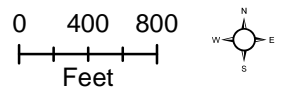
I herein certify that the foregoing resolution was adopted by the Governing Body of the Borough of Chester at a duly noticed public meeting of the Mayor and Council on August 13, 2019.

---

Denean Probasco, CMC, Chester Borough Clerk

**Figure 1:**  
**Center Boundary and Highlands Land Use Capability Zones**  
**Borough of Chester**

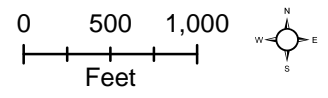
September 2019



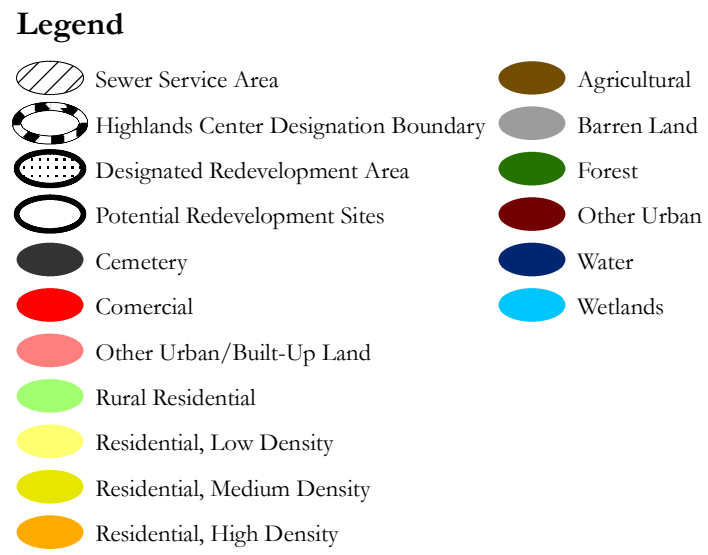
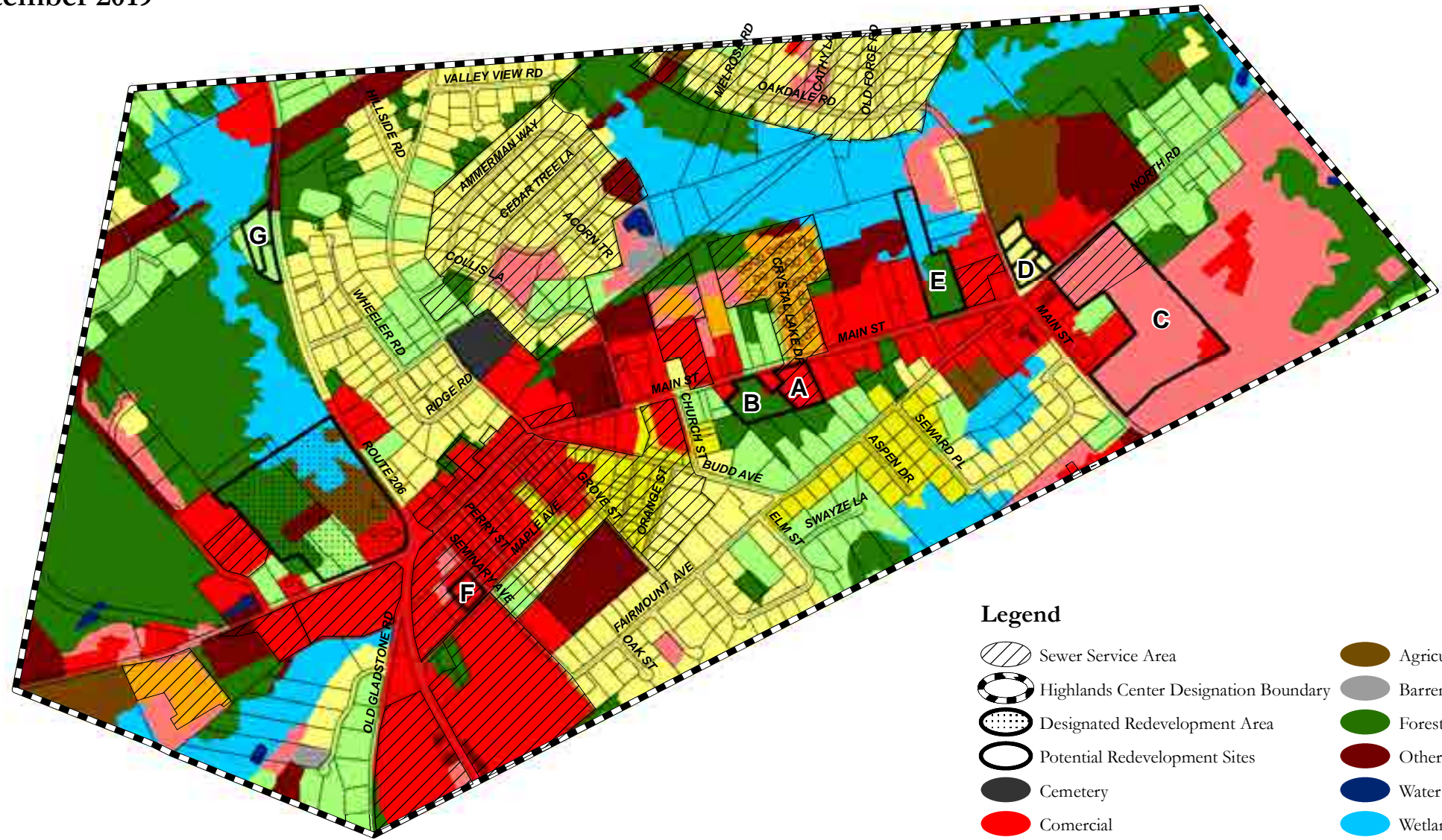
- Legend**
- Highlands Center Designation Boundary
  - Designated Redevelopment Area
  - Potential Redevelopment Sites
  - Conservation Environmentally Constrained Subzone
  - Conservation Zone
  - Existing Community Environmentally Constrained Subzone
  - Existing Community Zone
  - Protection Zone

Data Sources:  
 Morris County Planning Department parcels  
 NJDEP Highlands Council LUCZ

**Figure 2:**  
**Land Use/Land Cover**  
**Borough of Chester**



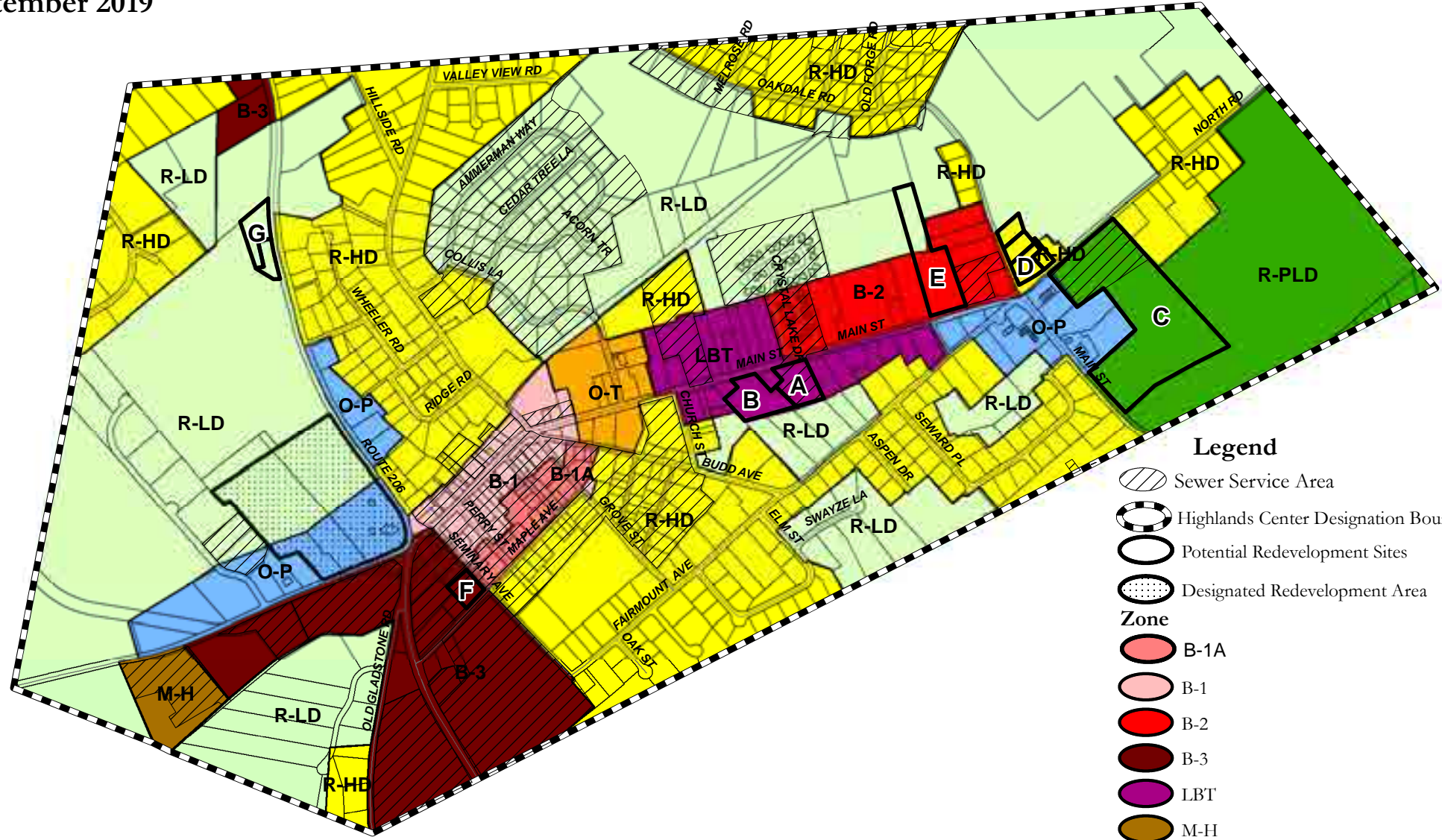
September 2019



Data Sources:  
 Morris County Planning Department parcels  
 NJDEP 2012 Land Use/Land Cover

# Figure 3: Existing Zoning Borough of Chester

September 2019

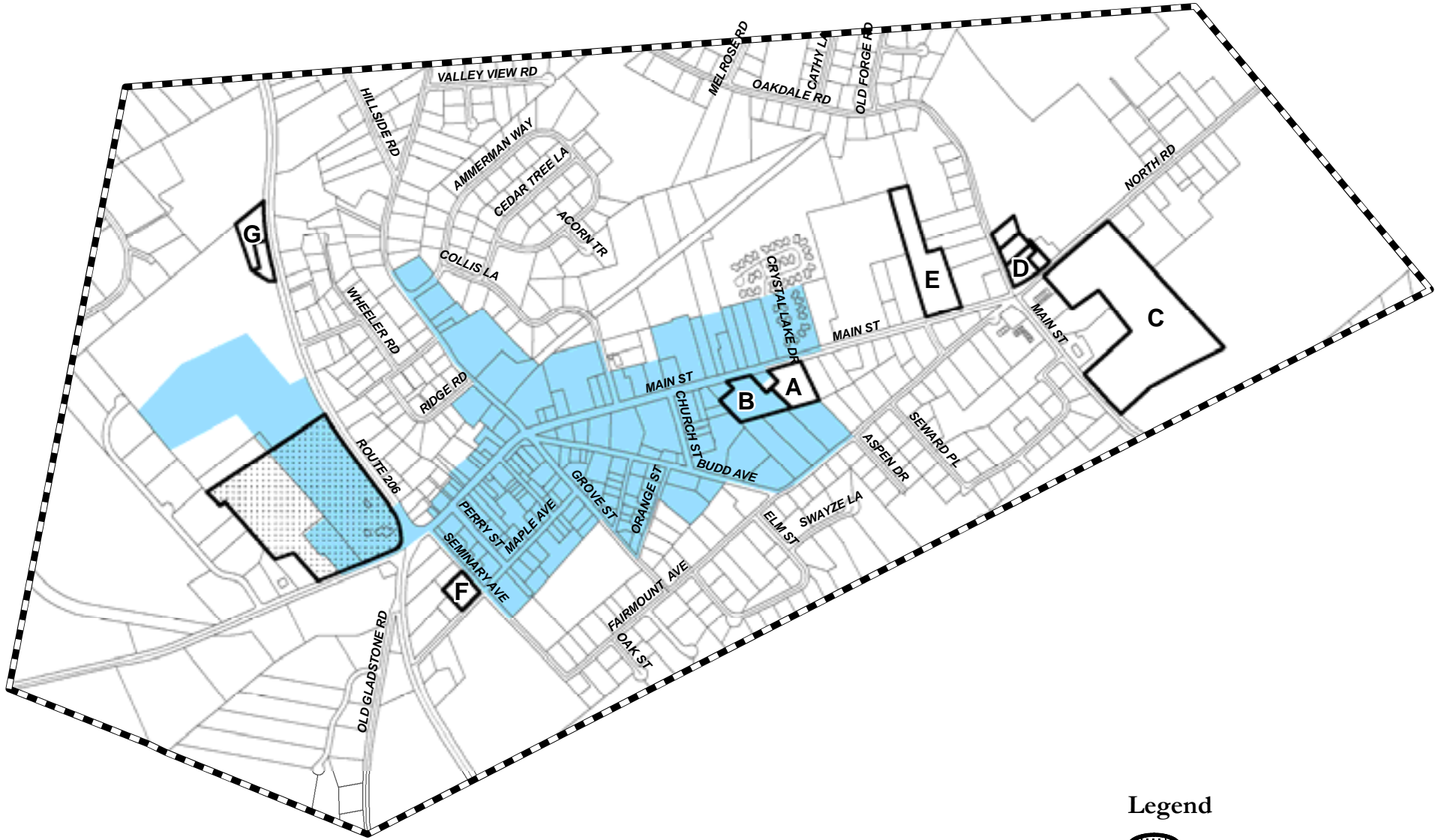





- Legend**
- Sewer Service Area
  - Highlands Center Designation Boundary
  - Potential Redevelopment Sites
  - Designated Redevelopment Area
  - Zone**
  - B-1A
  - B-1
  - B-2
  - B-3
  - LBT
  - M-H
  - O-P
  - O-T
  - R-HD
  - R-LD
  - R-PLD

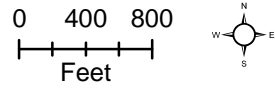
Data Sources:  
Morris County Planning Department parcels

**Figure 4:**  
**Historic District**  
**Borough of Chester**

September 2019

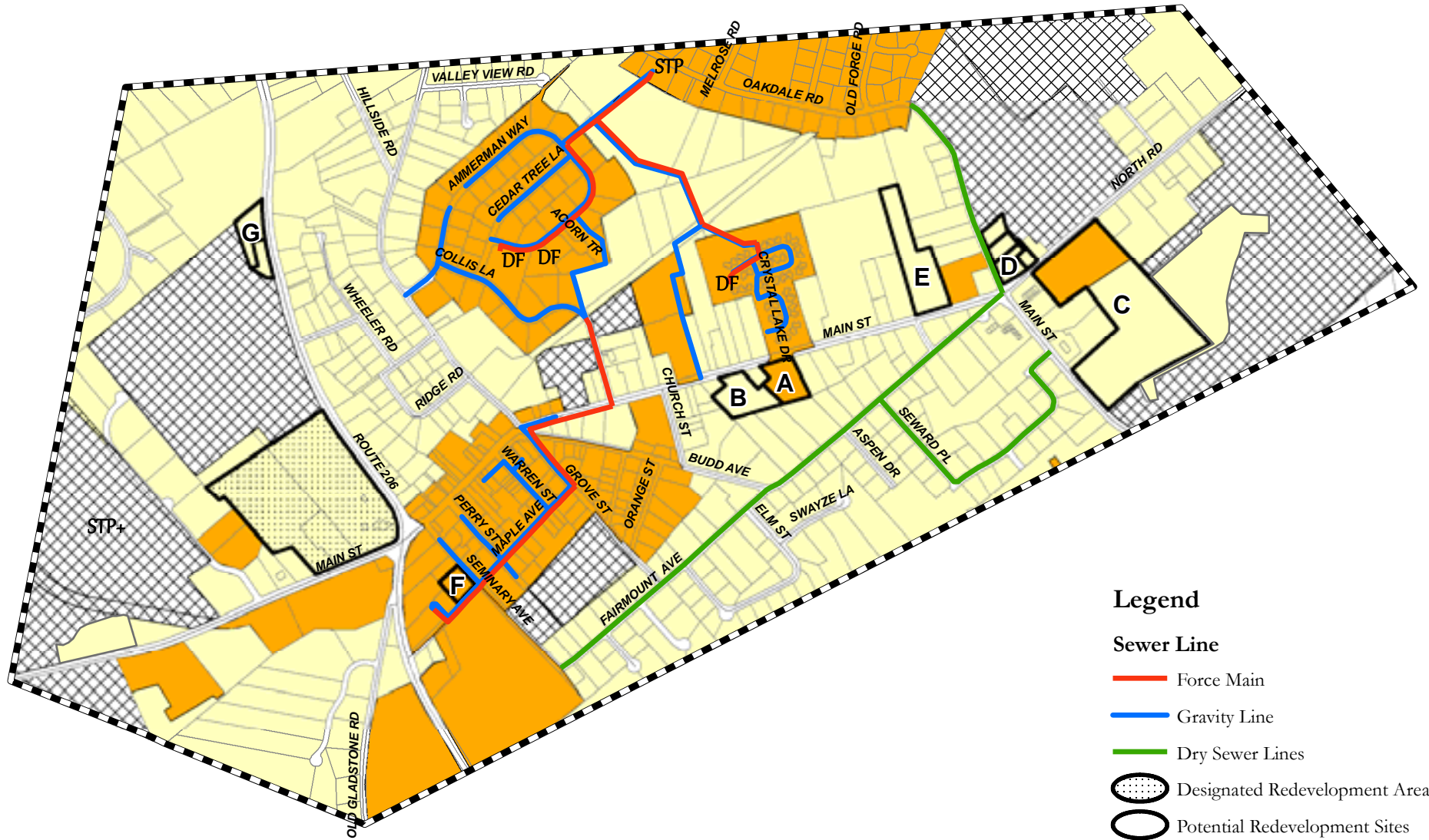


- Legend**
-  Designated Redevelopment Area
  -  Potential Redevelopment Sites
  -  Historic Districts



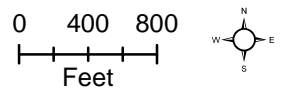
**Figure 5:**  
**Existing and Future Sewer Service Area**  
**Borough of Chester**

September 2019



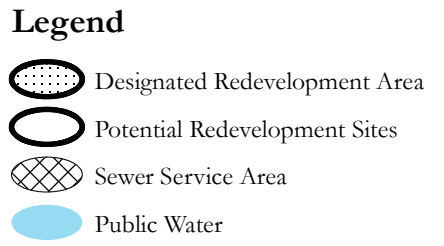
- Legend**
- Sewer Line**
  - Force Main
  - Gravity Line
  - Dry Sewer Lines
  - Designated Redevelopment Area
  - Potential Redevelopment Sites
  - Deed Restricted Properties
  - Existing Sewer Service Area
  - Future Sewer Service Area

Data Sources:  
 Morris County Planning Department parcels  
 NJDEP SSA 2016  
 NJDEP Highlands Council Public Water Areas Served 2016



**Figure 6:**  
**Existing Public Water with Existing Sewer Service Area**  
**Borough of Chester**

September 2019



Data Sources:  
 Morris County Planning Department parcels  
 NJDEP SSA 2016  
 NJDEP Highlands Council Public Water Areas Served 2016

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL  
Petition for Highlands Center Designation – **DRAFT** Consistency Review and Recommendations  
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**APPENDIX B**

**IMPLEMENTATION PLAN AND SCHEDULE**

**Borough of Chester, Morris County**

Amended Grant Agreement Task #	PLAN CONFORMANCE TASK	Reimbursed to Date	FY 2020	FY2021 (proposed)	FY2022 (proposed)	Total Budget (Current and Future)	Completion Date	Status and Comments
1	<b>Housing Element &amp; Fair Share Plan (Module 3)</b>							
	a. Update Module 2, 3 & 7 - 3rd Round Fair Share Plan							
	b. Housing Element and Fair Share Plan							
2	<b>Highlands Environmental Resource Inventory (Module 4)</b>							
3	<b>Highlands Element of Municipal Master Plan (Module 5)</b>							
	a. Master Plan Reexamination Report - Prepared and Adopted		\$7,500.00			\$7,500		Amend for Center Designation, HERZ
	b. Highlands Element of the Municipal Master Plan		\$10,000.00			\$10,000		Amend for Center Designation, HERZ
4	<b>Municipal Master Plan Elements</b>							
	a. Land Use Plan Element							
	b. Conservation Plan Element							
	c. Circulation Plan Element							
	d. Land Preservation and Land Stewardship Plan Element							
	e. Agricultural Retention/Farmland Preservation Plan							
	f. Sustainable Economic Development Plan Element/ Implementation Actions			\$20,000		\$20,000		
	g. Community Facilities Plan Element							
	h. Historic Preservation Plan Element			\$10,000		\$10,000		
	i. TDR Plan Element							
	j. Septic System Yield Allocation							
5	<b>Highlands Land Use Ordinances (Module 6)</b>		\$5,000.00			\$5,000		Amend for Center Designation, HERZ
6	a. Adopt Planning Area Petition Ordinance							
7	b. Adopt Highlands Municipal Referral Ordinance							
	c. Adopt Delegated Exemption Ordinance							
	d. Exemption Determination Ordinance			\$1,000		\$1,000		
8	<b>Zoning Map Update (Update to reflect Highlands Overlay Zones, Districts)</b>		\$5,000.00			\$5,000		Amend for Center Designation, HERZ
	<b>Resource Management Plans and Programs</b>							
	a. Water Use and Conservation Management Plan				\$70,000	\$70,000		
9	b. Habitat Conservation and Management Plan				\$15,000	\$15,000		
10	c. Stream Corridor Protection/Restoration Plan				\$15,000	\$15,000		
11	d. Wastewater Management Plan		\$25,000.00			\$25,000		
	e. Septic Management/Maintenance Plan							
	f. Lake Restoration Management Plan							
	g. Scenic Resource Management Plan							
14	h. Municipal Stormwater Management Plan			\$15,000		\$15,000		
	i. Land Preservation and Stewardship Program							
	j. Forest Stewardship Plan							
	<b>Implementing Ordinance for Management Plans</b>							
	a. Septic System Maintenance							
	b. Potential Contaminant Source Management							
	c. Water Use and Conservation Management Plan Ordinances							
	d. Habitat Conservation and Management Ordinance							
	e. Stream Corridor Ordinance							
	f. Lake Restoration Ordinances							
	g. Tree Clearing Ordinances							
	h. Right to Farm Ordinance							
	i. Scenic Resource Management Ordinance							
	j. Wellhead Protection Ordinance							
	k. Steep slope protection ordinance							
	<b>Highlands Center and Highlands Redevelopment Areas</b>							
12	a. Highlands Center Planning Petition Study							
	b. Highlands Center Planning			\$50,000		\$50,000		
	c. Highlands Center Implementation							
	d. Highlands Redevelopment Area Planning		\$25,000.00			\$25,000		
13	<b>Training</b>							
Totals		\$ -	\$ 77,500.00	\$ 96,000.00	\$ 100,000.00	\$ 273,500.00		

The above totals for FY 2021 and FY2022 are subject to approval by the Highlands Council

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – **DRAFT** Consistency Review and Recommendations**  
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**APPENDIX C**

**PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES**

**Amended Petition for Plan Conformance**

**Chester Borough, Morris County**

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – DRAFT Consistency Review and Recommendations**  
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**PUBLIC COMMENTS RECEIVED**

Written comments regarding Chester Borough's Amended Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on December XX, 2019. Comments were provided by the following individuals/entities:

- 1)
- 2)

**PUBLIC COMMENT/RESPONSE SUMMARY**

- 1) **Comment:**
- 2) **Response:**

# **Exhibit C**



## State of New Jersey

Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**PHILIP D. MURPHY**  
*Governor*

**CARL RICHKO**  
*Chairperson*

**SHEILA Y. OLIVER**  
*Lt. Governor*

**LISA J. PLEVIN**  
*Executive Director*

# **DRAFT** **CONSISTENCY REVIEW** **AND RECOMMENDATIONS REPORT**

**PETITION FOR HIGHLANDS CENTER DESIGNATION**  
**BOROUGH OF CHESTER, MORRIS COUNTY**

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

**NOVEMBER 13, 2019**

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – **DRAFT** Consistency Review and Recommendations**  
**Report**

**INTRODUCTION**

The New Jersey Highlands Water Protection and Planning Council (“Highlands Council”) approved the Borough of Chester’s Petition for Plan Conformance on July 21, 2016, by adoption of Resolution #2016-6. The Borough conformance area is municipal-wide and is entirely within the Planning Area. Since the time of Highlands Council approval, the Borough has made steady progress toward completion of all required Plan Conformance implementation tasks, as set forth in the Highlands Implementation Plan and Schedule.

In the process of completing its Petition for Plan Conformance, the Borough determined, and the Highlands Council concurred, that Highlands Center designation should be studied for the municipality. This initiative was completed with assistance of Highlands Council funding, as an eligible component of the Highlands Council Plan Conformance program. The resultant analyses propose designation of a Highlands Center within the Borough, which is intended to advance the goals and intents of both the Borough Master Plan and the Highlands Regional Master Plan (RMP). The Borough petitioned the Highlands Council for designation of a Highlands Center on October 3, 2019.

This Consistency Review and Recommendations Report (“Report”) has been prepared by Highlands Council Staff for consideration by the Highlands Council as to the consistency of the Center Designation, proposed by the Borough of Chester, with the RMP. The Report begins with a brief summary of Plan Conformance activities, including a Plan Conformance status update indicating completion of required implementation tasks by date. The Staff recommendation is for approval with conditions of the Petition for Highlands Center Designation as proposed by the Borough.

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – DRAFT Consistency Review and Recommendations**  
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**REPORT SUMMARY**

**Municipality:** Borough of Chester

**Date of Amended Petition Submission:** October 3, 2019

**Date Deemed Complete:** October 17, 2019

**Highlands Center Proposal:** Chester Borough Center (1,020 Acres, 100% of the Borough)

**Staff Recommendation:** Approve Amended Petition with Conditions

**PLAN CONFORMANCE STATUS UPDATE**

<b>Implementation Task</b>	<b>Completion</b>
1. Petition for Plan Conformance	Approved by Highlands Council 7/21/16
2. Planning Area Petition Ordinance	Adopted 9/20/16
3. Master Plan Reexamination Report	Adopted 11/21/16
4. Highlands Municipal Referral Ordinance	Adopted 12/20/16
5. Highlands Master Plan Element	Adopted 3/9/17
6. Highlands Land Use Ordinance	Adopted 6/20/17
7. Highlands Center Designation Study	10/3/19
8. Wastewater Management Plan (WMP)	In Progress

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – **DRAFT** Consistency Review and Recommendations**  
**Report**

**A. REVIEW OF ADMINISTRATIVE SUBMITTALS**

1. **Resolution or Ordinance.** Consistent. Chester Borough Resolution # 2019-102 was adopted on August 12, 2019, requesting that the Highlands Council amend the Borough’s Petition for Plan Conformance to include a designated Highlands Center.
2. **Highlands Center Feasibility Report.** Consistent.

**B. SUBSTANTIVE REVIEW**

The Borough of Chester established a sub-committee comprised of Planning Board and governing body members to investigate the feasibility of designation of a Highlands Center within the municipality. With the assistance of its planning consultant, this effort culminated in production of a “Highlands Center Designation Feasibility Report,” dated October 3, 2019. The Borough submitted the study to the Highlands Council on October 3, 2019 with a request that the Highlands Council amend the previously approved Petition for Plan Conformance to include the Highlands Center. The “Highlands Center Designation Feasibility Study” is attached as Appendix A of this Report.

1. **Proposed Boundaries.** Consistent.

Boundary Summary: The Borough is 100% Planning Area. The entirety of the Borough will be contained within the center boundaries with 308 Acres to be located in Highlands Environmental Resource Zones (HERZ).

Highlands Environmental Resource Zones (Figure 1): *A Highlands Environmental Resource Zone (HERZ) is a land area within a designated center that contains environmentally sensitive resources. The delineation of the HERZ recognizes that a designated center, while generally suitable for future development and redevelopment, may contain areas of sensitive resources that may require additional protections. Each HERZ will be identified according to its features and be afforded appropriate planning and management as part of the comprehensive center planning.*

The majority of the proposed Chester Borough Center is currently developed and identified as Existing Community Zone. Undeveloped areas within the Borough are constrained by wetlands and critical habitat and are currently designated as Protection Zone. Highlands resources within the developed area are very limited. Where Highlands resources do exist within the proposed Highlands Center, they will be protected in the same manner as those resources existing in the Protection Zone of the Planning Area. All HERZ are to be protected as a condition of Highlands Center planning, along with additional conditions enumerated here and repeated under the “Conditions” section below. These conditions are specific to the Chester Borough Highlands Center, to address potential impacts to Highlands resources known to be located within the proposed Center boundaries.

The proposed HERZ primarily consist of three significant areas. The western area, encompassing the majority of the land west of Route 206 and north of County Route 513, consists of critical habitat and wetlands. The second area, located to the south of Oakdale

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – DRAFT Consistency Review and Recommendations**  
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Road, consists of wetlands and Category-1 (C-1) tributaries. The third area, located to the north of North Road (County Route 513), abutting the eastern Borough border, contains wetlands, critical habitat, and forest resource area.

All areas mapped as HERZ will remain subject to the protections set forth for the Protection Zone of the Land Use Capability Zone Map in the Regional Master Plan and Highlands Land Use Ordinance (the most restrictive zone). However, due to the condition of the Borough's wastewater treatment plant and numerous failing subsurface disposal systems and cesspools located throughout the developed portion of the Borough, a new wastewater treatment plant is proposed adjacent to one of the proposed HERZ. The feasibility study for the proposed treatment plant, funded by the Highlands Council, demonstrated that the only practical location for the needed surface water discharge is in the vicinity of the HERZ located to the south of Oakdale Road in the north-central area of the Borough. The extension of a wastewater discharge into the Oakdale Road HERZ is recommended to be permitted to address issues of public health and safety. Such extension will not provide service to any new development in the HERZ. Such a discharge would be required to meet all the applicable standards for a discharge into the waterway. Additional details on wastewater service can be found in Section 3A of this report.

**2. RMP Goals, Policies and Objectives.** Consistent.

*(The following is excerpted from the Borough's Center Planning document prepared by Banisch Associates, attached as Appendix A.)*

The Borough is almost entirely designated Existing Community Zone with pockets of Existing Community Environmentally Constrained found in select areas. The western portion of the Borough, and areas to the northeast, where areas of forests and wetlands are found, are in the Protection Zone. These areas have not been developed or are underdeveloped for the area given the environmental constraints. However, as part of the Center plan, the Borough envisions two minor incursions into the area currently designated Protection Zone for (1) residential development on Mill Ridge Lane adjacent to existing office and residential development; and (2) construction of a new wastewater treatment plant on Oakdale Road in the vicinity of the existing sewage treatment plant, which today is designated Protection Zone. It is not envisioned that remaining areas currently designated Protection Zone in Chester Borough will be further developed. Instead, the Borough will maintain these areas as they exist today to protect the integrity and function of the natural systems recognized by the Protection Zone designation.

In addition, center designation will further the Borough's long-term planning goals and is heavily aligned with the Highlands RMP goals and objectives, in particular for smart growth and economic development (see Appendix A).

**3. Plan Conformance Procedures Implementation Plan.** Consistent. The Highlands Center Implementation Plan shall include the proposed center boundaries, the purpose and goals of the proposed center, the relationship of the RMP goals, policies, and objectives to those of

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**Petition for Highlands Center Designation – DRAFT Consistency Review and Recommendations**  
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the proposed center, a description of the built and natural resources within the proposed boundaries, and a narrative of how the municipality intends to undertake implementation of the center.

- A. Infrastructure: The proposed Highlands Center is located in an area with sufficient water availability, water supply, and wastewater, and is appropriate for increased land use intensity.

Public Water Service: Chester Borough is provided with public water service primarily from NJ American Water. New Jersey American Water indicates that there is sufficient water supply available for the Borough, with an estimated available capacity of 0.050 MGD, which is expected to increase of 0.100 MGD in 2021 due to infrastructure upgrades. There is no indication that potable water supply would be a limiting factor to future development.

Wastewater Service: The sewerage system of the Borough is currently exceeding capacity and numerous failing cesspools and subsurface disposal systems are creating a public health and safety issue. The Highlands Council is funding the Borough's efforts to replace and expand its treatment plant to accommodate existing failing private systems and limited infill development and redevelopment.

The Borough has conducted a feasibility analysis and has met with NJDEP and the Highlands Council to discuss the construction of an upgraded treatment facility. The designation of the Borough as a Highlands Center will help to facilitate the necessary upgrades of the wastewater system within the Borough. Continuation of the work towards these upgrades is recommended as a condition of approval and grant funding is recommended to be provided as part of the implementation plan.

As a condition of approval, the existing Highlands Land Use Ordinance will maintain the septic densities and other requirements of the Existing Community Zone where it currently exists and apply the Protection Zone septic density requirement and the limitation of extension of public/community water and sewer to any area designated as a Highlands Environmental Resource Zone (HERZ). It appears that there are no existing lots in the Borough that are not deed restricted that would be sub-dividable under either the ECZ density or HERZ density.

- B. Resource Protection: The proposed Highlands Center is consistent with the resource protection standards of the Regional Master Plan, in accordance with the intent and purpose of the Highlands Act.

Chester Borough's location at the intersection of 206 and County Route 513 make it a crossroads of the surrounding region. The Borough is largely developed and contains limited resources that are not on deed restricted properties. Where resources do exist, they are generally on small, private single-family lots that are either exempt from the Highlands Act and RMP or do not meet the applicability standards of the Highlands Land Use Ordinance. As a condition of approval, the currently adopted

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Chester Borough Highlands Land Use Ordinance will be amended to afford the same protections to the HERZ as those of the Protection Zone (the most protective zone in the Planning Area).

- C. Smart Growth and Low Impact Development (LID): The proposed Highlands Center is consistent with the Smart Growth and LID standards of the Regional Master Plan.

Chester Borough’s existing land use pattern is the product of more than two centuries of settlement, growth, and development. Much of the Borough’s early historic settlement grew out of the rural farming economy of the 18<sup>th</sup> and 19<sup>th</sup> centuries that prevailed in west Morris County. Early development occurred along Main Street, which today is a vital and very active center of community life. Land use in Chester Borough is compact and efficient and it cannot reasonably be characterized as suburban or urban sprawl.

Chester Borough is a center of commercial and tourism activities within the Region. The continued development of the Borough through proposed redevelopment areas and expansion of sewer service will promote economic development, while implementing HERZ will afford critical protection of important resources.

- D. Land Use: There is a need for land uses within the community that may be met by the Highlands Center, particularly those that complement local and regional (or sub-regional) socio-economic needs and provide for affordable housing, increased transit opportunities, and the potential use of Highlands Development Credits.

Chester Borough is currently addressing two primary issues that are limited by the current LUCZ designations and lack of center designation. The first is the replacement and expansion of its existing wastewater treatment plant. Replacement of the plant will permit the Borough to connect residences and businesses that have failing subsurface disposal systems and cesspools thus improving the overall water quality in the area. The proposed wastewater treatment plant is anticipated to improve water quality in the discharge stream based on the elimination of “human markers” caused by failing subsurface disposal systems presently found in the stream. Designation of the Borough as a Center will permit the flexibility to implement the wastewater management project.

Second is the proposed development of the Turkey Farm and Mill Ridge Lane properties, which is a component of the Borough’s affordable housing settlement. Sections of each property are designated Protection Zone under the current LUCZ mapping, which will not afford the density proposed in the settlement agreement. It is important to note that Mill Ridge Lane was developed after the creation of the LUCZ mapping for the RMP. The settlement agreement provides for infill development in those areas of the Protection Zone currently surrounded by development. Designation of the Borough as a Center will provide the flexibility to meet the requirements of the affordable housing settlement agreement, while

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implementation of a HERZ will ensure that critical natural resources remain protected.



**C. STAFF RECOMMENDATIONS**

The Highlands Council Staff recommends that the Borough of Chester’s Petition for Designation of the Highlands Center, as discussed and illustrated in detail in Appendix A of this Report (Chester Borough “Highlands Center Designation Feasibility Report”), be approved with conditions. These conditions include the continued progress toward completion of all remaining and new Plan Conformance Implementation Tasks as set forth in the Implementation Plan and Schedule (IPS)(Appendix B), and adoption of Amendments to the Highlands Land Use Ordinance to implement Highlands Environmental Resource Zones.

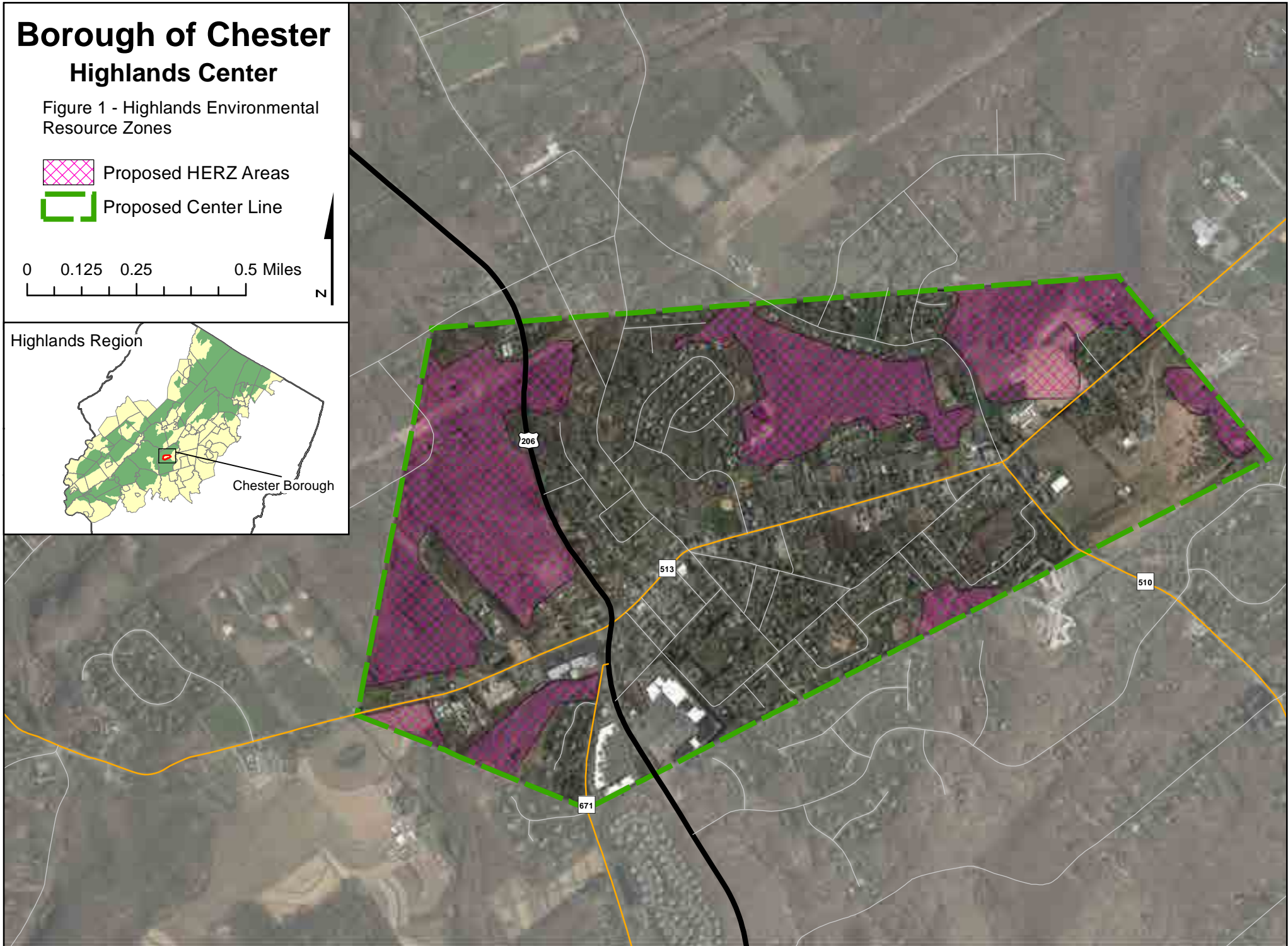
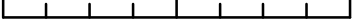
The Council’s approval of the Borough’s Highlands Center designation will specifically include grant funding for those items listed in Fiscal Year 2020 of the IPS. Funding for items beyond Fiscal Year 2020 are subject future Highlands Council approval. The Borough will not be liable to complete items on the IPS that are not funded by the Highlands Council.

# Borough of Chester Highlands Center

Figure 1 - Highlands Environmental  
Resource Zones

-  Proposed HERZ Areas
-  Proposed Center Line

0 0.125 0.25 0.5 Miles



# **Exhibit D**

Daily Record September 19, 2019

CHESTER — Two historic buildings on the Larison's Turkey Farm property face demolition to make way for a mixed-use development that includes housing, low income housing, a new restaurant, pharmacy and office space.

The project, discussed at Tuesday night's council meeting, will help the borough meet its state requirements for low-income housing, Mayor Janet Hoven said.

"The most current list of what each municipality has, as far as affordable housing, shows we need 111 units of affordable housing," Hoven said. "This is not just about Chester borough. Every municipality has to do this."

During the public portion of the meeting, concerns voiced by residents included environmental-impact issues and increased traffic along the West Main Street portion of Route 202. A new traffic light would be placed at the main entrance to the new development across the road from the ShopRite-anchored Chester Shopping Mall.

West Main Street resident Stacy Rogers told the council traffic is already a problem in the area. "In the fall, you can't exit or enter," she said, referring to seasonal weekend traffic down the road at Alstede Farms, a popular ecotourism farm. "The traffic doesn't want to budge."

The development, a product of lengthy discussions between borough officials and the developers, would include a new 6,500-square-foot restaurant on the corner of routes 206 and 202, which would replace the iconic Larison's Turkey Farm Inn restaurant. The restaurant closed in 2000, and has been unsuccessfully revived three times since, the last one closing in 2009.

Turkey Farm Acquisitions LLC is teaming with the owners of an adjoining Route 24 property known as the Mill Ridge tract, where 20 market-rate town homes would be built as part of the project. The proposal includes a 14,498-square-foot CVS pharmacy, a 20,000-square-foot medical office building, a 5,000-square-foot office building and 36 affordable housing units that would be built and paid for by the developers. **"The CVS is on the smaller side of what they like to build," said Henry Kent-Smith, attorney for the developers.**

Historic importance

Critics of the proposal included officers of the Chester Historical Society, who urged developers and the council to consider adaptive reuse of two buildings on the 25-acre tract: a circa 1873 residence known as Sunnyside and the circa 1800 Isaac Corwin House, which became part of the Larison's Turkey Farm restaurant that opened in 1945.

Chester Historical Society Vice President John Pfaff challenged Kent-Smith's assertion that the society had been told it could take possession of Sunnyside if it could pay for the expenses involved. "At the mayor's suggestion, the society reached out to the owners of the property and asked to look at what we could do to save Sunnyside," Pfaff said. "I never dreamed we'd have to look at what we can do to save the Irwin Corwin House. The fact is, nobody ever got back to us and they totally ignored our input."

"Mr. Kent-Smith, stated that the developers had offered to give Sunnyside to the Chester Historical Society and that we did not answer," said Chester Historical Society President Edward Ng. "That is the opposite of what happened. I sent their lawyer at the time, the owners, and

members of Chester's Land Use Board, a letter offering to work with the owners to apply for a historic preservation grant, but we needed their active cooperation. I got no response from them and the deadline for the grant expired." Kent-Smith also said Sunnyside had deteriorated to the point where it was not salvageable. Ng said Sunnyside would be "much harder" to save, but continued to urge preservation and adaptive reuse of the Corwin House.

Demolishing the Corwin House, Ng said, would be akin to demolishing the Publick House, another 19th century building repurposed into a restaurant, a drawing of which dominates the borough seal. "It's one of the iconic buildings in Chester's historic district, a state-recognized historic district," he said.

"In the discussions, the majority of the council said they were fine if the Larison-Corwin House was demolished in order to build a new restaurant," Hoven said. "In talking with the developers and owners, they were very sensitive to that building and the meaning it has to the community."

Hand-hewn beams and other elements of the Corwin House would be preserved to incorporate into the new restaurant building.

Developers are eyeing Chester's historic Larson's Turkey Farm property for development. The 19th century farm complex for generations was occupied by a restaurant serving family-style meals. Existing stone walls would be incorporated into the design, Hoven said. Developers, the mayor said, have already received interest in the leasing of the new restaurant. One of the interested parties, Hoven said, has offered to have Adirondack chairs outside, just as Larison's had.

"They are paying homage to Larison's by maintaining some of that old-time Larison's feel, but in a new restaurant," Hoven said.

#### Affordable housing

Emboldened in 2015 by the New Jersey Supreme Court's decision to move oversight of Mt. Laurel housing obligations from the Council on Affordable Housing to municipal courts, the owners in 2016 originally submitted a new development plan that included a 144-unit apartment complex, 28 units of which would have been designated as affordable housing under Mt. Laurel.

The negotiated proposal, Hoven said, also relieves the borough of a legal obligation to bond for the building of low-income housing to meet its obligation to build affordable housing. Those bonds would have been paid for by taxpayers.

Instead, the cost will be covered by the developers, Hoven said.

The council also will appoint a committee to assist the developer in designing building and other elements that would complement the existing streetscape and character of the borough. No action on the matter was taken at the meeting. Hoven said the next step would be for the council to participate in a settlement discussion at its Oct. 2 meeting. Any approved plan would then have to clear several hurdles before approval, including submitting plans for review by the land use council and complying with regulations set by the New Jersey Highlands Council.

Staff Writer William Westhoven: 973-917-9242; [wwesthoven@Dailyrecord.com](mailto:wwesthoven@Dailyrecord.com).

# **Exhibit E**

## PART 1 Description of the Highlands Region

### THE NEW JERSEY HIGHLANDS REGION

The New Jersey Highlands Region (Highlands Region) is an area of 859,358 acres located in the northwest part of the State (see Figure 1.1 *Highlands Region*). The Highlands Region includes 88 municipalities and parts of seven Highlands counties – Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren. The Highlands Region offers stunning vistas of an ancient landscape and serves as a vital source of drinking water for over half of New Jersey residents. Highlands Region residents and visitors appreciate this special resource area of the State for its natural beauty and environmental significance as it stretches from Phillipsburg, Warren County in the southwest to Mahwah, Bergen County in the northeast.



*Nathan McLean*

In the Highlands Water Protection and Planning Act (Highlands Act), the Legislature designated specific boundaries within the Highlands Region as the Preservation Area and the Planning Area. The fundamental distinction between the Preservation and Planning Areas is that municipal and county conformance with the Regional Master Plan is required in the Preservation Area and is voluntary in the Planning Area.

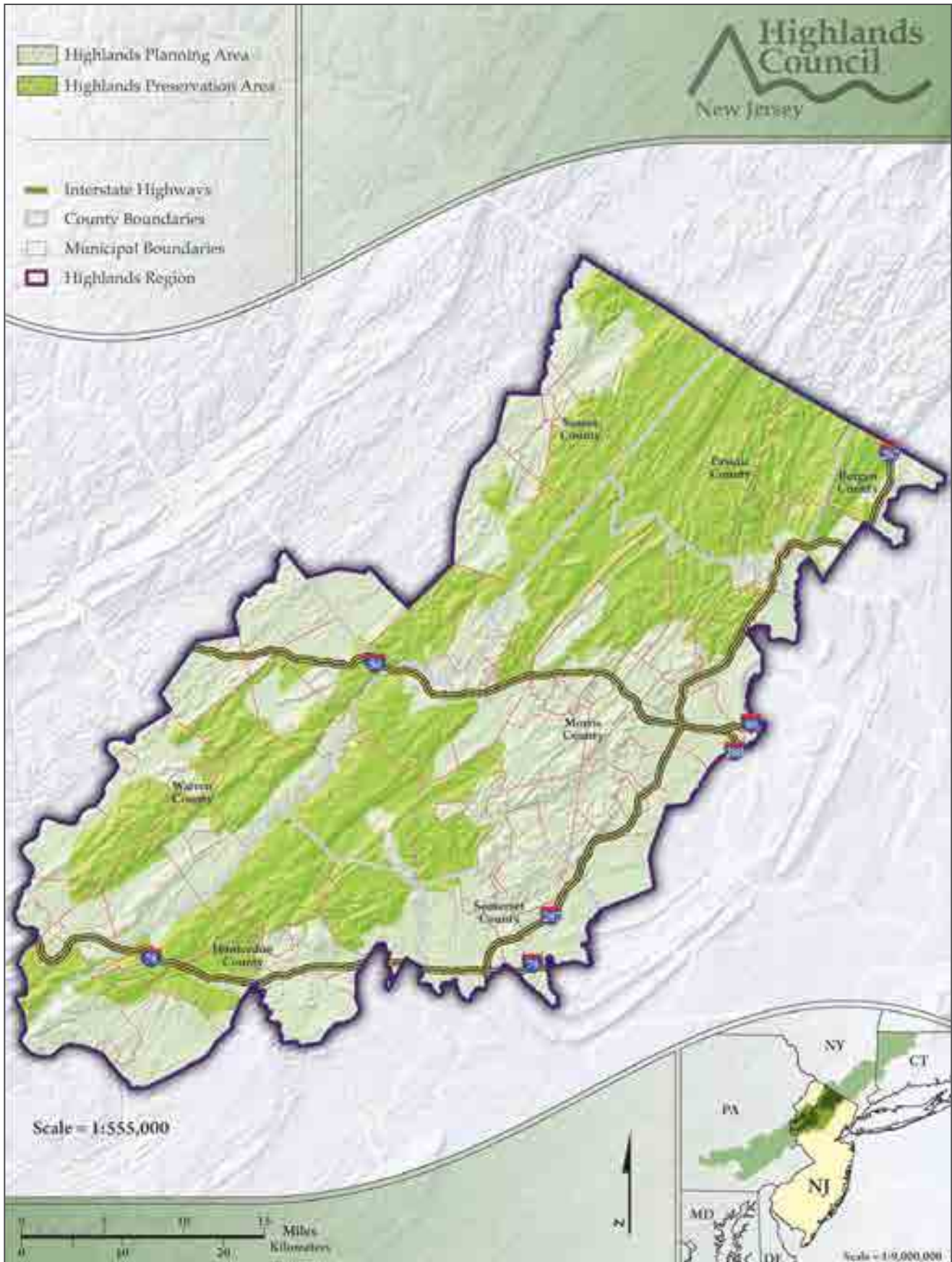


*Dwight Hiscano*

### ENVIRONMENTAL AND LAND USE SETTING

The Highlands Region serves as a significant green belt along the East Coast's metropolitan areas. Noted for its scenic beauty and environmental significance, the Region displays myriad geographic and geologic features, including rolling hills, pastoral valleys, steep ridges, diverse forests, and critical wildlife habitats. The Highlands Region has endured extensive periods of gradual uplift and erosion. As a result, ridges are typically underlain by older rocks that are less susceptible to erosion. Stream valleys generally follow along fractured zones and faults, or along areas of softer rocks that weather and erode faster. An irregular escarpment, averaging 500 feet in height, extends from Franklin Borough, Sussex County, through Andover Township, Sussex County, to the Delaware River north of Phillipsburg, Warren County. This escarpment forms the Highlands' northwestern boundary with the Valley and Ridge Province. To the southeast, major faults separate the Highlands erosion-resistant bedrock to form

FIGURE 1.1: Highlands Region



another prominent escarpment running from Mahwah Township, Bergen County, to Peapack-Gladstone Borough, Somerset County, to the Delaware River near Milford Borough, Hunterdon County. This rift marks the Highlands boundary with the Piedmont Province.



*Dwight Hiscano*

In addition to the forces of nature, patterns of human development have shaped the land and land uses in the Highlands Region. Today the Region is a unique and dynamic place with distinct physical features and historic settlement patterns. The Region encompasses a broad array of land uses and activities with rural towns, former mill towns, suburban neighborhoods and urbanized centers, located within short distances of each other. The Region's housing is characterized by a mix of older homes in compact neighborhoods, rural agricultural communities, and more recently constructed housing subdivisions. Retail, office, light industry, and other commercial establishments provide services and opportunities for employment. Outdoor recreation resources abound, including numerous lakes and streams, many miles of hiking and biking trails, and a large assortment of national, State, county and municipal park facilities. The Region is rich with historic, cultural, and archaeological resources due to its place in American Revolutionary War era history, iron mining, canal building, agrarian settlements and early industry.

## PART 2 History of the Highlands Region

### EARLY HISTORY

The natural environment has evolved gradually since the final retreat of the Wisconsin Glacier around 10,000 BC. After the retreat, the Highlands contained tundra-like vegetation which, over time, succeeded to grasslands and eventually to forests that dominate the Highlands Region today. Although Highlands forests were regularly harvested after European settlement, slightly more than half of the Region is currently forested.

Since the terminal moraine of the glacier was located south of the present day location of Route 80 – between Morris and Warren Counties – differences exist in the topography and soils between the northern and southern portions of the Highlands. The northern portion has steeper slopes, is rockier, and has narrower valleys than the southern portion. South of where the glacier ended, the soils are richer and better suited for agriculture.

Farming has been part of the Highlands since its earliest recorded history. The most productive early farms were in the low fertile valleys. The earliest farmers consumed much of their own food production or fed it to their livestock. Staples included dairy products, grain, fruits and vegetables. Farmsteads typically consisted of a main house, various types of barns for animal shelter, feed storage structures, fields, orchards and independent water sources. These farms and fields were often enclosed and enhanced by natural, wooden or stone fence lines conveying a sense of independence and distinction.



*Nathan McLean*



*Carl Figueiredo*

Early on, the key industry of the Region was ironworks. Factors contributing to this industry included the Region's geology and the availability of natural resources. The Highlands was found to contain one of the richest iron oxide deposits in the world. Iron oxide, also known as magnetite, is an iron ore with the highest iron content. The area also had readily available sources of water and lumber which were needed to process the raw ore into metallic products. The Mount Hope Mine in Rockaway Township, Morris County is believed to be one of the oldest and largest iron mines in the United States, dating back to 1710. It yielded close to six million tons of iron ore during more than 250 years of operation.

The onset of industrialization brought many changes to the Highlands Region. People settled in a more permanent fashion since many were needed to run the ironworks operations. The communities that sprouted up around the industries included structures for housing, work (e.g., mills, offices), civic activities (e.g., churches, schools), and commerce (e.g., stores, inns). Significant ironworks structures and related features include the mines themselves (the Highlands contain 95 percent of the abandoned mines in the State), roads, and other transportation structures such as the Morris Canal and numerous railroads, furnaces, forges, waterworks, and dams. These historic resources may be seen in several Highlands towns today.

Dramatic changes to the natural environment also took place during this era. Initially, ore was extracted from surface rock, but over time numerous sub-surface mines were established throughout the Highlands. A reliable water supply was needed since water power was

used in the operation of many iron mines. Additionally, charcoal was used as a fuel source to fire the industry's furnaces and forges. The vast forests of the northern Highlands provided an abundant source of timber for producing charcoal, leading to nearly total clearcutting of the forests over time.

Industrialization of the area demanded better transportation networks to move raw materials and goods. Transportation advancements occurring during this period included the construction of the Morris Canal and expansion of railroads. The Morris Canal was completed in 1830 to connect Newark and the Hudson River to the Delaware River. The canal prevented the early demise of the iron industry in New Jersey by providing coal from Pennsylvania as a source of fuel for the forges. Coal was shipped to the Highlands to supplement the waning Highlands timber supply. Railroad expansions that followed enhanced the ability to transport fuel and processed iron.

Increased agricultural use of the Highlands accompanied the industrialization of the Region. Remarkably similar in overall size and appearance to the earliest farms, many farmsteads in the mid-19th to early-20th century continued to prosper by adapting their crops to provide daily dairy products and seasonal produce for the massive markets of the metropolitan New Jersey/New York area. The late-19th and early-20th centuries witnessed a gradual and gentle transformation of parts of the agricultural landscape as commercial farming enterprises metamorphosed into the country estates of the upper middle class. Initially this trend was encouraged by easy rail access to Manhattan, and was later reinforced by an improved roadway network. The number of farms decreased noticeably in the Highlands Region in the mid- and late-20th century due to post-World War II suburban development. However, some areas of the Highlands Region still are dominated by agriculture.

### **SIGNIFICANCE OF THE HIGHLANDS REGION**

The value of the Highlands Region has been recognized and studied by both State and federal agencies for over 100 years. Of particular importance are: the creation of reservoirs in the Highlands for cities of northern New Jersey; the findings of the New Jersey Potable Water Commission report issued in 1907; the establishment of the North Jersey District Water

Supply Commission; the United States Forest Service (USFS) bi-state study conducted in 1992 and updated in 2002; and the recommendations of the 2003 New Jersey Highlands Task Force.

### NEWARK WATERSHED AND RESERVOIR DEVELOPMENT

By the mid-19th century, Newark was a major industrial center in New Jersey. With a prime location that included port facilities, a good roadway network, the Morris Canal, and new railroad access, Newark attracted many lucrative businesses that employed numerous local residents, but also contributed to regional pollution of Newark's primary water supply, the Passaic River. In 1879, the City of Newark looked to the pristine waters in the hills of Passaic County and the Pequannock River for a new, long-term supply of clean drinking water based on five reservoirs. Over time, Newark purchased additional land in the drainage basin to protect the source of their drinking water. The City of Newark currently owns over 86 percent of the lands in the Pequannock watershed. Jersey City also built two reservoirs in the Rockaway River watershed in the early-20th century for water supply, but did not make extensive land purchases in what was already an industrialized and populated river valley.



Carl Figueiredo

In the early 1920s, Newark sought to create another dedicated water supply source along the Wanaque River located in the Highlands. However, the New Jersey Legislature decided instead to create the North Jersey District Water Supply Commission to serve a consortium of municipalities, including the City of

Newark, to address the communities' water supply needs. Construction of the 29 billion gallon Wanaque Reservoir was completed in 1930. The final large reservoirs built to store Highlands Region water were the Spruce Run and Round Valley reservoirs in the Raritan River Basin and the Monksville Reservoir just upstream of the Wanaque Reservoir (see Figure 1.2 *Water Supply to Areas Outside the Highlands Region* and Figure 1.3 *Source Water Protection Areas and Reservoirs*).

### 1907 POTABLE WATER COMMISSION REPORT

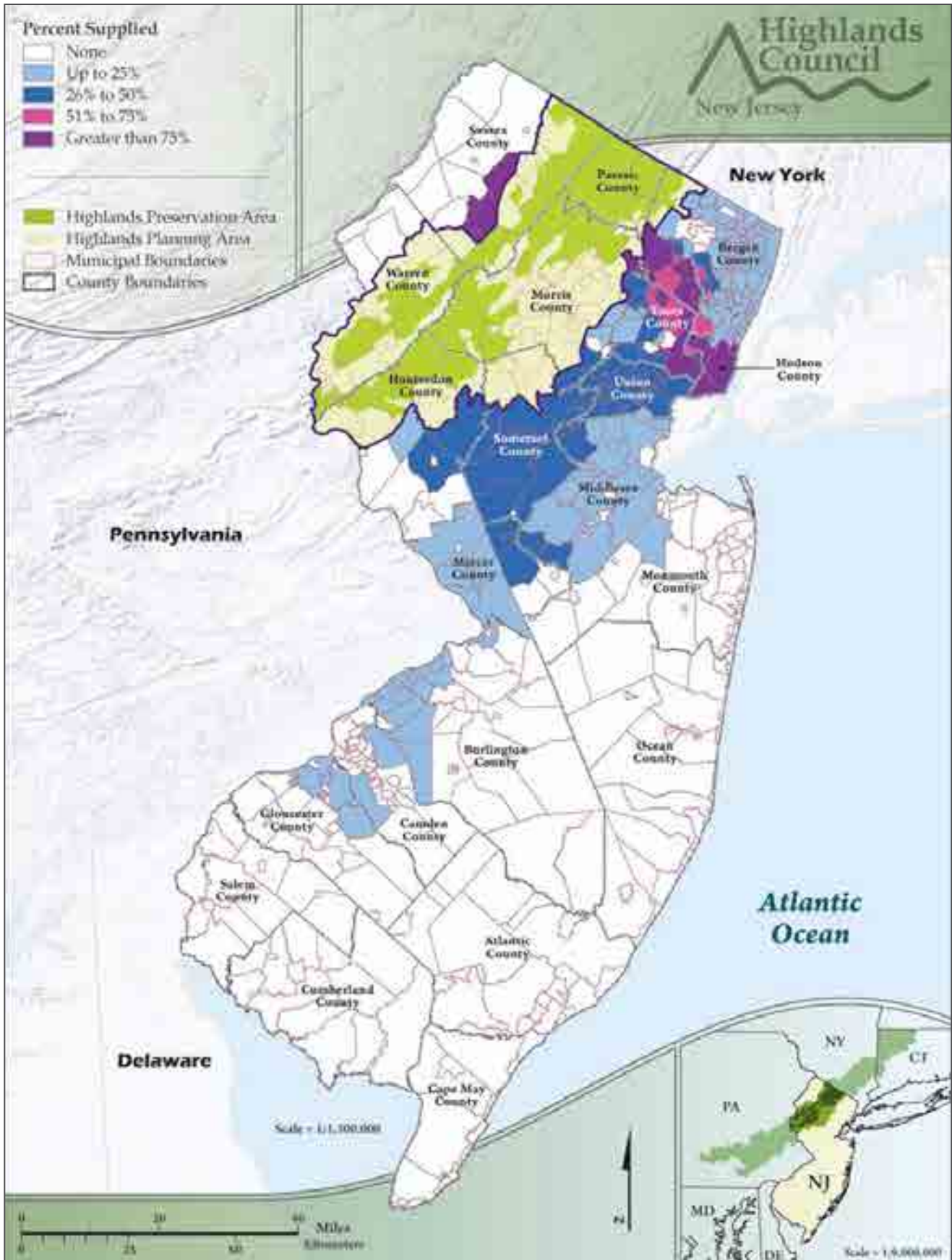
On March 7, 1906, New Jersey Governor Edward C. Stokes approved Joint Resolution No. 2 of the Senate and General Assembly establishing a five-member commission "to investigate the practicability and probable cost of the acquisition by the State of the title to the potable waters of the State." The Potable Water Commission's task was to examine the extent, character, ownership, and value of the State's potable water supplies.

The Commission's 1907 findings acknowledged the uneven distribution of potable water sources throughout the State. The report indicated that, while an abundant natural supply of potable water may be available, the people of the State had the responsibility to use it wisely and prevent it from contamination for the existing population and future generations. The Commission noted the importance of the Highlands watersheds in its report explaining:

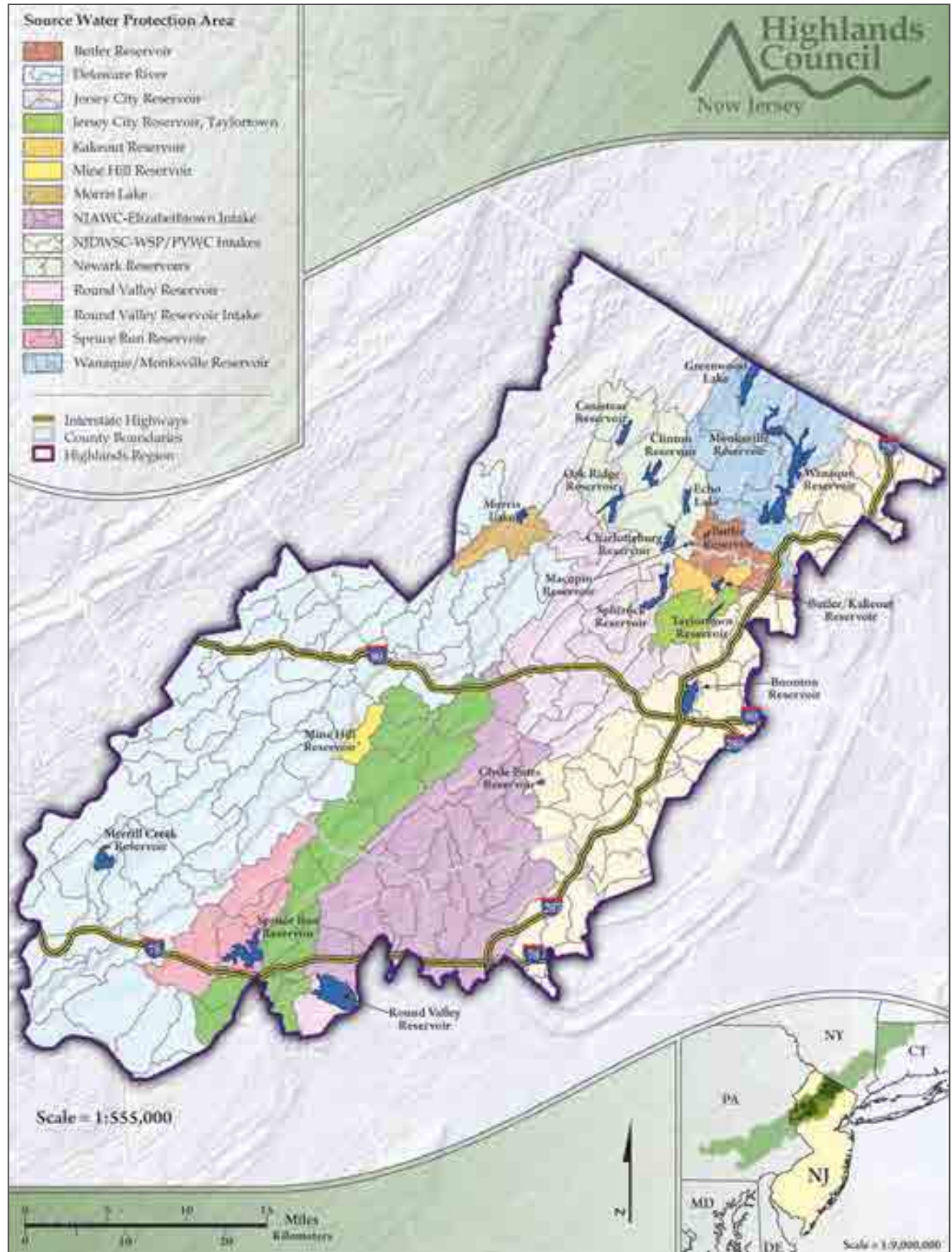
*The Highlands watersheds are the best in the State in respect to ease of collection, in scantiness of population, with consequent absence of contamination; in elevation, giving opportunity for gravity delivery and in softness as shown by chemical analysis. These watersheds should be preserved from pollution at all hazards, for upon them the most populous portions of the State must depend for water supplies. There has been too much laxness in the past regarding this important matter.*

The report suggested that the State acquire lakes or ponds over 100 acres in size for the purpose of public recreation such as boating and fishing in order to keep them accessible for the public use. In particular, the Commission highlighted lakes in Sussex, Morris, and Warren Counties for their pristine waters and scenic beauty for recreational purposes. While the Com-

**FIGURE 1.2: Water Supply to Areas Outside the Highlands Region**



**FIGURE 1.3: Source Water Protection Areas and Reservoirs**



mission's report promoted the development of water supply management in New Jersey over the next century, and some land preservation occurred through the New Jersey Green Acres Program, local purchases and land trust initiatives, focused governmental action aimed at protecting the Highlands was not taken until the end of the century when the federal government became involved.

### UNITED STATES FOREST SERVICE STUDY

Federal involvement with the Highlands Region began with the passage of the Food, Agriculture, Conservation, and Trade Act of 1990, which authorized the Secretary of Agriculture "... to conduct a study of the region known as the New York-New Jersey Highlands..." The study's objectives were to:

- ▶ Define the physiographic boundaries of the Region;
- ▶ Identify forest, ecological, and economic resources;
- ▶ Identify historical land ownership patterns;
- ▶ Indicate the likely impact of change;
- ▶ Propose alternative conservation strategies; and
- ▶ Provide the opportunity for public comment.

As a result of the study, the USFS (in cooperation with New York and New Jersey representatives) issued a report in 1992. The USFS bi-state study served as a significant impetus to reigniting the effort to protect the critical natural resources of the New Jersey Highlands Region. The New Jersey Highlands Region is part of the four-state Highlands system consisting of over 3.5 million acres of land including portions of Connecticut, New York, New Jersey, and Pennsylvania. The federal Highlands Conservation Act enacted in 2004 envisioned \$100 million for land preservation in the four state region (see Figure 1.4 *Federal Highlands Conservation Act Boundary*).

The 1992 New York-New Jersey Highlands Regional Study (1992 Study) analyzed approximately 1.1 million acres of ridges and valleys from the Hudson River in the east to the Delaware River in the west, encompassing a study area that included portions of two counties in southern New York State and seven counties in the northwest part of New Jersey.



Nathan McLean

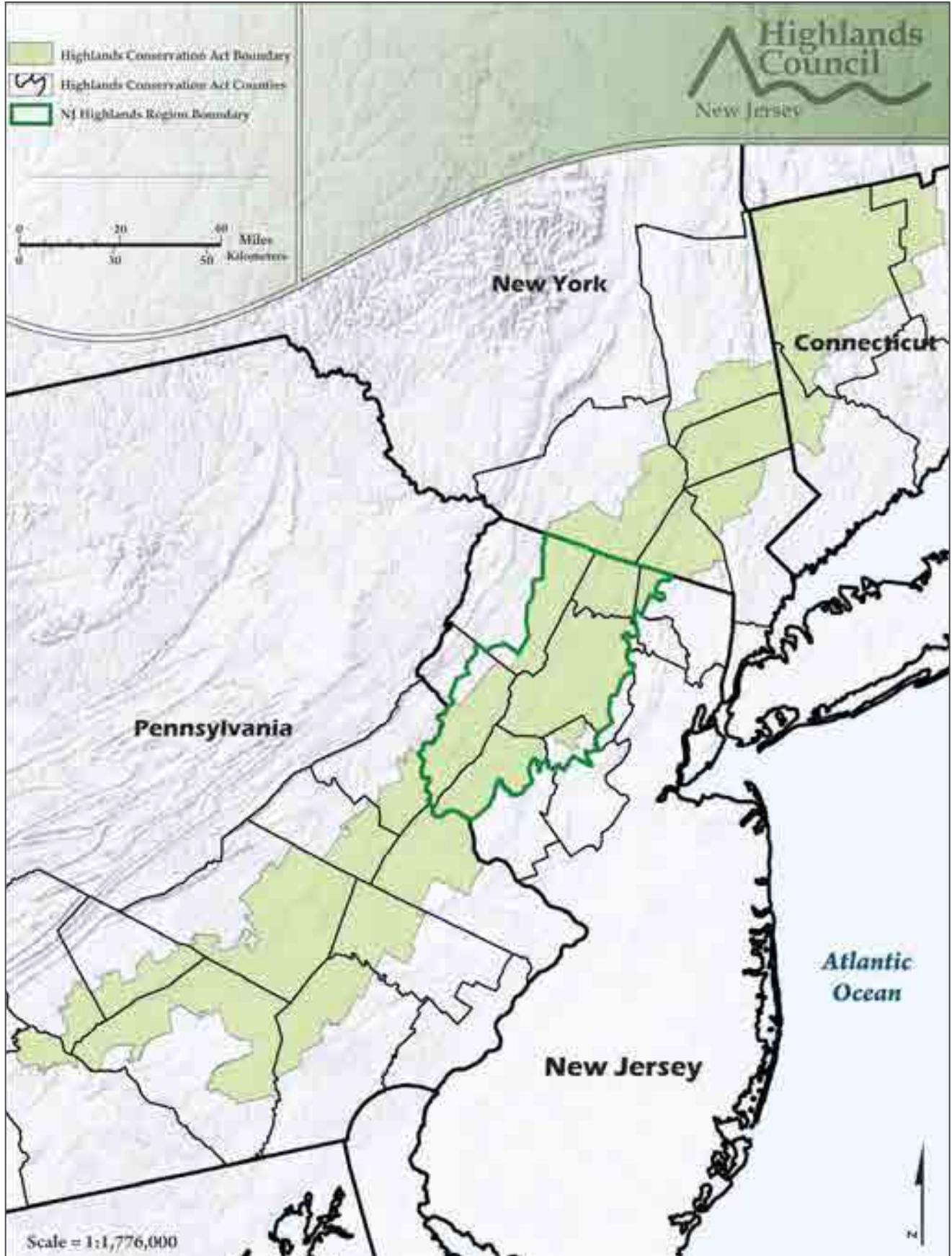
The USFS identified unprecedented development pressure from commercial, industrial, and residential uses in the study area and concluded that this pressure was causing the loss of natural and cultural heritage, agricultural lands, wildlife habitat, and recreational opportunities, in addition to deteriorating the air quality and the quality of the region's drinking water supplies. The 1992 Study stated that "[t]hese changes place the extraordinary and essential resources of the Highlands at risk."

The results of the 1992 Study, which were later reiterated in a 2002 update, listed five major goals to protect the region's water resources:

- ▶ Goal 1: Manage future growth compatible with the region's ecological constraints;
- ▶ Goal 2: Maintain an adequate supply of quality water;
- ▶ Goal 3: Conserve contiguous forests;
- ▶ Goal 4: Provide appropriate recreational opportunities; and
- ▶ Goal 5: Promote economic prosperity that is compatible with goals 1-4.

The 1992 Study examined the following resources in a regional context: forest resources, ground water, surface water, fish and wildlife, recreation, agriculture, biological communities, threatened and endangered species, geo-

**FIGURE 1.4: Federal Highlands Conservation Act Boundary**



physical characteristics, air quality, cultural resources, forest land ownership and forest losses, and population growth and land use change. The 1992 Study concluded that there would continue to be negative impacts on the region's natural and cultural resources unless numerous conservation measures were employed.

The conservation measures recommended in the 1992 Study included:

- ▶ **Planning** – Including all practices that employ the principles of planning and design, project review, and land and resource regulation.
- ▶ **Land Acquisition** – Including practices regarding the purchase, lease or donation of land, or any interest in land, in order to secure a public benefit.
- ▶ **Incentives** – Including financial or other benefits to landowners that employ land management strategies that produce some public benefit.
- ▶ **Education** – Information distribution and user education – educational practices that seek to improve the environment and quality of life.

The 1992 Study also discussed many ownership and transfer of title options including, but not limited to, fee simple acquisition, conservation easement, outright land donation and land exchange. Funding options discussed in the 1992 Study included, but were not limited to, federal and state cost sharing programs, general fund appropriations, and private money donations.



*Dwight Hiscano*

In 2002, the USFS conducted an update of the 1992 Study. The 2002 Update expanded the study area to encompass other essential at risk lands to the Con-

necticut border and parts of two additional New York counties. Together, these additions increased the study area to approximately 1.5 million acres. As in the 1992 Study, the USFS explained that the expanded study area is of national significance because it contains large areas of public open space, provides quality drinking water for millions of New York and New Jersey residents, has numerous and large areas of wildlife habitat, is an integral part of the Appalachian Mountain chain, and is a historical link for both the American Revolutionary and American Civil Wars.

The 2002 Update documented an overall 11 percent increase in population from 1990-2000. Revising the 1992 Study's conclusions to reflect this increase, the USFS ran various development scenarios to determine the possible extent and pattern of changes to the Highlands landscape over time. The scenarios illustrated the consequences from the likely market reactions to the zoning laws and regulations in effect at that time. For example, the 2002 Update showed how much forest had been converted to developed areas and projected the likely future trends by examining how many houses could potentially be built under existing state laws and local zoning.

The 2002 Update also identified numerous conservation successes since 1992. These successes included, but were not limited to:

- ▶ Acquisition of 20,000 acres in Sterling Forest on the New York-New Jersey border; and 2,600 New Jersey acres and 847 New York acres protected through the USFS Legacy Program;
- ▶ Acquisition of 80,000 acres protected through state, county, local and private sector support for open space acquisition;
- ▶ Designation of the Highlands Region as New Jersey's first Special Resource Area in the 2001 State Development and Redevelopment Plan; and
- ▶ Designation of the Highlands Region as a unique physiographic province in the New York State Open Space Plan.

Importantly, the 2002 Update reiterated a recommendation from the 1992 Study to “[e]stablish a permanent regional entity, a Highlands regional council, to oversee the planning and management of the 1.1 million

acre Study Area.” The USFS’s emphasis on the necessity of implementing a holistic approach to preserving the complex ecological and social characteristics of the Highlands Region served as an impetus to establishing the New Jersey Highlands Task Force in 2003.

### HIGHLANDS TASK FORCE

On September 19, 2003, Governor James McGreevey issued Executive Order 70 establishing the Highlands Task Force (Task Force). The 19-member Task Force was charged with making recommendations to the Governor and Legislature regarding ways to protect and enhance the quality of life in the Highlands Region by addressing measures to preserve natural resources while simultaneously providing opportunities for economic growth. As a result of the recommendations of the Task Force, the Highlands Water Protection and Planning Act was enacted on August 10, 2004 and charged the Highlands Council with the important task of developing a Regional Master Plan for the Highlands Region.



*Mick Valent*

### PART 3 The Highlands Water Protection and Planning Act

The Highlands Water Protection and Planning Act (Highlands Act, P.L. 2004, c. 120), enacted on August 10, 2004, includes findings of the Legislature “that the New Jersey Highlands is an essential source of drinking water . . . for one-half of the State’s population . . . that . . . [it] contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, [and that it] includes many sites of historic significance, and pro-

vides abundant recreational opportunities for the citizens of the State” (Highlands Act at Section 2, hereafter “Section 2”).



*Nathan McLean*

The Legislature also recognized that the resources of the Highlands Region are a vital part of the public trust. It declared that the measures of the Highlands Act “should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations” (Section 2). The Highlands Act seeks to protect the Region’s public trust resources through a “comprehensive approach,” including the immediate imposition of stringent water and natural resource standards in the Preservation Area, a reorganization of land use powers to emphasize regional planning for the entire Highlands Region, and a “strong and significant commitment of the State to fund the acquisition of exceptional natural resource value lands” (Section 2).

In the Highlands Act, the Legislature designated specific boundaries of the Preservation Area and found that “because of the imminent peril that the ongoing rush of development poses for the New Jersey Highlands, immediate, interim standards should be imposed on the date of enactment in the Preservation Area” (Section 2). The Preservation Area consists of nearly 415,000 acres located in 52 municipalities within the seven Highlands Counties. The lands within the Preservation Area were subject to the immediately effective standards in the Highlands Act and are governed by rules and regulations subsequently adopted by the

New Jersey Department of Environmental Protection (NJDEP). The Highlands Act established detailed and stringent standards for the NJDEP rules to protect the Preservation Area resources, with some provision for relief for redevelopment, brownfields development, and development based on the issuance of permit with waiver or qualification for one of the 17 exemptions. The Planning Area consists of nearly 445,000 acres located in 83 municipalities. There are five municipalities that lie entirely within the Preservation Area, 47 municipalities that have land in both the Preservation and Planning Areas and 36 municipalities that have land only in the Planning Area (see Table 1.1 *Acreage of the Highlands Region in Municipalities and Counties* on page 20).

The Highlands Act also included an important exception from the NJDEP's Preservation Area rules for agricultural and horticultural activities. The definition for a "major Highlands development" specifically states that it "shall not mean an agricultural or horticultural development or agricultural or horticultural use in the preservation area" (Section 3). The New Jersey Department of Agriculture's (NJDA) "Agricultural Development in the Highlands" Rules establish the standards and criteria to be followed for agricultural and horticultural activities in the Preservation Area.



Nathan McLean

#### **PART 4** The Highlands Regional Master Plan

Through passage of the Highlands Act, the New Jersey Highlands Water Protection and Planning Council (Highlands Council) was created and charged with the

important task of developing a Regional Master Plan to restore and enhance the significant values of the abundant and critical resources of the Highlands Region. The Highlands Council is an independent agency of the State of New Jersey and consists of fifteen members whose powers, duties, and responsibilities are set forth in Section 6 of the Highlands Act. The Act establishes a fundamental goal to protect, restore and enhance water quality and water quantity in the Region and includes important goals relating to the protection of agricultural viability, ecosystems, species and communities, as well as scenic and historic resources.

In the face of the growing challenge of protecting New Jersey's finite drinking water supply and providing for the needs of a growing human population, the continued loss and fragmentation of the remaining lands that serve as the source of that water supply is no longer tenable. Accordingly, a major purpose of the Regional Master Plan is to "determine the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain" (Section 11.a.[1][a]). The Regional Master Plan provides the basis to determine the capacity of the Highlands Region to accommodate appropriate economic growth while ensuring the sustainability of the resources in the Region.

The Regional Master Plan seeks to evaluate how best to protect the natural and cultural resources of the Highlands Region while striving to accommodate a sustainable economy – the core of smart growth principles. The Regional Master Plan establishes the capacity limitations for future growth within the Highlands Region related to both natural systems, such as protection of our drinking water supplies, and the built environment, such as wastewater and transportation infrastructure. The Regional Master Plan evaluates the costs, and often unintentional consequences, of local land use planning decisions, assesses the environmental and economic benefits of natural resource and open space protection, particularly as they relate to water supply, and further develops the tools and methods necessary to institute growth control measures, where necessary, to safeguard critical natural resources (see Figure 1.5 *Lakes, Rivers, and Streams* and Figure 1.6 *Forested Areas*).

FIGURE 1.5: Lakes, Rivers, and Streams

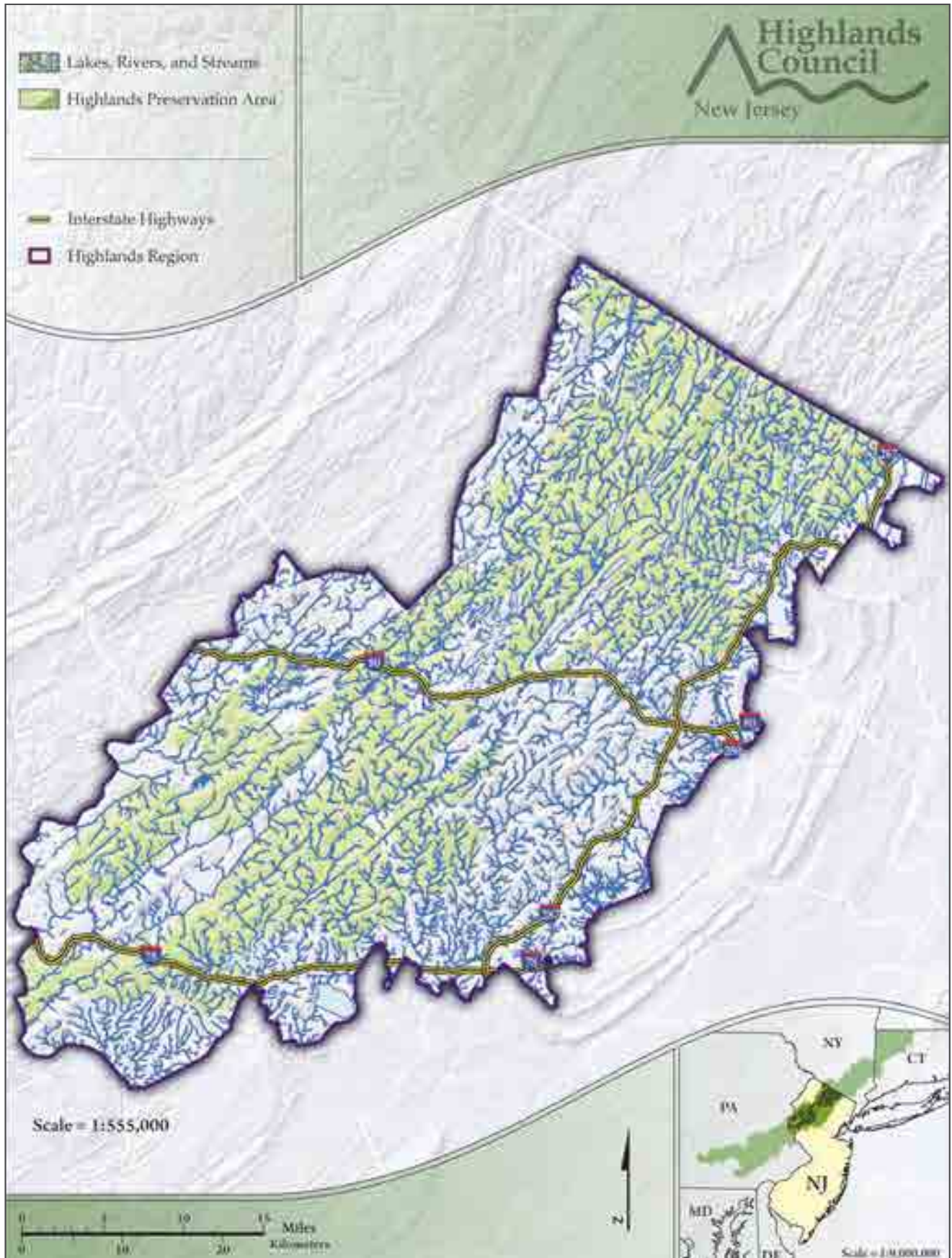
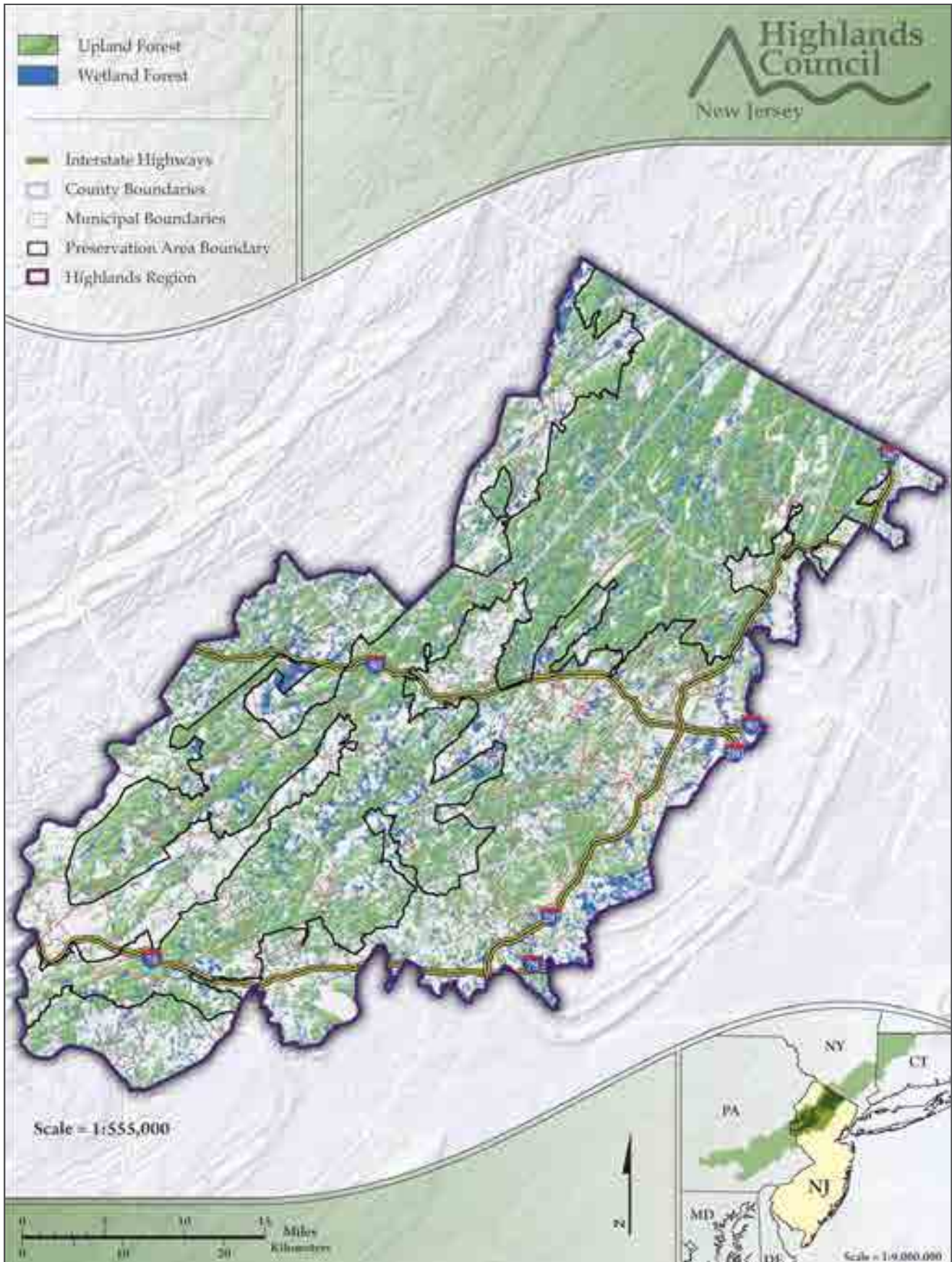


FIGURE 1.6: Forested Areas



In order to integrate the environmental, social and economic goals of the Highlands Act, the Regional Master Plan provides a consistent framework upon which to base future land use decisions in a manner that fosters regional cooperation and community participation. It promotes a regional perspective while encouraging community-based planning that is both scientifically defensible and necessary.

The Regional Master Plan embodies a regional vision for the Highlands Region and will be implemented at all levels of government. Through conformance by municipalities and counties, financial, and technical assistance by the Highlands Council, and State and federal coordination, the Regional Master Plan will provide for the protection and preservation of significant values of the Highlands Region for the benefit of its residents.

The Highlands Council is charged with developing and implementing a Regional Master Plan for the Highlands Region. The primary goal of the Regional Master Plan “shall be to protect and enhance the significant values of the resources thereof” (Section 10.a.). The Highlands Act additionally sets forth specific goals for the Preservation Area and the Planning Area, which are fully discussed in Chapter 3.



*Nathan McLean*

The Highlands Act required that the Regional Master Plan include specific components that address the following issues:

#### **Resource Assessment**

- ▶ Determine the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof; and
- ▶ Assess the scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the Highlands Region, together with a determination of overall policies required to maintain and enhance such resources.

#### **Smart Growth Component**

- ▶ Assess, based upon the resource assessment, the opportunities for appropriate development, redevelopment, economic growth, and implementation of a Transfer of Development Rights (TDR) Program;
- ▶ Consider public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages;
- ▶ Prepare a Land Use Capability Map;
- ▶ Identify existing developed areas capable of sustaining redevelopment;
- ▶ Identify undeveloped areas in the Planning Area, which are not significantly constrained by environmental limitations, are not prime agricultural areas, and are located near existing development and infrastructure, that could be developed;
- ▶ Issue model minimum standards for municipalities and counties in the Planning Area, including density standards for center-based development to encourage the adoption of such standards;
- ▶ Identify special critical environmental areas and other critical natural resource lands where development should be limited; and
- ▶ Identify areas appropriate for redevelopment and set appropriate density standards for redevelopment.

### Transfer of Development Rights (TDR) Program

- ▶ Identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the Planning Area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the TDR Program; and
- ▶ Identify potential voluntary receiving zones in the Planning Area for the TDR Program through the appropriate expansion of infrastructure or the modified uses of existing infrastructure.

### Transportation Component

- ▶ Plan for transportation system preservation, including all federally mandated projects or programs;
- ▶ Promote a sound, balanced transportation system; and
- ▶ Ensure that transportation projects and programs are reviewed and approved by the Highlands Council in consultation with the Department of Transportation.

### Financial Component

- ▶ Detail the cost of implementing the Regional Master Plan, including property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for the TDR bank, payments in lieu-of-taxes, projections for 2009 and 2014 of acquisition of fee simple or other interests in lands for preservation or recreation and conservation purposes, compensation, guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and
- ▶ Detail the sources of revenue for such costs, including grants, donations, and loans from local, State, and federal departments, agencies, and other governmental entities, and from the private sector.

### Local Participation Component

- ▶ Provide for the maximum feasible local government and public input into the Highland Council's operations; and
- ▶ Include a framework for developing policies for the Planning Area in conjunction with the municipalities and counties in the Planning Area who choose to conform to the Regional Master Plan.

### Coordination and Consistency Component

- ▶ Detail the ways in which local, county, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the Regional Master Plan; and
- ▶ Detail how the land, water, and structures managed by governmental or non-governmental entities may be integrated into the Regional Master Plan.



*Dwight Hiscano*

### Preservation Area Requirements

- ▶ Prepare a Land Use Capability Map;
- ▶ Prepare a comprehensive statement of policies for planning and managing the development and use of land based upon the environmental standards adopted by the NJDEP and the resource assessment prepared for the Regional Master Plan;
- ▶ Provide for the implementation of the Regional Master Plan by the State and local government units in the Preservation Area in a manner that will ensure the continued, uniform, and consistent protection of the Highlands Region;
- ▶ Identify zones within the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the TDR program; and
- ▶ Develop minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land, including standards for minimum lot sizes and stream setbacks, construction on

steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the Preservation Area.

### The Framework of the Regional Master Plan

The Regional Master Plan establishes a regional planning framework for resource protection as a complement to local land use planning efforts. The Regional Master Plan provides strategic opportunities for communities to consider and act upon based on an understanding of the cumulative and regional impacts of local land use decisions. The Regional Master Plan also provides a framework to coordinate the policy and planning decisions made by federal and State entities to ensure that these decisions and public investments are guided by the goals of this Regional Master Plan.

Land use planning decisions are generally made on the basis of local considerations, with limited opportunity to consider the broader context of these decisions. Sensitive and regionally significant environmental, natural, and cultural resources are not limited by political boundaries, nor are the impacts from land use decisions. The Highlands Act provides municipalities, counties, State entities, and federal agencies with a unique opportunity to address land use planning and resource protection in a regional context. The Regional Master Plan serves as a foundation to guide future land use planning decisions related to resource protection, conservation of agricultural landscapes, and economic growth and development.



Nathan McLean

The Regional Master Plan consists of six chapters:

1. An introduction to the Highlands Region providing a history of the origins of both the Region and the Highlands Act (Chapter 1 – Introduction);
2. An analysis of the character of the Highlands Region at a regional and local community scale and a framework envisioning the future of the Highlands (Chapter 2 – Regional and Local Community Character);
3. An analysis of the Highlands Region, including an assessment of the Region’s resources and existing communities (Chapter 3 – Analysis of the Highlands Region);
4. A statement of policy guidance setting forth the goals, policies, and objectives necessary to implement the Highlands Act (Chapter 4 – Goals, Policies, and Objectives);
5. A series of programs designed to ensure that the goals, policies, and objectives for the Highlands Region are met (Chapter 5 – Programs); and
6. An implementation framework describing the necessary roles of the entities that will guide the successful implementation of the Regional Master Plan (Chapter 6 – Implementation).

The major policy areas covered in this document are organized according to the following elements of the Regional Master Plan:

- ▶ **Natural Resources** – This element addresses the significant natural resources of the Highlands Region and the protection strategies necessary to maintain and enhance their value. It includes the critical natural resources in the Highlands Region that are subject to protection under the Regional Master Plan including: forest resources; Highlands Open Waters and Riparian Areas, which include wetlands and flood prone areas; steep slopes; Critical Habitat, including rare/threatened/endangered species, Significant Natural Areas, and vernal pools; carbonate rock; open space; and lakes, rivers, and ponds. This section helps to spotlight areas of the Highlands with exceptionally high ecological values that should be preserved, those with lesser values that may be restored, and those previously impaired by past human activity that may be appropriate to support growth that incorporates good planning. In addition, this element includes land preservation

and stewardship policies and strategies necessary to achieve the land preservation goals of the Highlands Act. This includes measures needed to address land equity concerns through land valuation, funding, and program coordination, as well as recommendations regarding existing program policy and implementation improvements.



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- ▶ **Water Resources and Utilities** – The importance of the Highlands Region’s water resources in sustaining most of northern New Jersey is a matter of state-wide importance. Increases in human population and changes in land use due to increasing development pressure threaten our drinking water supplies by contributing to over withdrawal of ground and surface water systems. In turn, this over withdrawal degrades water quality and reduces recharge rates, which deplete our aquifers and reduce safe yields of our reservoirs, and increase the potential for significant cost to develop new supplies or provide for water treatment facilities. The Regional Master Plan’s discussion of utilities addresses policies associated with establishing the existing capacity limitations of water and wastewater infrastructure necessary to provide for drinking water supply and wastewater treatment. It also includes policies and programs that support cost-effective, innovative, and efficient provision and use of utility capacity. The Regional Master Plan summarizes the policies and strategies necessary to manage land uses in a manner that is compatible with the long term protection of the Highlands Region water resources --both quantity and quality. It includes policy guidance on water use and availability to establish sustainable thresholds to support future population growth. It addresses other
- considerations regarding the protection, restoration, and enhancement of surface and ground water quality, including ground water recharge and wellhead protection. Policies related to potential sources of pollution, including an evaluation of nitrate concentration and septic suitability, are also provided.
- ▶ **Agricultural Resources** – Sustainable agriculture consists of land management and land use policies that are necessary to sustain and preserve agricultural resources and the viability of the agricultural industry in the Highlands Region. It seeks to balance the need to protect important natural resources in ways that enhance both the agricultural resources and farmer’s (often the resource steward’s) livelihoods.
- ▶ **Historic, Cultural, Archaeological, and Scenic Resource Protection** – The Historic, Cultural, Archaeological, and Scenic Resource Protection element includes strategies to address the existing status and threats to the Highlands Region’s historic, cultural, archaeological and scenic assets. It also recognizes the importance of these resources to the history, local character, and culture of the towns, villages, and cities of the Highlands.
- ▶ **Transportation** – The Transportation element includes policies and programs to address transportation system capacity and transportation system preservation and enhancement measures within the context of natural and cultural resource protection goals and smart growth principles of the Regional Master Plan.
- ▶ **Future Land Use** – The Future Land Use element addresses land use, smart growth, community design and housing. This element provides policy guidance on community planning activities that utilize clustering development, regional development, redevelopment, enhanced growth opportunities, smart growth principles, and design standards. Emphasis will be placed on maximizing development potential to address local and regional economic development opportunities, while minimizing the cumulative impact to critical natural and cultural resources of the Highlands Region. The policies and programs also stress the importance of using development and site design standards that facilitate the more efficient use of available land, with an emphasis on water conservation, energy conservation, green building, innovative/alternative technologies, mixed use and

clustered site design, and safe and reliable transportation opportunities. The element also provides policies necessary to address housing and community facility needs, both from the perspective of the quantity of housing and the variety and choice of housing needs and the relationship to local community and regional conditions. Particular emphasis is placed on the recognition of affordable housing obligations and strategies to meet those obligations.

- ▶ **Landowner Equity** – This component recognizes that the implementation of the Regional Master Plan, which directs and guides future development, inevitably has an impact on reasonable landowner expectations regarding future land use potential. The Highlands Act provides several mechanisms that seek to mitigate such impacts, including a TDR program, land acquisition, exemptions and waivers. Together with existing State farmland and open space preservation programs, the Highlands TDR Program will serve as another land use tool to aid Highlands Region municipalities in the protections of the Region’s unique resources while providing property owners with a mechanism to sell the development potential of their lands. This section of the Regional Master Plan establishes the policies and strategies to implement a TDR program for the Highlands Region.
- ▶ **Sustainable Regional Economy** – This element includes an evaluation of the regional employment and income conditions and evaluates a series of baseline economic indicators that help explain existing regional conditions. The primary purpose of the baseline indicators is to establish a means for evaluating economic segments over time so that Highlands-related trends can be distinguished from general trends, regarding factors such as jobs to housing relationships, community and housing diversity, business mix, performance of local economic support programs, and community facilities. Agricultural statistics and economic metrics will also be evaluated in support of agricultural sustainability policies. This also includes a description of the recreational resource base that exists in the Highlands and proposes how these features may support a Highlands tourism economy. These resources include cultural, historical, scenic, agricultural and outdoor recreation facilities, forming the foundation for both tourism and local recreation opportunities.
- ▶ **Air Quality** – This element addresses the connection between land development patterns, automobile transportation and the creation of air pollutants affecting the Highlands Region. Because development patterns also affect energy use, improved regional growth patterns also help address global warming issues to some extent. The element also calls for additional monitoring of toxic air pollutants from both within and nearby the Region.
- ▶ **Local Participation** – This element promotes local, county, regional, State, and federal program coordination and provides the programs and tools necessary to implement the Regional Master Plan at the municipal and county levels. The involvement of municipal, county, regional, State and federal governments and agencies will be critical to successful implementation of the Regional Master Plan. This element provides the structure for that participation, and for the participation of public and private interests in the planning process.

**TABLE 1.1: Acreage of the Highlands Region in Municipalities and Counties**

MUNICIPALITY	PLANNING AREA	PRESERVATION AREA	TOTAL
<b>BERGEN COUNTY</b>			
Mahwah Township	7,082	9,687	16,769
Oakland Borough	3,007	2,622	5,629
<b>Total Acres For Bergen County</b>	<b>10,089</b>	<b>12,309</b>	<b>22,398</b>
<b>HUNTERDON COUNTY</b>			
Alexandria Township	15,039	2,719	17,758
Bethlehem Township	1,137	12,173	13,310
Bloomsbury Borough	0	625	625
Califon Borough	0	632	632
Clinton Town	781	141	922
Clinton Township	21,054	639	21,693
Glen Gardner Borough	0	998	998
Hampton Borough	134	823	957
High Bridge Borough	1,558	0	1,558
Holland Township	13,361	1,961	15,322
Lebanon Borough	577	0	577
Lebanon Township	7	20,257	20,264
Milford Borough	812	0	812
Tewksbury Township	6,860	13,475	20,335
Union Township	2,665	10,482	13,147
<b>Total Acres For Hunterdon County</b>	<b>63,985</b>	<b>64,925</b>	<b>128,910</b>
<b>MORRIS COUNTY</b>			
Boonton Town	1,593	0	1,593
Boonton Township	4,934	493	5,427
Butler Borough	1,318	0	1,318
Chester Borough	1,019	0	1,019
Chester Township	2,904	15,790	18,694
Denville Township	8,155	7	8,162
Dover Town	1,746	0	1,746
Hanover Township	6,878	0	6,878
Harding Township	13,162	0	13,162
Jefferson Township	3,297	24,033	27,330
Kinnelon Borough	340	11,954	12,294
Mendham Borough	3,827	0	3,827
Mendham Township	11,534	0	11,534

MUNICIPALITY	PLANNING AREA	PRESERVATION AREA	TOTAL
<b>MORRIS COUNTY (CONTINUED)</b>			
Mine Hill Township	1,927	0	1,927
Montville Township	8,793	3,440	12,233
Morris Township	10,120	0	10,120
Morris Plains Borough	1,657	0	1,657
Morristown Town	1,923	0	1,923
Mountain Lakes Borough	1,861	0	1,861
Mount Arlington Borough	1,651	132	1,783
Mount Olive Township	4,131	15,865	19,996
Netcong Borough	564	0	564
Parsippany - Troy Hills Township	16,216	0	16,216
Pequannock Township	4,060	475	4,535
Randolph Township	12,954	583	13,537
Riverdale Borough	1,319	0	1,319
Rockaway Borough	1,357	0	1,357
Rockaway Township	11,582	17,823	29,405
Roxbury Township	9,719	4,301	14,020
Victory Gardens Borough	93	0	93
Washington Township	3,490	25,227	28,717
Wharton Borough	1,362	0	1,362
<b>Total Acres For Morris County</b>	<b>155,486</b>	<b>120,123</b>	<b>275,609</b>
<b>PASSAIC COUNTY</b>			
Bloomington Borough	1,764	4,179	5,943
Pompton Lakes Borough	2,005	0	2,005
Ringwood Borough	0	18,068	18,068
Wanaque Borough	1,294	4,641	5,935
West Milford Township	0	51,901	51,901
<b>Total Acres For Passaic County</b>	<b>5,063</b>	<b>78,789</b>	<b>83,852</b>
<b>SOMERSET COUNTY</b>			
Bedminster Township	15,873	1,011	16,884
Bernards Township	15,636	0	15,636
Bernardsville Borough	8,265	0	8,265
Far Hills Borough	3,150	0	3,150
Peapack Gladstone Borough	3,693	0	3,693
<b>Total Acres For Somerset County</b>	<b>46,617</b>	<b>1,011</b>	<b>47,628</b>

MUNICIPALITY	PLANNING AREA	PRESERVATION AREA	TOTAL
<b>SUSSEX COUNTY</b>			
Byram Township	233	14,272	14,505
Franklin Borough	2,843	0	2,843
Green Township	10,198	281	10,479
Hamburg Borough	753	0	753
Hardyston Township	8,254	12,557	20,811
Hopatcong Borough	5,346	2,607	7,953
Ogdensburg Borough	1,232	199	1,431
Sparta Township	13,359	11,538	24,897
Stanhope Borough	1,404	0	1,404
Vernon Township	15,470	29,319	44,789
<b>Total Acres For Sussex County</b>	<b>59,092</b>	<b>70,773</b>	<b>129,865</b>
<b>WARREN COUNTY</b>			
Allamuchy Township	7,683	5,228	12,911
Alpha Borough	1,098	0	1,098
Belvidere Town	950	0	950
Franklin Township	11,284	3,792	15,076
Frelinghuysen Township	15,278	0	15,278
Greenwich Township	5,986	792	6,778
Hackettstown Town	2,168	203	2,371
Harmony Township	7,018	8,387	15,405
Hope Township	11,702	0	11,702
Independence Township	6,510	6,250	12,760
Liberty Township	543	7,095	7,638
Lopatcong Township	3,673	1,051	4,724
Mansfield Township	5,966	13,047	19,013
Oxford Township	1,671	2,184	3,855
Phillipsburg Town	2,110	0	2,110
Pohatcong Township	1,210	7,582	8,792
Washington Borough	1,262	0	1,262
Washington Township	7,970	3,604	11,574
White Township	9,984	7,812	17,796
<b>Total Acres For Warren County</b>	<b>104,066</b>	<b>67,027</b>	<b>171,093</b>
<b>Total Acres For Highlands Region</b>	<b>444,398.69</b>	<b>414,959.66</b>	<b>859,358.35</b>

(Note – the above acreage has been rounded thus altering the sum totals of some columns and lines)





# REGIONAL AND LOCAL COMMUNITY CHARACTER

- ▶ **PART 1**  
Introduction
- ▶ **PART 2**  
Physical Geography and Landscape
- ▶ **PART 3**  
Water and the Highlands Region
- ▶ **PART 4**  
Shared Values
- ▶ **PART 5**  
The Elements of Place
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the Future
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Regional Elements



### PART 1 Introduction

The Governor and Legislature of the State of New Jersey have recognized that the New Jersey Highlands Region is a unique part of the State as it is part of the larger physiographic province of the federal Highlands Region, defined by the four-state geologic Reading Prong, the easternmost range of the Appalachians that is a region distinguishable by geology, topography, and geomorphology (i.e., landforms), hydrology, and history. This physiographic area is a region of mountains underlain by Precambrian crystalline bedrock and limestone valleys. The landscape of the Region is defined by open, high hills and ridges bisected by deep, narrow valleys, with diverse and scenic water bodies, and relatively undeveloped corridors of forests, wetlands, and grasslands of regional importance to wildlife and plants. The Region is also defined by less developed, rural agricultural areas, and suburban and some urban development within close proximity to the New York City metropolitan area.



*Nathan McLean*

The New Jersey Highlands Region is a 1,343 square mile area extending from the Delaware River northeast to the New York border. The Region stretches from Phillipsburg in the southwest to Mahwah in the northeast, and lies within portions of seven counties (Hunterdon, Somerset, Sussex, Warren, Morris, Passaic, and Bergen) and includes 88 municipalities. The Highlands Act recognizes that the

resources of the Highlands Region are a vital part of the public trust and the Act includes measures to protect the incomparable water resources and natural beauty of the Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations. The vision for the future of the Highlands is one of a sustainable quality of life and improved environmental integrity for the Region as a whole.

Some of the unique defining elements of the Highlands Region are:

- ▶ The Highlands Region is the source of drinking water for approximately 64 percent of the State's population, some 5.4 million people yet it comprises only 17 percent of the lands in the State;
- ▶ The Region contains numerous and diverse streams, rivers, ponds, lakes, and reservoirs, many with valleys forming natural transportation corridors, that provide recreational opportunities, Critical Habitat, drinking water supplies, and dramatic views;
- ▶ Although the Region was first settled more than 200 years ago, 75 percent of the land in the Region is still undeveloped;
- ▶ Approximately 32 percent of the undeveloped land in the Region is protected open space;
- ▶ Forests, the majority of which are hardwood, are a defining visible and functional feature of the Region, comprising 47 percent of the landscape;
- ▶ More than 30,000 acres (3.5 percent of the Region) have been preserved for the sustainability of agricultural activities;
- ▶ Field crops occupy approximately eight percent of the Region;
- ▶ Mining is a historical element defining the heritage of much of the Region, with industrial archaeology such as stone furnaces and waterpower wheels found in nearly all parts of the Region;

- ▶ The Region has approximately 821,000 residents, most along the eastern and southern edges;
- ▶ 57 percent of all developed land is low density residential land use;
- ▶ Median household income is 34 percent higher than New Jersey as a whole;
- ▶ Despite proximity to the New York metropolitan area, the Region and its constituent communities are largely self-sufficient and free-standing;
- ▶ Although residential densities in the developed portions of the Highlands Region are typical of suburban development, the community character of the residential portions of the Region consist of individual small towns and villages surrounded by agricultural and forest lands interspersed with low density residential development;
- ▶ Woodlands, forested ridges, steep slopes, water features, and agricultural lands have historically maintained the separate identities of individual communities and their sense of place;
- ▶ The historical, localized, and small scale/incremental development patterns and practices of the Region have created an attractive, diverse residential landscape, and a historically active summer retreat location, defined in large part by forested lands and mature trees;
- ▶ The Region's topography begets winding roads with shortened sight distances where forested lands and mature trees or open agricultural lands are the predominant element of the landscape as it is viewed from public roads; and
- ▶ The historical development pattern and diversity of housing designs and materials has given the Region a residential landscape which has an organic and diverse quality as compared to the repetitive nature of subdivision development.

## PART 2 Physical Geography and Landscape

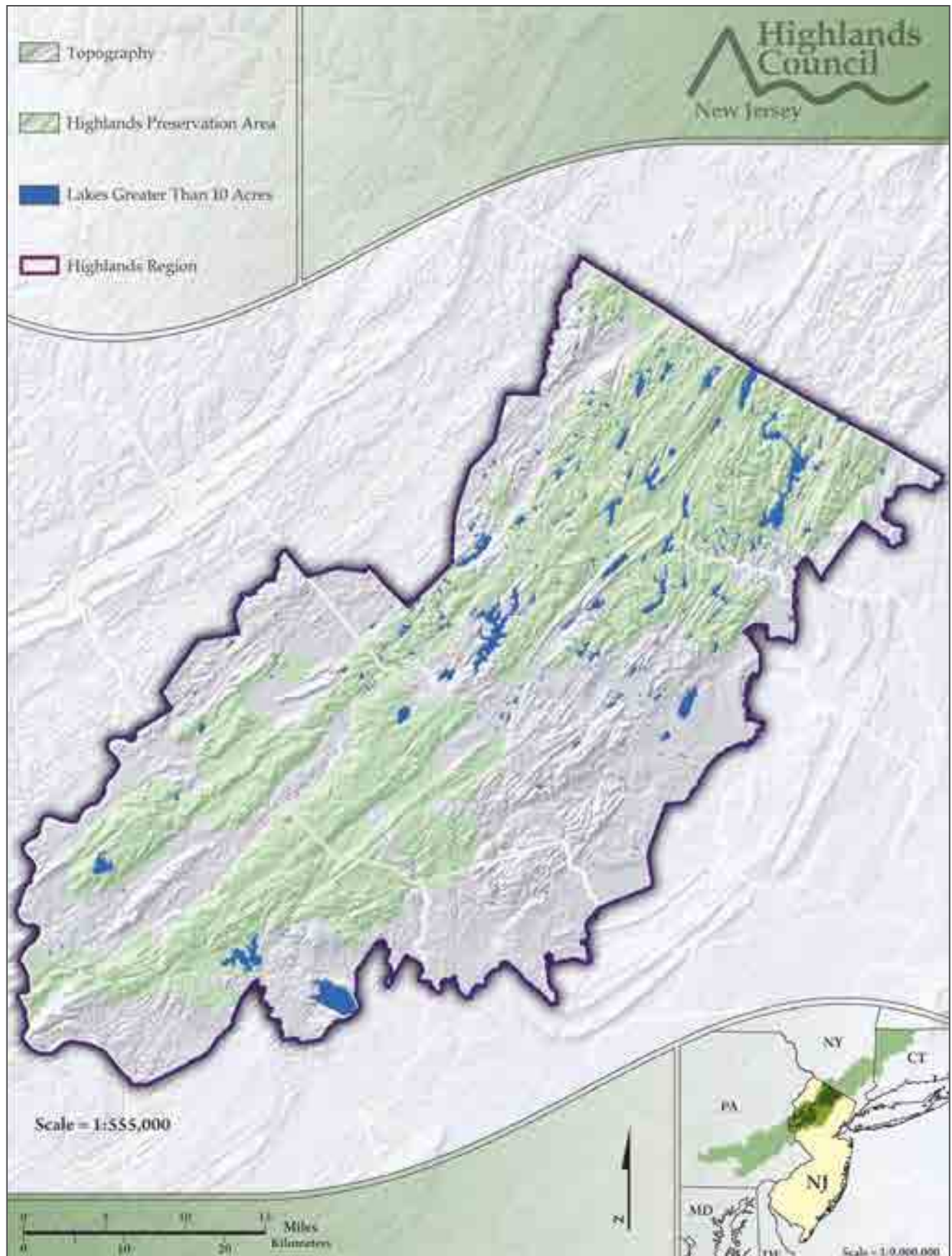
The Highlands Region geology consists primarily of metamorphic, crystalline rocks dominated by gneiss on ridges and erodible sedimentary sandstone, dolomite, and shale underlying the valleys. The most recent glaciation (Wisconsin glaciation) extended across the northern half of the Highlands Region, resulting in a terminal moraine trending east to west. The moraine enters the Highlands from the east near Morristown, then trends north for a short distance to Denville, then west across the Highlands near Interstate 80 to Belvidere on the Delaware River. The terrain was scraped during glaciation, during which glacial lakes formed in bedrock, eventually leaving the area less suited for agriculture and more suited to supporting hardwood forests. Buried fill aquifers that are prolific sources of water supply, were created from gravel and sand deposits along river corridors in the terminal moraine. North of the moraine, there are significant accumulations of glacial till outwash and numerous lakes and wetlands, reflecting the complicated drainage pattern of this Region. The less recently glaciated southern portion of the Highlands Region has long recovered from past glaciations with older, more suitable soils for agricultural activities.



Mick Valent

The northern portion of the Highlands Region is characterized by steep slopes, narrow valleys, and rocky terrain while the southern portion is characterized by valleys that are generally wider with richer agricultural soils (see Figure 2.1 *Highlands Region Topography*). The Region also includes portions of the Piedmont physiographic provinces to the southeast, and portions of the Appalachian Ridge and Valley provinces to the north-

**FIGURE 2.1: Highlands Region Topography**



west. The predominate landscape in the Region is forest and more than half of the Region is considered to be critical wildlife habitat for (1) federally-listed threatened or endangered species; (2) state-threatened and endangered species; and (3) state species of special concern.

Most of the land in the northern third of the Highlands Region is within the Highlands physiographic province and within the Preservation Area, with a small area to the northwest in the Ridge and Valley province, characterized by a series of valleys and ridges aligned generally along a northeast to southwest axis. Historic settlement patterns reflect this orientation as development followed valleys and water courses. Topography and geology served as a natural limiting factor with regard to land use and transportation in most of the northern part of the Region, contributing to what is a sparsely settled landscape. The Highlands Region here is heavily forested and is an important source water area for the Region and for substantial portions of urbanized New Jersey.

The middle third of the Highlands Region is a primarily man-made landscape. While dominated by suburban densities, the area has created and maintained much more local character than is typical in many other suburbs. This is due to historical mobility constraints related to this portion of the Region's geography (e.g., ridgelines and valley floors), and to the central role of traditional town centers in defining the area's identities as traditional communities of place. This area generally follows the path of Route 46 through Morris County, along the Rockaway River.

The southern third of the Highlands Region is characterized by soils and topography which are more supportive of agriculture. Historic settlement patterns in this area were typical of an agricultural landscape, which at one time was the predominant landscape in much of the State. This portion of the Highlands Region is defined by a landscape mosaic of agricultural lands and forests.

The Highlands Region landscape is characterized by:

- ▶ High hills and ridges and deep, narrow valleys;
- ▶ Numerous and diverse surface water bodies;
- ▶ Relatively undeveloped forests, wetlands, and grasslands of regional importance to wildlife and plants;

- ▶ Sparsely settled, very low density forested areas;
- ▶ Traditional agricultural/rural landscapes;
- ▶ Low density residential development organized along winding roads and around historic villages and towns;
- ▶ Lake communities; and
- ▶ Residential subdivisions and commercial strips not representative of the unique characteristics of the Region.

### PART 3 Water and the Highlands Region

The Highlands Region is a focus of regional planning and special land use controls in large part due to the water needed for public use and for Highlands Region ecosystems. The Region's water resources have long been valued for water supply, ecosystem viability, and recreational and aesthetic uses. Additionally, Highlands Region lakes offer recreation opportunities, and are the defining features of many distinct communities. Highlands Region water bodies also support the Region's forests, wetlands, lakes, and streams by serving a critical role in supporting sustainable ecological resources. Northern New Jersey would have an immensely different character without Highlands Region water resources and the landscapes they support. Degradation or excessive use of these water resources would significantly undermine New Jersey's economic health, quality of life, and environmental integrity.



*Nathan McLean*

Water resources are generally categorized as surface water and ground water. Both surface water and ground water can be replenished by rainfall, and water may be

exchanged between surface water and ground water systems. The use of ground water can reduce surface water flows, and the contamination of ground water can harm surface water quality.

Surface water in the form of streams, rivers, ponds, lakes, and reservoirs are an important part of the Highlands Region landscape. Ground water is water below the earth's surface, filling the pore spaces, cracks, and fissures in soil and rock. An underground layer of permeable rock or unconsolidated materials where ground water is sufficient to provide water to wells is known as an aquifer. Aquifers differ in value; some are very prolific, but the hard rocks that create the Region's ridges are very poor aquifers. While ground water is often unseen, it is the primary water supply to Highlands Region municipalities and provides the large majority of flows to the Region's streams.

Forested areas and stream-side Riparian Areas function to protect surface water and ground water quantity through collection and infiltration of rainwater, and protection of water quality through filtration of excess nutrients, solids, and pollutants and stormwater abatement. Therefore, protection of forests and Riparian Areas lends to the protection of both quantity and quality of the Region's water resources.



*Mike Anderson*

By law, New Jersey's water resources are held in trust for the public, and allocated by the State for public and private use. One reason the Highlands Region is so important to New Jersey's economy is the presence of many large reservoirs in the Passaic River and Raritan River basins, built from the late-19th century to the late-20th century to supply the urban areas of northeastern and

east-central New Jersey. These reservoirs—built by Newark, Jersey City, the North Jersey District Water Supply Commission, and the State of New Jersey—store high stream flows against time of drought. In total, they provide some or all of the water needed by roughly 5 million people. In addition, a few Highlands communities have their own small reservoirs. Each reservoir system has a “safe yield,” which is the amount of water it can supply during a repeat of the 1960s drought, defined as the worst drought on record. The safe yield is protected by the State through control of water uses. Development in urban communities will place heavy stresses on these reservoir supplies. Although most reservoir water from the major reservoirs is exported, limited supplies have been contracted to a few communities in the eastern Highlands.

Surface waters also contribute to New Jersey's economy as focal points for boating, fishing, swimming, and other recreational activities in lake communities. Most Highlands Region lakes are man-made and many of the earliest residential communities were established on the shores of these lakes. Surface water from streams (rather than reservoirs) is used within the Region, most often for farm and golf course irrigation and for manufacturing (often in historic river towns) rather than public supply.

Ground water is used by local communities throughout the Highlands Region as their primary drinking water supply. Nearly all of the Highlands Region population relies on ground water. In most cases wells are located near users, but in some cases water is piped miles from one part of the Region to another. Wells range in size from domestic wells for individual households to large community wells that can supply thousands of people.

Every water use has an effect on the Region's water resources. For example, ground water supplies in many parts of the Region are already stressed or beyond capacity. Water is moved from place to place, lost to the atmosphere from evaporation or plant use, or picks up pollutants from human and natural sources. As with every region, but more intensely in the Highlands Region due to the many competing uses, the protection and careful use of water resources is critical to a sustainable society.

## PART 4 Shared Values

The developed portions of the Highlands Region exhibit shared values despite being represented by a variety of landscapes, such as the large forests bifurcated by State Route 23; the historic mill towns of Morris County surrounded by winding tree-lined roads, where single family homes are set back far from the road on large, mostly forested lots; the lake communities around both large recreational lakes and smaller, private lakes; the rolling hills around the rural agricultural landscape of Long Valley; the business highway development along Highway 31 between Clinton and Washington.



*Nathan McLean*

Despite differences between these portions of the Region, each share and contribute to a series of regionally and locally significant values. The Region's developed landscapes are considerably independent and free-standing as opposed to typical suburban landscapes which are socially, culturally, and economically dependent on a core urban center. The Highlands Region undoubtedly benefits from proximity to the New York

City metropolitan area; the Region is close enough to gain from one of the world's most dynamic urban economies, but not so close as to be defined by suburbs dependent upon that area. The Highlands Region is separated from New York City both by distance and topography. The relative isolation of Highlands Region landscapes and associated communities is beneficial because of their interdependency on one another for employment, shopping, health care, recreation, open space preservation, natural resources protection, and entertainment. Consequently, the function and character of historical settlements are vital and continue to be central to the character of the Region.

Highlands Region communities share a value with regard to protecting water resources. Water has long been recognized as a defining attribute of the Region, a resource which does not follow political boundaries. The importance of water to the Highlands Region is significant in several different ways. The Region provides the primary source of potable water for the majority of the urbanized population in northern New Jersey. Surface water and ground water significantly contribute to the functional integrity of the Region's ecosystems, including forests, ponds, streams, lakes, and wetlands which constitute a majority of the Region's critical wildlife habitat. Upon arrival of European settlers to the Region, water guided the settlement patterns through the formation of industry-related villages, such as mill towns, mining areas, and early agricultural areas, all of which were dependent on abundant sources of water. This settlement pattern continues to serve as the physical framework of Highlands Regional landscape types. Historic mining, quarrying, and manufacturing have influenced settlement patterns and represent potential water quality issues to existing and future populations. Lakes played a key role in the development of lakeside communities in the Highlands, representing an important residential and recreational resource for the greater northern New Jersey region.

The water resources of the Highlands Region are important not only as a potable water supply source, but as a defining element of ecosystem form and function within the Highlands. They include extensive reservoirs

with the capacity to provide more than 600 million gallons per day of drinking water; large rivers and lakes; streams that support trout production and supply local recreation opportunities; forested headwater streams and springs; and ephemeral waterbodies that are critical to the survival of a variety of the Region's wildlife.

The vast majority of Highlands Region reservoir capacity is exported to urban and suburban areas of northern and central New Jersey. The water needs of the Highlands Region itself are primarily served by well withdrawals of ground water from local aquifers, and by smaller surface water bodies. Maintaining the integrity of water resources of the Highlands Region provides for the protection and sustainability of surface waters supplying reservoir systems, ground water supplying potable uses, and ecosystems dependent upon both surface water and ground water for essential functions.

The Highlands Region communities share this value by serving as stewards of the quality and quantity of this significant water source. Historically, this responsibility was a natural byproduct of the form and function of settlement in the Region. The character, location, and intensity of historical residential development patterns within the Region were such that water quality and quantity were naturally sustainable. Moreover, the significance of the Region's water resources played an important role in the conservation of considerable open space over the past several decades. More than 50,000 acres of land have been preserved by the State, Highlands Region counties and municipalities, and other governmental and nongovernmental entities in order to protect the principal source of water supply in northern New Jersey. Water supply was also one factor leading to the preservation of more than 100,000 acres of forested lands.

The communities of the Highlands Region share a value of preserved open space and the views and opportunities afforded by these preserved areas. Many communities share open space views in areas where more than 75 percent of the land is undeveloped. A ratio of undeveloped land to developed land of 3 to 1 is a particularly distinguishing regional characteristic given the location of the Highlands Region in northern New Jersey, one of the most densely populated parts of the most densely

populated state in the nation. The relationship created by these shared views of open space between developed lands and undeveloped lands links the communities of the Region together because that shared, visible open space aids in defining the character of a community. Conversely, there are examples where principal access to one town passes through an adjacent town in which highway commercial development extends outward from the traditional town center, thereby altering community character and economic viability in both towns.

Yet another shared value of the Highlands Region is a settlement pattern which is organized around small towns and villages, most of which are historic or traditional communities of place. This basic settlement pattern exists throughout the Region, from the forested north, to the exurban middle, to the agricultural south. The rural landscape which surrounds the towns and villages may vary in terms of character (agricultural versus residential or forest), but the functional relationship of the rural landscape to the towns and villages is the same.

One aspect of this functional relationship between a rural landscape and its communities is that individual towns and villages are distinguished by their rural nature. Isolated towns and villages often have adjacent preserved forests, forested ridges, and agricultural land, thus preventing traditional suburban growth patterns. At the same time, this functional relationship fosters social, cultural, and economic symbiosis between the towns and villages and surrounding typically low density residential landscapes sustaining much of the Highlands. Moreover, the relatively low gross intensity of land use in the Region's rural landscapes results in a local market for goods and services that allows local retail to co-exist with typical retail big boxes and franchise businesses, which in turn sustains the economic vitality of many locally-owned businesses in the historic and traditional towns in the Region.

Of the 859,358 acres of land in the Highlands Region, 25 percent are developed and 32 percent are protected through open space preservation. The remaining lands are forested (63 percent), submerged and barren (15 percent), and agricultural (13 percent). A majority of the developed lands in the Region, 57 percent, is zoned

for low intensity, single family residential areas with a density range of one dwelling unit per 2 to 20 acres.

Approximately 821,000 people live in the Region and almost 450,000 residents live in Bergen and Morris Counties. The overall population density of Bergen and Morris Counties is 1.7 and 1.4 people per acre, respectively. However, an examination of the relationship of where people live in these counties indicates that the density of people per acre triples to 4.78 and 4.28 people per acre, respectively. This indicates that significant areas remain undeveloped in these counties. The overall population density in Hunterdon and Warren Counties is 0.48 and 0.58 people per acre. However, these counties have significantly more undeveloped land compared to Bergen and Morris Counties where people live at a lower density of 2.12 to 3.44 people per acre. In Passaic, Somerset, and Sussex Counties, the overall population density ranges from 0.74 to 0.97 people per acre, representing the mid-range of overall population density in the Highlands Region. These three counties also have significant portions of undeveloped lands where residents typically live at densities that range from 2.86 to 5.37 people per acre.

### **PART 5 The Elements of Place**

The essential character of the Highlands Region is not easily reduced to an overall description. Demographic statistics explain the Region's overall vibrant economy and relative affluence, but do not reveal the diversity of individual community character or the overall character of the Region. The extent of forested lands in the Region is truly remarkable in terms of the context of the densely developed tri-state region surrounding the Highlands Region. The amount and distribution of forested lands within the Region is illustrated by the fact that despite more than 200 years of human activity, more than half of the entire Region is described as critical wildlife habitat.

Critical natural elements of place in the Highlands define an identity for a significant portion of the Region. At the eastern edge of the Highlands, the Ramapo Mountains and Valley delineate where urbanized, developed New Jersey decreases and natural resources and open space increase. The Wyanokie Highlands (Passaic County),

with its network of historic hiking trails and dramatic scenic overlooks, are located west of the Wanaque Reservoir in Ringwood and West Milford and protect critical water supply watersheds. Located between Bearfort/Green Pond Mountain to the east and the Hamburg Mountains to the west, the 35,000-acre Pequannock River watershed and Wawayanda plateau (Passaic, Sussex, Morris Counties) form one of the Region's core wilderness areas supporting bear, bobcat, native trout, and rare interior bird species. The Wallkill Valley (Sussex County) at the western edge of the Highlands is home to the Wallkill National Wildlife Refuge which protects the area's rural character and natural resources. The Farny Highlands (Morris County) include the headwaters of five rivers and large tracts of biologically diverse forests. Sparta Mountains (Sussex and Morris Counties) form the westernmost ridge of the northern Highlands. The Farney Highlands and Sparta Mountains are traversed by the Highlands Millennium Legacy Trail, which offers dramatic scenic vistas, protect threatened and endangered species, and function as a connector between numerous State Wildlife Management Areas and Allamuchy State Park to the south.



*Nathan McLean*

The headwaters of the North Branch of the Raritan River (Morris and Hunterdon) are located in the Hunterdon Hills and Somerset Hills, and supply drinking water uptakes on the Raritan River. The area is scenic horse and orchard country, dotted with historic villages and towns. Fed by the South Branch of the Raritan River, Spruce Run and Round Valley Reservoirs (Morris and Hunterdon Counties) store drinking water and attract swimmers, boaters, fishermen, picnickers, and campers to their scenic shores. Scott Mountain and

the Musconetcong Ridge (Warren and Hunterdon Counties) in the southern Highlands are home to forested ridges and farmland of the Delaware, Pohatcong, and Musconetcong Valleys, forming a large contiguous area of high-quality agricultural landscapes. The Musconetcong River (Hunterdon, Morris, and Warren Counties) is the only river entirely contained within the Highlands and was recently designated part of the National Wild and Scenic Rivers System. Its rural valley houses the river as it moves south through agricultural and historic areas, forming the border between Warren and Hunterdon Counties. The Pohatcong Grasslands (Warren County) are a State Natural Heritage Priority Site, home to numerous threatened and endangered birds. Pohatcong Mountain is a linear forest island that links the Delaware River bluffs with the Musconetcong Valley.

The Highlands Region is special because it is a unique composite of landscapes, natural resources, and communities not found elsewhere in the nation. To a great degree, the unique character of the Region is a product of its geography. Although the eastern reaches of the Region are relatively accessible to and from New York City, the largest and most economically vibrant city in the United States, mobility to and through much of the Highlands Region is constrained by its topography (ridgelines and valley floors). These landforms have played a key role with regard to the character and pace of development within the Highlands Region and have preserved the identity of the Region as a uniquely beautiful blend of rolling hills, ridgelines, valley floors, large forests, rural agricultural lands, and numerous and diverse water bodies.

## PART 6 Resource Assessment and Regional Land Use Capability

Notwithstanding the relative integrity of the Highlands landscapes, recent trends indicate that growth pressures are overcoming the traditional forces and factors which have historically shaped the Highlands Region and its unique character. For example, water use in many of the 14-digit Hydrologic Unit Code (HUC14) subwatersheds in the Highlands Region is already beyond sustainable levels.

The Highlands Act requires that the Regional Master Plan include a resource assessment to provide a determination of the “amount and type of human development and activity” which can be accommodated without compromising the essential character and function of the Highlands Region. The resource assessment serves to identify a balance between the Region’s environmentally sensitive areas and the Region’s capacity for appropriate development and human activity. In addition, the Act requires that the Regional Master Plan identify scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreational resources and provide for their maintenance and enhancement.



*Nathan McLean*

A basic principle of ecology is that the capacity of an environment to support a population of plants or wildlife is governed by limiting factors. The development capacity of the Highlands Region is likewise governed by limiting factors, some of which relate to the natural environment (e.g., steep slopes and water quantity and quality). However, the carrying capacity of the

Highlands Region is also defined by public policies enshrined in the laws and Constitution of the State of New Jersey and the Constitution of the United States.

Another factor which affects the development capacity of the Highlands Region is the community character, an aspect highly valued by many residents of the area as underlying the quality of life of the Region. For example, even if the existing undeveloped lands in the Planning Area could be developed at a higher density without adversely affecting water quality and quantity and without destroying Critical Habitat, development at a denser rate requires careful management to ensure that the community character of the Region and its constituent communities of place are sustained. Some of the adverse impacts of further suburban development can be mitigated through site development standards (e.g., cluster requirements and rural design requirement). However, at some point the character and pace of suburban development, if left unchecked, may erode the character of existing communities of place.

A central element of the required resource assessment is an understanding of the definition of the essential character and function of the Highlands Region. According to the terms of the Act, this includes:

- ▶ The quantity and quality of water resources in the Highlands Region including the potable water needs of more than 4 million people who do not live within the Region;
- ▶ Large areas of contiguous forest lands;
- ▶ Critical Habitat;
- ▶ Agriculture and historic resources; and
- ▶ Natural, scenic, and other resources of the Highlands Region.

Implicit in the Act are the distinctive community characters of the towns and counties in the Region because of their importance to the residents of the Region and their centrality to the resource values of the Region as a whole.



*Carl Figueiredo*

Another factor which affects the amount of development which can be supported is transportation. Mobility is vital to the success of any community and in the Highlands, like most of the United States, the automobile is the primary source of transportation. Any assessment of the development capacity of the Highlands Region must consider the dynamic nature of traffic and road capacity. Although engineers like to speak in terms of levels of service (A to F), the reality is that the quality of life aspects of transportation involve more than quantitative analyses of road capacity at some prescribed level of service and the average number of trips generated by a unit of development. For example, intact historic towns and villages routinely fail to meet the engineer's level of service standards, particularly during peak hours. Nevertheless in such situations, the value of community character outweighs the inconvenience of delay, particularly when the view from the car is a traditional town where the people on the sidewalks and in the stores are friends and neighbors. Studies from around the country show that Americans select the character of a route over the speed and convenience of a route. In addition, trip-making behavior is not the fixed statistic of the traffic engineer. Where the trip to town is slow because of capacity constraints, residents make good use of a single trip instead of making multiple trips to town. Indeed, capacity constraints encourage multiple purpose trips where a shopper walks to several different shops from a single parking space, a circumstance which supports traditional town character and values. It is essential that provision be made for the movement of emergency vehicles during peak hours of congestion, but there are usually ways to assure access

without subordinating community character to the automobile. That does not mean that traffic congestion is not problematic, but rather to say that the transportation calculus involves more than trip generation rates and highway capacity.

The amount and type of development which can be supported varies according to location and community character. For example, the Highlands Act limits the capacity of undeveloped lands in the Preservation Area to existing uses, exempt development, and agriculture. Similarly, the Act limits the capacity for additional development in previously developed portions of the Preservation Area to brownfields or areas where at least 70 percent of the land area is covered with impervious surfaces, and also limits development by the pull back of water and sewer service areas to areas with utility pipes in the ground. Finally, additional development in the Highlands Region is limited by the reality that there is little vacant land that would meet the requirements of the Act to have at least 70 percent coverage with impervious surfaces as available for infill development. Consequently, future redevelopment potential is constrained by local community character, availability of potable water capacity, environmentally sensitive areas, and capacity of roads or transit to support additional trips or riders.



*Photo Facts/Carl Laskiewicz*

The amount of exempt development rights in undeveloped lands in the Preservation Area is considerable in the context of historical growth rates. Available data analyzed by the land use modeling software indicates that there are over 20,000 parcels of land which may be eligible for an exemption for a single family dwelling on

vacant land. Some of those parcels are land locked, located on steep slopes, or otherwise constrained, so that as a matter of practical economics they are unlikely to be developed, and the land supply constraints resulting from the implementation of the Highlands Act will foster the development of these exempt parcels over time.

The amount of development which could be accommodated within areas previously developed in the Preservation Area will vary according to the community character of municipalities and counties. The character and resource value of intact historic towns and villages are sensitive to infill and redevelopment and are likely to limit the amount of additional development. Several communities, that have initiated local revitalization efforts, such as Phillipsburg, Dover, Morristown, Boonton, Washington Borough, Stanhope, and Netcong Borough, offer potential opportunity for redevelopment, provided that water, sewer, and transportation capacity is available.

## **PART 7 Highlands by Design: A Vision for the Future**

The Highlands Act provides the measures by which a vision for the future of the Highlands Region will be realized. The Act was passed into law to protect this nationally significant complex of resources and to provide for a sustainable quality of life and improved environmental integrity for the Region as a whole.

To ensure that the vision for the future of the Highlands is realized, protection, preservation, and enhancement of water and natural resources is fundamental to improving the environmental integrity of the Region and providing clean, sustainable drinking water supplies for future generations. As biodiversity decreases globally, providing for the protection of the Region's sensitive ecosystems will help to halt regional-scale losses in wildlife, plant, and significant natural communities. Balancing the need to protect and preserve Highlands resources with providing for a sustainable quality of life means providing for smart growth, improved transportation, protection of local economies, preservation of open space and recreational areas, and promotion of sustainable agriculture. By protecting, preserving, and enhancing the Region's resources, Highlands residents

will benefit from sustainable water supplies, limited flooding and erosion, improved carbon sequestration, cleaner air, cleaner water, the ability to enjoy locally grown food, the ability to enjoy recreational opportunities close to home, the opportunity to visit a multitude of historic sites and structures, and a protected diverse and scenic land.

Without these protection measures for the resources of the Region, the Highlands will be permanently changed, and the economic cost of replicating the unique ecosystem services and benefits would be extraordinarily burdensome to the Region's towns and communities. Increased costs would include those for water quality treatment, public services, and infrastructure construction and maintenance. Less measurable costs would include increased habitat destruction, loss of plant and wildlife populations, reduced quality of life and access to safe recreation, and increased human health risks.

The Regional Master Plan contemplates a future regional and community character that is a measured extension of the existing condition where the functional values of the land and water resources of the Region are maintained and, wherever possible, restored and enhanced. Five fundamental principles govern the future of the Highlands Region:

1. Protect and preserve the resources of the natural and built environment, especially land and water resources;
2. Restore and enhance those aspects of the natural and built environment which have been compromised by prior use and development;
3. Maintain and enhance the fiscal and economic viability of the Region and its constituent communities;
4. Distribute the benefits and burdens of implementing the Regional Master Plan equitably among all affected interests both within and outside the Highlands Region; and
5. Ensure that all new growth and development is sustainable over the long term based on water, energy, and other critical resources, is organic to its environment, harmonious with historical settlement patterns, and is compatible with the history and character of the regional communities of place.

These principles are applicable to both the Preservation Area and the Planning Area; however, the treatment of these two areas in the Highlands Act requires somewhat differing approaches to implementation of the programs of the Regional Master Plan. Section 10 of the Highlands Act outlines the goals of the Regional Master Plan with respect to the entire Region, illustrated by Region-wide goals for both the Preservation Area and the Planning Area (see Table 2.1 *Goals of the Highlands Act for the Preservation and Planning Areas*). Goals that promote the preservation of the Region's unique resources are outlined specific to the Preservation Area, while goals that promote a balance of environmental protection and sound land use planning are outlined specific to the Planning Area.

### REGION-WIDE GOALS

Although the Highlands Act divides the Highlands Region into two distinct sub-areas, the Preservation Area and the Planning Area, the elements of the natural and built environment do not stop at jurisdictional boundaries, and do affect the entire Region. The Highlands Act directs the Regional Master Plan to protect and enhance the significant values of the Region both through Region-wide goals and goals specific to the Preservation Area and the Planning Area that are distinct, yet reflect similarities in concept and intent.

The Regional Master Plan fulfills the requirement for Region-wide goals prescribed in the Highlands Act by establishing goals, policies, objectives, and programs for the protection, restoration, and enhancement of surface and ground water quality; for the preservation of the Region's agricultural areas and significant historic areas; for the public preservation of open space; for water use conservation methods; and for brownfield remediation and redevelopment.

### PRESERVATION AREA GOALS

A critical need exists for preservation and protection of this portion of the Highlands Region. The planned future of the Highlands Region in the Preservation Area, outlined through the Preservation Area goals, is for all practical purposes the Highlands Region of today, a remarkable blend of natural resources and built environment which is a critical potable water source for the State of New Jersey.

**TABLE 2.1: Goals of the Highlands Act for the Preservation and Planning Areas**

<b>REGION-WIDE GOALS FOR PRESERVATION AREA AND PLANNING AREA</b>	
Protect, restore, and enhance the quality and quantity of surface and ground waters • Preserve farmland and historic sites and other historic resources • Preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land • Promote conservation of water resources • Promote brownfield remediation and redevelopment	
<b>Goals Specific to Preservation Area</b>	<b>Goals Specific to Planning Area</b>
Preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region	Preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes
Protect the natural, scenic, and other resources of the Highlands Region, including, but not limited to, contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora	Protect and maintain the essential character of the Highlands environment
Promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment	Promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities
Prohibit or limit, to the maximum extent possible, construction or development which is incompatible with preservation of this unique area	Encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes; discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof
	Promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility in the Highlands Region

The Highland Act authorized the New Jersey Department of Environmental Protection (NJDEP) to establish the Highlands Water Protection and Planning Act Rules (Rules) [N.J.A.C. 7:38], which provide environmental standards and procedures by which it shall review any application for the Preservation Area, pursuant to the Act, for the following:

- ▶ Major Highlands development;
- ▶ Waiver from any requirement for a Highlands Preservation Area Approval;
- ▶ Resource or applicability determination or exemption from the Act; and
- ▶ Permit or plan reviewed by the NJDEP in the Highlands Region.

The Rules state that the Regional Master Plan will include a Land Use Capability Map and comprehensive statement of policies for planning and managing the development and use of land in the Preservation Area. At a minimum, the Land Use Capability Map Series and policies in the Regional Master Plan were based upon, and comply with, the NJDEP's Rules for the Preservation Area. The expectation by the NJDEP was that the Regional Master Plan would address the components necessary to protect the Region's natural, scenic, and other Highlands resources.

The Rules state (7:38-1.1[g]) that, *for all decisions in or affecting the [P]lanning [A]rea or the [P]reservation [A]rea, the Department shall give great consideration and weight to the RMP, to be incorporated by reference..., when adopted by the Highlands Council.* The Rules also state (7:38-1.1[h]) that the NJDEP shall not issue any approval or permit authorization that it determines, in consultation with the Highlands Council, to be incompatible with the resource protection goals in the Regional Master Plan. NJDEP shall apply the standards of its Rules and those in the Regional Master Plan, as adopted, in its review of permits or approvals in the Preservation Area (7:38-1.1[i]). For both the Planning Area and the Preservation Area, the NJDEP shall give great consideration and weight to the RMP (7:38-1.1[j]).



Nathan McLean

In keeping with the Highlands Act's goals for the Preservation Area, of protecting contiguous areas of land in their natural state; protecting natural, scenic, and other Regional resources; promoting compatible agricultural, horticultural, recreational, and cultural uses with the environment, the Regional Master Plan provides that new land uses in the Preservation Area be limited to:

- ▶ Land uses exempt from the provisions of the Highlands Act;
- ▶ Appropriate agricultural uses and activities;
- ▶ Very limited rural residential development or compact, existing center-based redevelopment; and
- ▶ Brownfield remediation and redevelopment.

The Regional Master Plan recognizes that regional and community character are more than what is developed, they are also defined by how development is undertaken. A single family dwelling on a forested lot along a local tree-lined road in a neighborhood surrounded by steep slopes, is different in terms of community character and regional character from a single family house separated from the road only by a manicured lawn. Although both types of development exist in Highlands Region landscapes, and both types contribute to existing community character, new development which is not sensitive to surrounding land types may diminish character, resulting in a loss of cumulative community character, which could ultimately diminish the significance of the landscape at a regional level. Consequently, the Regional Master Plan provides programs to en-

sure that new growth and development are compatible with the regional and local community character of the Region and do not continue the trend of sprawl type development. The Regional Master Plan also includes incentive programs intended to encourage exempt development to voluntarily comply with the goals, policies, objectives, and programs of the Regional Master Plan wherever possible.

The Regional Master Plan recognizes that the integrity of natural resources, especially water quality, quantity, and biodiversity are critically important to the Region. The Regional Master Plan provides protection, preservation, and enhancement mechanisms for natural resources and provides guidance for how growth and development must be carefully managed to ensure that they do not adversely affect the integrity of the Region's resources, and provides guidance for the restoration of impaired resources.

### PLANNING AREA GOALS

In addition to Region-wide goals, the Highlands Act sets forth goals specific to the Planning Area. By promoting a balance of environmental protection and sound land use, the Act requires that the Regional Master Plan provide for the preservation, to the maximum extent possible, of environmentally sensitive lands and other lands necessary for recreation and conservation, and for the protection and maintenance of lands essential to the character of the Region while supporting new growth opportunities in the Planning Area that:

- ▶ Promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses;
- ▶ Promote brownfield remediation and redevelopment;
- ▶ Encourage—consistent with the State Development and Redevelopment Plan and smart growth strategies appropriate patterns of compatible residential, commercial and industrial development—redevelopment and economic growth while discouraging sprawl; and
- ▶ Promote a sound and balanced transportation system consistent with smart growth strategies.



*Nathan McLean*

The Regional Master Plan contemplates that development and redevelopment within the Planning Area could incorporate development rights transferred from lands in the Preservation Area in order to mitigate any disproportionate burden imposed on Preservation Area landowners and to protect the most critically sensitive natural and agricultural resources. The Regional Master Plan provides for a variety of incentive programs to encourage municipalities within the Planning Area to implement the goals, policies, and objectives of the Regional Master Plan and to conform to the Regional Master Plan. The Regional Master Plan also promotes organic development in the Planning Area which respects and reflects historical development practices in individual communities balanced by the preservation of core environmentally sensitive lands.

The Regional Master Plan encourages municipalities in the Planning Area to adopt and implement programs contained in the Regional Master Plan with regard to protection, preservation, and enhancement of natural resources, and restrictions on the number and location of septic systems in order to ensure that new growth and development is consistent with the goals, policies, and objectives of the Regional Master Plan and the community character of constituent municipalities.

The Regional Master Plan recognizes that community character within the Planning Area is an important part of the regional character of the Highlands Region. To this end, the Regional Master Plan includes detailed programs to promote development and redevelopment within the Planning Area which is compatible with that character.

## PART 8 Regional Elements

To address the mandated goals of the Highlands Act, the Regional Master Plan provides guidance for the regional elements characterized by the natural and built environment.

### PROTECTION OF NATURAL RESOURCES

The Regional Master Plan accounts for the goals of protecting that Region's natural resources through goals, policies, objectives, and programs designed for the protection of natural and scenic resources, including forests, Highlands Open Waters, Riparian Areas, steep slopes, Critical Habitat, prime ground water recharge areas, water supply, and other environmentally sensitive areas. The goals, policies, objectives, and programs provide protection mechanisms that meet the spirit of the Highlands Act, balanced with standards for smart growth, for the unique blend of Highlands Region natural resources. While the NJDEP's Rules function as the minimum protection standards for Preservation Area resources, the Regional Master Plan's holistic approach to protection policies and programs recognizes that clean water supply, biodiversity, and intact ecologically important communities are factors of function, not jurisdictional boundaries. Therefore protection policies and programs meet the spirit of the Act in providing for resource conservation, protection, enhancement, and restoration, as appropriate, across the Region.

### AGRICULTURE

The Highlands Act recognizes that agriculture is an important element of the economy, history, and essential character of the Region which should be protected and enhanced. The Regional Master Plan outlines programs to promote compatible agriculture in the Preservation Area and to promote and expand it in the Planning Area. Programs include opportunity to capitalize on agriculture as a component of new economic initiatives including eco- and agri-tourism. In addition, the Regional Master Plan gives priority to agriculture with regard to available water capacity.

### HISTORIC, CULTURAL, ARCHAEOLOGICAL, AND SCENIC RESOURCES

The Regional Master Plan recognizes that historic, cultural, archaeological, and scenic resources are important elements of the essential character of the Region. Protection and enhancement of these resources is critical to the long term integrity of the Region and the Regional Master Plan provides multiple programs for the protection and enhancement of these resources.



*Nathan McLean*

### TRANSPORTATION

The Regional Master Plan recognizes that mobility is a key element of the character of the Region and includes a goal in the Planning Area for the promotion of a sound, balanced transportation system that is consistent with smart growth strategies and principles. Limited access has to a large extent defined the character and function of the Region. The Regional Master Plan provides that future transportation, to the maximum extent practicable, should be directed at: (1) advocating for transportation investments that limit inter-regional transportation improvements to forms of transportation other than single occupant automobiles, including modes of transportation such as rail, bus, and shuttles, and (2) improving intra-regional movement of people and goods in ways that maintain community character.

The Regional Master Plan recognizes that efficient mobility is critical to the social, cultural, and economic success of every community. At the same time, new roads which expand an area's capacity for inter-regional movements can result in unintended consequences,

including road widening. This widening adversely affects the character of communities or opens up previously inaccessible rural lands for development, impairing the function and character of the landscape. The Regional Master Plan provides for future mobility improvements which enhance intra-regional movement of people and goods and discourages increases in inter-regional road capacity.

### LANDOWNER EQUITY

A goal of the Highlands Act is to protect undeveloped lands within the Region which have limited or no capacity to support development. The Highlands Act recognizes that implementation of the Regional Master Plan will result in adjusting landowner expectations regarding future land use potential. As a matter of fairness, reasonable future land use expectations of landowners should be mitigated to the extent possible. The Highlands Act provides several potential mitigation methods, including a transfer of development rights (TDR) program, land acquisition, exemptions, and waivers.

The TDR concept involves the transfer of development rights from lands where new growth and development is severely constrained to areas where additional development will not have an adverse impact on the important natural resources of the Highlands Region. TDRs are a recognized planning tool, which have been used to mitigate the windfalls and wipeouts of resource planning and management programs in New Jersey and around the country. TDRs are a practical and useful way of mitigating the impact of new regulatory requirements on land owners.

The Regional Master Plan recognizes the implementation challenges which attend the creation and operation of a TDR program and contemplates that additional action will be required if TDRs are to provide significant mitigation to land owners. Those actions include the establishment and capitalization of a development rights bank to create a market in TDRs. In addition, the Regional Master Plan recognizes that transferred development rights will be accommodated if Highlands Region communities gain a dedicated source of funding to ensure adequate infrastructure to serve new growth and development using TDRs.

Additionally, the Regional Master Plan recognizes the importance of the resources of the Highlands Region to the Region itself, northern New Jersey and to the entire State, as well as to a nationally-recognized multi-state region. The Regional Master Plan proposes prioritization and acquisition of fee simple or conservation easements in the form of open space and farmland preservation in those lands within the Region that have the most significant resources. The Regional Master Plan encourages all agencies of the State of New Jersey, and the New Jersey Legislature, to invest in the future of the State by funding public acquisition of large contiguous tracts, particularly forested lands and Critical Habitat.



*Sabina Martine*

The Highlands Act outlines 17 exemptions by which an activity would not be bound by Highlands Act, the NJDEP's Rules for the Highlands Preservation Area, the Regional Master Plan, and any municipal master plan or development regulations that are conformed to the Regional Master Plan. Thousands of acres throughout the Region could be developed under the exemptions. The exemptions are a method for landowners to use their properties where limited by the Highlands Act, but the exercise of these exemptions could result in further impacts to the Region's ecosystems and water supply areas. Therefore, the Regional Master Plan addresses the need to develop programs that attempt to avoid these impacts, such as preservation through the NJDEP Green Acres Program or the State Agricultural Development Committee Farmland Preservation Program, cluster type development, intra-local government transfers of development rights, and economic incentives.

The NJDEP has the authority to grant waivers from its Highlands rules to mitigate landowners' reasonable land use expectations. Waivers are issued on a case-by-case basis where a project or activity is necessary to protect public health and safety; for redevelopment in previously developed areas as identified by the Highlands Council, or necessary to avoid a taking of property without just compensation.

### FISCAL AND ECONOMIC VITALITY OF HIGHLANDS COMMUNITIES

The Regional Master Plan seeks to create an environment of fiscal solvency and economic sustainability for local communities. The State Legislature, through the Highlands Act, declared that the Highlands Region provides a desirable quality of life, and emphasized the importance of ensuring economic vitality in communities throughout the Region. Ideally, the Regional Master Plan will create opportunities for local communities to balance the cost of municipal services with available tax revenues. The Regional Master Plan, however, recognizes that the extraordinary quality of life of the Region will require substantial revenues to support the level of services which are commensurate with the character and quality of the Highlands communities.

The Regional Master Plan recognizes that implementation of the Highlands Act will affect the fiscal and economic well-being of local governments within the Region. In order to ensure a desirable fiscal environment, a variety of tools were established such as Property Tax Stabilization, Incentive Planning Aid, Regional Master Plan Compliance Aid, a Legal Shield, and other State Aid. The Regional Master Plan also includes a number of programs, some of which require additional funding resources. These programs, once implemented, will offer significant incentives for local governments within the Planning Area to conform to the Regional Master Plan.

Implementation of the Highlands Act and the Regional Master Plan will benefit water users who do not reside in the Region. It is estimated that Highlands Region water resources support 291 municipalities in the State, which represent 5.4 million people and nearly 3 million jobs. In addition, protection of resources in the Highlands Region will save the State an estimated \$80 mil-

lion annually in water treatment costs. It is appropriate that the cost burden of Regional Master Plan implementation be shared amongst all beneficiaries, through user fees or other programs identified in the Regional Master Plan.



Nathan McLean

The Highlands Region is characterized by relative wealth and economic strength. A steady growth in population and housing units has fueled overall economic growth. During the period between 1990 and 2004, the Region saw an increase of about 126,000 people, which was at a rate nearly 50 percent faster than the State as a whole according to the United States Census Bureau. Between 1990 and 2000, the Region added 33,441 housing units, an increase of 12.7 percent compared to the State's 7.6 percent. The median family income is more than one-third higher in the Highlands Region than in the State as a whole. In 2004, the New Jersey Department of Labor identified the annual unemployment rate as 3.7 percent for the Highlands Region, about a full percentage point below the rest of the State, indicative of strong labor demand.

Illustrative examples of the changing nature of community character are represented in the figures comparing land development patterns from 1930 to 2002 in Lake Hopatcong, Phillipsburg, Clinton Township (Round Valley Reservoir), and Dover provide telling stories of various Highlands landscapes (see Figures 2.2 through 2.9 respectively – *Lake Hopatcong 1930, Lake Hopatcong 2002, Phillipsburg Town 1930, Phillipsburg Town 2002, Round Valley 1930, Round Valley 2002, Dover Town 1930, and Dover Town 2002*).

The Regional Master Plan contemplates a shift in perspective with regard to land and land use. The story of the modern settlement of America has been, to a large degree, a story of consumption where land was treated as a commodity. For many years, the Highlands Region, as a consequence of history and geography has avoided that tendency however, recent developments suggested a trend which ignores the historical patterns of growth and the necessity of sustainable planning to meet the obligations to future generations.

### **BALANCING PROTECTION OF NATURAL RESOURCES AND BUILT ENVIRONMENTS**

In order to protect natural resources and the built environment, it is necessary to address conditions and circumstances which are currently problematic, like watersheds where existing water use exceeds sustainable supply, septic systems have failed, and new growth and development has occurred in ways not consistent with the protection of environmentally sensitive areas or local community character. In addition, there are existing land uses which impose adverse impacts on natural resources. The Regional Master Plan provides for incentive programs in the Preservation Area to encourage property owners and local communities to support remediation of existing problematic conditions. The Regional Master Plan contemplates that in many cases, problematic circumstances or conditions in areas which have been previously developed could be addressed through redevelopment incentives and the use of TDRs.

Another important focus of the Regional Master Plan is the implementation of water conservation measures to address existing water availability constraints in order to allow additional development and redevelopment in watersheds with existing deficits and constraints. The Regional Master Plan anticipates that water conservation measures will be a part of incentive programs for the use of TDRs or redevelopment in watersheds which have existing deficits or constraints.

**FIGURE 2.2: Lake Hopatcong 1930**

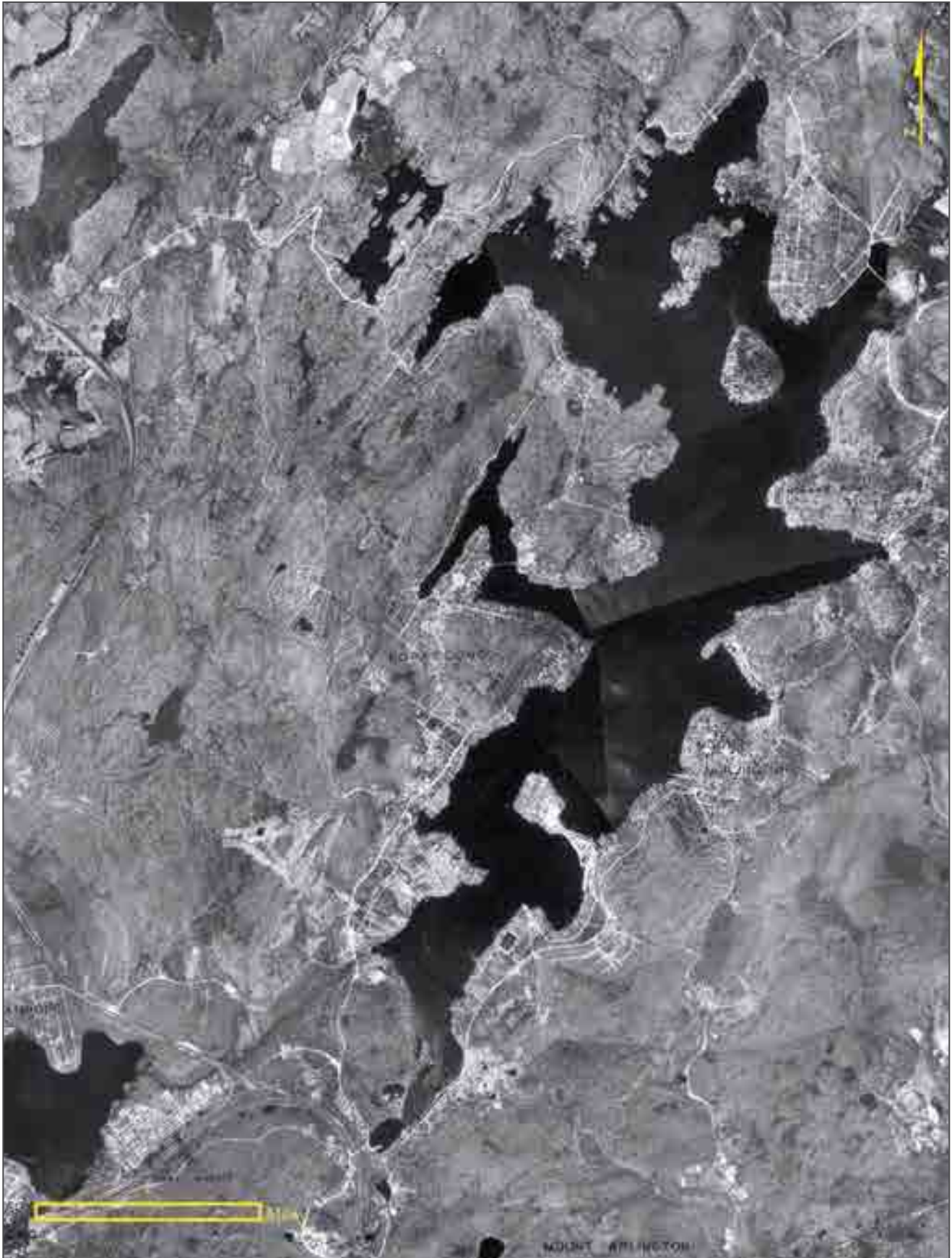


FIGURE 2.3: Lake Hopatcong 2002



FIGURE 2.4: Phillipsburg Town 1930



FIGURE 2.5: Phillipsburg Town 2002



**FIGURE 2.6: Round Valley 1930**



FIGURE 2.7: Round Valley 2002



**FIGURE 2.8: Dover Town 1930**



FIGURE 2.9: Dover Town 2002





# ANALYSIS OF THE HIGHLANDS REGION

- ▶ **PART 1**  
Natural Resources
- ▶ **PART 2**  
Water Resources
- ▶ **PART 3**  
Agricultural Resources
- ▶ **PART 4**  
Historic, Cultural, Archaeological,  
and Scenic Resources
- ▶ **PART 5**  
Transportation
- ▶ **PART 6**  
Community Character
- ▶ **PART 7**  
Landowner Equity
- ▶ **PART 8**  
Sustainable Economic Development
- ▶ **PART 7**  
Air Quality



### PART 1 Natural Resources

The New Jersey Highlands supports the greatest diversity of natural resources of any region of the State, with 70 percent of its lands classified as environmentally sensitive (Highlands Task Force Action Plan, March 2004). The biological diversity of the Highlands is comprised of an assemblage and linkages of diverse wetlands, streams and rivers, forests, wildlife habitats, and ridges and valleys. Active management, stewardship, and restoration on public and private lands are required to protect and enhance these critical resources.

The Regional Master Plan evaluates the effect of land development and other stresses on the natural and ecological resources of the Highlands Region, and establishes the overall strategies necessary to maintain and enhance their value. These resources include: a) Forest Resources; b) Highlands Open Waters and Riparian Areas; c) Steep Slopes; d) Critical Habitat; e) Land Preservation and Stewardship; f) Carbonate Rock (Karst) Topography; and g) Lakes, Ponds, and Reservoirs. These are each interrelated and interdependent systems presented in an integrated ecosystem protection and management framework. The purpose of the ecosystem management analysis is to highlight areas of the Highlands Region with exceptionally high ecological values that should be conserved, those with lesser value that may be restored, and those previously impaired by past human activity that may be appropriate to support growth.

For many of the Region's natural resources, the Highlands Council utilized a watershed-based assessment to evaluate resource integrity and protection needs. A watershed describes an area of land that drains down slope to the lowest point. Water moves through a network of drainage pathways, both underground and on the surface, and these pathways converge into streams and rivers, which become progressively larger (i.e., higher order) as the water moves downstream and the size of the contributing drainage area increases. The connectivity of the stream system is the primary reason

for doing assessments at the watershed level. Because water moves downstream, any activity that affects the water quality, quantity, or rate of movement at one location can affect locations downstream. The watershed boundaries used for the analysis in the Regional Master Plan were 14-digit Hydrologic Units (i.e., sub-watersheds or HUC14s). There are 183 HUC14 sub-watersheds that are located partially or entirely within the Highlands Region (see Figure 3.1 *Watersheds and Subwatersheds*).

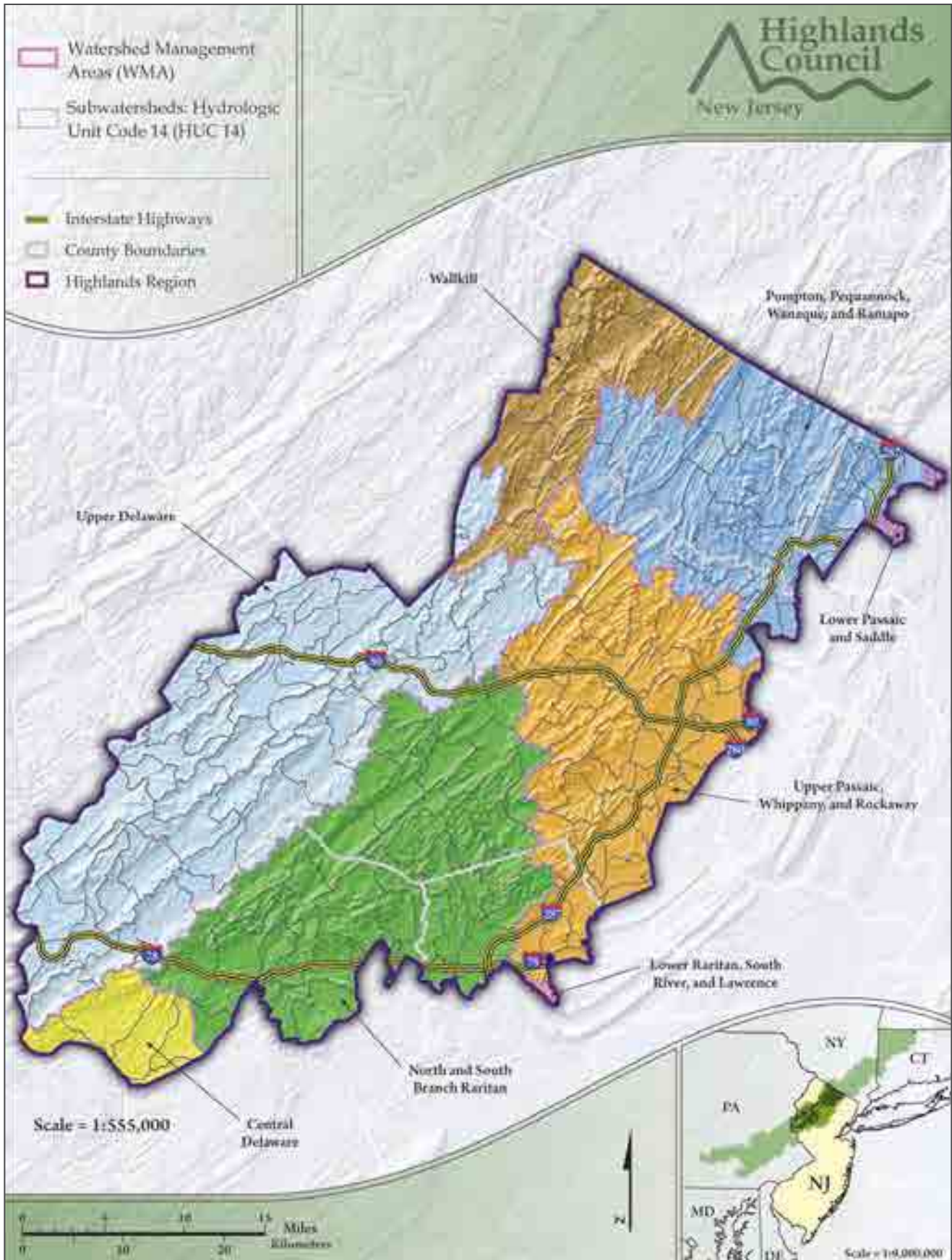
#### SUBPART A FOREST RESOURCES

The Highlands Region contains some of the most important forests in the state. These forests are vitally important to every element of the Region, including the natural and the built environment. Forests provide essential ecosystem functions, including surface water filtration, which is important to protecting essential drinking water supplies for the Highlands Region and for the State as a whole. Forests serve as habitat for plants and animals and are critically important to the maintenance of biodiversity in one of the most populous states in the nation. In addition, when managed for sustainable use, forests can be a source of renewable wood products. Forests are a defining visible and functional feature of the Highlands and constitute the majority of Critical Habitat in the Region.



Nathan McLean

**FIGURE 3.1: Watersheds and Subwatersheds**



Protecting the integrity of Highlands Region forests is dependent on the maintenance of large contiguous forested areas and healthy forest stands. Large contiguous forest tracts have a higher degree of interior, or core, forest. Interior, or core, forest provides important ecological values. Core forest habitat is defined as a forest located more than 300 feet from altered land or a road. Approximately 44 percent of the total Highlands forest area is core forest habitat. It is important to note, however, that even these large contiguous areas may consist of many smaller parcels under individual ownership. In 2002, the average size of woodland under a single ownership was 10 to 20 acres. This presents a significant challenge in efforts to manage forest to sustain ecological and water quality benefits. Land use change within the Highlands Region has resulted in forest loss and reduction in important forest ecosystem functions and societal benefits. As forests are fragmented into smaller patches, the integrity of the remaining forest is more vulnerable to human-induced change.

Forest fragmentation results in the separation of forest tracts from each other and from larger blocks of forest. Many species are especially vulnerable to the reduction in habitat area caused by forest fragmentation, and they may disappear entirely from forest patches because food or other resources are inadequate to support them. The reduction in species diversity within a forest can profoundly affect the ecosystem viability of the remaining forest. Fragmentation also reduces the movement of species that are reluctant or unable to cross non-forest areas and for those that depend on such species for dispersal. Reduced movement and dispersal increases the chance of local extinction of individual species. Even with the extensive forest areas contained within the Highlands Region, increased fragmentation of forest tracts is occurring due to land use changes. This fragmentation results in quantifiable landscape level changes to forests which include increased edge, reduced forest interior, increased number of patches, forest patch isolation, and reduced habitat area. In order to control further degradation of the Highlands forest ecosystem, effective forest protection mechanisms and sustainable management policies are essential.

Sustainable forestry also becomes more difficult as woodlot sizes decrease, particularly with increased suburbanization occurring around larger properties. Deer

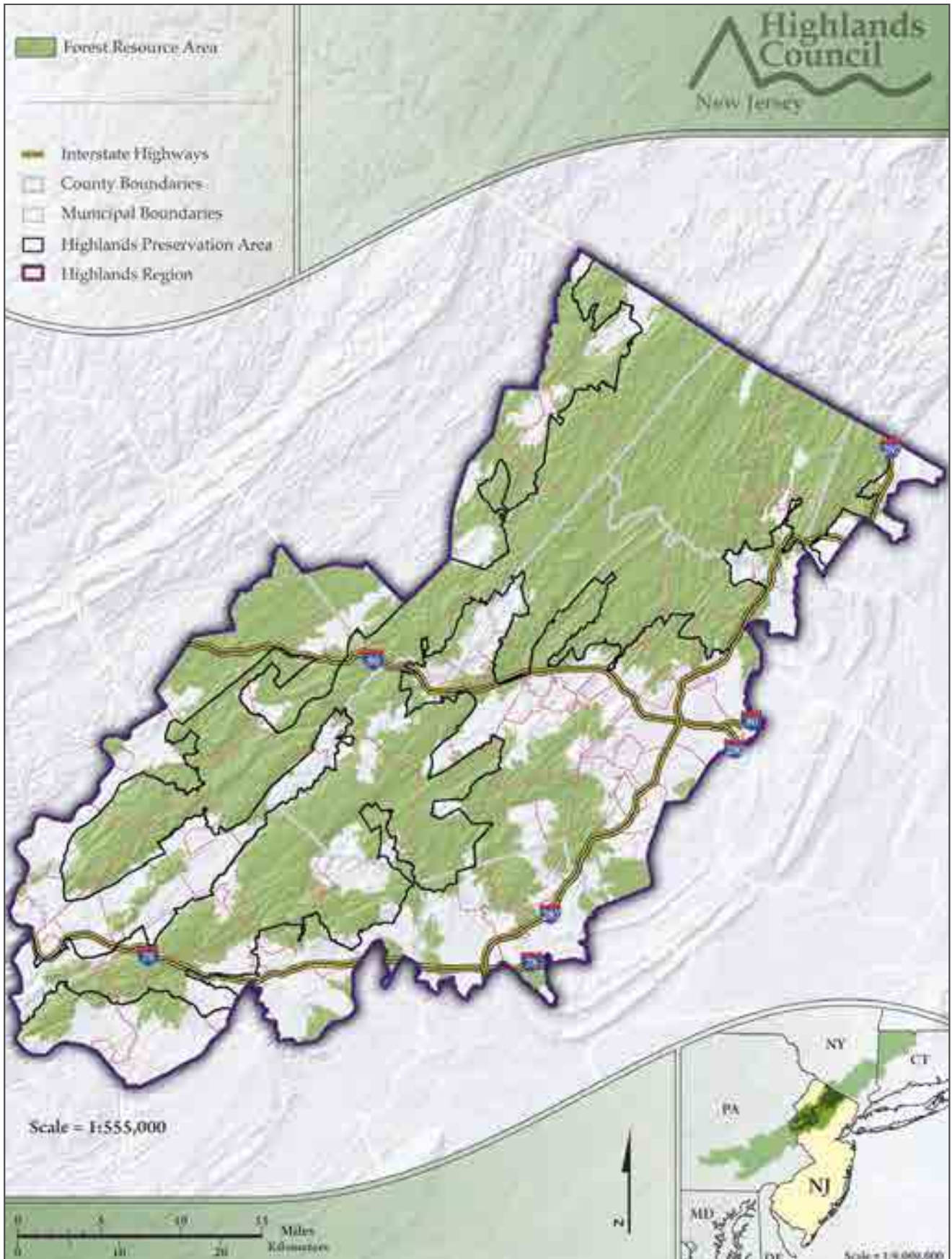
overabundance and introduction of non-native pest species are of significant threat to the Region's forest. An overabundance of white tailed deer, in particular, is detrimental to forest health and regeneration due to over-browsing. Sustainable forest management on a regional basis, rather than a piecemeal approach for individual parcels, is crucial for the future integrity of Highlands forests.

In furtherance of the requirements and goals of the Highlands Act, and in order to determine the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while maintaining the overall ecological values of contiguous forests and woodlands, the Regional Master Plan focuses on the following areas of action to address the need to protect forest resources and promote sustainable management practices within Highlands forests:

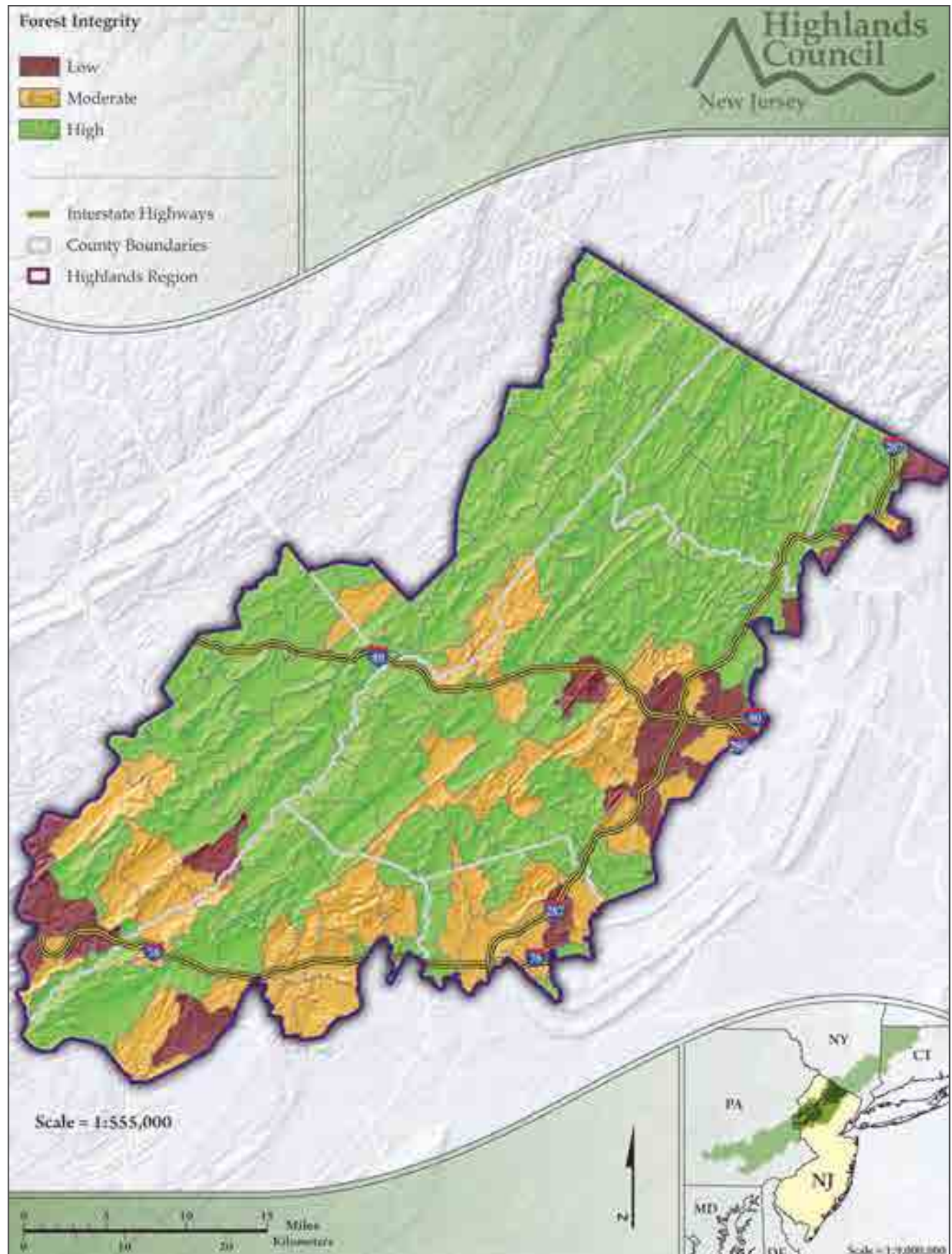
- ▶ Identify forest resources in need of protection;
- ▶ Develop resource protection measures;
- ▶ Develop measurable criteria and indicators to better assess the health and sustainability of Highlands forest resources; and
- ▶ Integrate protection, restoration, mitigation, and enhancement of forest resources into forest management and stewardship policies and plans.

The Highlands Council assessed the ecological integrity of forests through the examination of landscape level characteristics at the forest patch level and the subwatershed level, utilizing measures of forest fragmentation, to identify where regionally significant forests are located in the Highlands Region. These are the forests that are most suited to support ecological processes. The result of this assessment is the spatial delineation of the Forest Resource Area within the Highlands Region (see Figure 3.2 *Forest Resource Area*). The Forest Resource Area includes high ecological value forest areas, including those forested areas that exhibit the least fragmentation and are vital for the maintenance of ecological processes. The Highlands Council spatially delineated the Forest Resource Area by including those forested areas that express one or more of the following indicators: a contiguous forest patch of equal to or greater than 500 acres in size; an area consisting of greater than 250 acres of core forest area greater than 300 feet from an altered edge, or areas

**FIGURE 3.2: Forest Resource Area**



**FIGURE 3.3:** Forest Integrity Indicators by HUC14



that include greater than 45 percent of mean total forest cover and mean distance to the nearest patch (HUC14 subwatershed only).

In addition, the Highlands Council assessed forest cover integrity in the Highlands Region at the subwatershed level. Forests are essential for the protection of water quality and quantity. To assess forest cover integrity at a subwatershed level, the Highlands Council assigned a value class to each of the 183 HUC14 subwatersheds in the Highlands Region based on the following classes for the Highlands subwatersheds:

- ▶ **High Integrity Forest Subwatershed** – A subwatershed that is predominantly forested, including a high proportion of forest cover consisting of high core area, large patch size, and a low distance to nearest patch;
- ▶ **Moderate Integrity Forest Subwatershed** – A subwatershed that is predominantly forested, but does not exhibit a high proportion of forest cover, core area or patch size and an increase in distance to nearest patch; and
- ▶ **Low Integrity Forest Subwatershed** – A subwatershed that is predominantly non-forested or includes low values for proportion of forest cover and patch size, or a high distance to nearest patch.

Each subwatershed within the Highlands Region was evaluated using these indicators of forest watershed integrity to identify forested subwatersheds that provide important water quality benefits (see Figure 3.3 *Forest Integrity Indicators by HUC14*). The Forest Resource Area and the Forest Integrity Indicators will be used in the Regional Master Plan to achieve the protection of forest areas in the Highlands Region.

The technical basis and additional background information on the forest area protection requirements can be found in the Highlands Council's *Ecosystem Management Technical Report*.

## **SUBPART B HIGHLANDS OPEN WATERS AND RIPARIAN AREAS**

The protection, enhancement, and restoration of water resources is a fundamental goal of the Highlands Act. A primary mechanism to meet this goal is the assessment of surface water bodies, known as Highlands Open

Waters, and lands adjacent to these waters, known as Riparian Areas. Highlands Open Waters are a critical public trust resource and an essential source of drinking water for the State. These surface waters and the associated Riparian Areas provide protection against floods and help to ameliorate the effects of prolonged droughts. They are also important habitat for numerous plant and animal species, including many rare, threatened, or endangered species in the State. Highlands Open Waters and Riparian Areas provide a wealth of agricultural, recreational, and aesthetic uses for both residents and visitors alike, helping to contribute to a vibrant regional economy.

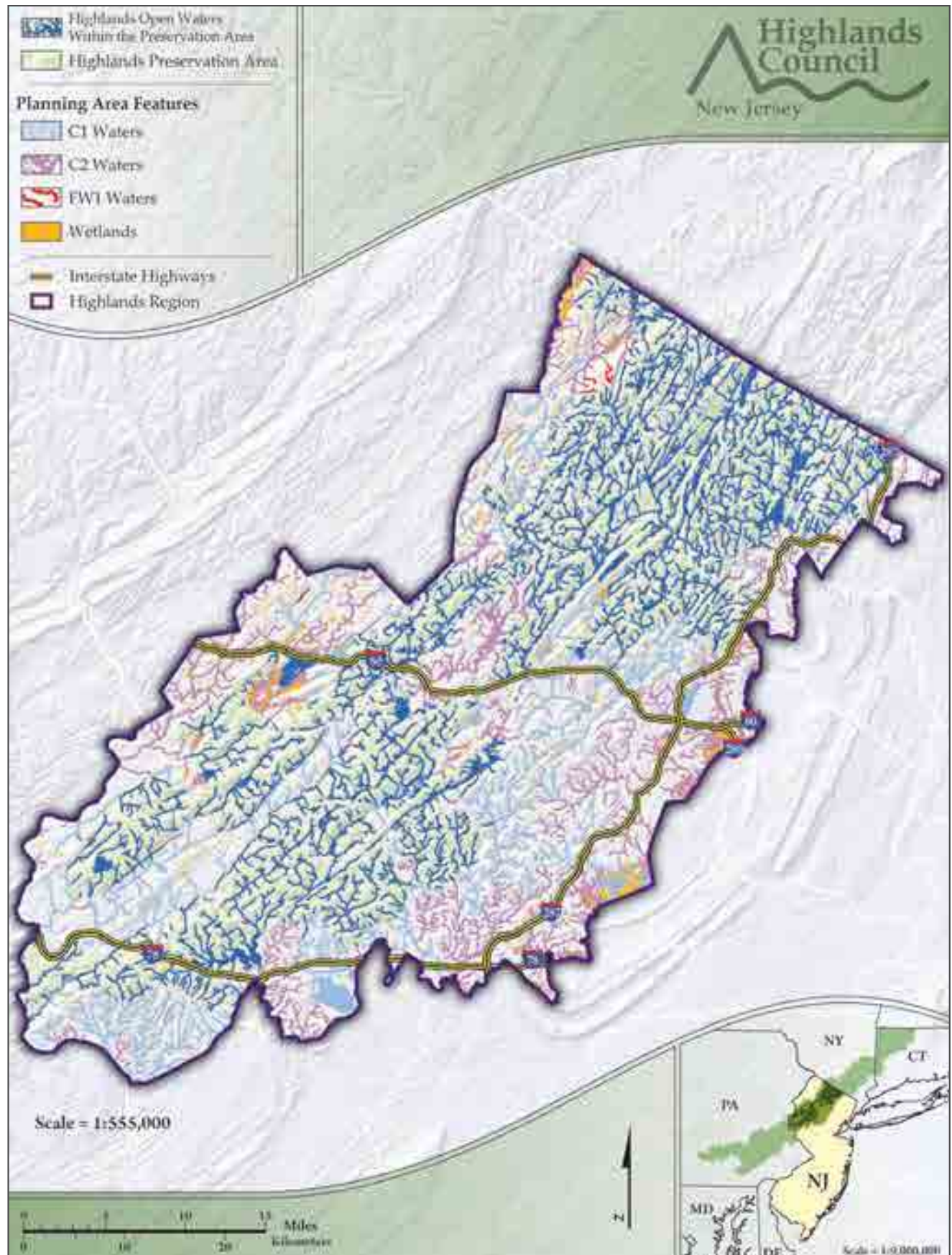
Highlands Open Waters include all springs, wetlands, intermittent or ephemeral streams, perennial streams, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region. Riparian Areas are areas adjacent to, and hydrologically interconnected with, rivers and streams. They are areas that exhibit periodic inundation or saturation of soils, are subject to periodic flooding, and include wildlife corridors within 300 feet of a surface water feature. Riparian Areas serve as an interface between surface water bodies and terrestrial ecosystems and play a critical role in maintaining the quality and ecological integrity of Highlands Open Waters. Since Riparian Areas are directly related to the protection requirements of Highlands Open Waters, these two resources are presented together in the Regional Master Plan.

The Highlands Region contains an extensive network of surface waters and associated riparian lands. The Highlands Council completed an inventory of the Highlands Open Waters within the Highlands Region (see Figure 3.4 *Highlands Open Waters*). The total stream length mapped in the Highlands is 3,605 miles and the extent of mapped streams and lakes acreage is 32,213 acres. The total for mapped wetlands in the Highlands Region is 90,091 acres. The mapped Riparian Area (see Figure 3.5 *Riparian Area*) is over two-fifths of the Highlands Region, emphasizing the importance of water related resources to the area.

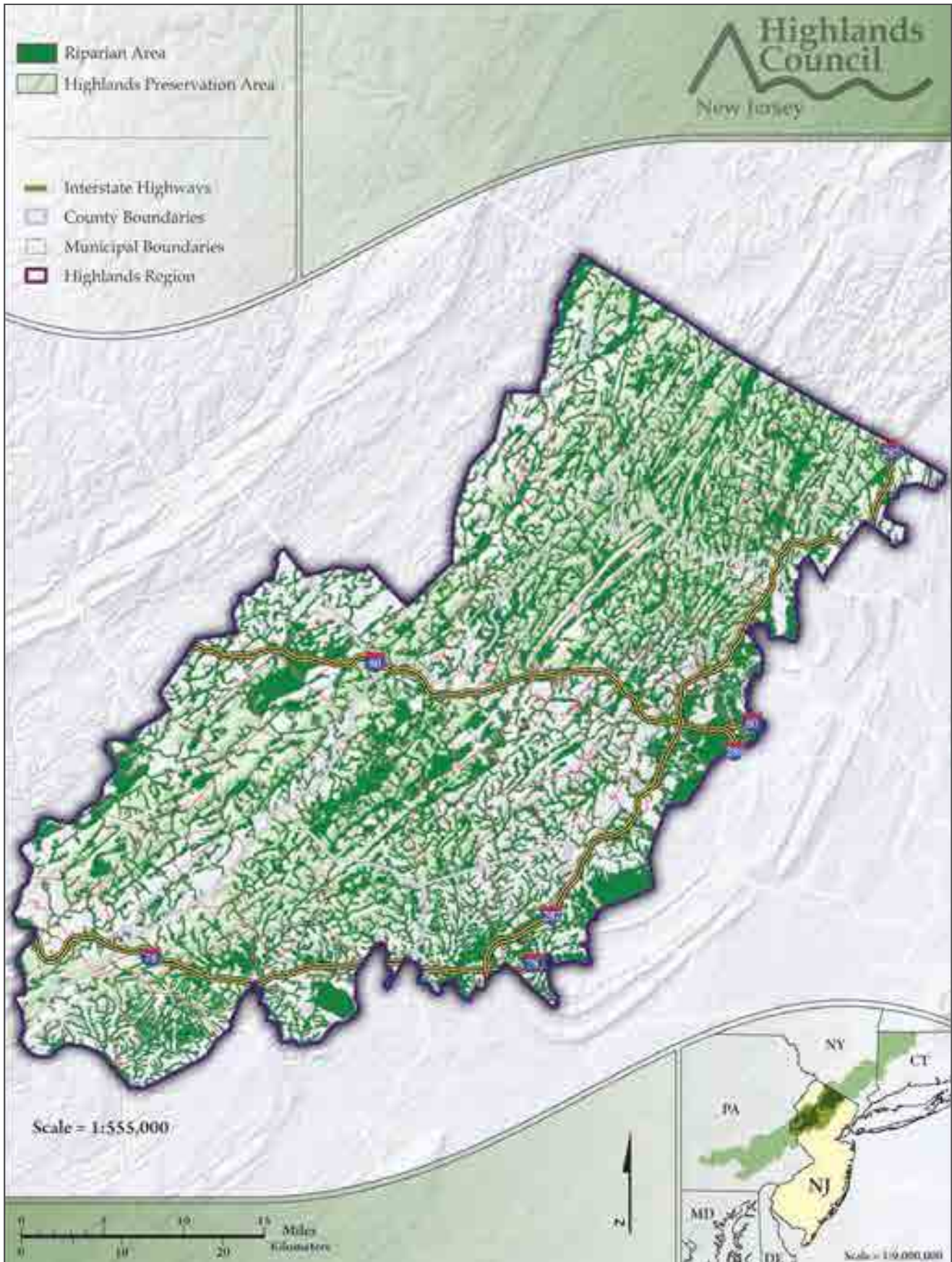
### **1. EVALUATION OF WATERSHED VALUE**

The Highlands Council utilized a watershed-based assessment to evaluate the integrity and protection

**FIGURE 3.4: Highlands Open Waters**



**FIGURE 3.5: Riparian Area**



needs of Highlands Open Waters at the HUC14 sub-watershed level. Watersheds are gaining increasing acceptance as the most appropriate geographic unit for managing water resources (Schueler 1995). The condition of a watershed greatly influences the functions and integrity of its streams. Land use disturbances in watersheds can have a significant negative impact on stream water chemistry and aquatic biota (Tiner 2004). Watershed-based planning and zoning begins with the notion that the level of impairment of a watershed (e.g., the percent developed lands versus undeveloped forested lands) largely determines the quality of streams and therefore, the attainability of stream protection goals. This, in turn, strongly influences the nature of the stream protection strategy for a given watershed (e.g., the selection of land use standards, stream corridor management plans, implementation of best management practices, and instituting land acquisition or other protection strategies) (Schueler, 1995). Peer-reviewed scientific literature was reviewed to identify sound and defensible indicators of watershed condition (FitzHugh 2001; Tiner 2004; Snyder, et. al. 2005). Forest, in particular, is an important indicator of watershed condition due to its strong association with water quality and as an indicator of the extent of alteration of a watershed due to past human activity. The watershed indicators that were selected to evaluate each of the HUC14 sub-watersheds of the Highlands Region are as follows:

- ▶ **Percent Developed Lands** – The percentage of the subwatershed that is developed, with developed lands defined as lands that have been altered for residential, industrial or commercial uses;
- ▶ **Habitat Quality** – The percentage of the sub-watershed that contains habitat for species of concern including rare, threatened, or endangered species;
- ▶ **Percent Total Forest** – The percentage of the sub-watershed that is forested, with forested defined as all mature and successional upland and wetland forested communities (excluding old fields);
- ▶ **Percent Core Forest** – The percentage of the sub-watershed that contains forest areas greater than 300 feet in distance from an altered edge (e.g., disturbed land); and
- ▶ **Proportion of Total Forest** – The percentage of the subwatershed that contains forest within a fixed search radius (three kilometers).

The Highlands Council assigned a watershed value class to each HUC14 subwatershed in the Highlands Region based on a cumulative assessment of all the watershed indicators. The Council created the following watershed value classes for the Highlands subwatersheds:

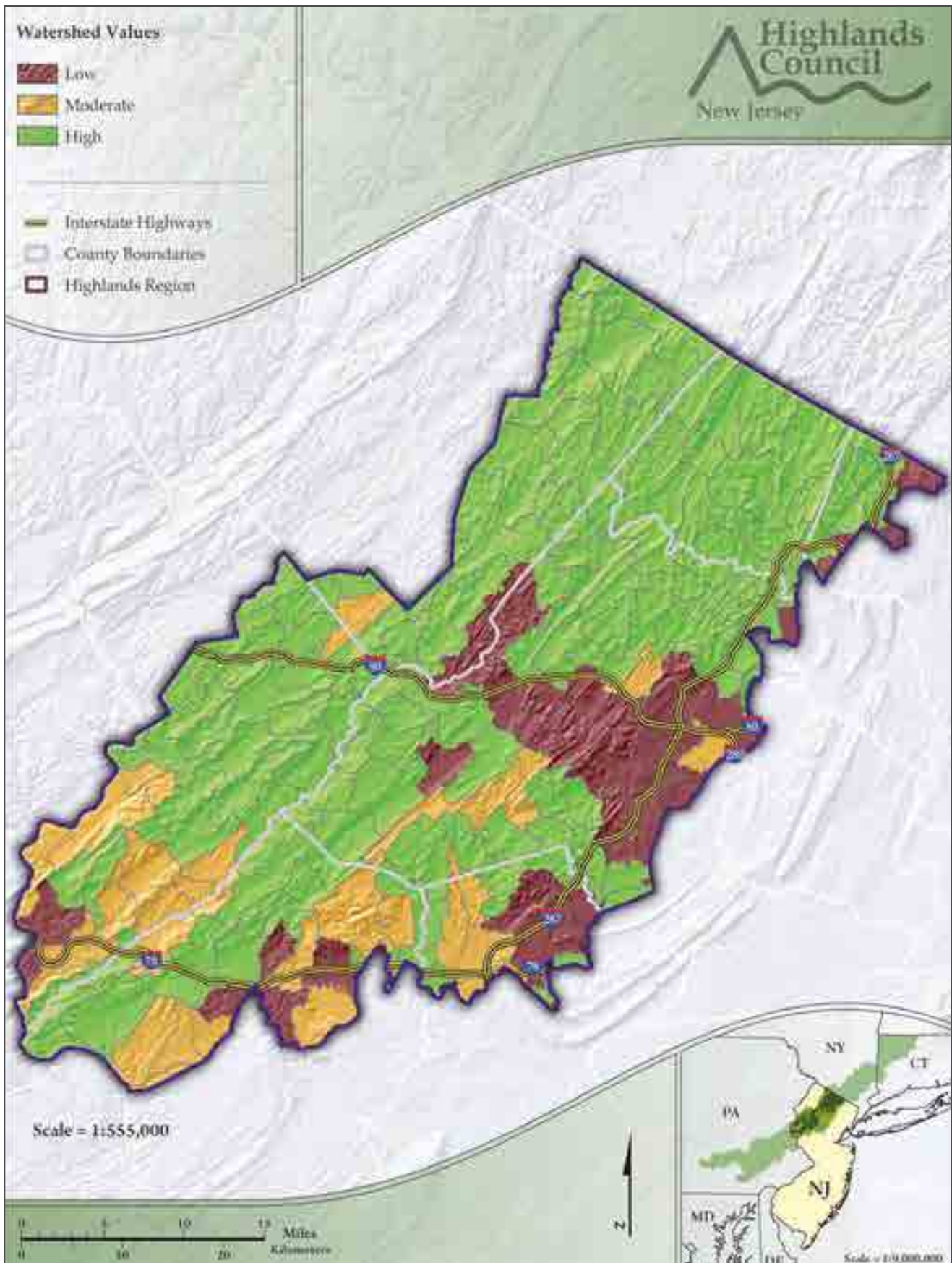
- ▶ **High Resource Value Watershed** – A high resource value watershed contains predominantly forest lands and includes a significant portion of the watershed that is high quality habitat. A high value watershed typically consists of limited pre-existing developed land within the watershed;
- ▶ **Moderate Resource Value Watershed** – A moderate resource value watershed contains forest lands and some habitat suitable for rare, threatened, or endangered species, but typically also contains developed lands; and
- ▶ **Low Resource Value Watershed** – A low resource value watershed contains a low proportion of forest lands, a low proportion of habitat suitable for rare, threatened, or endangered species, and typically consists of higher levels of developed lands.

The Highlands Council analyzed the relative resource value for each of the 183 subwatersheds (see Figure 3.6 *Watershed Values by HUC14*) and determined that the total acreage of High Resource Value Watersheds is nearly 70 percent of the Highlands Region. The total acreage of Moderate Resource Value Watersheds and Low Resource Value Watersheds are each roughly 15 percent of the Highlands Region.



*Dwight Hiscano*

**FIGURE 3.6: Watershed Values by HUC14**



## 2. EVALUATION OF RIPARIAN AREA INTEGRITY

The integrity of Riparian Areas may be defined by that area's ability to provide water protection and ecological function, including nutrient and sediment filtration, stream bank stabilization, wildlife migration corridors and habitat, stormwater and flood water storage, and stream water quality protection (NJWSA 2000). Characterizing Riparian Area integrity entailed the examination of existing land use conditions within Riparian Areas, or those lands that are proximate to a surface water feature. The evaluation of Riparian Area integrity was expressed at the HUC14 subwatershed level.

The Highlands Council utilized peer-reviewed scientific literature to identify indicators of Riparian Area integrity (Castelle et.al., 1994; NRCS 2006; Phillips 1989; and Wegner 1999) and selected the following integrity indicators to evaluate each of the 183 subwatersheds:

- ▶ **Impervious Coverage** – The percentage of the Riparian Area that includes impervious surfaces;
- ▶ **Agriculture Land Use** – The percentage of the Riparian Area that is in agricultural use;
- ▶ **Number of Road Crossings per Linear Stream Mile** – The number of road crossings per linear stream mile;
- ▶ **Vegetation Condition** – The percentage of the Riparian Area that features urban and agricultural lands (as a means to determine the percent of natural vegetation); and
- ▶ **Water/Wetland Dependent Species Habitat** – The amount of habitat suitable for one or more water/wetland dependent wildlife species of concern including rare, threatened, or endangered species.

Thereafter, the Council assigned a Riparian Area integrity value class to each subwatershed (see Figure 3.7 *Riparian Integrity by HUC14*) based on a cumulative assessment of all the indicators as follows:

- ▶ **High Integrity Riparian Area** – These areas include subwatersheds with Riparian Areas that exhibit predominantly natural vegetation, including high quality habitat for water/wetland dependent species, and a generally low incidence of impervious area, agricultural uses, and/or road crossings;

- ▶ **Moderate Integrity Riparian Area** – These areas include subwatersheds with Riparian Areas that contain a higher incidence of impervious area, agricultural uses, and road crossings, and a reduced proportion of natural vegetation, including high quality habitat for water/wetland dependent species; and

- ▶ **Low Integrity Riparian Area** – These areas include subwatersheds with Riparian Areas that contain a high proportion of impervious area, agricultural uses, and road crossings, and minimal natural vegetation, including high quality habitat for water/wetland dependent species.

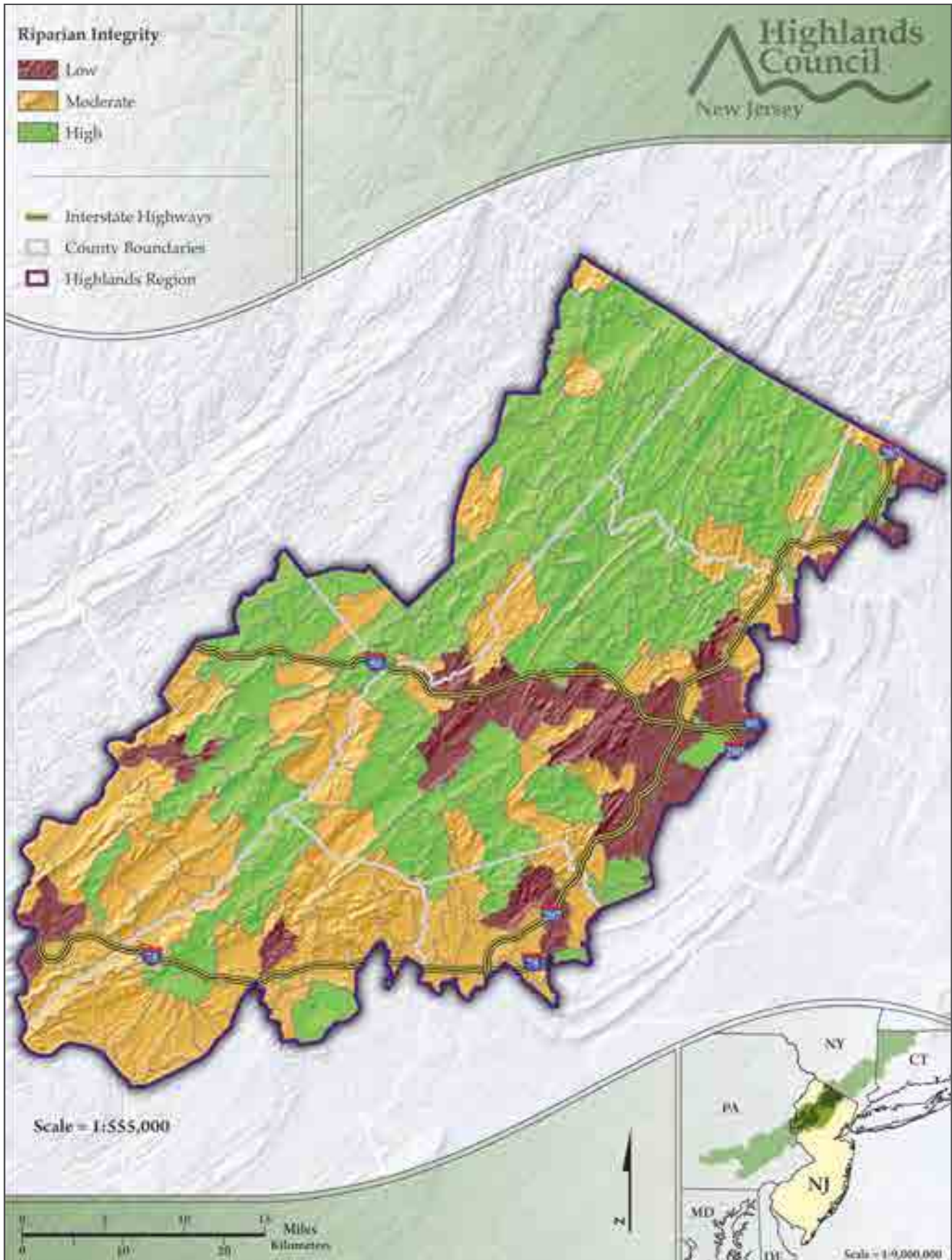
The Highlands Council determined that the total acreage of subwatersheds in High Resource Value Riparian Areas includes half of the Highlands Region. The total acreage of subwatersheds in Moderate Resource Value Riparian Areas includes nearly two-fifths of the Region and in Low Resource Value Riparian Areas include slightly more than 10 percent of the Highlands Region.



Nathan McLean

The classification of subwatersheds with respect to Riparian Area integrity has been utilized by the Highlands Council to determine the zones of the Land Use Capability Zone Map and will also be used to evaluate site specific project review at the site plan level. A detailed description of Highlands Open Waters and Riparian Area integrity and analysis is included in the Highlands Council's *Ecosystem Management Technical Report*.

**FIGURE 3.7: Riparian Integrity by HUC14**



## SUBPART C STEEP SLOPES

Slope is a measurement of the steepness of terrain and is defined as the vertical change in elevation over a given horizontal distance. Disturbance of areas containing steep slopes can trigger erosion and sedimentation, resulting in the loss of topsoil. It can also result in the disturbance of habitats, degradation of surface water quality, silting of wetlands, and alteration of drainage patterns. These processes, when severe, can also result in land slumping and landslides that can damage both developed property and ecosystems. The identification and classification of steep slopes is important in order to effectively manage critical natural resources in the Highlands Region.



Nathan McLean

In order to address the requirements and goals of the Highlands Act, the Highlands Council conducted an analysis by classifying and mapping steep slopes within the Highlands Region to identify areas that are significantly constrained by steep slopes and to ensure that the level of protection for these areas is appropriate. The establishment of steep slope protection requirements is intended not to simply protect steep slope resources, but to ensure the protection of the natural, scenic, and other resources of the Highlands Region.

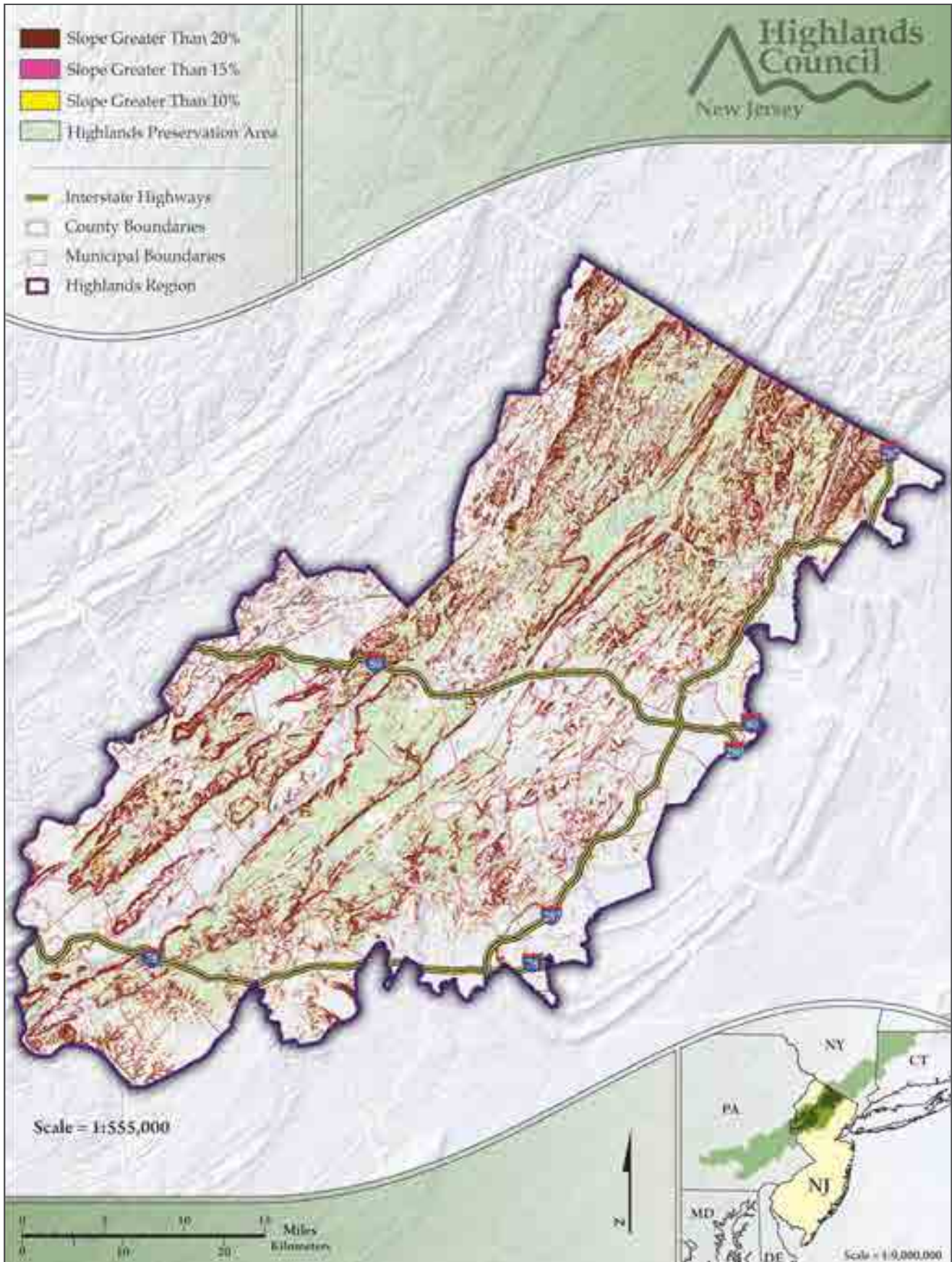
The Highlands Council spatially examined slopes in the Highlands Region using the 10-meter Digital Elevation Grids generated from the United States Geological Survey's (USGS) Digital Elevation Model. The Digital Elevation Model includes digital records of terrain elevations for ground positions at regularly spaced horizontal intervals, which are derived from USGS quadrangle maps. The Council examined areas of slope in the Highlands Region that encompassed a minimum of 5,000 square feet and that exhibited one of the following grade classifications and these grades were established as steep slope protection areas:

- ▶ Grades of slopes of 20 percent or greater;
- ▶ Grades of slope between 15 percent and 20 percent; and
- ▶ Grades of slope between 10 percent and 15 percent that occur within the Riparian Area.

For slopes that exhibited grades between 10 percent and 15 percent, the Highlands Council differentiated between those within and outside Riparian Areas. Alteration of slopes of 10 percent or greater within a Riparian Area have a greater potential of impacting adjacent water bodies through soil erosion (thereby causing degradation of surface water quality, silting of wetlands, and alteration of drainage patterns). Thus, in order to meet the protection needs of Highlands Open Waters, slopes with a grade of 10 percent or greater in the Riparian Area were identified and mapped as steep slope protection areas. Each of the steep slope protection classifications are shown on Figure 3.8 *Steep Slope Protection Area*.

The Highlands Council recognized the need for more refined information on steep slopes in the Highlands Region and is in the process of developing accurate slope data using laser technology. Aerial flyovers of the entire Highlands Region, using Light Detection and Ranging (LiDAR) technology, occurred in late 2006 to prepare an updated and accurate digital model of the Region. The result will be a highly accurate Digital Elevation Model that will provide two-foot contour interval mapping of the entire Highlands Region. This model will be a valuable tool to assist municipalities and counties during site plan review and will provide important information for further development of the Regional Master Plan.

**FIGURE 3.8: Steep Slope Protection Area**



The technical basis and additional background information on steep slope protection can be found in the Highlands Council's *Ecosystem Management Technical Report*.

### SUBPART D CRITICAL HABITAT

Biodiversity is the variety of plant species, animal species, and all other organisms found in a particular environment and is a critical indicator of ecological integrity. The protection of habitats that are critical to maintaining biodiversity contributes to the protection of rare, threatened, and endangered plant and animal species of the Highlands Region. There are three categories of Critical Habitat in the Highlands Region:

- ▶ Critical Wildlife Habitat (habitat for rare, threatened or endangered species);
- ▶ Significant Natural Areas (regionally significant ecological communities, including habitat for documented threatened and endangered plant species); and
- ▶ Vernal Pools (confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels).



Mick Valent

Critical Wildlife Habitat and Significant Natural Areas are designated based on the presence of, and associated habitat required for the survival and propagation of, the species of concern. Vernal pools are certified by the New Jersey Department of Environmental Protection

(NJDEP), and to protect and promote the biodiversity of vernal pools the Highlands Council has determined that a terrestrial habitat protection buffer of 1,000 feet around vernal pools will generally address the habitat requirements of vernal pool-breeding wildlife.

In furtherance of the requirements and goals of the Highlands Act, the Regional Master Plan seeks to protect the natural resources of the Highlands Region, including the protection needs of the Region's Critical Habitat. The Highlands Regional Master Plan focuses on three areas of action to address the need to protect Critical Habitat areas:

- ▶ Identify Critical Habitat areas;
- ▶ Develop resource protection measures; and
- ▶ Establish guidance for municipal officials and landowners pertaining to Critical Habitat conservation and management.

Critical Habitat was utilized to determine the zones of the Land Use Capability Map and will also be used to evaluate site specific project review at the site plan level. The technical basis and additional background information on Critical Habitat protection requirements can be found in the Highlands Council's *Ecosystem Management Technical Report*.

#### 1. CRITICAL WILDLIFE HABITAT

The Highlands Council utilized the NJDEP's Endangered and Nongame Species Program Landscape Project data to identify potential habitats for rare, threatened, and endangered species wildlife within the Highlands Region. An updated Landscape Project (Version 3) was developed for the Highlands Region to identify habitat ranked by documented occurrences of rare, threatened, or endangered species as follows:

- ▶ **Landscape Rank 5** – Habitat supporting a federally listed threatened or endangered species;
- ▶ **Landscape Rank 4** – Habitat supporting a species designated as State Endangered;
- ▶ **Landscape Rank 3** – Habitat supporting a species designated as State Threatened;
- ▶ **Landscape Rank 2** – Habitat supporting a species designated as Special Concern; and

- ▶ **Landscape Rank 1** – Habitat that meets minimum species habitat suitability needs but does not support a documented occurrence of a special concern, threatened, or endangered species.

A Highlands Conservation Rank index was also assigned to each species occurrence based upon how critical the Highlands Region is to the continued existence of the species within the state. Following are the Highlands Conservation Ranks that were used:

- ▶ **Critically Significant (Rank 3)** – If habitats in the Highlands Region were lost, that species would not exist in the State;
- ▶ **Significant (Rank 2)** – Highlands Region habitats play a significant role for that species' existence in the State; and
- ▶ **Low Significance (Rank 1)** – Highlands Region habitats do not play an important role for that species' existence in the State.

The Highlands Council delineated Critical Wildlife Habitat by utilizing Landscape Project Version 3 to identify areas of habitat for rare, threatened, and endangered species habitat (Landscape Rank 2 through 5 in the Preservation Area; Landscape Rank 2 through 5 and Highlands Rank of Critically Significant or Significant in the Planning Area). The Highlands Council identified approximately 522,000 acres or 61 percent of the Region as potential habitat for rare, threatened, or endangered species.



Mick Valent

The habitat for rare, threatened, or endangered species in the Highlands Region are shown in Figure 3.9 *Critical Wildlife Habitat*.

## 2. SIGNIFICANT NATURAL AREAS

Significant Natural Areas represent the presence of rare or endangered plant species or exemplary ecological communities. These sites include some of the best remaining habitat for rare plant species and regionally-significant ecological communities within the Highlands Region. The destruction or degradation of these sites could result in the loss of unique components of our natural heritage. The Highlands Council worked in cooperation with the NJDEP Natural Heritage Program to identify Natural Heritage Priority Sites that are appropriate for inclusion as Significant Natural Areas within the Highlands Region.

The Natural Heritage Program's Natural Heritage Priority Sites identify critically important areas for conservation of New Jersey's biological diversity, with particular emphasis on rare plant species and ecological communities. The Highlands Council used 95 Natural Heritage Priority Sites to serve as the basis for the Region's Significant Natural Areas. Significant Natural Areas will also include unique or regionally significant ecological communities and other significant natural sites or features. The locations of Significant Natural Areas in the Highlands Region are shown in Figure 3.10 *Significant Natural Areas*.

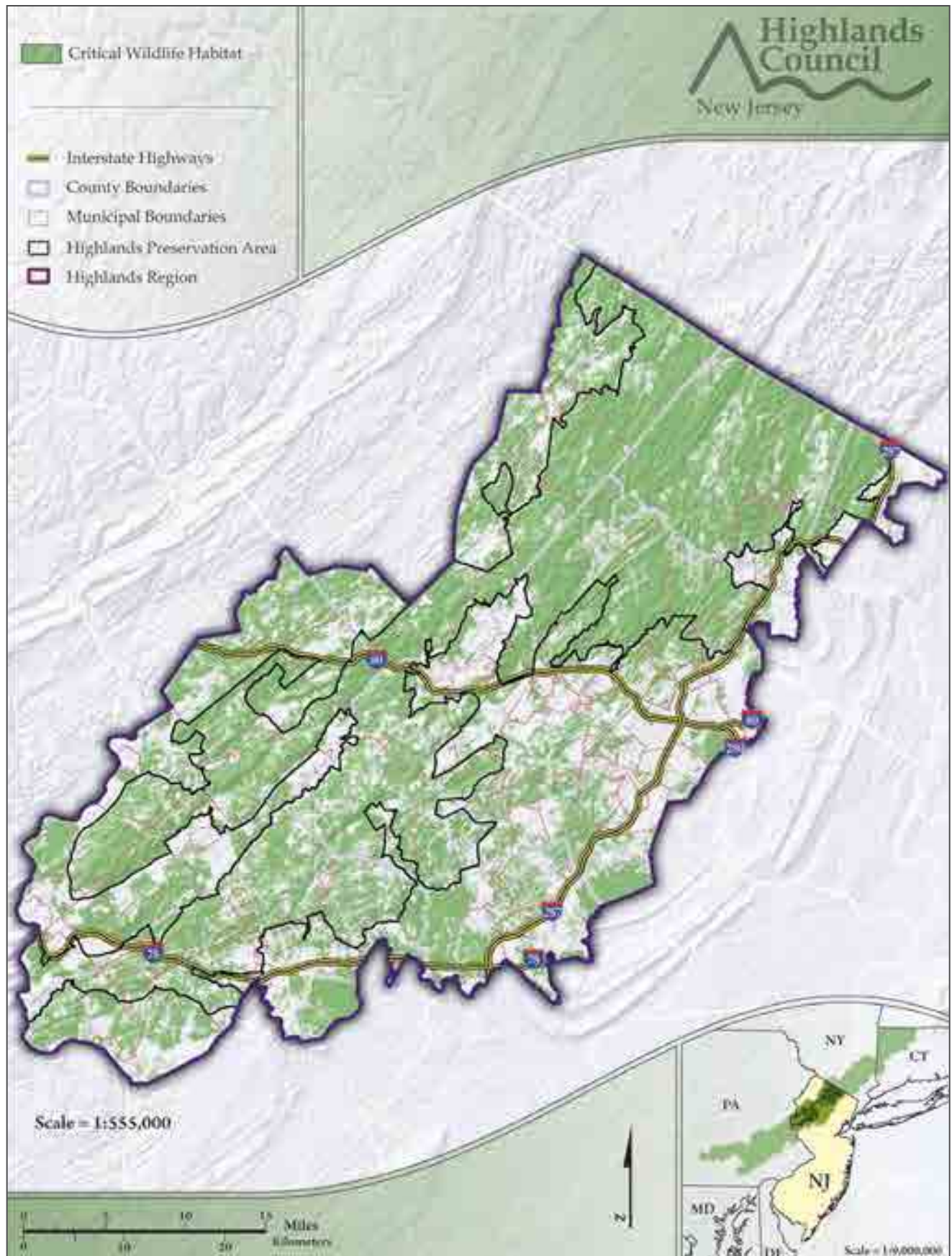
## 3. VERNAL POOLS

Vernal pools are unique ecosystems that

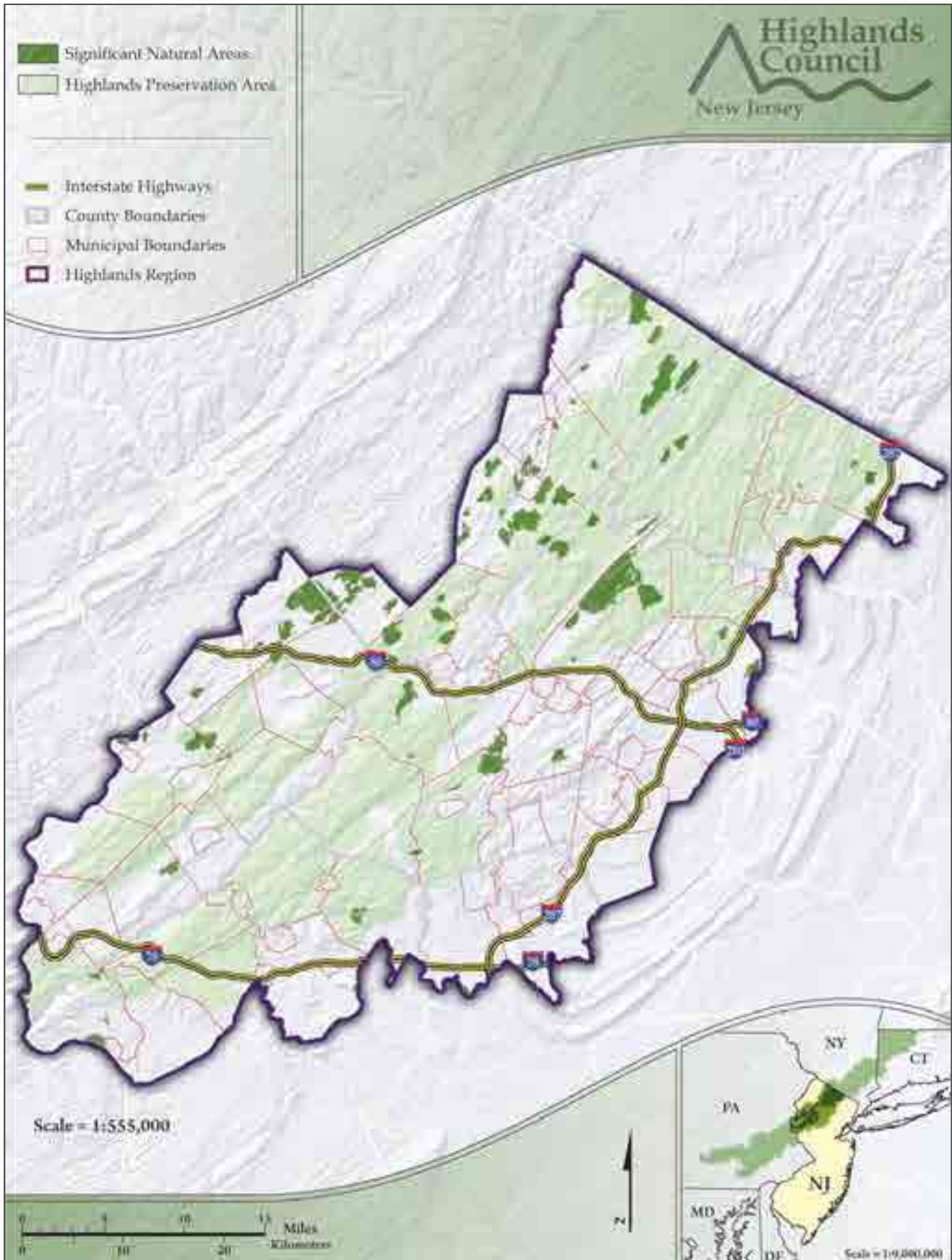
- ▶ Provide critical breeding habitat for a variety of amphibian and invertebrate species;
- ▶ Contribute significantly to local biodiversity by supporting plants, animals and invertebrates that would otherwise not occur in the landscape; and
- ▶ Contribute significant amounts of food to adjacent habitats.

Vernal pools periodically either dry out completely or draw down to very shallow levels unsuitable for sustaining fish. Fish are highly predatory on amphibian and invertebrate eggs and larvae, and several species of salamanders and frogs depend upon fish-free vernal habitats for their survival. The protection of vernal pools and adjacent habitat is important for maintaining ecological integrity and providing amphibian and

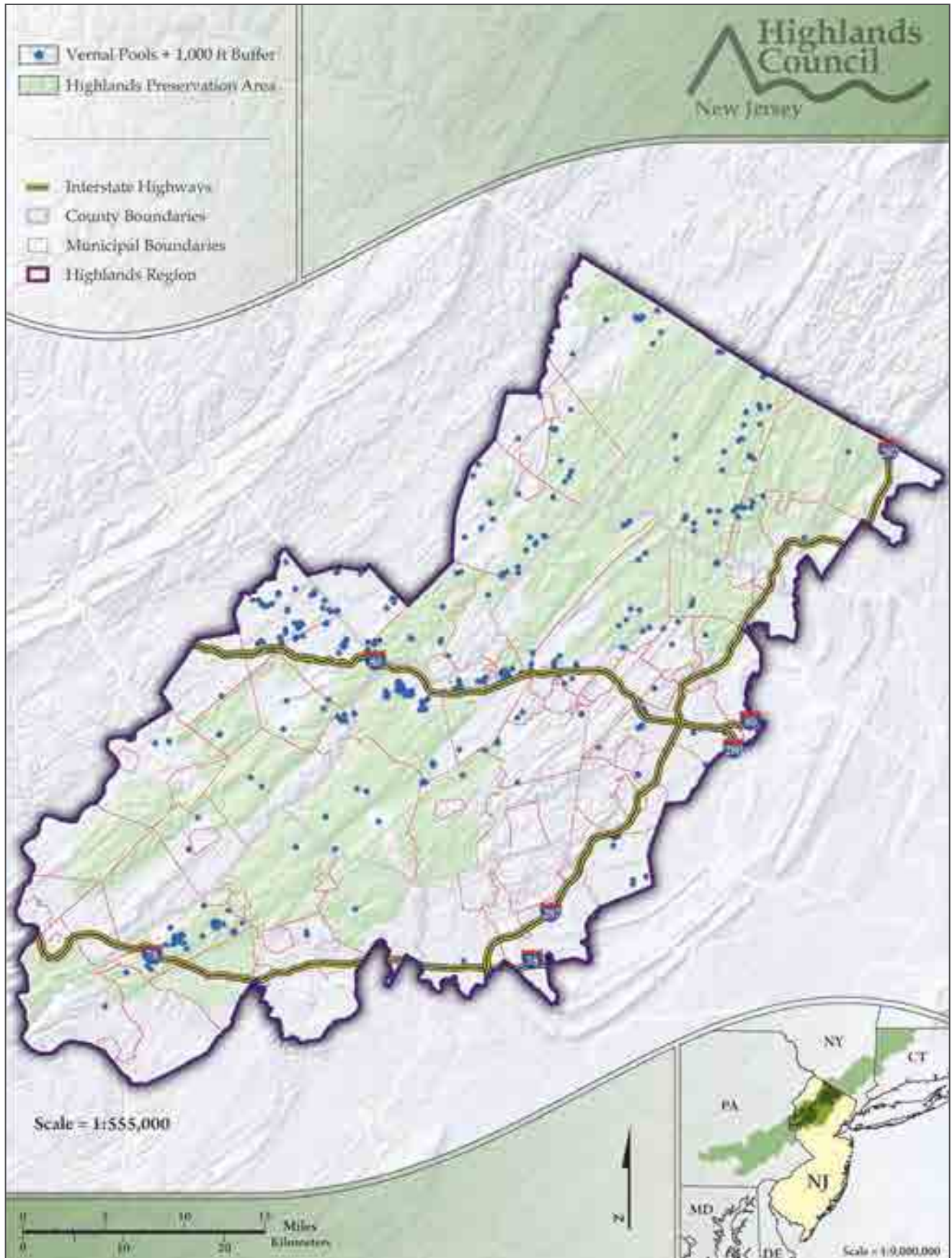
**FIGURE 3.9: Critical Wildlife Habitat**



**FIGURE 3.10: Significant Natural Areas**



**FIGURE 3.11: Certified Vernal Pools**



invertebrate breeding habitat. Because of their ephemeral nature and small size, vernal pools are not comprehensively mapped and as a result, are often overlooked from a planning and protection standpoint. The Highlands Council mapped the list of those vernal pools that have been certified by the NJDEP and their locations are shown in Figure 3.11 *Certified Vernal Pools*.

### SUBPART E LAND PRESERVATION AND STEWARDSHIP

The history of public and private investment in land preservation has secured nearly a third of the Highlands Region, 273,457 acres, as open space and agriculture. Maintaining the land in a natural state is necessary where those lands provide important public benefits, most notably the protection of drinking water supplies (see Figure 3.12 *Highlands Preserved Lands*).

In recent years, the Garden State Preservation Trust Fund (Trust Fund) has served as the main source of funding for land preservation in New Jersey. The Trust Fund is funded from a quarter of a cent of the New Jersey sales tax, providing historic funding levels of approximately \$150 million per year. The longevity of the Trust Fund is in jeopardy since the majority of the funds have been drawn down and the Trust Fund is projected to be depleted in the near future. This would significantly halt open space and farmland preservation activity in the State, unless the State reauthorizes the Trust Fund. In November of 2007, New Jersey residents voted to approve Public Question #3, approving the Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007, which provides a one-year \$200 million measure to fund statewide preservation efforts. As originally signed into law, the Garden State Preservation Trust Act included partnering agencies with specific targets for preservation stipulated in the Trust Act – the NJDEP Green Acres Program secures lands for recreation and conservation purposes, the NJDA State Agriculture Development Committee’s (SADC) Farmland Preservation Program acquires the development rights on privately owned farmland, and the New Jersey Historic Trust provides matching Garden State Historic Preservation Trust Fund grants for historic preservation projects.

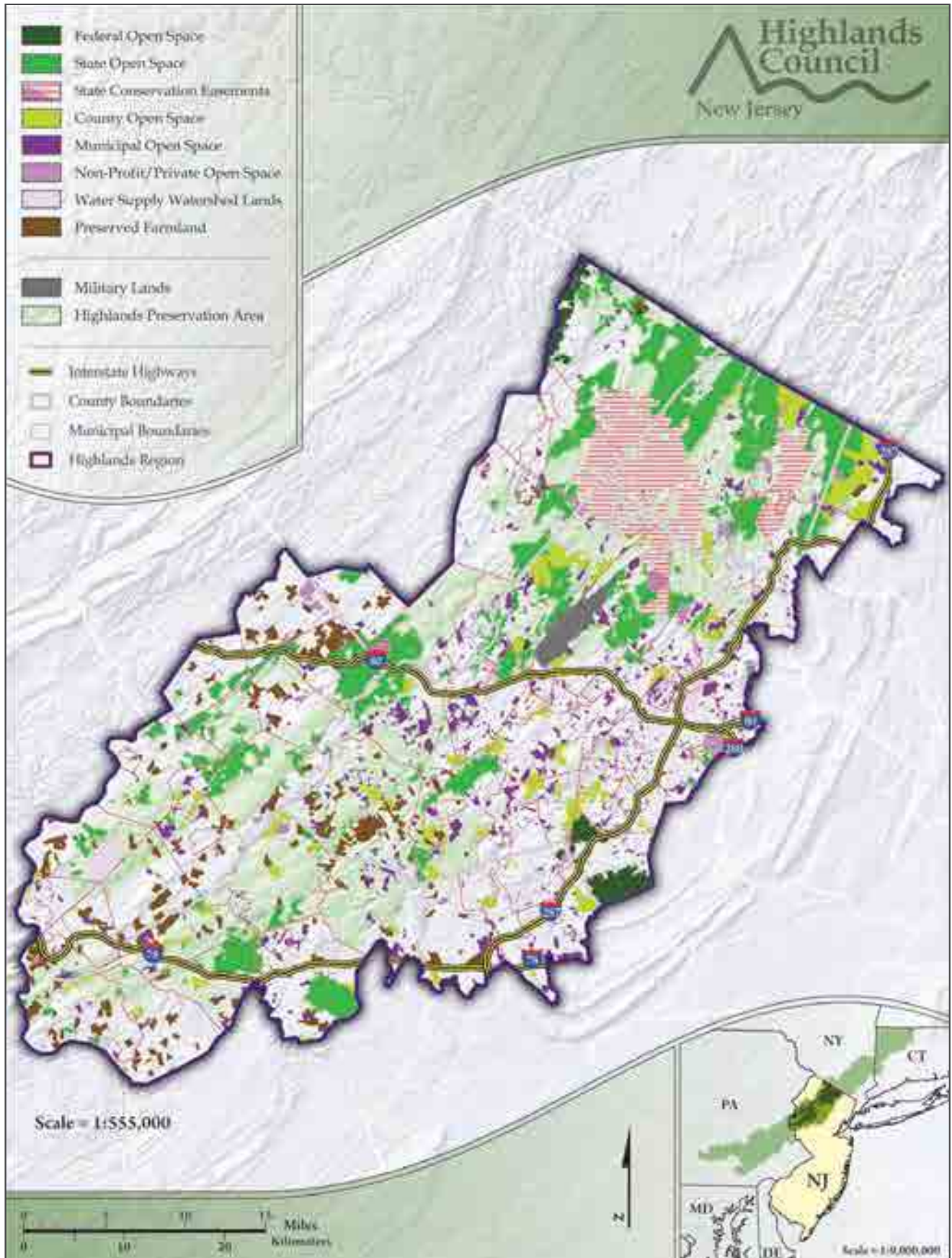
The Highlands Act’s mandate for a “strong and significant commitment by the State” must be a central issue in the recapitalization of the Trust Fund. As a source of drinking water for over half of the State of New Jersey, securing funds for the protection and conservation of the Highlands Region must be a priority for future preservation efforts. Additionally, the existing programs funded under the Garden State Preservation Trust do not fully capture all of the important resources in the Highlands Region. In order to fill the gaps, the Highlands Council needs to be an active partnering agency and assist in the development of specific programs and funding targets.



Nathan McLean

Additionally, other stable sources of funding must be explored such as the imposition of a water consumption fee. The relationship between preserved land in the Highlands Region and clean drinking water has been well documented. Source water protection should be an overarching goal of water purveyors in the Highlands Region and water rate schedules should be modified to foster a purveyor’s ability to acquire critical watershed properties. This has been done previously in the Highlands Region by the New Jersey Water Supply Authority and by the North Jersey District Water Supply Commission.

**FIGURE 3.12: Highlands Preserved Lands**



The Federal government has historically funded open space acquisition in the Highlands Region. Most notably is the Forest Legacy Program, administered through the United States Forest Service, that has invested \$19,723,000 for lands totaling over 14,000 acres in the Highlands Region since 1995. The National Park Service Land, Water and Conservation Fund (LWCF) Program also provides matching grants to states and local governments for the acquisition and development of public outdoor recreation areas and facilities. The Highlands Conservation Act (HCA), enacted in 2004, envisioned \$100,000,000 for land preservation in the four state Mid-Atlantic Highlands region of which only \$1,000,000 has been authorized to date.



Nathan McLean

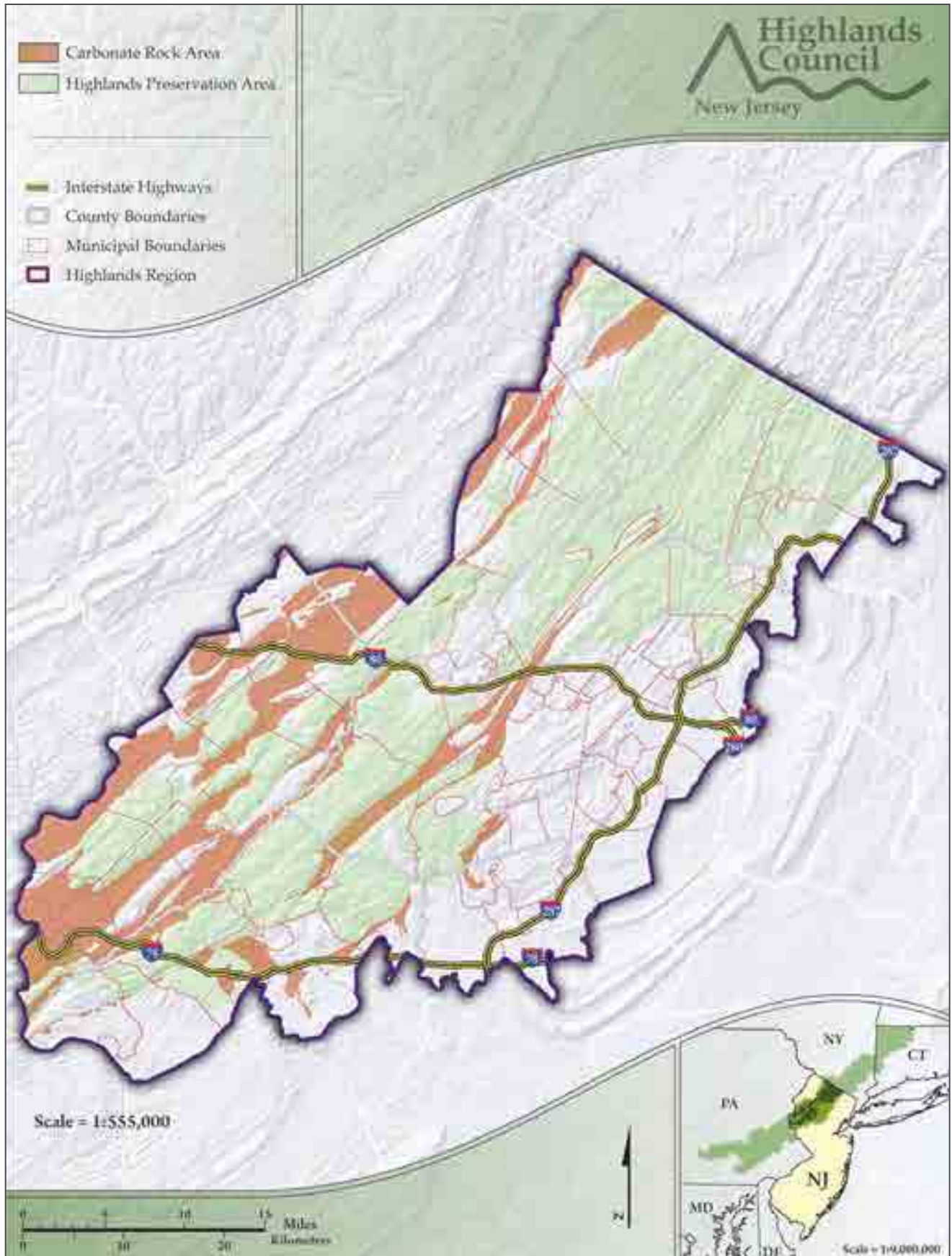
Two-thirds of the municipalities, 59 out of 88, and all seven counties in the Highlands Region have created dedicated sources of funds or trusts to purchase open space for natural and cultural protection, agricultural easements to preserve farmland, to preserve historic resources, and to develop recreation facilities. Total funds collected by Highlands Region municipalities in 2007 were \$20,679,104. The total funds collected by the Highlands Region county open space programs in 2007 were \$103,916,000, up from \$92,023,000 the year before. These monies are all based on dedicated trust funds from property taxes.

The Highlands Act establishes an equity standard to be applied when the State is purchasing a property in fee or acquiring a property's development potential, where those lands will be preserved for recreation or conservation purposes and either constitutionally dedicated monies or Green Acres bond act funds will be used (Sections 53 and 54). In such situations, the State is to appraise the land based upon the land use regulations and any State environmental laws or regulations in place as of January 1, 2004, and then to appraise the property based upon the land use regulations and any State environmental laws or regulations in effect at the time of the proposed acquisition. The higher of these two property values is to be used as the basis for negotiation with the landowner with respect to the acquisition price of the property. This valuation method sunsets June 30, 2009 unless it is extended by the New Jersey Legislature. The technical basis and additional background information on land preservation and stewardship can be found in the Highlands Council's *Land Preservation and Stewardship Technical Report*.

#### SUBPART F CARBONATE ROCK (KARST) TOPOGRAPHY

The term karst describes a distinctive topography that indicates dissolution of underlying carbonate rocks (such as limestone and dolomite) by surface water or ground water over time. This dissolution process causes surface depressions and the development of such features as sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams. Sinking streams and sinkholes direct surface water runoff into karst aquifers with little or no attenuation of any transported contaminants. Stormwater basins, septic system leaching fields, sewers, agricultural runoff, lawn runoff, underground pipelines, and soil disturbance may also contribute contaminants directly to ground water through karst features. In addition to ground water concerns, communities in karst areas must contend with safety concerns as sinkholes can have damaging effects to large manmade objects. The Highlands Region has several large areas with carbonate rock formations, usually river valleys such as the Musconetcong, South Branch of the Raritan and Lamington, and karst features exist in some – but not all – of these areas.

**FIGURE 3.13: Carbonate Rock Area**





North Jersey Resource Conservation and Development Council

The Highlands Council relied upon existing New Jersey Geologic Survey and United States Geological Survey data to map areas of the Highlands Region that are underlain by carbonate rocks. These areas collectively are referred to as the Carbonate Rock Area (see Figure 3.13 *Carbonate Rock Area*). Since changes in the quantity, quality, and rate of discharge of surface water runoff from upslope lands can impair ground water resources in the Carbonate Rock Area, lands that drain surface water into the Area will be delineated by the Council using LiDAR topographic analyses or other topographic data where LiDAR data are not available.

Management of development activities in carbonate rock areas is necessary to address the potential problems that are common to karst areas. The site assessment and design process can be modified for karst areas to allow applicants, municipalities and the Council to identify any karst concerns at a site and to incorporate appropriate design features in order to minimize future sinkhole (or other karst feature) formation, damage to development, and the potential for ground water contamination.

The technical basis and additional background information on carbonate rock can be found in the Highlands Council's *Water Resource Assessment Technical Report*.

## SUBPART G LAKES, PONDS, AND RESERVOIRS

Highlands Lakes and their environs, including Highlands lake communities, are an integral part of the character of the Highlands landscape. Overbuilt, damaged and poorly managed shoreland areas can result in the degradation of water quality, harm to the lake ecosystem, the decrease of natural aesthetic values, and the overall loss of property values for lake communities. Lakes can be harmed by pollutant sources in the watershed area draining to them. Most existing lake communities were built out prior to modern environmental requirements. Some have sewer systems, but many rely on septic systems (or even cesspools) on inadequately sized lots. Studies indicate that nearly every public lake (privately-owned lakes were not evaluated) in the Highlands is experiencing contamination, often including excessive bacteria and nutrients. Many lake communities have been experiencing intensifying land uses as the original buildings are torn down and replaced by larger structures.

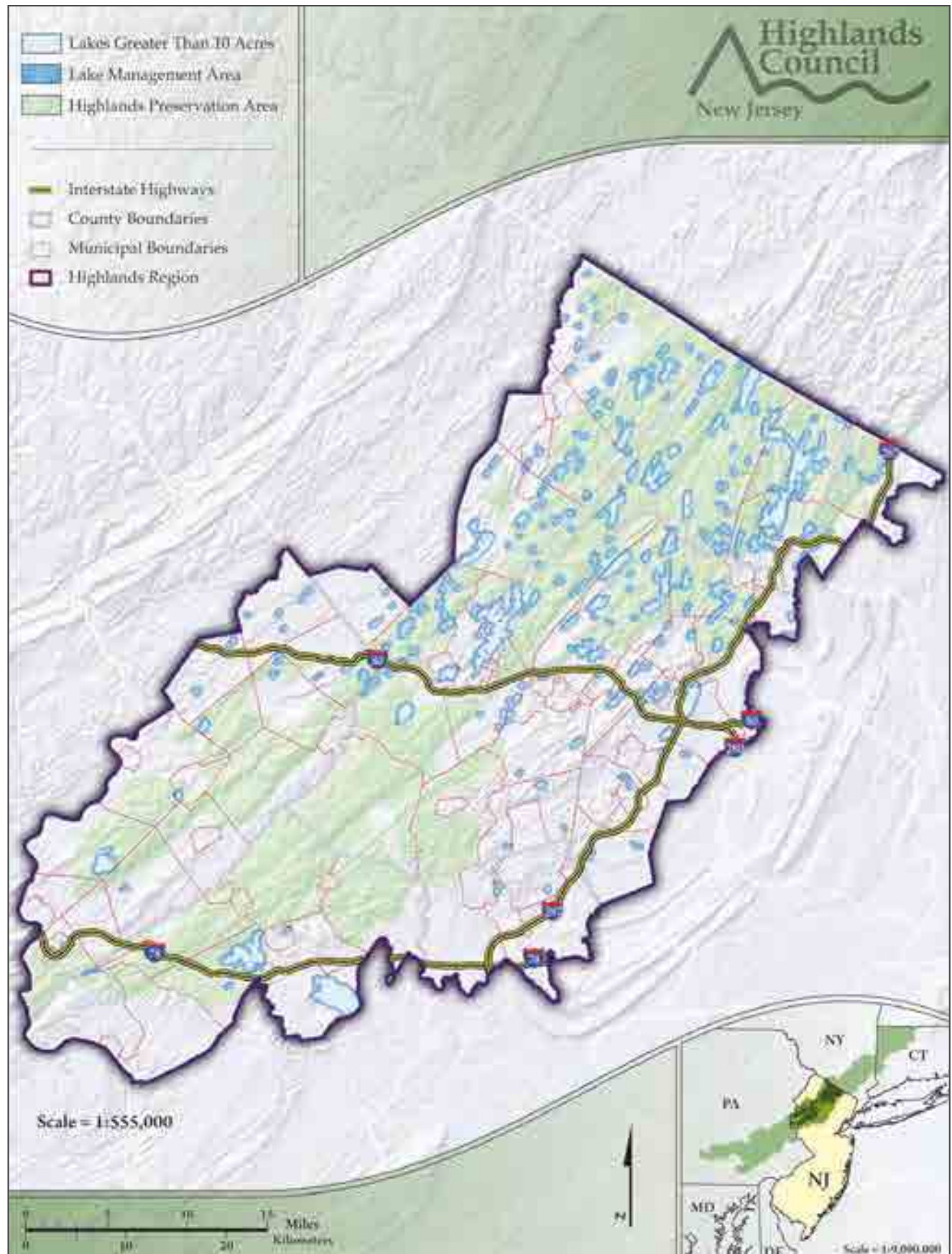


Nathan McLean

Efforts to protect, restore and enhance the water quality of Highlands lakes and to protect the unique character of Highlands lake communities require a mapping of lake resources to facilitate land use and water resource planning (see Figure 3.14 *Lake Management Area*). Lake management areas have been defined that include four tiers:

- ▶ A Shoreland Protection Tier consisting of an area measured 300 feet or the first public road perpendicular to the shoreline of the lake;

**FIGURE 3.14:** Lake Management Area



- ▶ A Water Quality Management Tier consisting of an area measured 1,000 feet perpendicular from the shoreline of the lake, including the Shoreland Protection Tier;
- ▶ A Scenic Resources Tier consisting of an area measured 300 to 1,000 feet perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake, and topography of the land area, with wider portions of lakes and greater topographic relief having longer view distances; and
- ▶ A Lake Watershed Tier consisting of the entire land area draining to the lake.

The technical basis and additional background information on lakes, ponds and reservoirs can be found in the Highlands Council's *Water Resource Assessment Technical Report*.



*Dwight Hiscano*

## PART 2 Water Resources

### SUBPART A WATER QUANTITY, AVAILABILITY, AND USE

In order to address the requirements and goals of the Highlands Act, the Highlands Council analyzed the natural water sustainability of the Highlands Region to determine the amount of water required to protect aquatic ecological integrity and the amount “available” for water supply, and commercial, industrial, or agricultural uses.

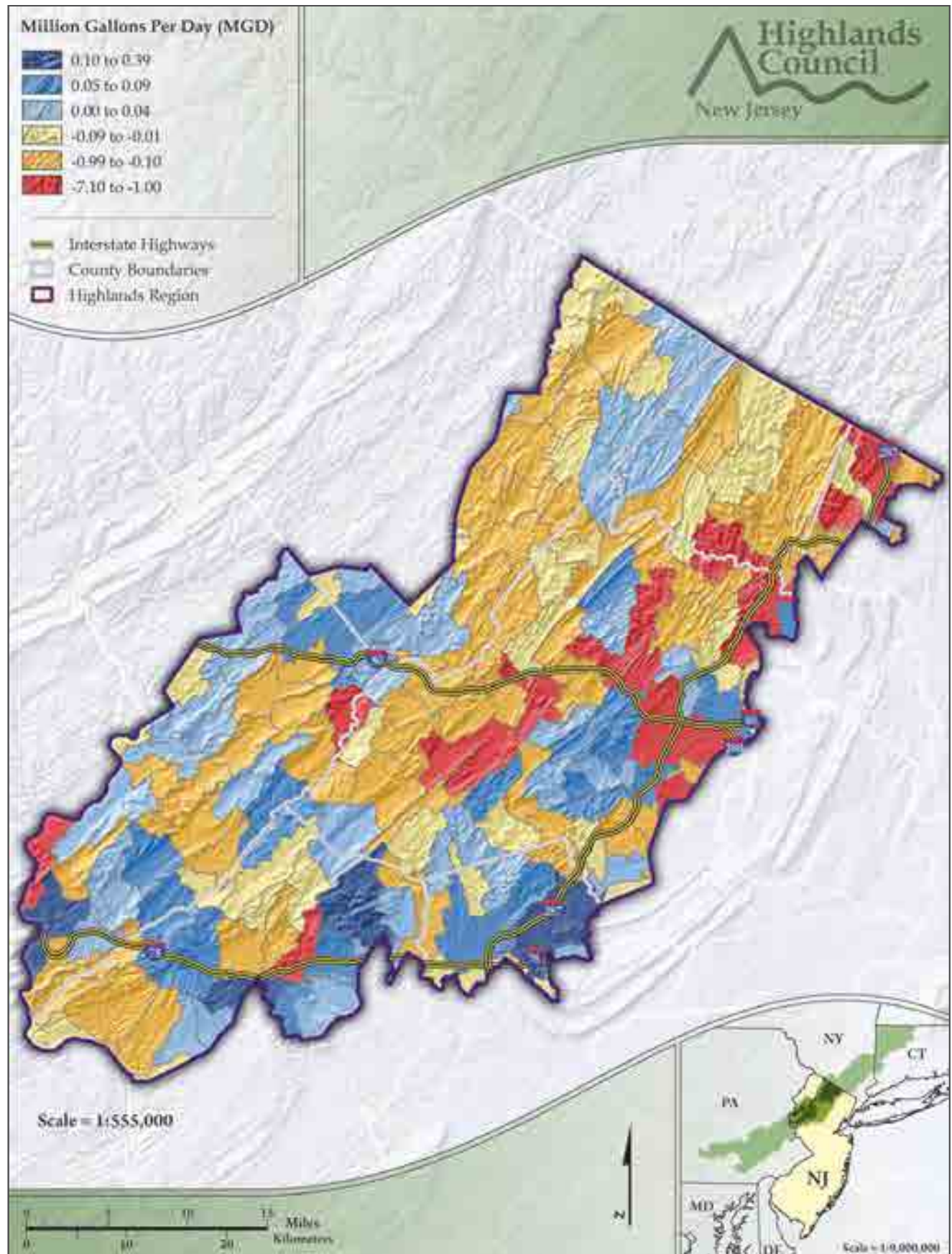
The analysis entailed using stream base flows as a surrogate for water sustainability because the protection of base flow is critical to maintaining healthy aquatic ecosystems and protecting potable surface water supplies, particularly during periods of drought. Base flow is the amount of ground water seepage into a stream, providing most of the natural stream flow during dry periods. Overuse of ground water and surface water can reduce base flows, impair the ecological function and integrity of Highlands waters, and reduce the reliability of potable water supplies.

For the surface waters supplying reservoirs that serve areas outside the Highlands Region, the Regional Master Plan focuses on protecting existing safe yields through maintenance of base flows, the protection of water quality and agency coordination with the NJDEP’s water allocation permit process. Many Highlands subwatersheds are source waters for these reservoirs, which underscores the importance of the Highlands Region as a water supply resource for areas of the State both within and outside the Region. (See Figure 1.3 *Source Water Protection Areas and Reservoirs*).

For ground water withdrawals and surface water uses other than protection of reservoir safe yields, methods that provide a direct relationship between aquatic ecosystem integrity and stream flows are not currently available. Therefore, the Highlands Council focused on the severity and duration of low flows as a reasonable surrogate for ecosystem and water supply impacts. The Highlands Council selected the Low Flow Margin method to estimate water capacity. This method is also being used by the NJDEP in its recent Statewide Water Supply Plan update. This method is an important tool to provide estimates of water availability that can be used to determine sustainable land use capacity thresholds protective of water and ecological resources and water supplies. This approach is intended to meet the dual goals of protecting the ecological integrity of Highlands waters and assessing the sustainability of water supplies.

The Low Flow Margin analysis determines Ground Water Capacity for each HUC14 subwatershed, expressed as million gallons per day. However, only a portion of this volume is actually available for human use, with the majority being reserved for ecosystem

**FIGURE 3.15:** Net Water Availability by HUC14



health and maintenance of safe yields of potable water systems. To account for this, the Net Water Availability for a subwatershed is determined by deducting consumptive and depletive water uses from Ground Water Availability. The Regional Master Plan incorporates Net Water Availability as a capacity threshold on water uses resulting from future development. Where Net Water Availability is positive, it is assumed there is water available beyond the existing demand. Where net water availability is negative, the subwatershed is deemed a Current Deficit Area, meaning existing uses are exceeding sustainable supplies. In addition, maintenance of stream flows within any HUC14 subwatersheds upstream of a Current Deficit Area is necessary without further impairing the ecological health of the stream or reducing the safe yields of water supplies. These areas are classified as Existing Constrained Areas and will be managed to ensure that the downstream deficit is not exacerbated. Figure 3.15 *Net Water Availability by HUC14* shows a summary of these calculations for each of the 183 subwatersheds in the Highlands Region.

Figure 3.28 *Land Use Capability Water Availability Map* displays net water available for each subwatershed if conditional availability was granted in deficit areas. The figure represents an upper capacity thresholds based on current demands of water resources of the Highlands Region. The Highlands Council will refine municipal water availability estimates, and ensure that no subwatershed is used for water supply purposes beyond its capacity. Where deficits currently exist, restoration of water resources will occur through mitigation and management opportunities identified during the conformance process and local planning initiatives. The Regional Master Plan emphasizes the critical role of conservation, recycling and reuse to minimize the impacts of existing or future uses. Finally, the Regional Master Plan recommends the development of continuing improvements in calculating water availability, including methods of addressing all hydrologic flow regimes needed to support aquatic ecosystems.

The technical basis and additional background information on water use and availability requirements can be found in the Highlands Council's *Water Resource Assessment Technical Report*.

## SUBPART B GROUND WATER RECHARGE AREAS

Ground water recharge does not occur uniformly in all areas of the Highlands Region. Recharge varies by soil, precipitation, land cover, and other factors. Some land areas will provide more recharge than others, and the best of these have been mapped by the Highlands Council as Prime Ground Water Recharge Areas. Prime Ground Water Recharge Areas are defined as the areas in each subwatershed that have the highest recharge rates and, in total, provide 40 percent of total recharge for that subwatershed (see Figure 3.16 *Prime Ground Water Recharge Areas*). Protection of these lands and the quality and quantity of recharge from them has a high priority in the Regional Master Plan. The technical basis and additional background information on Prime Ground Water Recharge Areas can be found in the Highlands Council's *Water Resource Assessment Technical Report*.

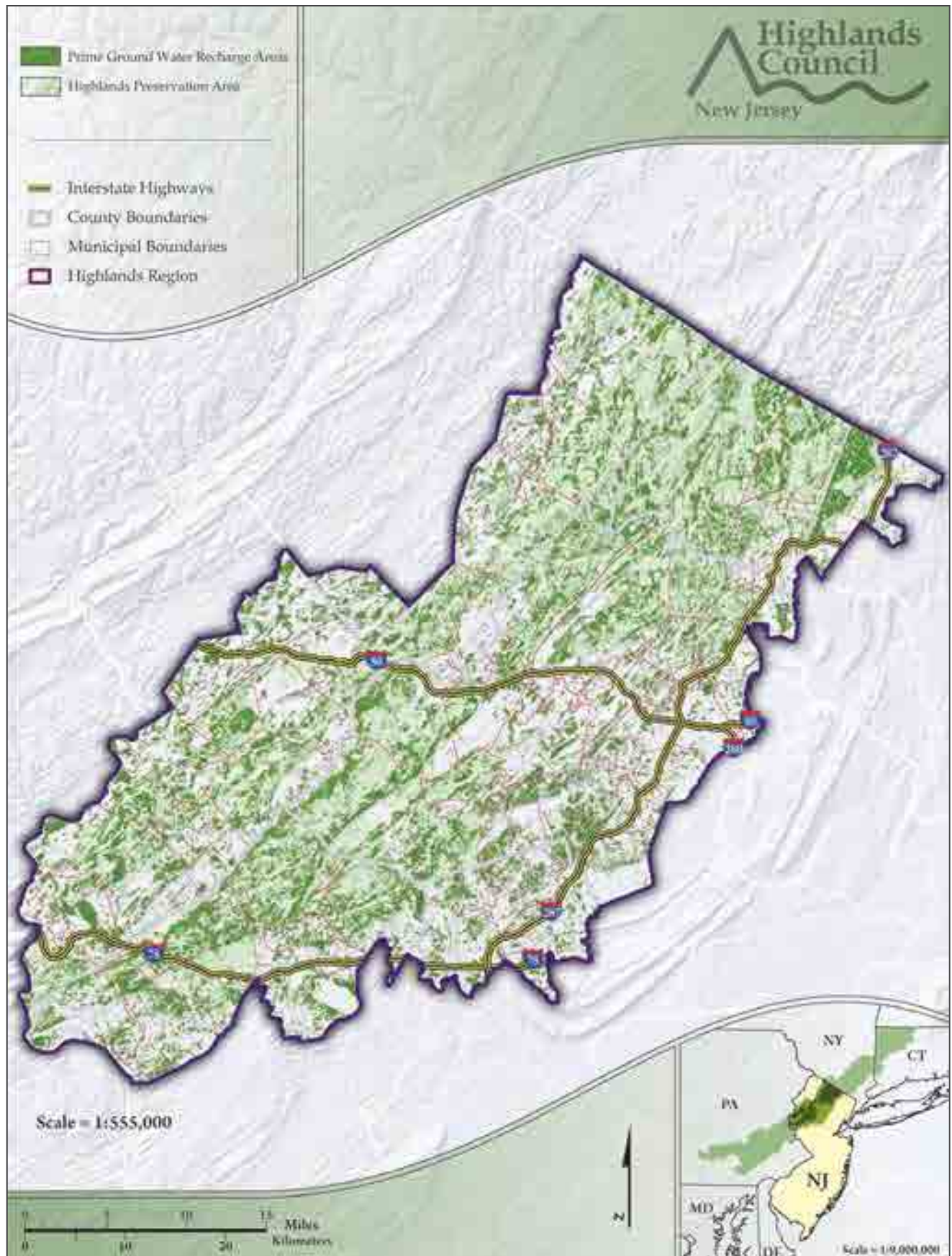
## SUBPART C WATER QUALITY

The Highlands Act emphasizes the protection, enhancement, and restoration of water resources throughout the Highlands Region, including the ground and surface waters that support aquatic ecosystem sustainability and provide necessary water supplies for the State.



Nathan McLean

**FIGURE 3.16: Prime Ground Water Recharge Areas**



## 1. SURFACE WATER QUALITY

The NJDEP's Surface Water Quality Standards (SWQSs) establish the designated uses and specify the water quality criteria necessary to achieve these uses and protect the State's waters. The two common designated uses for impaired surface waters in the Highlands Region are primary contact recreation due to unacceptable sanitary quality (91 percent of assessed water body units do not support primary contact use), and aquatic life support (65 percent of assessed water bodies do not support the use). The most common water quality parameters in violation of the State's SWQSs are bacteria, temperature, and phosphorus, in descending order.

From 1984 through 2004, the NJDEP conducted water quality sampling in waterbodies throughout the Highlands Region. Assessed parameters included dissolved oxygen (DO), DO saturation, nitrate (NO<sub>3</sub>), total dissolved solids (TDS), ammonia (NH<sub>3</sub>), total phosphorous (TP), and specific conductivity (a measure of salt content). In general, the results showed stable or slightly improving trends in water quality with the exception of TDS and specific conductivity which increased, indicating decreasing water quality.



Nathan McLean

However, as a result of the water quality assessment, many streams and lakes within the Highlands Region are designated as being impaired for water quality, with most impairment related to fecal coliform bacteria, phosphorus, and temperature. Some stream segments were designated as impaired due to arsenic concentrations. The NJDEP, as required by the Federal Clean Water Act, has adopted regulatory, enforceable plans,

known as total maximum daily loads (TMDLs), for many of these water bodies to reduce pollutant levels and restore water quality that meets the Surface Water Quality Standards.

The NJDEP's 2006 Integrated Water Quality Monitoring and Assessment Methods report utilizes five categories of use attainment, referred to as sublists. The NJDEP used these sublist categories to characterize waterbodies in the Highlands Region. Sublist 1 indicates attainment of designated uses with no use threatened. Sublist 2 indicates that some uses are attained and no use is threatened. Sublist 3 indicates there is not enough or no data available to determine attainment status. Sublist 4 indicates impairments or threats, but no TMDL is required. There are subcategories within Sublist 4 as follows:

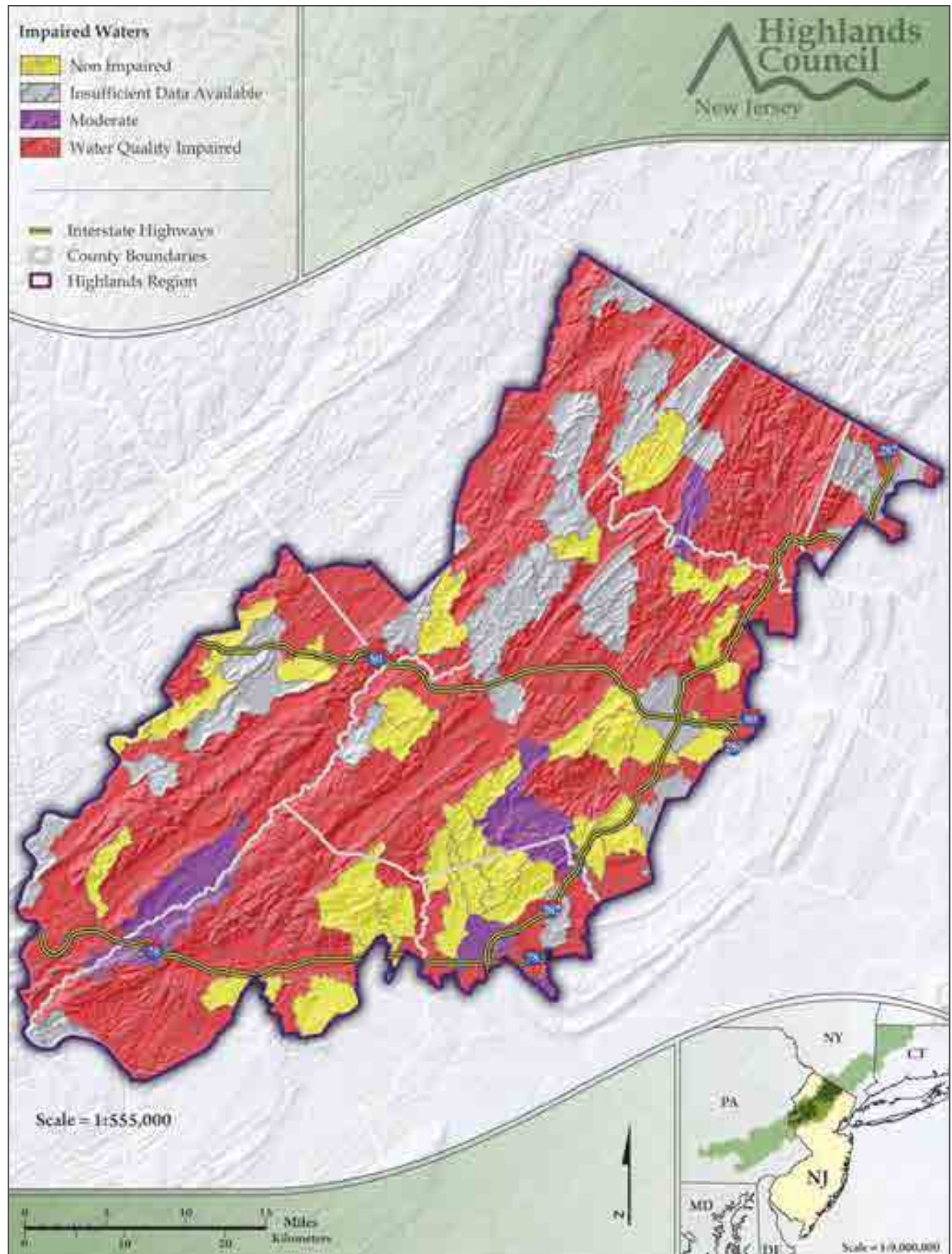
- ▶ A TMDL has been developed;
- ▶ Other pollution control measures are expected to result in attainment in the near future; or
- ▶ The impairment is caused by pollution (e.g., resulting from habitat degradation) but not by a pollutant.

Sublist 5 indicates that the waterbody is impaired or threatened for one or more designated uses by a pollutant and requires a TMDL. Figure 3.17 *Impaired Waters Overall Assessment by HUC14* displays the status of designated uses for waterbodies by the subwatersheds (HUC14) within the Highlands Region. The Highlands Council, working with the NJDEP, has determined that waterbodies in 119 of the 183 subwatersheds are impaired or threatened.

## 2. GROUND WATER QUALITY

There are five major aquifer types within the Highlands Region that can be broadly classified by the type of geologic formation in which they are located. Aquifers of the Highlands Region are generally located within crystalline, carbonate, and clastic rock formations and aquifers located within the Newark Basin are situated within sedimentary and igneous rock formations. Ground water quality of these aquifers are a function of their geochemical composition, hydrogeologic properties, proximity to land surface conditions, and exposure to pollution sources influence their water quality conditions.

**FIGURE 3.17:** Impaired Waters Overall Assessment by HUC14



Unconfined aquifers are located closest to the surface, with their upper boundary defined by the water table. Because unconfined aquifers are “open” to the atmosphere, they are recharged directly by precipitation, and are often in direct hydraulic connection with surface water bodies. Semi-confined or “leaky” aquifers are located beneath a lower permeability semi-confining unit, which is discontinuous in places and/or sufficiently “leaky” to permit water to move across it.

A thorough and complete assessment of ground water quality in all the Highlands Region bedrock aquifers is not possible at this time due to a lack of available data. While ample data exists from wells in the crystalline bedrock aquifers that comprise the upland areas, fewer sources of data are available from wells in the dolomites, slates, and other geologic units making up valley floors in the Region. Given those limitations, and based on the available data, ground water quality in the deeper portion of the bedrock aquifers is suitable for most purposes, however; the ground water may require treatment for pollutants or undesirable characteristics (such as low or high pH) and contaminants (such as manganese or radionuclides). Relatively low pH, alkalinity, and total dissolved solids (TDS) concentrations in water from the Precambrian metamorphic crystalline rock aquifers indicate that mineral water reactivity is minimal compared to the sedimentary rock aquifers in the valleys. Resistance to weathering results in those metamorphic rock types being predominant in upland areas, yielding a low buffering capacity. Water in and associated with these rock types is therefore particularly vulnerable to acid rain and other forms of contamination. This is particularly true of karstic aquifer regions, where dissolution of limestone or dolomite often produces large cavities or solution channels that can facilitate surface to subsurface contaminant migration.

Glacial aquifer water quality varies throughout in the Highlands Region. Because the depth to these aquifers tends to be shallow, they are more vulnerable to pollution from intentional, incidental, and accidental pollutant discharges from past and existing land uses. These pollutants include nutrients from fertilizer and septic system use; oil, gasoline, and deicing salts from roadways; and volatile solvents, and other industrial

chemical releases. In addition, these aquifers interchange water with adjacent streams more frequently than bedrock aquifers, which can also affect ground water quality.

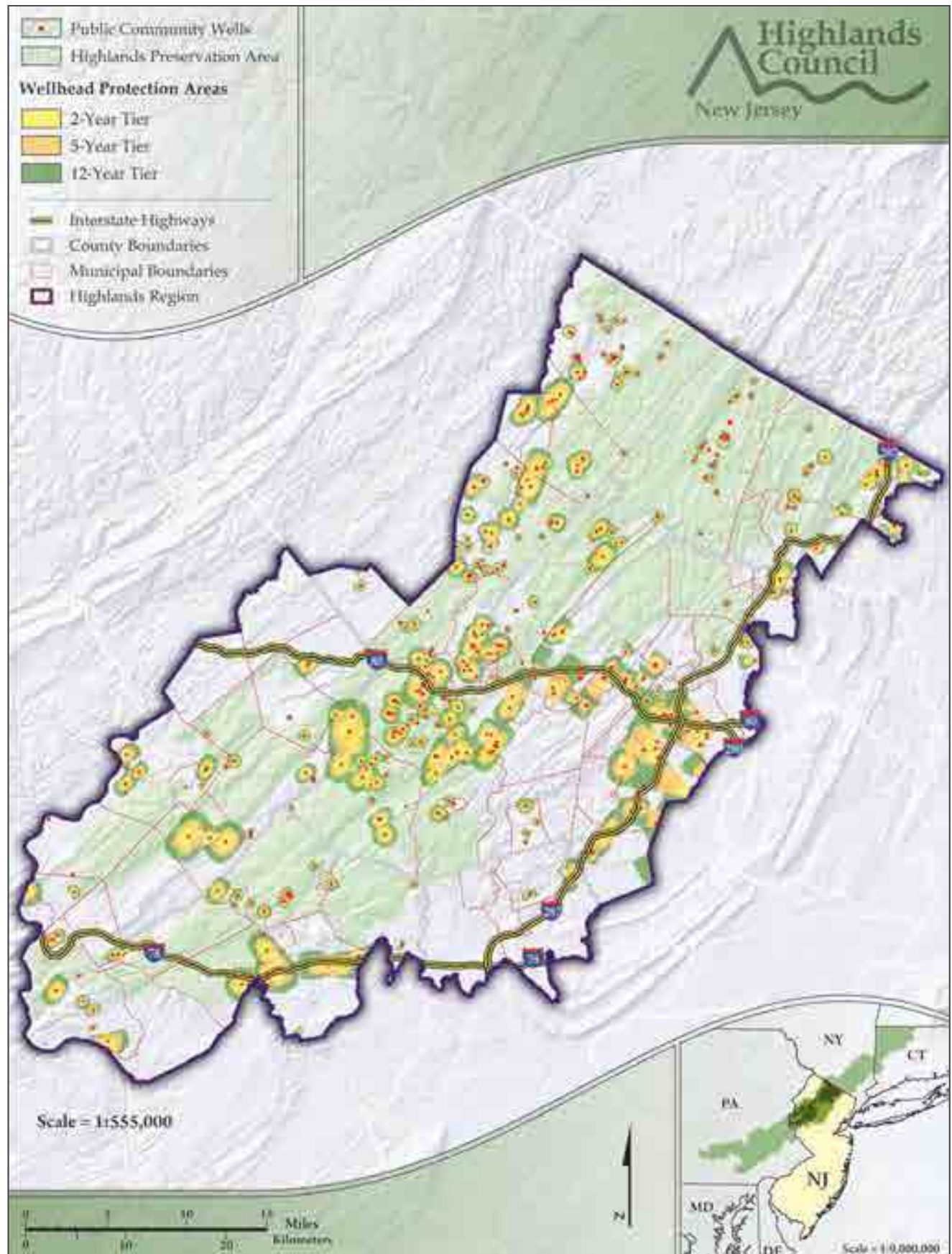
There is no equivalent to the TMDL process for ground water quality, but several programs exist to regulate ongoing discharges, reduce the potential for accidental discharges, and restore ground water quality from past pollution events. The NJDEP has identified several categories of ground water contamination areas, including Classification Exception Areas and related Well Restriction Areas, Currently Known Extent Areas, and Deed Notice Exhibits that provide information on ground water quality impacts related to natural ground water quality, permitted discharges or contaminated site remediation. Engineering or institutional controls may exist and must be maintained to prevent exposure to contaminants in these designated areas.

Classification Exception Areas and Well Restriction Areas are areas where the ground water quality standards are exceeded. Within a Classification Exception Area, where designated aquifer use includes potable supply and drinking water standards that are exceeded, the area will be designated as a Well Restriction Area. Currently Known Extent Areas are those areas known to be compromised because the water quality fails to meet drinking water and/or ground water quality standards. Currently Known Extent Areas designations can be used when considering the placement of potable wells. Deed Notice Exhibits document known soil contamination at levels that may restrict the use of, or access to, a property because soil contamination can lead to impacts on ground water quality.

### 3. WELLHEAD PROTECTION

Residents of the Highlands Region rely on ground water supplies as a primary source of drinking water. A Wellhead Protection Area (WHPA) is a mapped area around a public water supply well that delineates the horizontal extent of ground water captured by a public water supply well pumping at a specific rate over a specific time. A WHPA has three tiers which serve to mark the boundaries for priority areas for the protection of ground water quality.

**FIGURE 3.18: Wellhead Protection Areas**



- ▶ Tier 1 is a two-year time of travel, (e.g., the ground water within this tier flows to the well within a two-year time period)
  - ▶ Tier 2 is equivalent to a five-year time of travel, while
  - ▶ Tier 3 is equivalent to a twelve-year time of travel
- (Tier 3 also includes the land area within Tiers 2 and 1, and Tier 2 also includes the land area within Tier 1).

The public water supply wells are grouped into two categories based on the type of water supply system they support. Public community water supply systems have at least 15 service connections used by year-round residents, or regularly serve at least 25 year-round residents. An example is a municipal system that services single-family residential homes. A public non-community water system is a public water system used by individuals other than year-round residents, such as hospitals or restaurants, for at least sixty days of the year.

The WHPAs for public community water supply systems in the Highlands Region are depicted in Figure 3.18 *Wellhead Protection Areas*. A total of 580 public community water supply WHPAs have been mapped in the Highlands. Many wells are located in close proximity to the development they serve which poses a risk of contamination from existing and past development patterns. Public community water supply wells that have been polluted result in either their loss as a potable water supply source or require sophisticated treatment to allow continued public use.

The New Jersey Source Water Assessment Program Plan prepared by the NJDEP describes the various sensitivity and intensity factors of concern used to develop the susceptibility ratings for ground water and surface water drinking water sources for the following categories of contaminants: pathogens, nutrients, pesticides, volatile organic compounds, synthetic organic compounds, inorganics, radionuclides, and disinfection byproduct precursors. Numerous sites and activities were included in the Potential Contamination Source Inventories, including but not limited to agricultural land use, bulk chemicals, contaminated soils, discharges to surface and ground water, highway runoff, industrial and commercial point sources, known contaminated sites, leaking sewer lines, mining operations, naturally occurring contaminants (e.g., arsenic, asbestos, radon), recreational activities (e.g., golf courses), septic sys-

tems, leaking underground storage tanks, and wastewater treatment plants.

Individual reports have been created for each of the community water systems and the non-community water systems relying on surface water. These reports provide the susceptibility ratings for each water system source per contaminant category. In order to gain an understanding of the relative susceptibility of each supply source to specific types of contamination, each well or intake was assigned a rating of low, medium, or high susceptibility for each of the eight categories of contaminants. The ratings are based on a comparison to drinking water standards, or maximum contaminant levels for the contaminants of concern. In general, the low susceptibility category includes wells for which a particular contaminant is not likely to be detected, and the medium and high susceptibility categories include wells for which a particular contaminant is more likely to be detected.

For wells in unconfined aquifers receiving a high susceptibility rating, the three contaminant categories with the highest percentage of pollutant sources are nutrients (67 percent), volatile organic compounds (61 percent), and radon and radionuclides (50 percent and 49 percent, respectively). Within confined aquifers, only the disinfection byproduct precursors contaminant category contains wells that received a high susceptibility rating (27 percent). A number of wells within confined aquifers receive a medium susceptibility rating primarily attributed to disinfection byproduct precursors (70 percent), inorganic chemicals (47 percent), and radionuclides (39 percent).

The technical basis and additional background information on Water Quality can be found in the Highlands Council's *Water Resource Assessment Technical Report*.

## SUBPART D WATER SUPPLY UTILITIES

Future development within the Highlands Region at densities consistent with smart growth principles is generally reliant on access to public community water supply systems, which may be owned and operated by governmental entities (either as municipal operations or utility authorities) or investor-owned utilities. Public community systems, whether their source consists of ground water or surface water withdrawals,

have the potential to induce or support growth. Public non-community water systems typically provide on-site water supply for industry, commercial buildings, schools and other facilities are common in the Highlands Region; however, these systems have little if any capacity for serving other utility needs. Both types of systems are regulated by the NJDEP under the Safe Drinking Water Act. Through this program, the NJDEP collects information on the treatment, storage, and distribution capacity of the water system. Some of these water systems acquire their water supply through withdrawals that are permitted through the NJDEP Bureau of Water Allocation. Ground or surface water withdrawals of 100,000 gallons per day (“gpd”) in the Planning Area or 50,000 gpd in the Preservation Area require water allocation permits. Some water systems are supplied by water purchased from bulk water purveyors or other water utilities. Others may depend upon a combination of their own source water and purchased water.



Dan Van Abs

In furtherance of the requirements and goals of the Highlands Act, the Highlands Council collected the following information on potable water utilities:

- ▶ Areas currently served by public community water systems;
- ▶ Total system capacity and current water demand; and
- ▶ Net utility capacity to support development.

Planning for future water supply service areas requires knowing the existing area served, which in this case means those areas currently served by “in the ground” infrastructure, rather than planned facilities. Unlike wastewater systems and other utilities, there are few

existing mandates requiring the mapping of water supply service areas. Information on existing water supply service areas is often not readily available and while franchise areas are commonly mapped, they often do not reflect the actual area served.

The Highlands Council set out to compile an updated inventory of the existing service areas through the collection of available computer-based mapping, billing records, hydrant locations, and water line data. The inventory of existing areas served by water supply systems, cover a total of 20 percent of the Highlands Region, with 6 percent in the Preservation Area and 32 percent in the Planning Area. Highlands water supply systems extend beyond the boundaries of the Highlands Region (e.g., Southeast Morris Municipal Utility Authority), and non-Highlands water supply sources may have the capacity to provide water to municipalities in the Region (e.g., New Jersey American Water Company--Elizabethtown Division).

There are 162 major water systems in the Highlands Region. Of these facilities, 72 are small systems, such as those that serve a single apartment complex, that have no additional capacity to support growth. The remaining systems were grouped into 61 unique utilities, generating the vast majority of total demand. Some of these systems are supplied by large purveyors whose water supply is withdrawn outside the Region and imported into the Highlands. The demand generated from uses primarily within the Region is estimated at 2,691 million gallons per month. Figure 3.29 *Land Use Capability Public Community Water Systems Map* provides an overview of the areas of the Highlands Region that are currently served by the public community water systems and their estimated net capacity. Demands were not apportioned between Highlands and non-Highlands Region, because accurate service areas were not available for the non-Highlands portions.

Each public community water supply system has been constructed to provide drinking water to its existing and anticipated customers during both normal and peak flows. The Council examined two different types of limitations to system capacity: the physical infrastructure (e.g., pumps, treatment plants, storage) represented by firm capacity; and the available supply of water resources, represented by water allocation permits and

bulk purchase contracts. The physical infrastructure defines the limits for water delivery that are inherent to the system, while the NJDEP water allocation permits and associated limitations in water availability define the limits for water supply that are inherent to the water resources (e.g., aquifer, reservoir system). Firm capacity can increase over time if the system upgrades are made but the source of the water to support that system may be limited. Therefore, the water supply allocation was utilized as a better estimate of ultimate utility capacity.



Dan Van Abs

Available information on well and surface water withdrawal locations has been compiled in order to understand the impacts of water utilities on their respective sources. The Council compared the existing service areas with ground and surface water supply sources on maps of the 183 subwatersheds (HUC14) in the Highlands Region. The projected demand from water users was examined to understand the relationship of normal demands to peak demands in the summer and the resulting inventory compiled by the Council includes the peak monthly demands from the years 2000 through 2004. Monthly demands were used because daily demands, especially within the summer, are so variable. The result of this analysis allows for a comparison of utility capacity (essentially, how much capacity the water utility has available for future development) to Net Water Availability within each subwatershed.

The Council identified the appropriate next steps for assessing utility capacity during Plan Conformance and project review: The first step is to identify areas for which additional utility capacity would be appropriate, then determine whether there is net utility capacity available to support additional demand. If net utility capacity exists, determine whether there are existing future commitments that correspond or conflict with them. If conflicts exist, then further analysis would be necessary regarding the potential for equitable methods of capacity reallocation. Additional information on water supply utilities can be found in the Highlands Council's *Utility Capacity Technical Report*.

### SUBPART E WASTEWATER UTILITIES

The primary wastewater collection systems in the Highlands Region predominantly treat residential wastewater. A Highlands Domestic Sewerage Facility, which includes publicly-owned and investor-owned domestic wastewater treatment facilities, provides wastewater treatment to municipalities and has collection systems that can support redevelopment and regional growth opportunities. These facilities generally have the NJDEP-permitted discharge capacity of more than either 0.150 million gallons per day (MGD) for discharge to surface water or 0.075 MGD for discharge to ground water.

Similar to the approach for potable water utilities, the Highlands Council assessed wastewater utilities by examining the existing areas served and the capacity of the wastewater infrastructure systems in the Highlands Region.

There are 42 Highlands Domestic Sewerage Facilities representing a total wastewater treatment capacity of approximately 121.61 MGD and a total discharge flow at the maximum three month rate of 99.98 MGD. Some of these facilities have service areas that extend beyond the Highlands Region so a pro rata allocation based on the relative portion of the service area in and outside of the Highlands Region was used to estimate a Highlands Region treatment capacity of approximately 78.41 MGD and a total discharge flow at the maximum three month rate of 63.11 MGD, or approximately 80 percent of the total treatment capacity. Individual facilities have discharge flow (at the maximum three month rate) ranging from 42 percent to 192 percent (indicating a deficit) of total treatment capacity, and from a

deficit of 0.21 MGD to 2.52 MGD of current available capacity. Figure 3.30 *Land Use Capability Domestic Sewerage Facilities Map* provides an overview of the areas of the Highlands Region that are currently served by the Highlands Domestic Sewerage Facilities and their estimated capacity.

In furtherance of the requirements and goals of the Highlands Act, the Regional Master Plan focuses on the following areas to address wastewater utilities:

- ▶ Identify areas currently served by existing wastewater facilities;
- ▶ Identify areas that are inappropriate for future expansion of infrastructure; and
- ▶ Determine available wastewater system capacity and ability to support additional development.

Additional information on wastewater utilities can be found in the Highlands Council's *Utility Capacity Technical Report*.

#### SUBPART F SEPTIC SYSTEM CAPACITY

There is a clear link between nitrate concentrations in ground water and land use. Land use activities, particularly agricultural practices, lawn care and septic system effluent disposal, contribute to elevated concentrations of nitrate in ground and surface water. Understanding and managing the impact of contributions of nitrate loadings from septic systems in the Highlands Region is an important aspect of maintaining the overall quality of water for both water supply and ecological values.

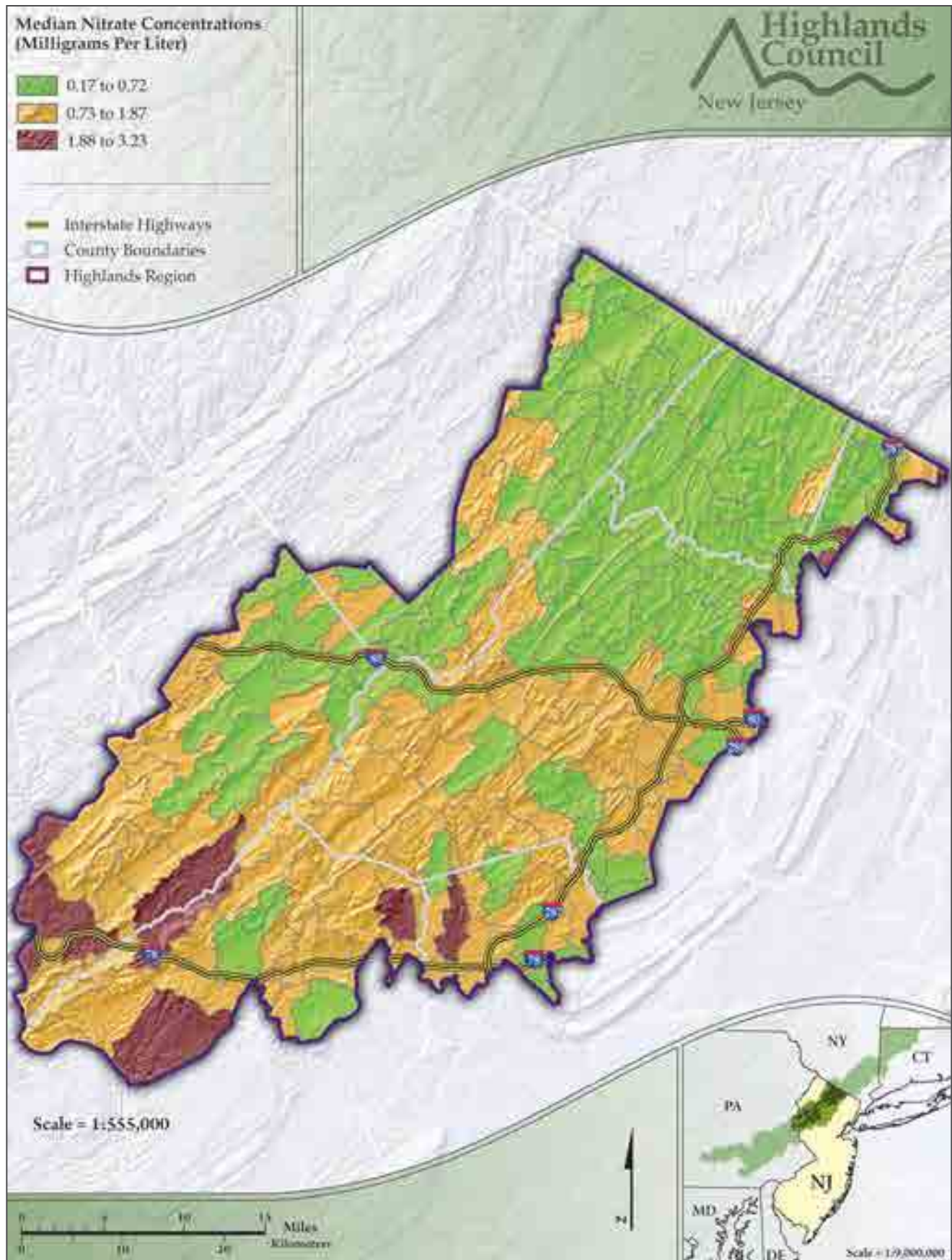
Nitrate is often used as an indicator of the risk of impairment to ground water quality related to land use. High levels of nitrate in ground water may result in serious health impacts and can have long lasting effects on the geochemistry and ecological functioning of soils and water resources. Elevated concentrations of nitrate in surface water can cause a loss of biodiversity and lead to eutrophication, algal blooms, and oxygen depletion. Primary nonpoint sources for nitrate are agricultural runoff and soil contamination from the introduction of septic system effluent and other diffuse loading sources such as chemical lawn care application. Point source discharges, such as those from sewage treatment plants, also contribute to nitrate loadings.

The Highlands Council has established target nitrate concentrations for the Planning Area, necessary to ensure the protection, restoration and enhancement of the waters in the Highlands (the NJDEP rules implementing the Highlands Act address nitrate targets for the Preservation Area). The Council's nitrate targets for the Planning Area were used to calculate the allowable septic system density and additional new septic systems by municipality. Allowable septic densities specific to each municipality and zone were computed using the Trela-Douglass nitrate dilution model, which requires as inputs the target nitrate concentration and HUC14-specific annual recharge. The target nitrate concentrations for the Protection and Conservation Zones within the Planning Area are 0.72 milligrams/liter (mg/L) and 1.87 mg/L, respectively. These values represent the median nitrate concentrations for each zone. Annual recharge values were estimated using GSR-32 under assumed drought conditions, using the New Jersey Drought of Record spanning 1961 through 1965.

In order to establish the baseline conditions of nitrate concentrations in the Highlands Region, the Highlands Council analyzed nitrate concentrations measured in wells located throughout the Region in a variety of environmental and land use settings. The Highlands median of measured nitrate concentrations is 1.1 mg/L. However, the existing sampling data for nitrates are insufficient to establish the variability of background nitrate levels throughout the Highlands Region, particularly in areas that have limited development, and as such, limited ground water quality data. Models were developed for each of the 183 HUC14 subwatersheds to estimate the nitrate concentrations throughout the Highlands Region. These models utilized available water quality data, land use variables, and specific features that are predictive of median nitrate concentrations in ground water. The best combination of variables for predicting HUC14-specific median nitrate concentrations, as determined by modeling objectives and results, included the percentage of urban land use, the percentage of agricultural land use, the septic system density in the area, the length of streams, and the number of known contaminated sites within the area of analysis.

Median nitrate concentrations were estimated for each of the 183 HUC14 subwatersheds within the Highlands

**FIGURE 3.19:** Median Nitrate Concentration by HUC14



Region. These HUC14-specific median nitrate concentrations estimated with the logistic regression models range from 0.17 to 3.6 mg/L, with an overall median value for the Highlands of 0.83 mg/L, slightly lower than the 1.1 mg/L value calculated directly from well sampling analytical results. The model results are considered to be more accurate as they address limitations in the well monitoring network, related to the overall distribution of wells and the disproportionately small number of wells located in undeveloped areas. Based on the models natural levels in the Highlands Region are approximately 0.1 mg/L.

The results indicate that subwatersheds that are dominantly in the Conservation Zone generally have the highest median nitrate concentrations, followed by the Existing Community Zone, and lastly the Protection Zone. Within HUC14 subwatersheds that are located mostly in the Planning Area, the median nitrate concentrations for the HUC14's that are predominantly Conservation, Existing Community and Protection Zone are 1.87, 1.17, and 0.72 mg/L, respectively. The results of the median nitrate concentration analysis, aggregated into representative values for the HUC14-specific results are illustrated in Figure 3.19 *Median Nitrate Concentration by HUC14*. The resulting septic system yields by HUC14 subwatershed are shown in Figure 3.31 *Land Use Capability Septic System Yield Map*.

An important factor in the protection of ground water quality from degradation by nitrate and related pollutants (e.g., pathogens) is the proper location, design, construction, installation, repair, and operation of individual septic systems. These systems are subject to the NJDEP's Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C. 7:9A) and are generally regulated at the county and municipal level. Of further concern is the layout of developments to ensure that the risk of well contamination from upgradient septic systems is minimized. Proper site planning with regards to on-site water supply and wastewater disposal will be evaluated during the project review process.

The technical basis and additional background information on nitrate management can be found in the Highlands Council's *Water Resource Assessment Technical Report*.

### PART 3 Agricultural Resources

Agriculture is a vital component of the economy, culture and landscape of the Highlands Region. It provides economic benefits through both agricultural production and by maintaining the rural character of Highlands communities. The loss of farmland over recent decades emphasizes the crucial need to promote and encourage a positive agricultural business climate. In order to encourage a positive agricultural business climate and enhance agricultural viability, agricultural operations need to evolve over time to adapt to ever changing climate and market conditions.



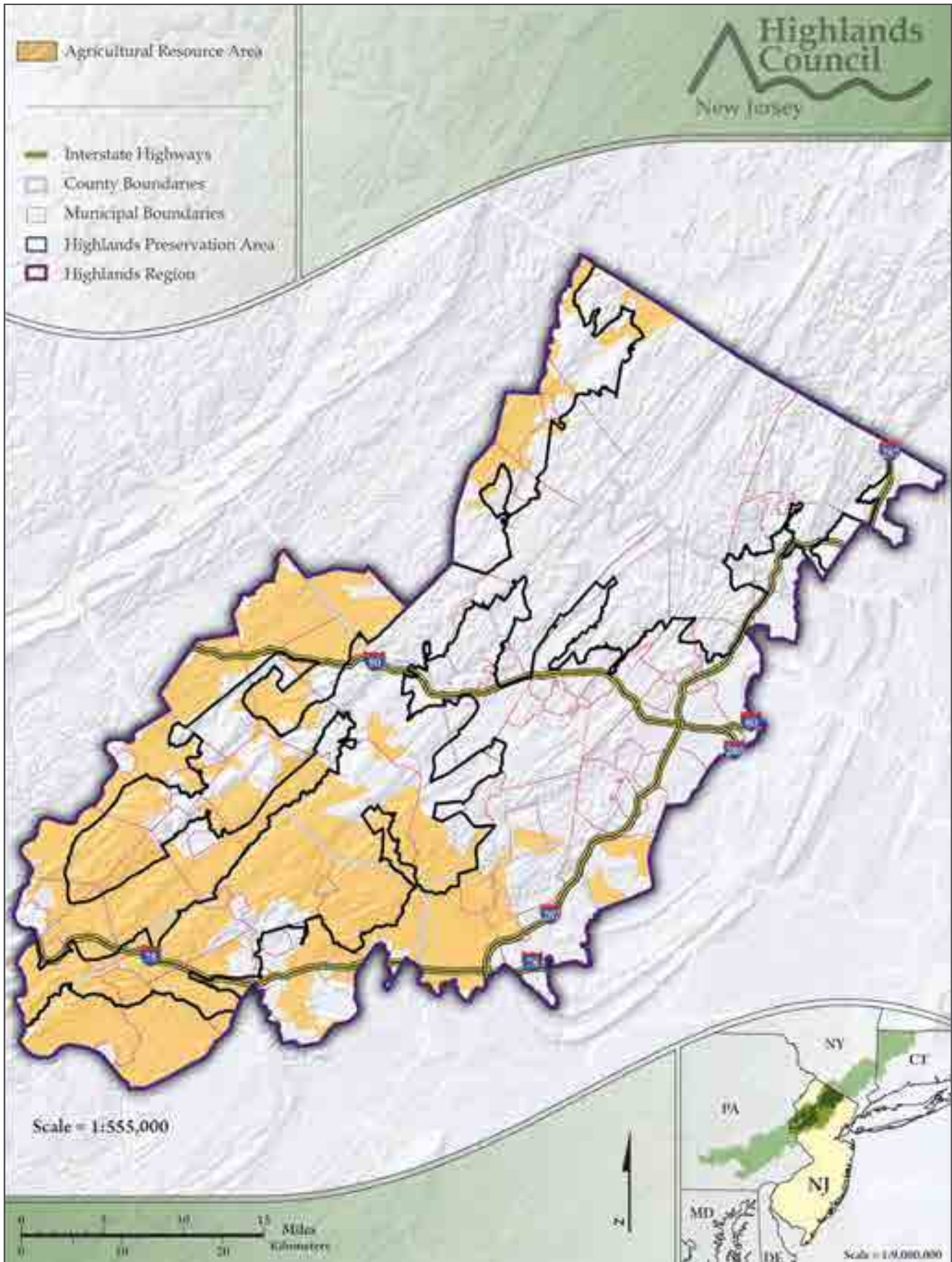
Nathan McLean

The Highlands Region has experienced a steady loss of agricultural lands representing an average rate of loss of 1,700 acres per year, a 19 percent decline between 1986 and 2002, representing over 27,500 acres. According to the NJDA, between 1998 and 2003 there was an 8 percent decrease in farmland.

In addition to the direct loss of agricultural lands, other measures of agricultural losses, such as the amount of farmland in field crop production, show a similar decrease. In 1998, the total acreage of field crops, which includes corn, wheat, soybeans, hay and other cover crops, was 81,313 acres. These crop lands decreased to 70,567 acres in 2003. The loss of over 10,000 acres of field crops during this five-year period represents a 13 percent loss for the Highlands Region.

A key program for the sustainability of agricultural activities is the NJDA State Agriculture Development Committee's (SADC) Farmland Preservation Program. Since the program's inception in 1983, a total of 33,763

**FIGURE 3.20: Agricultural Resource Area**



acres have been preserved in the Highlands Region – 21,067 acres in the Planning Area and 12,696 acres in the Preservation Area. These totals reflect preserved farms, farms with final approval for preservation, and farms in the eight year easement program. Together, these preserved farmlands represent approximately 21 percent of all farmland preserved statewide.

In furtherance of the goals and requirements of the Highlands Act, the Regional Master Plan focuses on two areas of action to address the need to protect Highlands agriculture resources:

- ▶ Identify high quality agricultural lands in need of preservation; and
- ▶ Develop a process to ensure sufficient financial and institutional resources are available for the preservation, sustainability, and viability of agricultural resources in the Highlands Region.

These two areas of focus will also determine the amount and type of human development and activity that the ecosystem of the Highlands Region can sustain while maintaining the overall character of the Region, with special reference to production and enhancement of agricultural or horticultural activities.

Many factors contribute to sustainable agricultural practices. These include, but are not limited to, soil quality and productivity; agricultural infrastructure; the changing and dynamic nature of the agricultural industry; farming methods, including conservation practices; size of a parcel and proximity to other agricultural lands; and local interest in maintaining agriculture in the community.

For purposes of identifying critical agricultural lands in the Highlands Region, the Highlands Council examined the distribution, size and quality of existing farms. These criteria were evaluated to specifically consider the realities of farming in the Highlands Region. For example, the average size of a preserved farm in the Highlands Region is small, just over 55 acres. Consequently, in the Highlands Region, the importance of farm size is diminished as a critical factor. On the other hand, development pressure and the extent to which farming has been retained in a community becomes a more significant factor to consider.



Nathan McLean

The Highlands Council used the following factors to assess the Region's farmland and to identify the most important agricultural resources: farming landscapes that account for 250 acres or more of contiguous farmland; farms that include Important Farmland Soils; extent of the lands adjoining a farm that is in agricultural use; and concentrations of preserved farmland. Using these factors, the Highlands Council spatially delineated an Agricultural Resource Area representing that portion of the Highlands Region that includes a prevalence of active farms (See Figure 3.20 *Agricultural Resource Area*).

The technical basis and additional background information on agriculture protection requirements can be found in the Highlands Council's *Sustainable Agriculture Technical Report*.

#### **PART 4** Historic, Cultural, Archaeological, and Scenic Resources

Historic, scenic, and recreational resources play a critical role in defining the character of the Highlands. These resources will continue to attract people to the Region and must be managed to take advantage of their contribution to economic vitality and a high quality environment for the future.

The Highlands Region contains important historic, cultural, archaeological, and scenic resources. Historic resources include buildings, structures, objects, districts, sites, or areas that are significant in the history, architecture, archaeology, engineering, or culture of a place or time. Historic resources help connect people to the past, reminding them of a community's origins.

Cultural resources include sites, artifacts, or materials that relate to the way people live or lived, including archaeological sites, rock carvings, and ruins. These resources are generally defined based on existing documentation or artifacts discovered that relate to activities of people who lived, worked, or recreated in the area during a period in history. The integrity of a cultural resource is defined by its ability to convey its significance through its physical characteristics.

Archaeological resources are any material remains of past human life or activities which are of archaeological interest, such as tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items.



*Nathan McLean*

Scenic resources include sites and landscapes that are distinctive and remarkable for their geology, topography, history, culture, and aesthetics or can be representative of the defining character of a community. They may include prominent ridgelines, mountainsides or hillsides, panoramic vistas, community gateways and landmarks, river valleys and agricultural landscapes.

The Highlands Region has presently identified 618 historic resources, of which 41 percent are currently listed on the New Jersey and National Registers of Historic Places. Of those listed, 62 are historic districts that contain collections of individual sites. The Highlands Region also has four National Historic Landmarks and 70 recorded archaeological sites. The actual number of archaeological sites in the Region is anticipated to be

significantly larger than those currently recorded by the State Historic Preservation Office (SHPO). The National Historic Landmarks are Craftsman Farms in Parsippany, Vail Factory/Speedwell Village and the Thomas Nast House in Morristown, and Ringwood Manor in Ringwood. Additionally, several sites have regional significance and traverse multiple counties and municipalities, such as the Morris Canal.

Largely by virtue of its industrial history, the Highlands are also home to many abandoned mines. Of the 544 identified abandoned mines in New Jersey, 95 percent are located in the Highlands Region. The Sterling Hill Mine in Ogdensburg, Sussex County is listed on both the New Jersey and National Register of Historic Places. Additionally, the Weldon Mine in Jefferson Township and the iron mines in Montville Township, both in Morris County, have received opinions of eligibility for listing as a historic site from the SHPO.

Historic, archaeological, cultural, and scenic resources are part of the character of the Highlands Region and an important part of its cultural heritage. These resources provide the public with an understanding of how the land and people of the Highlands have changed over time. They also aid in fostering an appreciation for the events that contributed to the development of the towns, villages, and cities that exist in the Highlands today.



*Nathan McLean*

### SUBPART A HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES

In collaboration with the SHPO, the Highlands Council prepared a baseline inventory of the 618 historic and cultural resources within the Highlands Region. The Historic and Cultural Resource Inventory includes:

- ▶ All properties listed on the New Jersey or the National Register of Historic Places;
- ▶ All properties which have been deemed eligible for listing on the New Jersey or National Register; and
- ▶ All properties for which a formal SHPO opinion has been issued. A SHPO opinion is an evaluation of eligibility prepared when a federally funded activity is expected to have an effect on historic properties not listed on the National Register (see Figure 3.21 *Historic Preservation*).

The Highlands Historic, Cultural, and Archaeological Resource Inventory includes buildings, structures, sites, landmarks, objects, and historic landmark districts identified and evaluated to date. A great deal of the information was obtained from the New Jersey and National Registers of Historic Places, which list those special places that have been analyzed and recognized as important for their historic values. Historic, archaeological, and cultural resources in the Highlands Region include, but are not limited to:

- ▶ Agricultural Historic Districts and Farmsteads, including farm buildings such as houses, barns, windmills, spring houses, corn cribs, fields, fence lines, etc.;
- ▶ Historic Landmark Districts and architecture that represent a significant period in American History such as Ringwood Manor, Skylands Manor, Craftsman Farms, early stone houses, log cabins, churches, and schools;
- ▶ Archaeological sites, including early American settlements, such as the prehistoric Black Creek site in Sussex County, rock shelters, and historic mill and farm ruins;
- ▶ Designed landscapes attributed to a significant landscape architect or designer;
- ▶ Health and public welfare facilities, including Greystone Park (State Asylum for the Insane) and Morris County Alms House and Hospital;

- ▶ Industrial facilities or complexes, including Long Pond Ironworks, saw mills, grist mills, manufacturing sites, dams, quarries, mines, lime kilns, paper mills, and forge sites;
- ▶ Military installations and places of significance such as Picatinny Arsenal and American Revolutionary War Encampments, Battlefields, and skirmish sites;
- ▶ Recreational landmarks such as the Appalachian Trail, the White Deer Plaza and Boardwalk in Sparta Township, or Civilian Conservation Corps facilities;
- ▶ Transportation structures representing a significant period of time in history or unusual engineering type, such as the Morris Canal, and stone or steel-truss bridges; and
- ▶ Water supply facilities such as the Wanaque Reservoir dam.

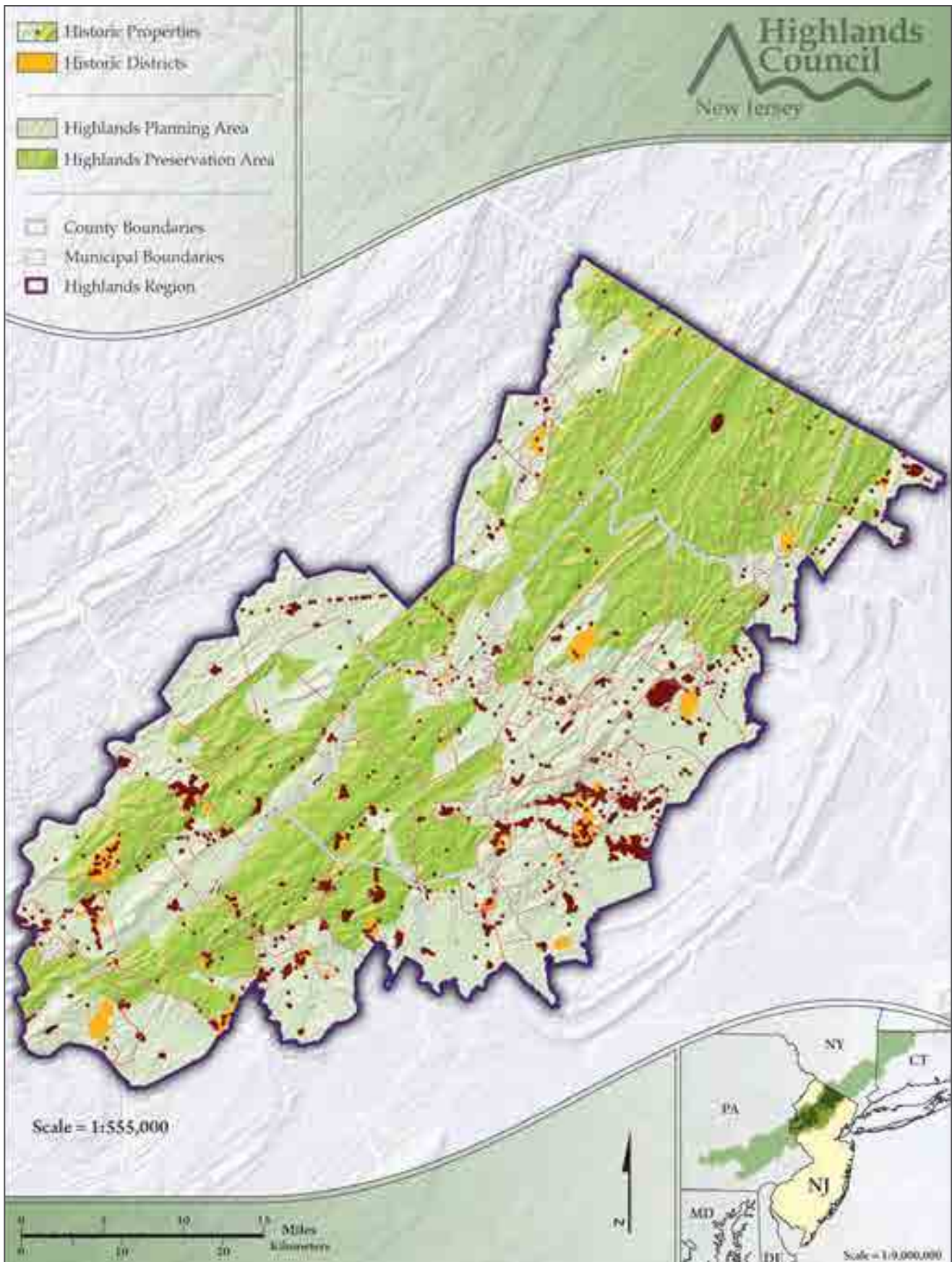


Kim Ball Kaiser



Nathan McLean

**FIGURE 3.21: Historic Preservation**



## SUBPART B SCENIC RESOURCES

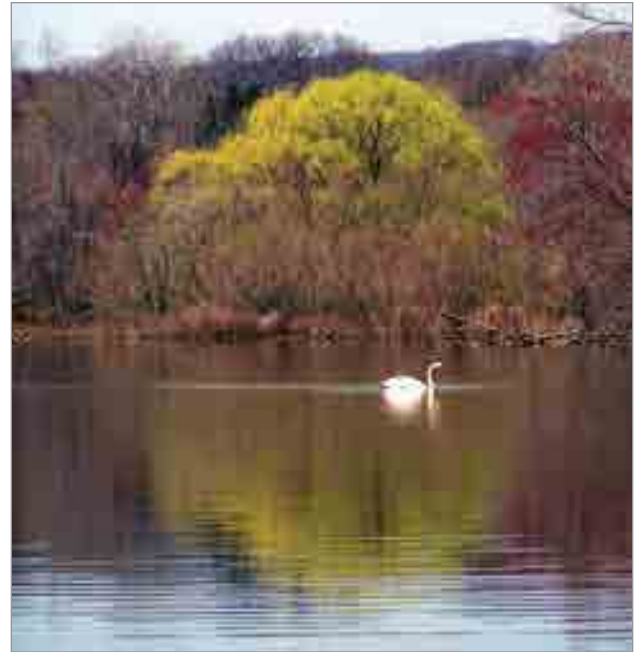
The scenic resources of the Highlands preserve the look and character of the area and ensure that beauty will remain for future generations. For many, the picturesque ridges and valleys are the most unique Highlands land features. While scenic resources have not previously been cataloged to the same extent as historical, archaeological, and cultural resources, the Highlands Council assembled a baseline Scenic Resource Inventory as a foundation.



Nathan McLean

The Highlands Council has initially identified a Scenic Resource Inventory of 131 scenic resource areas, including national historic landmarks, publicly-owned parks, forests, and recreation areas. This inventory will serve as a baseline from which to begin to refine a list of scenic resources.

The technical basis and additional background information on these historic, cultural, and scenic resource protection requirements can be found in the Highlands Council's *Historic, Cultural, Scenic, Recreation, and Tourism Technical Report*.



Nathan McLean

## PART 5 Transportation

The Highlands Council is committed to helping shape the Highlands Region's transportation investments by working with State and local agencies and stakeholders. By promoting efficient land use, goods movement and increasing access to an inter-modal transportation system, the Highlands Council can better protect environmentally sensitive areas. By implementing smart growth principles and by looking at transportation and land use planning in a comprehensive manner, a long-term strategy can then be developed to better handle the Region's many transportation related concerns.

Following smart growth principles and efficient land use policy characterized by compact, mixed use development, higher densities and a more compact built environment, Highlands Region municipalities can begin to promote alternative modes of transportation to automobile travel. The Region can achieve the goals outlined in the Highlands Act by encouraging a more compact mixed-use pattern for new development and redevelopment, creating more transportation choices, including mass transportation, bicycle, and pedestrian travel.

The Highlands transportation system is a complex network of roads, railways, and bridges that supports various modes of travel including automobile, bus, rail,

truck, bicycle, and pedestrian. The Highlands Region also includes seven airport facilities. There are four limited-access highways in the Highlands Region, which include Interstate Routes 78, 287, 80, and 280. There are also numerous US, State, and County routes and local roads providing extensive roadway access in the Region (see Figure 3.22 *Roadway Network*). There are also four major commuter rail lines in the Highlands Region: the Boonton Line, the Main Line and Bergen County Line, the Morris and Essex Line, and the Raritan Valley Line (see Figure 3.23 *Transit Network*).

In order to evaluate the Highlands roadway network performance, the Highlands Council worked with the New Jersey Department of Transportation (NJDOT) to develop a Highlands Sub-Area model based on information developed from a larger model known as the North Jersey Regional Transportation Model (NJRTM). The Highlands Sub-Area model summarizes the existing vehicular travel patterns and traffic conditions within the Highlands Region for the base year 2002. The NJRTM focus model covers 13 counties in Northern and Central New Jersey including the entire Highlands Region. It currently is the primary analysis tool for transportation planning in the Region. The model identifies major origin and destination trips generated in the Highlands Region, and reports on road capacity conditions during AM and PM peak periods.

The Regional Master Plan supports Transit Oriented Development as one example of a method that integrates mixed uses and transportation planning, by promoting more compact development in and around existing transportation infrastructure as an alternative to sprawl. Transit Oriented Development focuses mixed-use development around transit stations, and is designed to create walkable communities with access to multiple modes of transportation. The NJDOT, through its Transit Village Initiative working with NJ Transit, has been instrumental to advance Transit Oriented Development. Currently there are two municipalities in the Highlands Region, Netcong, and Morristown, that have been designated through the NJDOT's Transit Village Initiative. Also supporting Transit Oriented Development in New Jersey is the Transit Friendly Planning Assistance program, which is run by NJ Transit to support land use decisions around transportation hubs. Municipalities in the Highlands Region that have

received funding from this program include Morristown, Netcong, and Dover.

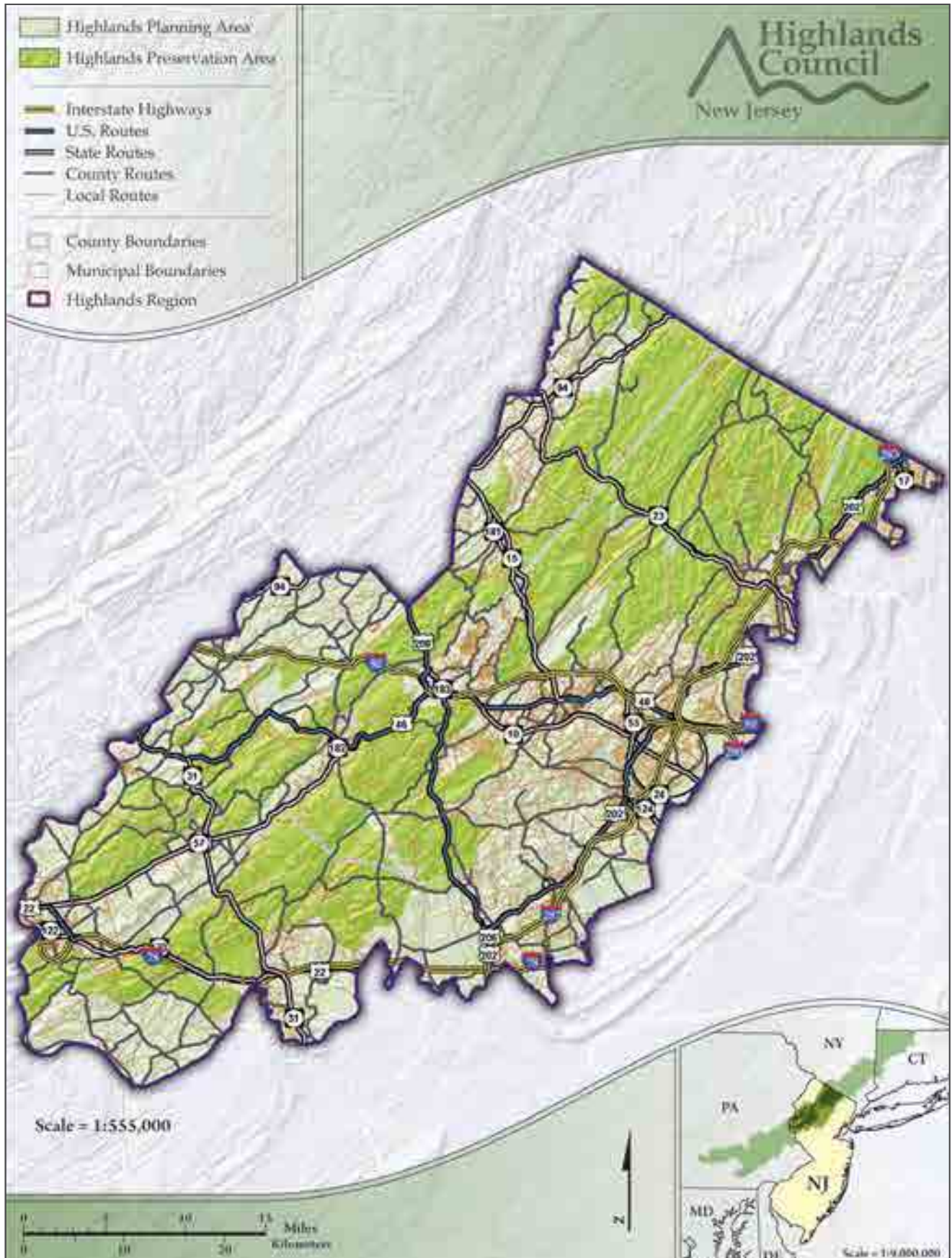
Recognizing that the agricultural industry is a vital component of the economy, welfare, and cultural landscape of New Jersey, the Regional Master Plan also supports agricultural viability in the Highlands Region. One of the major problems facing farmers in New Jersey is the ability to move large pieces of farm equipment on public roadways in order to access different farms and markets safely and efficiently. In order to ensure the safety and viability of farming as an occupation in the Highlands Region, safe travel routes for farmers need to be coordinated with county and local governments and State agencies such as the NJDOT and the NJDA. New transportation improvements to roads and bridges need to be designed to accommodate farming equipment, especially in rural areas. Alternative routes should also be explored where feasible, whereby developing inter-parcel access roads for farmers to pass between cropped lands without increasing impervious surfaces or venturing onto well traveled roadways. In order to better serve farmers in the Highlands Region, "Farm-to-Market" routes should be established to improve upon the safe and efficient movement of goods from farms and areas of supply to areas where goods are demanded such as downtowns or urban markets.



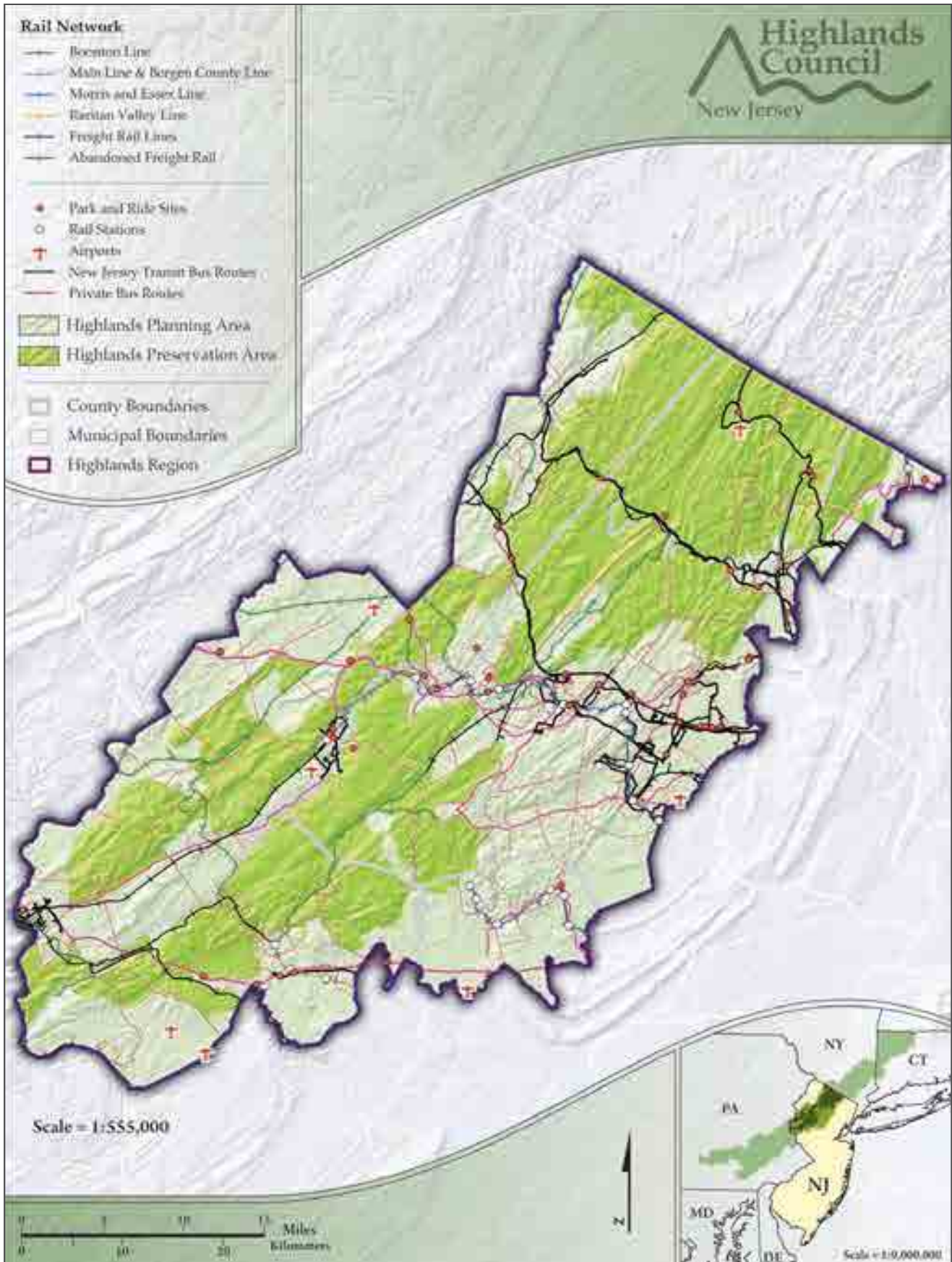
Kim Ball Kaiser

The Highlands Act establishes the protection and restoration of natural resources as priority goals. One of the critical challenges of the transportation system is one of balancing regional transportation needs and environmental integrity. Innovative approaches to roadway design put greater emphasis on ecological systems. The

**FIGURE 3.22: Roadway Network**



**FIGURE 3.23: Transit Network**



term “Green Street” describes a series of low impact development approaches that seek to design a street system that protects water resources and minimizes the adverse affects of surface water runoff. The Regional Master Plan promotes site design measures which utilize low impact development practices as a key to reducing surface runoff pollution. Similarly, reducing surface parking requirements and encouraging shared parking also allows for reduced impervious surface areas. The Regional Master Plan also encourages context sensitive design as a strategy based on designing and planning projects in close collaboration with communities and stakeholders. This strategy encourages transportation officials to work with local stakeholders in order to design projects to reflect the people who live, work and travel in a certain area. This process of engaging communities can result in more improved transportation solutions which better address a particular community’s transportation needs. The NJDOT and NJ Transit are encouraging communities statewide to develop a formal concept of what they want their towns to be in five, ten and twenty years. This approach allows for State agencies to then be a partner in fulfilling that vision and explaining any limitations to a particular project so that local expectations can be realized.

The technical basis and additional background information on transportation can be found in the Highlands Council’s *Transportation System Preservation and Enhancement Technical Report*.

## **PART 6 Community Character**

### **SUBPART A SOCIO-ECONOMIC CONDITIONS**

The Highlands Region is a unique and dynamic place with distinct physical features, valuable natural resources, a diverse population, and a vital economy. This section describes socio-economic characteristics that define the Highlands Region, including population, income, employment, and land use. To understand the context of the Region’s economic trends, the evaluation also includes statewide data. By monitoring socio-economic patterns, a greater understanding can be developed of the relationship between people, jobs, markets, and the forces shaping the regional economy.



Nathan McLean

There were approximately 821,547 people living in the Highlands Region in 2004. Between 1990 and 2004, the Highlands Region grew by 18 percent, an increase of about 126,000 people. The statewide population grew more slowly over the same 14-year period, increasing by about 12 percent.

Highlands Region counties on average have higher per capita incomes than New Jersey as a whole, and Highlands incomes rose somewhat faster than statewide between 1990 and 2000, with the fastest increases in Somerset County and the slowest in Passaic County. Median household income rose more slowly in the Highlands Region between 1990 and 2000 than in New Jersey as a whole, but remains substantially higher than the State average. Each county within the Highlands Region has unemployment rates below that of the State, indicating a stronger existing workforce.

The technical basis and additional background information on socio-economic conditions can be found in the Highlands Council’s *Financial Analysis Technical Report*.

### **SUBPART B CURRENT LAND USE**

Patterns of human development have shaped the land use of the Highlands Region. An examination of existing development patterns, in conjunction with features

of the natural environment, reveals the implications of past development activities, future development opportunities, and resource restoration or enhancement needs.

### 1. LAND USE

The Council conducted a Developed Land Analysis that identified generalized developed areas based on current land uses, development activities, population density, impervious surfaces, and existing infrastructure. Approximately one quarter of the Highlands Region was classified as developed land in 2002 with most of that being residential land uses. The Planning Area contains the large majority (approximately 70 percent) of the developed lands in the Region.



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The Council's analysis of population density identified concentrated areas of regional population density (see Figure 3.24 *Population Density (2002)*). Existing areas of development and areas that have been previously disturbed were identified in part by an impervious surface analysis (see Figure 3.25 *Impervious Surface*). The Council's Developed Land Analysis used indicators to characterize lands into the following land use categories

capturing concentrations of previously developed lands ranging from compact development to lower density rural development (see Figure 3.26 *Developed Lands Analysis*):

- ▶ Core Developed Areas;
- ▶ Moderate Developed Areas;
- ▶ Suburban Fringe Developed Areas; and
- ▶ Rural Developed Areas.

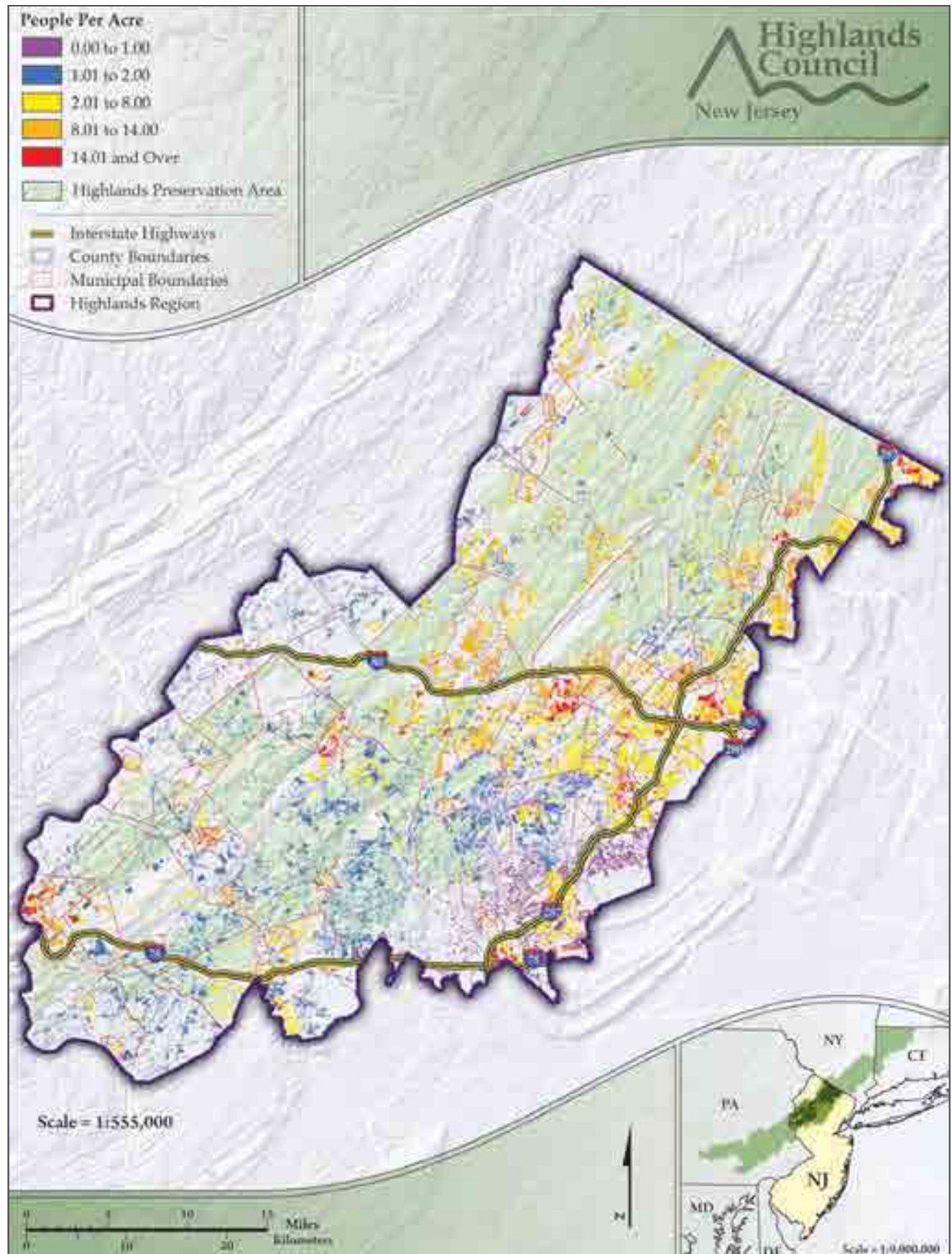
The Highlands Council's approach will be to use the data gathered to inform Highlands municipalities and counties during Plan Conformance as they focus on regional and economic development opportunities. By using this information, local government entities will be able to modify their master plans to achieve greater environmental safeguards and protect cultural and aesthetic assets for their communities, as well as realize a predictable and sustainable economic future.

### 2. HOUSING

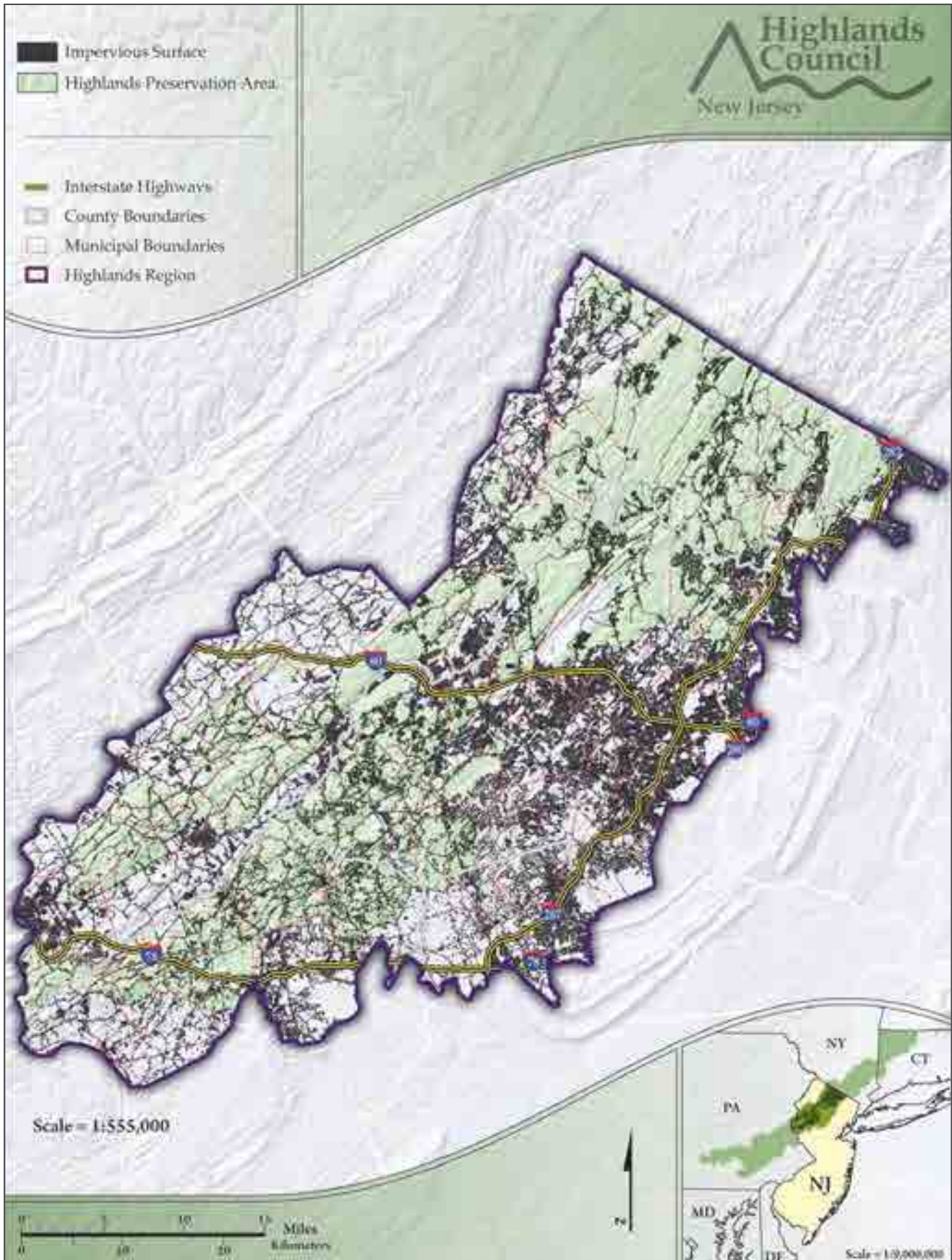
Housing contributes significantly to the land use pattern of the Highlands Region and is characterized by a diverse mix of older houses in smaller municipalities, more modern housing recently constructed in suburban and rural developments, and some infill developments. According to the 2000 Census, the Highlands Region had 296,543 housing units and an overall vacancy rate of approximately 4 percent. The housing stock is characterized by largely owner-occupied, single family detached homes, with 79 percent owner-occupied and 21 percent renter-occupied. Approximately half of the municipalities in the Highlands have a housing stock whose median age is 40 years or older.

Housing costs in the Highlands, as across the State, have been increasing. The average market value for a residential parcel in the 88 Highlands Region municipalities was \$214,785 in 1990 and had risen to \$310,694 by 2004, a 45 percent increase. Between 1990 and 2000, the Highlands Region added 33,441 housing units, increasing the housing stock by approximately 13 percent. Morris County added the greatest number of housing units while Somerset County had the greatest growth by percentage. Passaic County had the smallest increase in housing units measured both by number and percentage.

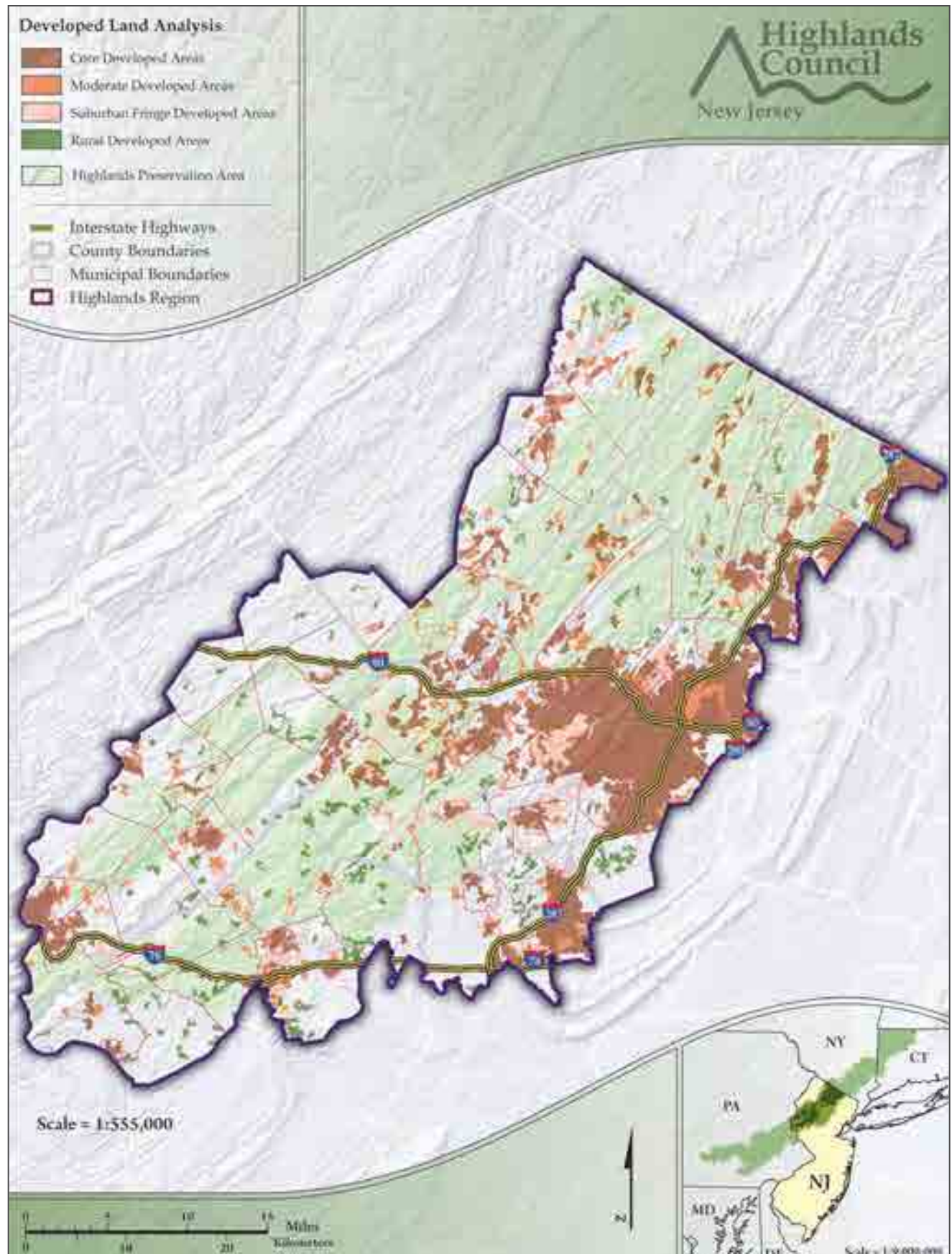
**FIGURE 3.24: Population Density (2002)**



**FIGURE 3.25: Impervious Surface**



**FIGURE 3.26: Developed Lands Analysis**



The New Jersey Supreme Court has determined, in its Mount Laurel decisions, that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region’s present and prospective needs for housing for low and moderate income families. The Highlands Council is coordinating with the Council on Affordable Housing (COAH) to ensure that municipalities meet their housing obligations and that affordable housing is planned and sites are designed to meet the resource protection requirements of the Regional Master Plan. In the Highlands Region, there are currently 72 municipalities working with COAH to address their third round affordable housing obligations. COAH reports that as of February 2008, 7,400 units of affordable housing have been built and another 1,200 produced through Regional Contribution Agreements over the last 20 years. As third round plans become certified, the number of completed units

will increase. The Highlands Council initiated a COAH Grant Program, to encourage Highlands municipalities to submit a Petition for Substantive Certification to COAH for their review and approval.

Table 3.1 *Highlands Region Housing Obligations* summarizes the rehabilitation share and prior round obligation, excluding any credits, reductions, and adjustments. It also provides COAH’s household and employment projections, to which a municipality would apply a growth share ratio (after factoring for exclusions) to initially calculate the third round obligation (roughly for every five market-rate residential units constructed from January 1, 2004 to December 31, 2018, a one-unit affordable housing obligation is generated and for every 16 jobs resulting from new or expanded non-residential construction within the municipality from the same time period, a one-unit affordable housing obligation is generated).

**TABLE 3.1: Highlands Region Housing Obligations**

Highlands Region Housing Obligation	As Presented in the Adopted Third Round Rules	As Presented in the Proposed Amendments to the Third Round Rules
Rehabilitation Share	2,072	NA
1987-99 Prior Round Obligation	7,870	NA
Projections – Net Changes 2004-2018 (housing)	37,449	30,730
Projections – Net Changes 2004-2018 (employment)	84,084	100,268

**3. ZONING**

The Highlands Council compiled municipal zoning information from the 88 Highlands municipalities as of November 2005. The 1,304 individual municipal zones in the Region were consolidated into 16 Highlands Composite Zones (see Table 3.2 *Highlands Region Composite Zones*). The composite zones encompassing the greatest land area are Resource Residential and Rural Residential, which represent residentially zoned land with lot sizes ranging from over two acres to ten acres. The next most prevalent zone is Institutional/Public Lands, which includes open space, parks, and other civic uses, and represents 11 percent of all zoned land in the Highlands Region. Generally, the Planning Area has more lands which fall into residential zones of higher density while in the Preservation Area, the lower density residential zones predominate.

The Council’s findings regarding existing zoning include the following:

- ▶ Current zoning places more than two-thirds of the non-residential floor space in areas that are inconsistent with the State Development and Redevelopment Plan;
- ▶ The current composite zoning in the Region has a very small mixed-use component, approximately one percent overall;
- ▶ Current zoning envisions future non-residential development in locations that do not have existing utilities; and
- ▶ Through adjustments to existing residential and non-residential zoning densities, a greater level of growth can be accommodated in more urban and suburban areas, and, in doing so, improve efficiency of existing utilities in areas served.

**TABLE 3.2: Highlands Region Composite Zones**

Composite Zone	Acres	Percentage
Estate Residential	24,500	3%
Garden Apts.	144	0%
High Density Residential	33,796	4%
Industrial	32,999	4%
Institutional/Public Lands	87,559	11%
Low Density Residential	72,038	9%
Medium Density Residential	33,576	4%
Mixed Use	6,859	1%
Mixed Use/Age Restricted Housing	424	0%
Office/Commercial	19,676	2%
Retail	19,355	2%
Resource Residential	89,068	11%
Rural Residential	342,483	42%
Senior Age Restricted Housing	3,069	1%
Suburban Residential	42,604	5%
Townhouse/Attached Residential	4,354	1%
<b>Highlands Region – Zoned Lands</b>	<b>812,504</b>	<b>100%</b>

See the *Regional Land Use Conditions and Smart Design Guidelines Technical Report* for additional discussion regarding municipal zoning and the *Highlands Regional Build Out Technical Report* for an analysis of several land use development scenarios that evaluate municipal zoning.

### SUBPART C DEVELOPMENT AND REDEVELOPMENT

The Highlands Act is premised on the fact that the trends of the past cannot be sustained and thus discourages “piecemeal, scattered, and inappropriate development” and contemplates a new, comprehensive, more sustainable pattern of development for the future. Land development must remain within limits that are sustainable and do not harm the natural and cultural resources of the Highlands Region. Land that will be available for development or redevelopment will be limited and must be utilized as efficiently as possible to provide for community needs, economic growth and uses that support the future of the Highlands as advanced by the Regional Master Plan.

### 1. REGIONAL AND LOCAL INITIATIVES

Regional development in the Highlands is intended to take advantage of the opportunities associated with development and/or redevelopment of brownfields and grayfields, transit villages, downtowns, and existing centers. Brownfields and grayfields are two types of sites which commonly possess characteristics worthy of investigation for purposes of redevelopment. The definition of a brownfield is, “any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been, a discharge of a contaminant.” Grayfields are sites usually containing industrial or commercial facilities exhibiting signs of abandonment or underutilization in areas with existing infrastructure, but are generally not known to be contaminated. Grayfields may also include a residential component.

The Regional Master Plan strives to meet the Region’s growth needs by guiding growth toward those areas with existing communities and available infrastructure, and less constrained by environmental factors.

Redevelopment activities may be accommodated in previously settled areas, thus conserving natural resources and protecting drinking water supplies and advancing smart growth principles in the Region. Redevelopment can transform vacant, underutilized, or blighted properties into productive uses. New Jersey has a strong history of utilizing redevelopment to improve the physical infrastructure and facilities of its communities. As reported by the New Jersey Office of Smart Growth, there are currently multiple redevelopment initiatives in Highlands communities. Morristown, Dover, and Phillipsburg are examples of established communities pursuing redevelopment, revitalization and transit oriented development approaches in their land use planning. Currently, there are 21 communities in the Highlands Region that are participating in State programs targeted at smart growth planning, community development, and downtown revitalization including State Planning Commission designated centers, Urban Enterprise Zones, Main Street New Jersey, and Transit Villages.



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## 2. SMART DESIGN CHOICES

Smart growth planning and sustainable design are complementary approaches to ensuring that development and redevelopment happen regionally at appropriate locations and utilize on-site design elements and construction techniques that add long term value to the built environment. Smart growth guides development toward locations where existing or planned infrastructure supports prosperous neighborhoods where people find housing, jobs, schools, and open spaces within proximity to one another. Sustainable design

balances the various elements of the built and natural landscape to deliver long term beneficial results for the environment, economy, and society. Together, sustainable design and smart growth principles are an integral component of land use management in the Highlands.

Smart growth is the term given to the comprehensive planning process utilized in guiding, designing, and developing communities that are multi-faceted and balanced, located near appropriate community services and transportation, and fit within the natural landscape without undue detrimental impacts. Smart growth is largely about a thoughtful mix of development located in appropriate places. Smart growth concepts link the macro-scale of capacity-based land use planning to the micro-scale of site design.

Sustainability is described in the American Planning Association's *Policy Guide on Planning for Sustainability* as "the capability to equitably meet the vital human needs of the present without compromising the ability of future generations to meet their own needs by preserving and protecting the area's ecosystems and natural resources. The concept of sustainability describes a condition in which human use of natural resources, required for the continuation of life, is in balance with nature's ability to replenish them." Sustainable design encompasses all of the decisions related to how development occurs in the natural landscape and in the built environment. These decisions, which are largely in the realm of local government, determine whether the development will contribute positively to the overall environment and economy of an area or detract from it. The concept of sustainability and its application to land use management will guide regional preservation decisions and the identification of potential growth and redevelopment areas within the Highlands Region.

At the scale of site design, sustainable smart growth practices need to be supported by the implementation of sustainable or "green" design practices. A green and/or smart design process incorporates environmental considerations into every phase of development, and utilizes a holistic approach throughout each decision step. Green design principles focus on four broad areas: 1) location efficiency; 2) site design and layout (including landscaping); 3) infrastructure design and technology; and 4) building design (including conservation measures).

1. **Location efficiency** applies to both regional scale and local scale decisions regarding where preservation is needed and where development is appropriate. Regional location efficiency reflects capacity-based planning which looks at how best to manage land use within the Region. It utilizes an examination of natural and built conditions to help identify where development is appropriate, the intensity and timing of development that may be supported, and where preservation is needed. Local scale decisions are focused on site specific conditions and locational efficiencies based on community needs as well as resource protection.
2. **Efficient site design and layout** requires a thorough understanding of the characteristics of individual sites. The process begins with a detailed site analysis and utilizes the results to design how structures, infrastructure, and open spaces are arranged in the landscape. Efficient site design considerations include location-specific details like microclimate to guide building orientation and landscape decisions geared toward maximizing the benefits of solar orientation, reducing energy costs and promoting low-maintenance landscaping.
3. **Infrastructure design** can be vital to the reduction of impacts from development on the natural environment. Low impact development is an element of smart growth that lets the natural features of the land guide site design and development. Low impact development techniques for managing stormwater, for example, are designed to more closely mimic the natural hydrologic characteristics of the land and reduce the adverse effects of runoff. Infrastructure design and construction should be approached with flexibility to allow for the use of creative technologies that can demonstrate significant reductions of the negative effects associated with traditional development methods.
4. **Conservation development** considerations include building design decisions that relate to the choice of building materials and systems. Building materials should be selected based on whether or not they are made from sustainable resources and the ease of transporting those supplies, ideally using locally produced materials. Interior and exterior building systems should

be designed and constructed to be energy and resource efficient. Water conservation measures may include low flow valves, greywater re-use systems and rain cisterns for irrigation. Energy conservation in design includes the use of energy-efficient appliances and lighting, as well as the strategic placement of windows, shades, awnings, and overhangs.

The technical basis and additional background information on Community Character can be found in the Highlands Council's *Regional Land Use Conditions and Smart Design Guidelines Technical Report*.



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## SUBPART D FUTURE LAND USE

The Highlands Council utilized the results of the Resource Assessment to identify those lands within the Highlands Region with significant natural and ecological resources. Indicators were used to measure the relative quality of a particular resource, such as ground water recharge, watershed condition, Open Waters and Riparian Areas, forests, Critical Habitat, and slopes. Areas with significant agricultural lands and important farmland soils were also evaluated. A determination was made as to their quality and importance to the Highlands Region.

The Council then used the results of the Smart Growth analysis to identify the nature and extent of developed lands that have limited and dispersed environmental and agricultural resources. Areas were identified based upon existing patterns of development with particular emphasis on areas that are currently served by existing

water and wastewater infrastructure. These findings were used to develop the Land Use Capability Map Series as follows:

1. Land Use Capability Zone Map;
2. Land Use Capability Water Availability Map;
3. Land Use Capability Public Community Water Systems Map;
4. Land Use Capability Domestic Sewerage Facilities Map; and
5. Land Use Capability Septic System Yield Map.

### 1. LAND USE CAPABILITY ZONE MAP

The goal of the Land Use Capability Zone Map is to address the requirements of the Highlands Act and provide regional guidance for the implementation of the policies contained in the Regional Master Plan. The challenge of the Land Use Capability Zone Map was to recognize the range and nature of land throughout the Highlands Region, and assign an overlay zone that best represents the requirements of the Highlands Act and the policies of the Regional Master Plan. As anticipated, and confirmed during the mapping process, there were areas that clearly met the criteria of an overlay zone definition, while other areas exhibited characteristics of more than one zone.

Twenty-one indicators were used to characterize the Highlands Region and to assign the most appropriate overlay zone classification. Three types of indicators were used, including feature based indicators, “intensity” indicators, and integrity-based indicators.

Feature based indicators capture the location and extent of geographic objects such as farms or areas served with wastewater utilities.

The “intensity” indicators were developed using a Highlands mapping approach that calculated the magnitude to which an area in question included a particular feature. These “intensity” indicators can be described as capturing the critical mass of a feature or combination of features.

The integrity-based indicators measure the relative degree of the quality of a particular resource – such as forest.

The technical basis and additional background information on land use can be found in the Highlands Council’s *Land Use Capability Zone Map Technical Report*.

Inherent in the definition of each overlay zone is a determination of the overall carrying capacity for development. Carrying capacity has two basic components – natural resource capacity and infrastructure capacity – that must both be addressed in establishing an appropriate development density. Essentially, growth can only occur if the natural resource carrying capacity (e.g., water supply source, pollutant assimilative capacity, ecological viability) and infrastructure carrying capacity (e.g., public water supply, wastewater treatment, and transportation systems) are available.

Overlay zones build upon municipal zoning by establishing additional standards and criteria, and are intended to provide a means to address a special public interest (e.g., watershed management area, open space preservation, historic preservation, urban enterprise zone, etc.) that the underlying municipal zoning may not otherwise take into consideration.

Underlying municipal zoning establishes permitted land uses, while overlay zones may detail more site specific requirements aimed at a certain goal, with the stricter standard applying. In terms of the Regional Master Plan, examples of these standards may include best management practices related to preservation of agricultural lands or green building approaches for development initiatives.

The Highlands Council has developed three primary overlay zones (the Protection Zone, Conservation Zone, and Existing Community Zone) and four sub-zones (Wildlife Management Sub-Zone, Conservation Zone – Environmentally Constrained, Existing Community Zone – Environmentally Constrained, and Lake Community) each with their own purpose, application, and development criteria (see Figure 3.27 *Land Use Capability Zone Map*). These zones apply within both the Preservation and Planning Areas, though at times with distinct policies and standards in compliance with Highlands Act requirements. The Highlands Council used a 75 acre minimum mapping threshold for the delineation of the three primary overlay zones.

These zones distinguish between resource constrained lands, where development will be limited (Protection Zone), and those lands characterized by existing patterns of human development where, dependent on land or capacity constraints, additional growth may or may not be appropriate (Existing Community Zone). The Conservation Zone identifies those areas with a high concentration of agricultural lands and associated woodlands and environmental features, where development potential may be limited based on the limitations of available infrastructure to support development (e.g., water availability, the existence of concentrated environmental resources that are easily impaired by development, or the protection of important agricultural resources).

In addition to these three primary overlay zones, four sub-zones within the Protection, Conservation, and the Existing Community Zones have been identified. These constrained areas recognize regionally significant sensitive environmental features where development should be subject to limitations on resource protection, consumptive and depletive water use, and degradation of water quality. The constrained areas do not represent all environmental constraints, and additional environmental restrictions may apply during site planning.

The **Protection Zone** consists of high natural resource value lands that are important to maintaining water quality, water quantity and sensitive ecological resources and processes. Land acquisition is a high priority in the Protection Zone and development activities will be extremely limited; any development will be subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

The **Wildlife Management Sub-Zone** consists of both areas managed by the United States Fish and Wildlife Service as part of the National Wildlife Refuge System and Wildlife Management Area System administered by the NJDEP Division of Fish & Wildlife's Bureau of Land Management. These areas are part of a network of lands and waters for conservation, management, and where appropriate, restoration of fish, wildlife, and plant resources and their habitats and permit compat-

ible wildlife-dependent recreational uses such as hunting, fishing, wildlife observation and photography, and environmental education and interpretation. There is no minimum mapping threshold for the delineation of the Wildlife Management Sub-Zone.

The **Conservation Zone** consists of areas with significant agricultural lands and interspersed with associated woodlands and environmental features that should be preserved when possible. Non-agricultural development activities will be limited in area and intensity due to infrastructure constraints and resource protection goals.

The **Conservation Zone – Environmentally Constrained Sub-Zone** consists of significant environmental features within the Conservation Zone that should be preserved and protected from non-agricultural development. Development activities will be limited and subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

The **Existing Community Zone** consists of areas with regionally significant concentrated development signifying existing communities. These areas tend to have limited environmental constraints due to previous development patterns, and may have existing infrastructure that can support development and redevelopment provided that such development is compatible with the protection and character of the Highlands environment, at levels that are appropriate to maintain the character of established communities.

The **Existing Community Zone – Environmentally Constrained Sub-Zone** consists of significant contiguous Critical Habitat, steep slopes and forested lands within the Existing Community Zone that should be protected from further fragmentation. They serve as regional habitat “stepping stones” to larger contiguous Critical Habitat and forested areas. As such, they are not appropriate for significant development, and are best served by land preservation and protection. Development is subject to stringent limitations on consumptive and depletive water use, degradation of water quality, and impacts to environmentally sensitive lands.

The **Lake Community Sub-Zone** consists of patterns of community development that are within the Existing Community Zone within 1,000 feet of lakes. The Highlands Council focused on lakes that are 10 acres or greater and delineated lake management areas consisting of an area of up to 1,000 feet (depending on the protection focus) from the lake shoreline in order to protect water quality, resource features, shoreline development recreation, scenic quality and community character. A future management area is planned, encompassing the full lake watershed, for protection of the lake water quality. This zone has unique policies to prevent degradation of water quality, and watershed pollution, harm to lake ecosystems, and promote natural aesthetic values within the Existing Community Zone.

In terms of the overall breakdown of the Highlands Region by each of the Land Use Capability Zones (see Table 3.3 *Land Use Capability Zone Map – Acres and Percentages by Zone*) the Highlands Council found

that nearly 75 percent of the Highlands Region is either in the Protection Zone or one of the four Sub-Zones (Wildlife Management, Existing Community-Environmentally Constrained, Conservation-Environmentally Constrained, or Lake Community).

An analysis of the composition of land use within each of the Land Use Capability Zones (see Table 3.4 *Land Use Characteristics by Land Use Capability Zone*) illustrate that the Protection Zone includes most of the forest, water and wetlands. The composition of the Existing Community Zone includes most of the residential, commercial and industrial uses, while the Existing Community – Environmentally Constrained Zones includes mostly forest, water, and wetlands, and demonstrates the existence of natural resources within an otherwise developed landscape. The Conservation Zone includes the vast majority of the agricultural uses within the Highlands Region.

**TABLE 3.3: Land Use Capability Zone Map – Acres and Percentages by Zone**

Land Use Capability Zone Map	Highlands Region	
	Area (acres)	Percent of Land Class
Protection Zone	430,198	50.06%
Wildlife Management Sub-Zone	46,463	5.41%
Conservation Zone	68,806	8.01%
Conservation – Environmentally Constrained Sub-Zone	115,474	13.44%
Existing Community Zone	145,682	16.95%
Existing Community – Environmentally Constrained Sub-Zone	32,098	3.74%
Lake Community Sub-Zone	20,637	2.40%
<b>TOTAL</b>	<b>859,358</b>	<b>100.00%</b>

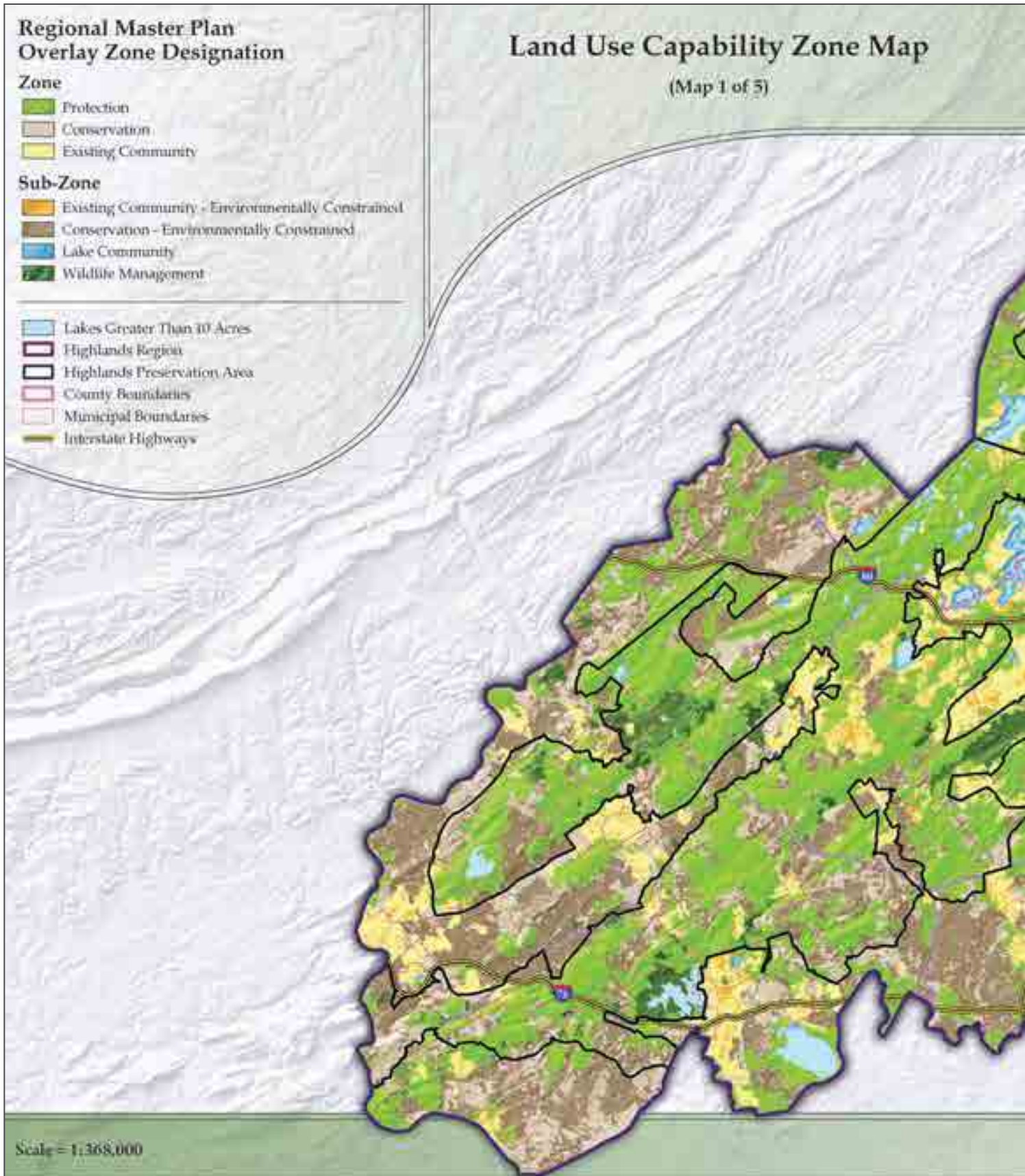
**TABLE 3.4: Land Use Characteristics by Land Use Capability Zone**

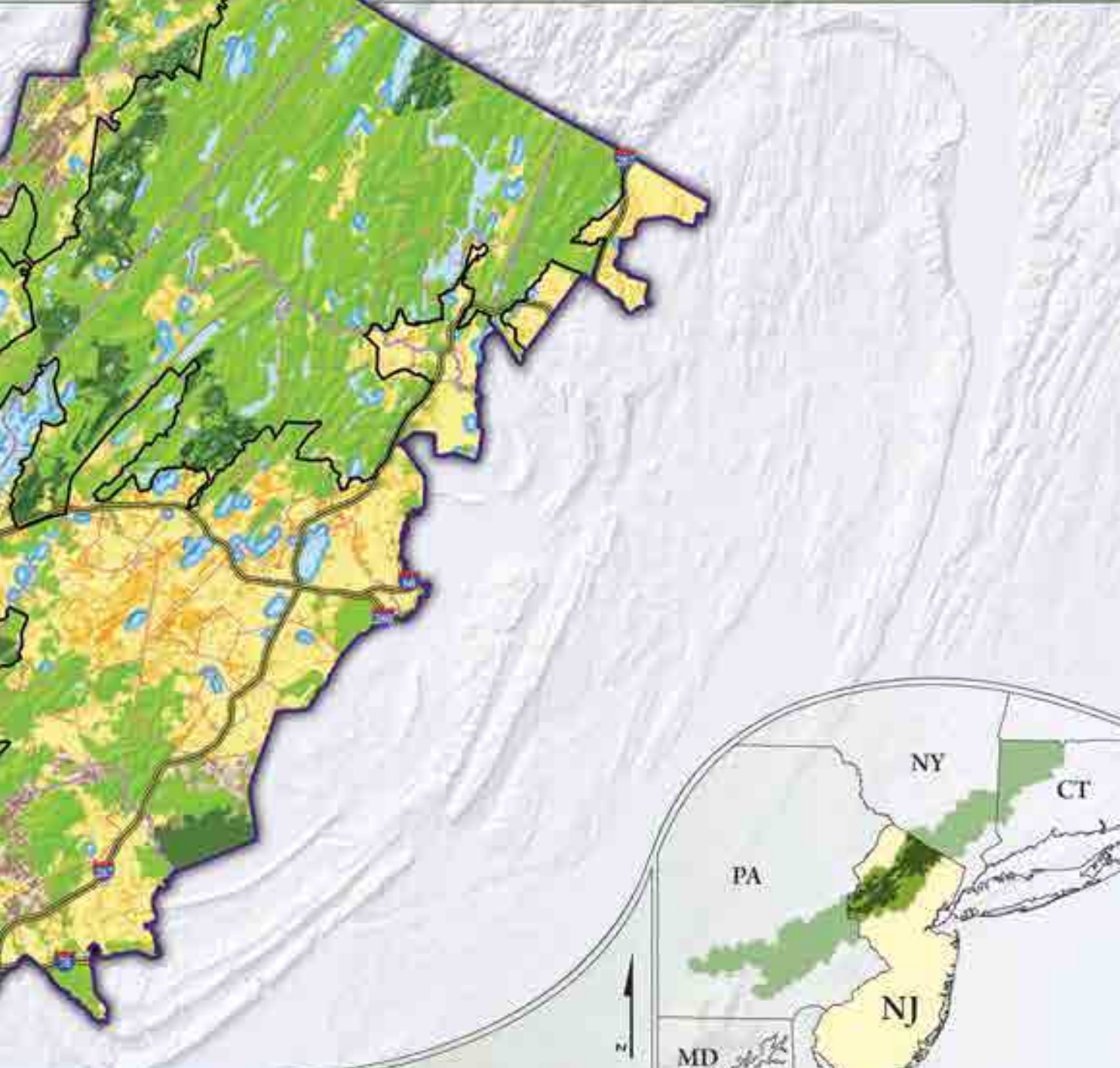
Land Classification (2002)	Protection Zone		Conservation Zone		Existing Community Zone	
	Area (acres)	Percent of Land Class	Area (acres)	Percent of Land Class	Area (acres)	Percent of Land Class
Residential	42,126	9.79%	13,331	19.37%	83,487	57.31%
Commercial	1,947	0.45%	827	1.20%	11,884	8.16%
Industrial	687	0.16%	364	0.53%	4,023	2.76%
Other Urban	12,190	2.83%	2,799	4.07%	20,105	13.80%
Agriculture	12,035	2.80%	38,924	56.57%	2,369	1.63%
Forest	285,895	66.46%	7,194	10.46%	10,805	7.42%
Water	21,437	4.98%	816	1.19%	6,070	4.17%
Wetlands	50,310	11.69%	3,825	5.56%	4,138	2.84%
Barren Land	3,571	0.83%	727	1.06%	2,800	1.92%
<b>TOTAL</b>	<b>430,198</b>	<b>-</b>	<b>68,806</b>	<b>-</b>	<b>145,682</b>	<b>-</b>

Land Classification (2002)	Wildlife Management Sub-Zone		Conservation – Environmentally Constrained Sub-Zone		Existing Community – Environmentally Constrained Sub-Zone	
	Area (acres)	Percent of Land Class	Area (acres)	Percent of Land Class	Area (acres)	Percent of Land Class
Residential	275	0.59%	2,650	2.29%	1,130	3.52%
Commercial	37	0.08%	87	0.07%	122	0.38%
Industrial	16	0.03%	59	0.05%	50	0.16%
Other Urban	1,035	2.23%	1,158	1.00%	1,030	3.21%
Agriculture	3,242	6.98%	52,322	45.31%	591	1.84%
Forest	29,649	63.81%	42,484	36.79%	21,947	68.38%
Water	2,046	4.40%	741	0.64%	1,279	3.99%
Wetlands	10,124	21.79%	15,460	13.39%	5,282	16.46%
Barren Land	40	0.09%	514	0.44%	666	2.07%
<b>TOTAL</b>	<b>46,463</b>	<b>-</b>	<b>115,474</b>	<b>-</b>	<b>32,098</b>	<b>-</b>

Land Classification (2002)	Lake Community Sub-Zone		Highlands Region	
	Area (acres)	Percent of Land Class	Area (acres)	Percent of Land Class
Residential	11,951	57.91%	154,949	18.03%
Commercial	973	4.71%	15,877	1.85%
Industrial	276	1.34%	5,474	0.64%
Other Urban	1,803	8.74%	40,121	4.67%
Agriculture	100	0.49%	109,582	12.75%
Forest	4,024	19.50%	401,999	46.78%
Water	402	1.95%	32,792	3.82%
Wetlands	810	3.92%	89,949	10.47%
Barren Land	297	1.44%	8,615	1.00%
<b>TOTAL</b>	<b>20,637</b>	<b>-</b>	<b>859,358</b>	<b>100.00%</b>

FIGURE 3.27



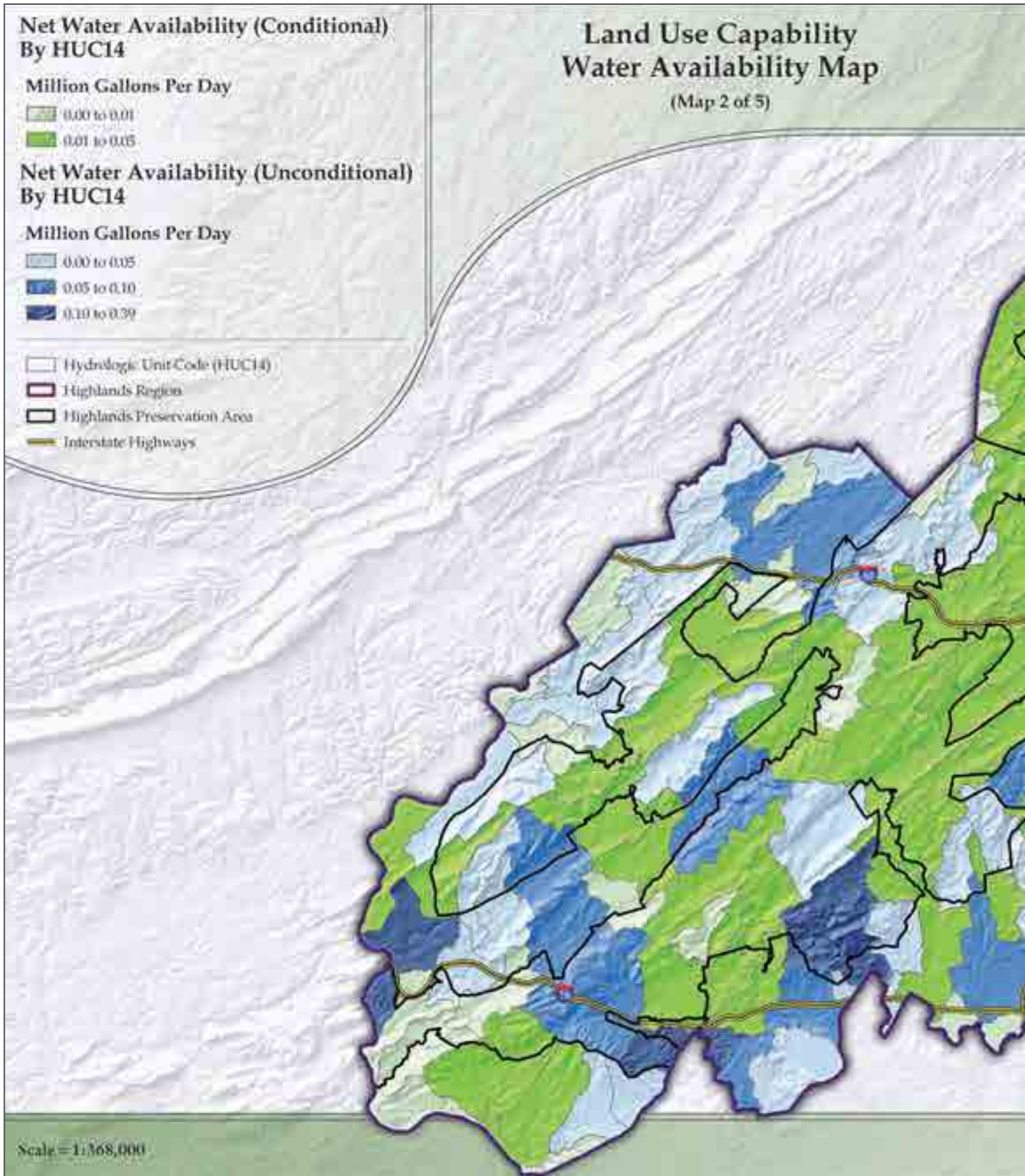


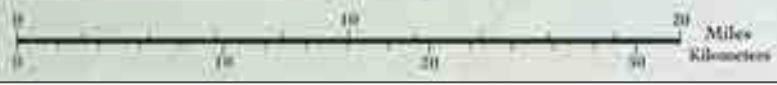
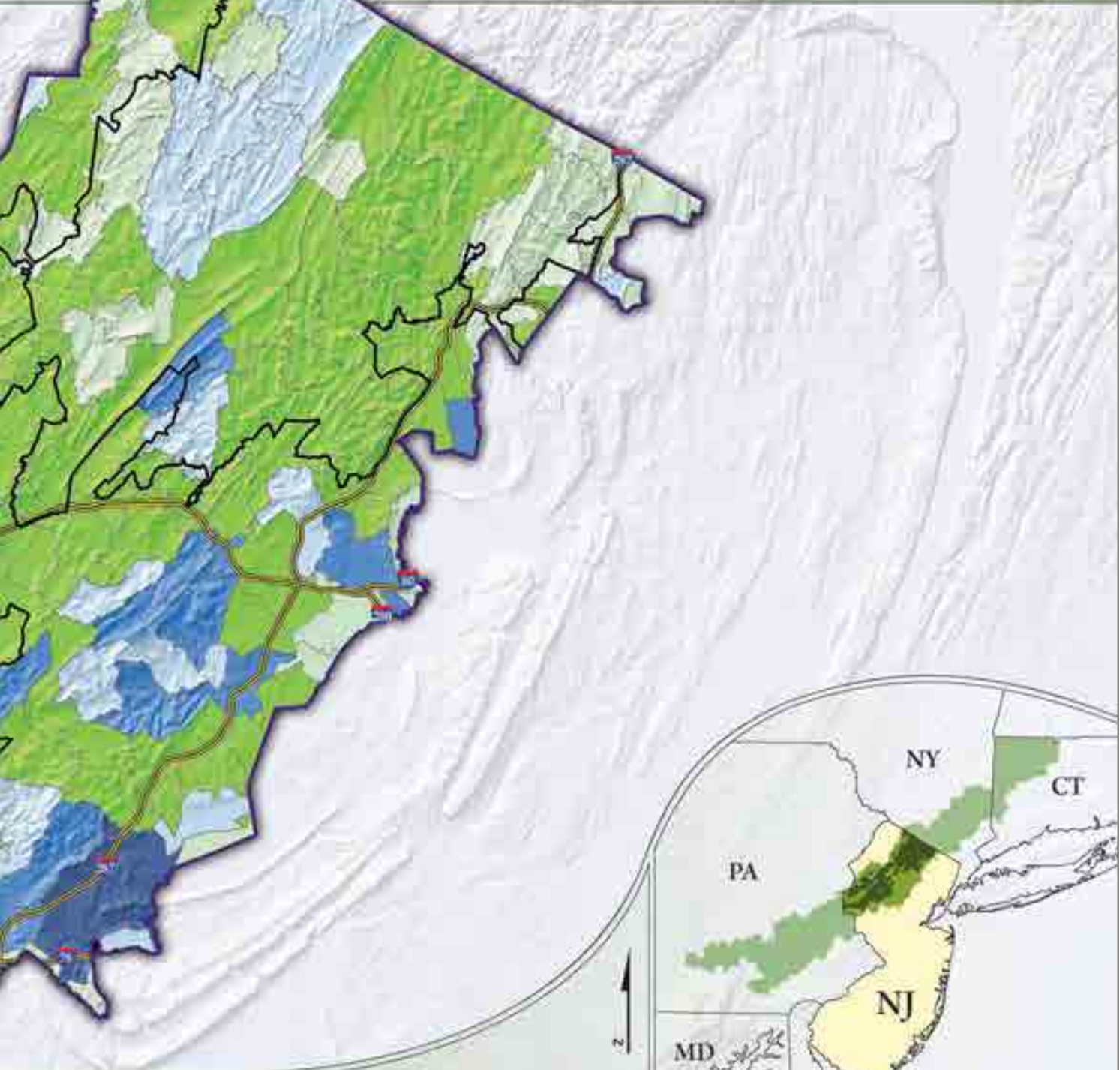
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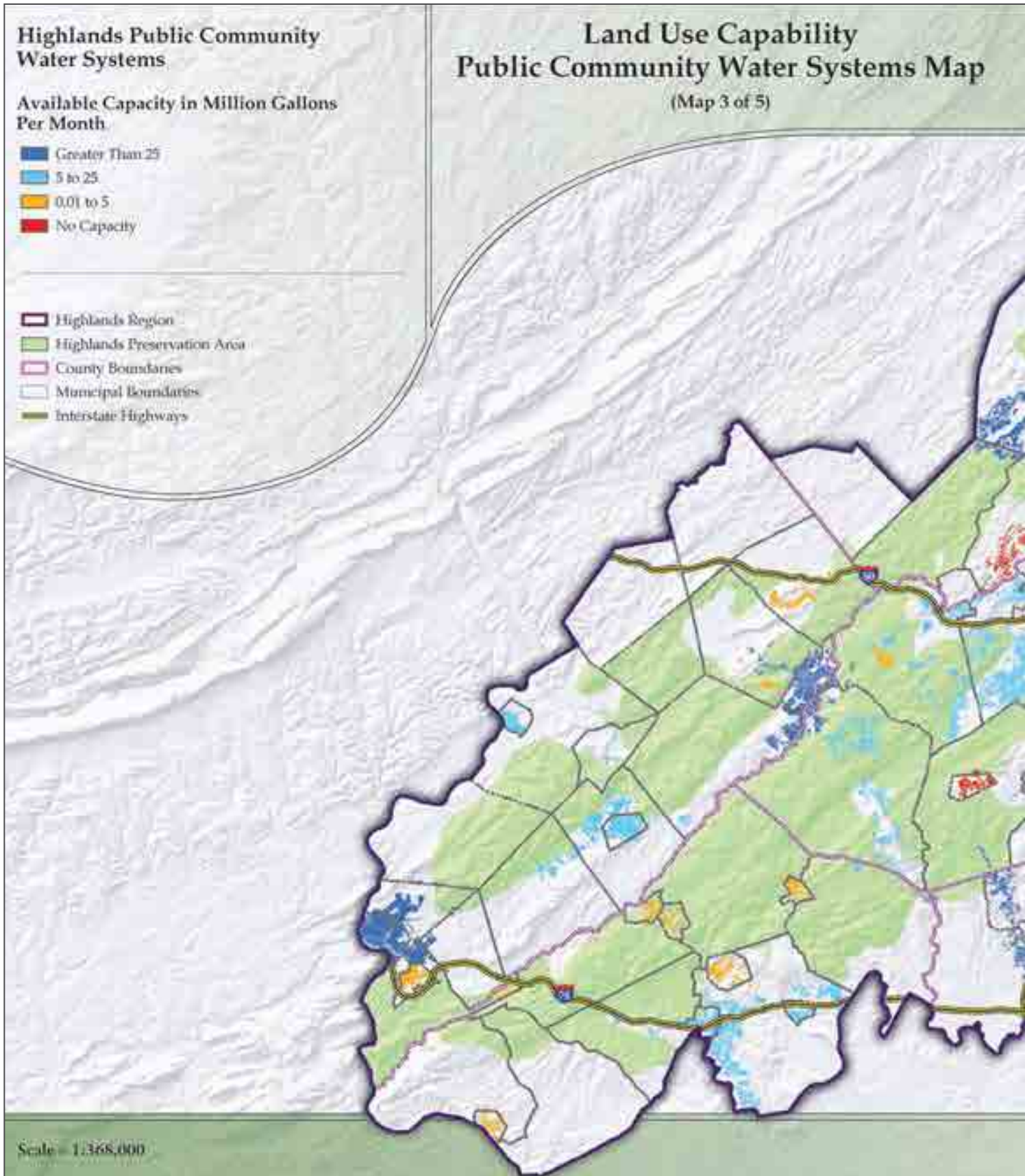
FIGURE 3.28

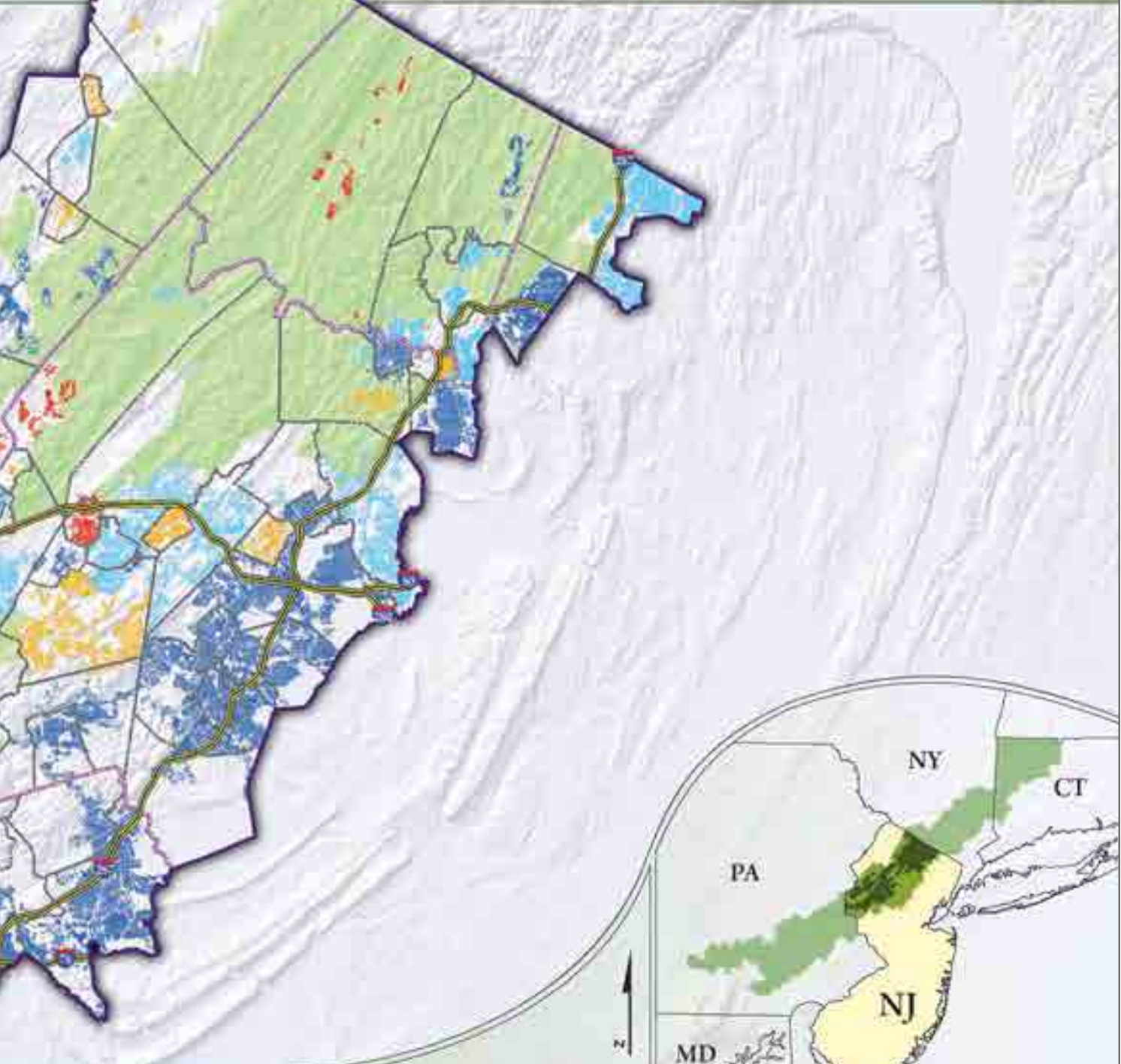




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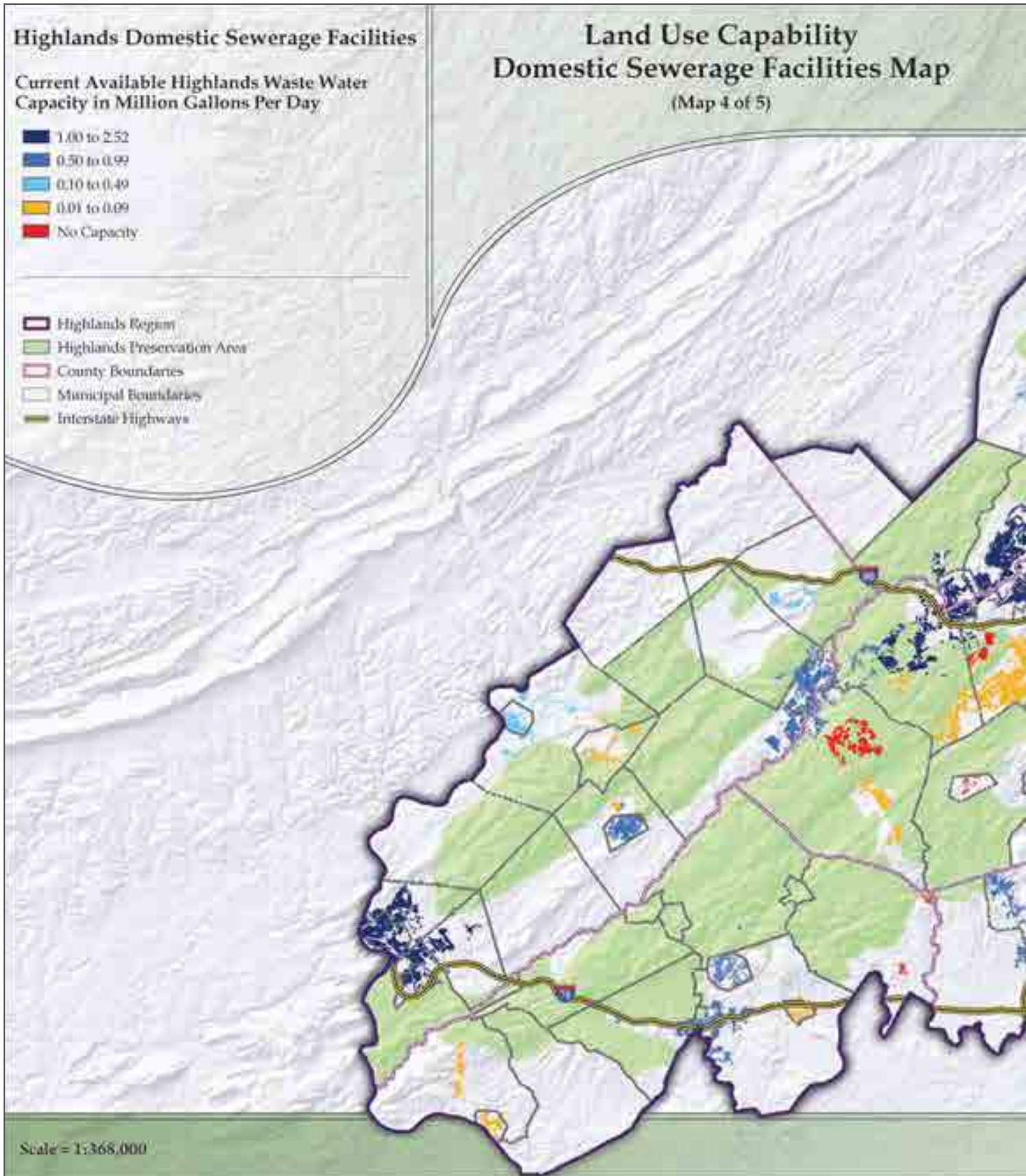
FIGURE 3.29

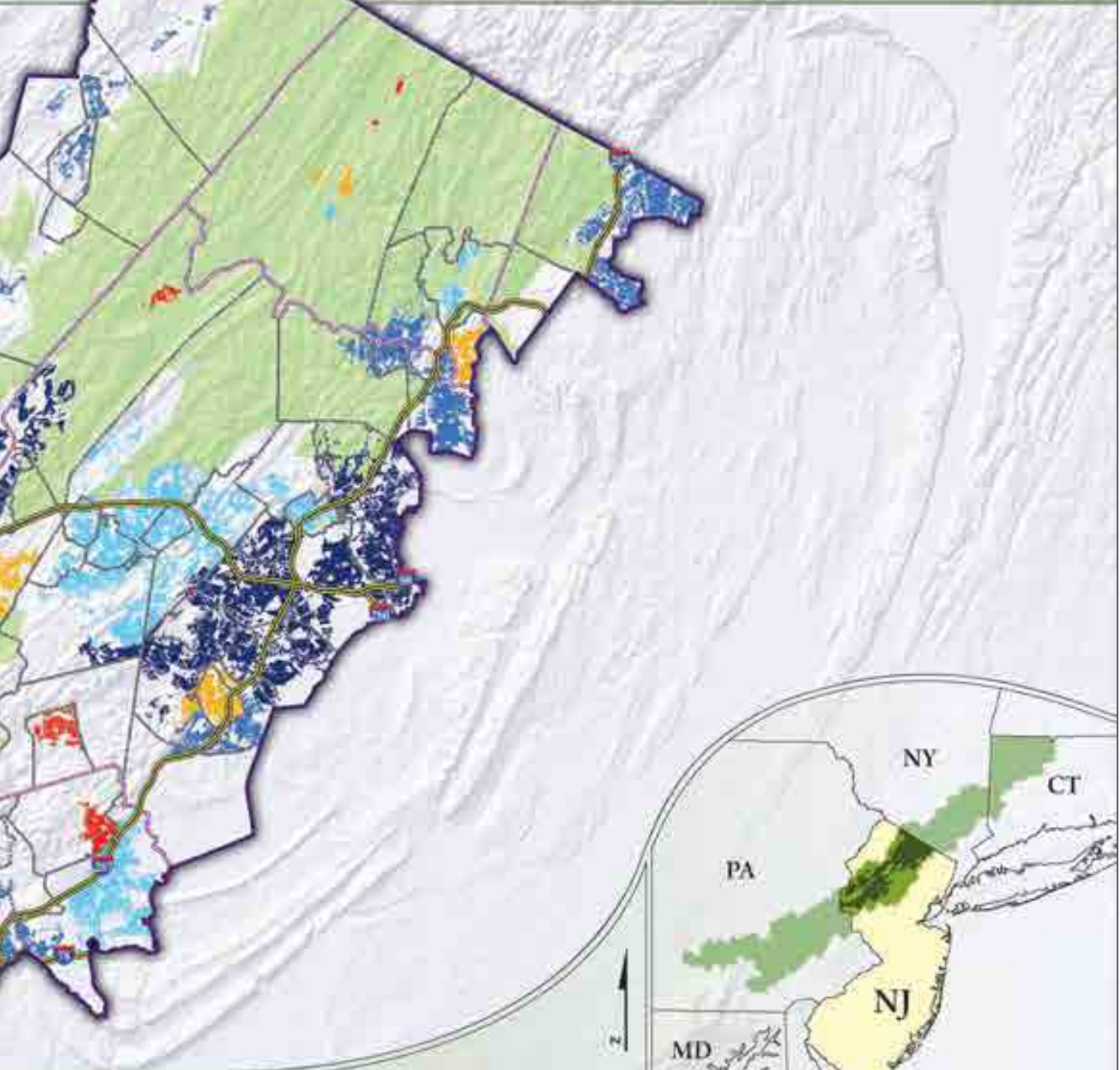




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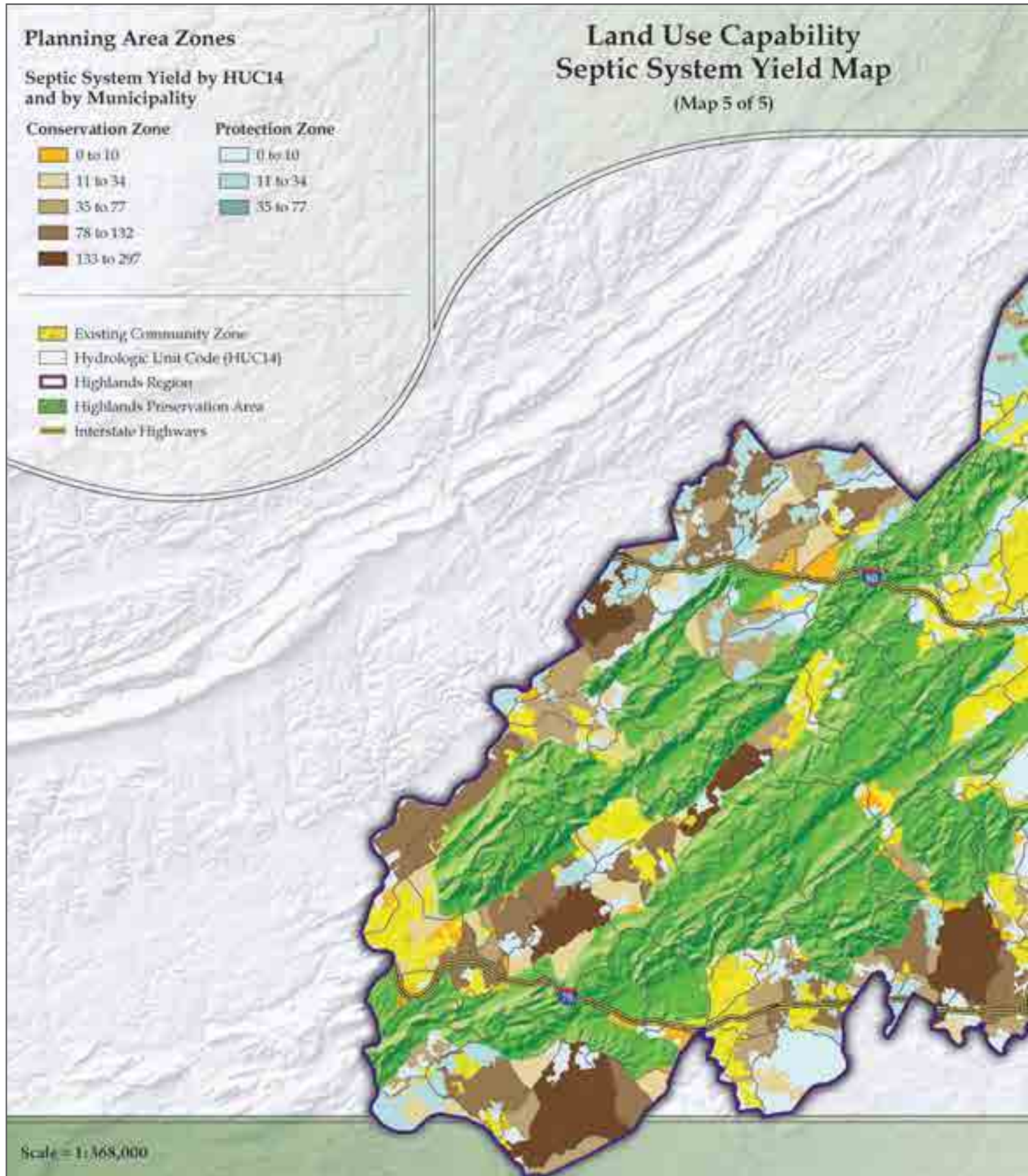
FIGURE 3.30

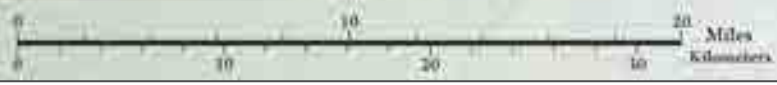
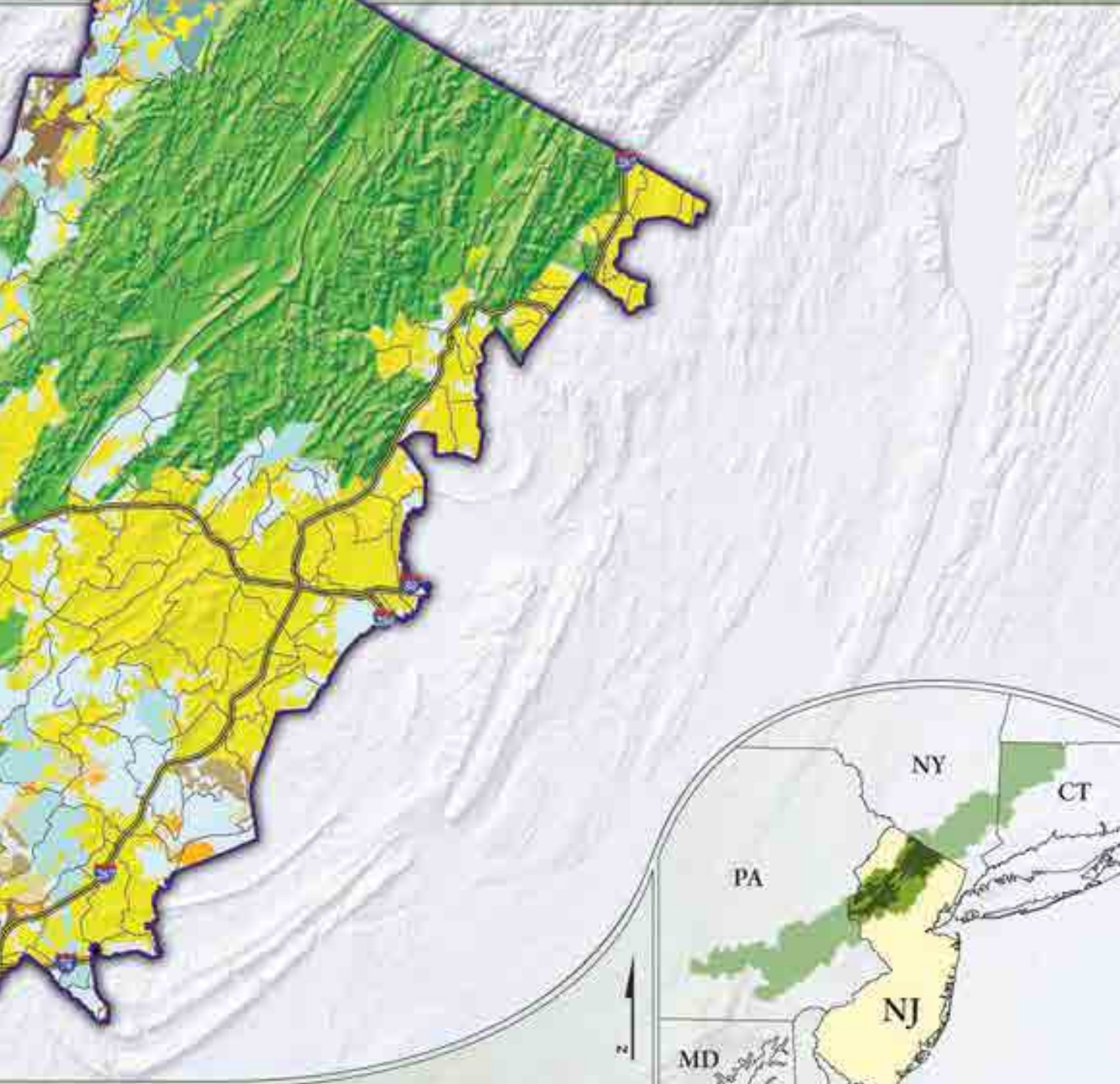




Scale = 1:5,350,000

FIGURE 3.31





Scale = 1:5,350,000

## PART 7 Landowner Equity

The Highlands Act recognizes that implementation of the Regional Master Plan, which directs and guides future development, inevitably has an impact on landowner expectations regarding future land use potential. The Act provides several mechanisms that seek to mitigate such impacts, including, but not limited to transfer of development rights, exemptions, waivers, and land acquisition. The transfer of development rights, exemptions and waivers are discussed below. Land acquisition is detailed in *Part 1 Natural Resources* and *Part 3 Agricultural Resources*.

### SUBPART A TRANSFER OF DEVELOPMENT RIGHTS

Transfer of Development Rights (TDR) is a land use tool that permits the transfer of development potential from areas identified for preservation, called sending zones, to areas that are more appropriate to accommodate increased growth, called receiving zones. Landowners in the sending zones receive compensation for the transferable development potential of their property that has been restricted in support of preservation. Payment for this lost development potential comes from purchasers who buy credits representing the lost development potential of parcels in the sending zones. The credits then entitle the purchaser to build in a receiving zone at a density greater than that permitted in the existing zoning.

TDR has become an increasingly popular land use tool to preserve lands containing sensitive resources, whether those resources are environmental, agricultural, or historical. In New Jersey, TDR programs have been established for a number of purposes, including preserving farmland to maintain agricultural viability, and protecting ecologically important lands to maintain ecosystem health and high water quality.

Importantly, TDR recognizes that the development potential of a parcel of land may be separated from the other rights of property ownership, such as the right to possession, mineral rights, or the right to exclude others. TDR also recognizes that this development potential is transferable from one specific parcel to another. Once a parcel's development potential is severed, the parcel is encumbered with either a deed restriction or con-

servation easement generally limiting its future use to its current use in perpetuity. Underlying ownership of the encumbered parcel remains with the existing landowner until he or she decides to transfer the parcel. As for the transferred development potential, once it has been redeemed, (e.g., it has been used to increase development density or intensity in a receiving zone) it can never be used again.

There are a number of essential elements to any TDR program. The first is the identification of sending and receiving zones. Sending zones represent the areas which a municipality or regional entity desires to protect. They are the areas from which development potential is transferred or sent out. Receiving zones represent those areas that will accommodate the transferred development potential. These zones should have the infrastructure capacity, ecological integrity, and real estate market to support increased development and its attenuating growth impacts. Generally, both sending zones and receiving zones are identified at the outset of a TDR program and are incorporated into the overall zoning scheme as either specific zone districts or overlay zones. Sending zone identification tends to be the simplest step in establishing a TDR program because there is usually consensus regarding the need to protect specific resources. Identification of receiving zones tends to be more difficult. In addition to determining whether a potential receiving zone has the ecological integrity and infrastructure capacity to accept increased development, there is often the political challenge of overcoming reluctance to accept additional growth. Through careful planning and public input, however, these challenges may be overcome.

Another basic component of any TDR program is a determination of what development rights are going to be severed from sending zone parcels and available for sale and use in receiving zones. The process of defining what these rights are and how many rights should be given to a particular lot is known as allocation. Once these rights are defined, often expressed in the form of credits, they serve as a mechanism for the TDR development potential that is restricted on the sending zone parcel.

A TDR program must also have a process for recording, transferring, and tracking TDR credits from a parcel

in a sending zone to their use in a receiving zone. Frequently, a TDR program will use a conservation restriction or easement to set forth the land uses that are prohibited and permitted on the parcel.

Many TDR programs utilize a TDR credit bank to support program administration. The bank serves as the clearinghouse for information regarding the program and administers the recording, transferring, and tracking of TDR credits. In addition to serving these administrative functions, the bank may also assist sellers and purchasers of TDR credits by providing or serving as a buyer or seller of last resort of TDR credits, or guaranteeing loans utilizing the TDR credits as collateral. The existence of a TDR credit bank establishes a degree of credibility for a TDR program particularly where the bank is able to purchase and sell credits. A TDR program relies on landowners and developers to see that there is a market for the credits, and that those credits have value. In some instances, the bank does not actively buy and sell TDR credits, but instead facilitates private transactions between buyers and sellers.

With the adoption of the Highlands Act, the State Legislature authorized the Highlands Council to establish a Highlands TDR Program. This program is to be regional in scope and is to be premised on the resource assessment and smart growth component of the Regional Master Plan. The framework and parameters of the program, called the Highlands TDR Program, are detailed in Chapter 4 - Goals, Policies, and Objectives.

Establishment of the Highlands TDR Program has been shaped by a number of circumstances. First and foremost, the program is guided by the TDR provision of the Highlands Act. This provision includes an initial requirement that the program be consistent with the State Transfer of Development Rights Act unless otherwise stated by the Highlands Act. The provision also requires that, in establishing the program, the Council:

- ▶ Identify sending zones and voluntary receiving zones (Section 13.b and c);
- ▶ Working with municipalities, identify centers, designated by State Planning Commission as voluntary receiving zones (Section 13.d);
- ▶ Develop advisory or model TDR ordinances (Section 13.f);

- ▶ Conduct a real estate analysis of the Highlands Region (Section 13.g);
- ▶ Set the initial value of a development right (Section 13.h[1]); and
- ▶ Give priority consideration to any lands that comprise a major Highlands development that would have qualified for the third exemption under the Highlands Act but for the lack of a necessary State permit (Section 13.h[2]).

Second, the Highlands TDR Program has been influenced by the history and experiences of other TDR programs, particularly those in New Jersey such as the Pinelands Development Credit Program administered by the New Jersey Pinelands Commission and Pinelands Development Credit Bank.

Third and finally, program development has been affected significantly by circumstances unique to the Highlands Region. One of the first considerations is the scale of the program. Although not the largest TDR program in terms of number of acres in which development potential can be transferred, the Highlands TDR Program will certainly involve the largest number of municipalities. Within the Highlands Region, 88 municipalities may participate. The Highlands Act also allows for the additional 130 municipalities outside of the Region (land within the seven Highlands counties) to serve as voluntary receiving zones. Consequently, a total of 218 municipalities may be involved in the program.

Given the geographic scope of the Highlands Region, another significant consideration is the varying real estate market values that exist across the seven counties. For example, vacant property in Warren County as of 2004 had an average equalized assessed value of \$15,452 per acre. In Bergen County, the comparable value was more than five times greater, averaging \$84,964 per acre. Significant real estate market variability also exists among municipalities within a given county. It has been essential to consider these varied real estate values in developing the program.

Finally, significantly affecting program development is the fact that any receiving zones in the Highlands TDR Program are strictly voluntary. As noted above, the ability to develop with TDR credits in receiving

zones establishes the demand for those credits. Without receiving zones, a market-based TDR program will not succeed. The Highlands Council has not been authorized to mandate specific receiving zones which municipalities must accommodate; the Highlands Council may only recommend areas that are appropriate but which the municipalities are under no obligation to accept. Fortunately, the Highlands Act provides a number of incentives to encourage municipal participation as receiving zones, and the Highlands Council has established a Receiving Zone Feasibility Grant Program to help defray costs incurred by municipalities that want to explore establishing such zones.

The technical basis and additional background information on the Highlands TDR Program can be found in the Highlands Council's *Transfer of Development Rights Technical Report*.

### **SUBPART B EXEMPTIONS AND WAIVERS**

The Highlands Act provides for 17 exemptions from the provisions of the Act. If a project or activity falls within one of these 17 exemptions, the project or activity is exempt from the Highlands Act, the Highlands Preservation Area rules adopted by the NJDEP, the Regional Master Plan, and any municipal master plan or development regulations that are revised to conform to the Regional Master Plan.

The Highlands Council conducted an analysis of four of the most important exemptions to landowners. Two of the exemptions permit the construction of a single-family dwelling on an undeveloped parcel that lawfully existed as of August 10, 2004, the enactment date of the Highlands Act. The third allows for the reconstruction and limited expansion of any building or structure for any reason within 125 percent of the original footprint, provided that the reconstruction does not increase the impervious surface by one-quarter acre or more. The fourth exemption permits an improvement to a single family dwelling in existence on August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.

The analysis reveals that tens of thousands of acres throughout the Region could potentially be developed under these four exemptions; the actual potential may

be constrained by existing site conditions, ownership issues, zoning and other factors. While the exemptions are one of the primary means for landowners to utilize their properties where development potential is limited by the Highlands Act, the exercise of these exemptions may result in further fragmentation of the Region's ecosystems and the construction of additional impervious surface. Given this circumstance, the Highlands Regional Master Plan addresses the need to develop programs that attempt to mitigate these impacts, including programs to encourage non-contiguous clustering, intra-local government transfers of development rights and economic incentives.

In addition to the exemptions, the Highlands Act also provides the NJDEP with the authority to grant waivers from its Highlands rules on a case by case basis under certain circumstances. Under this authority, the NJDEP may issue waivers (a) where a project or activity is necessary in order to protect public health and safety; (b) for redevelopment in previously developed areas as identified by the Highlands Council, provided that the areas are either a brownfield site designated by the NJDEP or a site at which at least 70 percent of the area thereof is covered with impervious surface; or (c) necessary to avoid a taking of property without just compensation.

## **PART 8 Sustainable Economic Development**

### **SUBPART A SUSTAINABLE ECONOMIC DEVELOPMENT**

The Highlands Act states that "appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth" should be encouraged in certain areas of the Highlands, specifically "in or adjacent to areas already utilized for such purposes." The Highlands Act further states that this form of development is intended to "accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment." Thus economic growth must be accommodated in a sustainable manner; taking careful advantage of the unique and valuable built and natural resources of the Region.

Economic activities will depend largely upon location and may include land development and redevelopment, but may also include non-development approaches such as business retention, expansion efforts, and tourism opportunities. Various locations are available to accommodate economic initiatives within the Highlands Region, including redevelopment of existing underutilized areas, development in areas without environmental constraints, and brownfields redevelopment. Economic activities should support both the local communities and the larger Region. Redevelopment is anticipated in established commercial areas as well as scattered abandoned or underutilized industrial sites and old retail buildings. These sites are often referred to as grayfields, reflecting the sea of asphalt that typically surrounds these types of sites. New growth may be accommodated in Planning Area communities where the land is able to accommodate new development and utilities can be made available. Brownfields are yet another opportunity for economic development and may serve to improve the environmental condition because these sites are contaminated in some manner and may be contributing pollutants into the surrounding environment. Remediation of brownfields is expensive and requires a return on investment in order to make the project economically feasible. In return, the site is cleaned and made available for redevelopment.

## SUBPART B RECREATION AND TOURISM

With many areas of protected open space, panoramic views, and a rich history that spans from colonial times to the industrial era to the present, the Highlands offers residents and visitors a variety of recreational and tourism opportunities within a landscape that reflects history, exhibits scenic beauty, and provides outdoor recreational activities. Tourism is a major component of New Jersey's economy. It is the second largest industry in the state, accounting for extensive revenue and tourism-related jobs. Strategically located between New York City and Philadelphia, New Jersey is well positioned to take advantage of a significant tourism market. The Highlands Region, located within this market, is within a day's drive of over 20 million people.



Nathan McLean

The extensive and varied recreational, agricultural, cultural, historical, and scenic resources contained within the Highlands Region represent a substantial foundation for a regional tourism economy. It also serves the local population with many active and passive recreation facilities close to home.

Outdoor recreation and the tourism associated with it involve the interaction of people with an outdoor environment during their travel and leisure time. Outdoor recreation consists of active pursuits such as sports and games, as well as less active, more leisurely activities such as walking in the woods or bird watching. Outdoor resources accommodate two types of recreation activity: resource-based recreation and facility-based recreation. A community should have a mix of resource-based and facility-based recreation opportunities for its residents.



Nathan McLean

Enjoyment of resource-based recreation activities is directly linked to the health of the outdoor environment. Hikers, canoeists, cross-country skiers, and campers enjoy their experiences if the environment is clean and healthful. Fishing enthusiasts rely on clean water to support the trout they catch. If a stream's water is degraded such that fish cannot survive, fishing is in jeopardy. Resource-based recreation is dependent on a healthy environment.

Facility-based recreation is accommodated through a built facility. Typical facility-based recreation activities include indoor ice-skating, pool swimming, and sports requiring a field or court. Generally, the location of these facilities is less dependent on the natural surroundings than other forms of recreation. A tennis court can be built in the middle of a neighborhood, downtown, or in a barn in the countryside.

Agri-tourism represents an important and growing component of Highlands tourism. Agri-tourism is both a marketing strategy for farmers to expand their economic base and a recreational outlet for visitors to enjoy and share in the flavor of the farm environment. Tourist destinations associated with agricultural activities are available at approximately 60 farms which market opportunities for agri-tourism in the form of pick-your-own, farm tours, roadside markets, hayrides, corn mazes, petting farms, and Christmas tree farms. Additionally, full-scale vineyards, offer tours, tastings, grape stomping, festivals, and other tourist amenities.

Heritage tourism is a fast growing segment of the tourism market that is oriented toward a cultural heritage experience. It involves visiting historic and cultural places and artifacts and engaging in activities associated with the people and places of the past. The overall purpose is to gain an appreciation for the stories and the people that had a part in forming history. Heritage tourism uses resources that already exist and in this way is a sustainable activity. Additionally, with the proper planning heritage tourism can help support the preservation of these resources.



Nathan McLean

The technical basis and additional background information on recreation and tourism analysis can be found in the Highlands Council's *Historic, Cultural, Scenic, Recreation, and Tourism Technical Report*.

### SUBPART C BASELINE ECONOMIC INDICATORS

Baseline Economic Indicators include regional economic and socio-economic data from a variety of sources that have been used to create a consolidated Highlands economic database. Assessing these economic conditions is important in order to address the financial implications of regional development and implementation of the Regional Master Plan.

Indicators have been identified that offer applicable data to various components of the Regional Master Plan. The indicators are based on standardized, and regularly reported economic indices that are available at a regional level. It was determined that traditional economic indices and property valuation statistics will provide the best indication of the health of the regional economy. Eight categories of Highlands Region baseline economic indicators have been established, including population, employment, households, income, property taxes, equalized property values, land transactions, and building permits. These indicators will be tracked

at the municipal level by the Highlands Council and results will be shared with Highlands counties, municipalities, and State agencies for review and consistency. Indicators may also inform elements of the Cash Flow Timetable with associated financial implications, such as land valuation and land acquisition. The indicators will also include an evaluation of agricultural economic metrics for the Highlands Region in coordination with the United States Department of Agriculture, New Jersey Department of Agriculture, County Agriculture Development Boards and additional sources as appropriate.



*Nathan McLean*

## SUBPART D CASH FLOW TIMETABLE

The Cash Flow Timetable is a requirement of the Highlands Act whereby the costs to implement the Regional Master Plan and the sources of revenue to cover the costs are formally accounted for over time. An important aspect of the Highlands Act is the creation of the Highlands Protection Fund, which is managed by the New Jersey Department of Treasury. It has been established primarily to provide financial assistance for tasks related to implementation of the Regional Master Plan, as well as to stabilize municipal budgets due to implications stemming from Regional Master Plan implementation.

In each of the last four State fiscal year annual appropriations acts (2005, 2006, 2007 and 2008), the following annual appropriations were credited to the Highlands Protection Fund for an annual total of \$12 million:

- ▶ Regional Master Plan Compliance Aid – \$1.75 million;
- ▶ Incentive Planning Aid – \$2.65 million;

- ▶ Highland Property Tax Stabilization Aid – \$3.6 million;
- ▶ Watershed Moratorium Offset Aid – \$2.2 million; and
- ▶ Pinelands Property Tax Stabilization Aid – \$1.8 million.

Since 2004, the Highlands Protection Fund has included State appropriations for compliance and incentive planning in the amount of \$4.4 million per annum (\$1.75 million per year for Compliance Aid and \$2.65 million per year for Incentive Planning Grants). The Highlands Council Planning Grant funding has a current balance of over \$21 million. In addition, municipalities that meet the conformance criteria outlined in Section 13.k. shall be eligible for a series of benefits including, but not limited to, TDR Incentive Grants of up to \$250,000 per municipality.

### 1. PLANNING GRANTS

In recognition of the costs associated with municipalities and counties conforming to the Regional Master Plan, the Act provided funding mechanisms so as to avoid placing undue financial burdens on these entities. Under Sections 13 and 18 of the Highlands Act, grants from the Highlands Protection Fund are available for distribution to municipalities and counties that conform to the Regional Master Plan and municipalities that participate in the Highlands TDR Program. For these purposes, the Highlands Council is authorized to distribute funds only from the Regional Master Plan Compliance Aid and Incentive Planning Aid portions of the Highlands Protection Fund. The remaining funds are authorized through the Property Tax Stabilization Board and Department of Treasury. The Highlands Council has intentionally retained as much of the planning grant allocation as possible for the conformance process. To date, the Highlands Council has approved more than \$3.6 million in grant funds for Initial Assessments, Municipal Partnership Pilot Projects, COAH Certification Planning, County Planning and Analysis, Sustainable Agriculture, and Transfer of Development Rights Feasibility.

#### *Initial Assessments*

The Initial Assessment Grant program funds preliminary analyses of municipal and county Plan Conformance needs for lands within the Preservation Area where conformance is mandatory, as well as in the Planning Area where Plan Conformance is voluntary.

These grants allow local jurisdictions to engage their professionals to assess the requirements and benefits of Plan Conformance. For 2008, the Highlands Council has allocated \$1.5 million for the Initial Assessment Grant Program.

### **Municipal Partnership Projects (MP<sup>3</sup>)**

Municipal Partnership Pilot Projects Grants have funded studies on topics such as redevelopment, town center and transit village developments, lake management strategies, alternative wastewater treatment technologies, water management plans, growth management strategies, eco-tourism, open space preservation, and historic preservation. Most of these studies were selected to be performed based on their anticipated applicability to other towns and counties in the Highlands Region.

### **COAH Certification Planning**

The Highlands Council made funds available specifically for the purpose of assisting constituent municipalities in addressing their affordable housing requirements in accordance with the New Jersey Council on Affordable Housing (COAH), including substantive certifications and third round obligations (\$12,500 per municipality for substantive certification applications and \$7,500 per municipality for third round submissions).

### **County Planning & Analysis**

The Highlands Council made grants available to the seven Highlands counties to conduct planning necessary for the development of the Regional Master Plan including digital parcel mapping, infrastructure mapping, wastewater capacity analysis, and an inventory of prior land use approvals.

### **Sustainable Agriculture**

Highlands Region municipalities and counties are eligible for Sustainable Agriculture Grants, a grant program designed to promote sustainable agriculture within the frame work of protecting the Highlands Region's valuable and limited water supply. The agricultural grants concentrate on assisting the agriculture community by funding programs focusing in three areas: 1) integrated crop management, 2) market development, and 3) farmland preservation. Several grants have been made from this program.



Nathan McLean

### **Transfer of Development Rights Feasibility**

In support of the TDR Program, the Highlands Council has developed a TDR Receiving Zone Feasibility Grant Program that will provide both financial and technical assistance to those municipalities that wish to explore the possibility of designating a TDR receiving zone in their community.

The Highlands Council also intends to award incentive grants in the future for Plan Conformance and Incentive Planning efforts for municipalities and counties within the Highlands Region. Plan Conformance Grants will be made available during the Plan Conformance process. Adequate funding is anticipated to assist municipalities and counties for the reasonable expenses associated with updating their master plans and land use regulations. The table below serves as a framework for the Highlands Council to allocate grant funds during the Plan Conformance process. The assumptions and analysis that were utilized are discussed in detail in the *Financial Analysis Technical Report*.

The Grant Awards section shown in Table 3.5 *Planning Grants Timetable* outlines the various Plan Conformance Grants, TDR Incentive Grants and Special Project Grants. The table indicates the Planning Grant cash flow analysis for a period beginning FY2008 and ending FY2014. The three components to the table include grant appropriations to the Highlands Council, both anticipated as well as those currently available, anticipated grant awards, and the corresponding balance carried forward.

**TABLE 3.5: Planning Grants Timetable**

Appropriations	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Total
RMP Compliance Aid	\$5,865,000	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000	\$16,365,000
Incentive Planning Aid	\$10,547,056	\$2,650,000	\$2,650,000	\$2,650,000	\$2,650,000	\$2,650,000	\$2,650,000	\$26,447,056
Total Appropriations	\$16,412,056	\$4,400,000	\$4,400,000	\$4,400,000	\$4,400,000	\$4,400,000	\$4,400,000	\$42,812,056

Grant Awards	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Total
Plan Conformance Grants	(\$3,500,000)	(\$6,000,000)	(\$4,000,000)	(\$2,750,000)	(\$2,750,000)	(\$2,750,000)	(\$2,750,000)	(\$24,500,000)
TDR Incentive Grants	(\$500,000)	(\$1,000,000)	(\$1,500,000)	(\$1,750,000)	(\$1,750,000)	(\$1,750,000)	(\$1,750,000)	(\$10,000,000)
Special Project Grants	(\$1,250,000)	(\$1,250,000)	(\$1,250,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$7,750,000)
Total Grant Awards	(\$5,250,000)	(\$8,250,000)	(\$6,750,000)	(\$5,500,000)	(\$5,500,000)	(\$5,500,000)	(\$5,500,000)	(\$42,250,000)

Net Surplus (Deficit) and Final Balances	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	Total
Total Appropriations	\$16,412,056	\$4,400,000	\$4,400,000	\$4,400,000	\$4,400,000	\$4,400,000	\$4,400,000	\$42,812,056
Total Grant Awards	(\$5,250,000)	(\$8,250,000)	(\$6,750,000)	(\$5,500,000)	(\$5,500,000)	(\$5,500,000)	(\$5,500,000)	(\$42,250,000)
Balance Carry Forward	\$11,162,056	\$7,312,056	\$4,962,056	\$3,862,056	\$2,762,056	\$1,662,056	\$562,056	\$562,056

## 2. TAX STABILIZATION

Another factor to be tracked by the Cash Flow Timetable is the expenditure of funds earmarked for tax stabilization purposes in the Highlands Region. The current procedures established in the Highlands Act are under review by the Highlands Property Tax Stabilization Board, which is in, but not of, the New Jersey Department of Treasury, to ensure sufficient justification and documentation of valuation changes. In FY2005, Passaic County submitted five appeals attributing a decline in property value directly related to the Highlands Act. A total of \$88,653 was provided to three municipalities to offset the loss in tax revenues.

## 3. STATE AID

While State Aid takes into account municipal, county, and school needs, the Cash Flow Timetable is primarily focused on the Municipal Government Line, as specific aid programs are directly relevant to the implementation of the Regional Master Plan. Assistance provided

to municipalities as part of their State Aid allocations may include funds such as Municipal Block Grants, Homeland Security Assistance Aid, Watershed Moratorium Offsets, Extraordinary Aid, and payments in lieu of taxes for open space purchased by the State under the Garden State Preservation Trust Program.

## 4. LAND ACQUISITION

The Cash Flow Timetable will also track and monitor sources of funding for the Highlands Land Acquisition program. This includes grants, donations, and loans from local, State, and federal agencies, and other governmental entities and programs, such as the TDR Program. In order to estimate the funds required for land preservation, the Financial Component includes an examination of recent trends in acquisition cost by existing land preservation programs, including the NJDEP Green Acres Program and the NJDA State Agriculture Development Committee (SADC) Farmland Preservation Program.

In order to derive the cost of lands that are five and ten year priorities for land acquisition, the Highlands Council applied a series of assumptions to those lands within the confidential inventory, which are fully discussed in the *Financial Analysis Technical Report*. The findings of that analysis are as follows:

- ▶ The cost to preserve the five year agriculture confidential priority list is estimated at \$544 million with the ten year priorities costing an additional \$109 million, totaling \$653 million.
- ▶ The cost to preserve the five year conservation confidential priority list is estimated at \$599 million with the ten year priorities costing an additional \$79 million, totaling \$678 million.
- ▶ Total cost of preserving the entire agriculture and conservation priority lists is estimated at approximately \$1.3 billion.

Total funding allocations from the Garden State Preservation Trust (GSPT) from 2000 through 2009 (2007 referendum) to the Green Acres Program account for approximately an average of \$1.32 million (59 percent) annually. Approximately nine percent of the annual funding allocation from Green Acres was attributed to open space preservation in the Highlands Region based on historical acquisition costs. The SADC Program accounts for approximately an average of \$84.87 million (38 percent) annually. Approximately 21 percent of the annual funding allocation from the SADC was attributed to farmland preservation in the Highlands Region based on historical acquisition costs. The total acquisition cost for both the Agriculture and Conservation Confidential Priority Lists is approximately \$1.3 billion (162,557 acres). The GSPT figures for Green Acres would need to be consistent over the next ten years and enhanced considerably for SADC regarding agriculture to preserve the properties on both Confidential Priority Lists for agriculture and open space. Additional discussion on the Agriculture and Conservation Confidential Priority Lists is described in the Land Preservation and Stewardship Program in Chapter 5 and the *Financial Analysis Technical Report*.

## PART 9 Air Quality

Air quality is directly correlated with on-road mobile sources such as automobiles, buses and trucks; however, air toxics also come from many other sources, including industrial facilities, utilities, commercial businesses, residential activities, and non-road mobile sources. Therefore air quality in the Highlands Region is influenced by mobile and stationary sources within and outside the Region. In 2004, 48 facilities reported releases in the Highlands Region. Five of these facilities that release more than 10,000 pounds per year of air toxics (all chemicals combined) account for over four-fifths of the point (industrial facilities and power plants) source releases in the Highlands Region. Haze consists of air pollutants from a variety of natural and manmade sources including windblown dust and soot from wildfires, fireplaces, motor vehicles, electric utility, and industrial fuel burning, and manufacturing operations. Power plants located outside the State also have a great impact on air quality in the Highlands Region.

Automobiles in New Jersey contribute 40 percent of the airborne pollutants and more than 80 percent of the airborne carcinogens. Since the Highlands Region is currently an air quality non-attainment area, federal guidelines require that new transportation plans and projects do not further contribute to air quality degradation.

Under the Federal Clean Air Act (1970, amended 1990), the United States Environmental Protection Agency (USEPA) is required to set National Ambient Air Quality Standards (NAAQS) for pollutants. The USEPA has set NAAQS for six criteria pollutants, including ozone (O<sub>3</sub>), particulate matter (PM) carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and lead (Pb). Portions of New Jersey are in non-attainment (exceeds the NAAQS) for ozone, particulate matter and sulfur dioxide.

Ozone occurs naturally in the upper regions of the atmosphere and is critical to shielding the earth from harmful ultraviolet radiation. However, in the lower atmosphere where breathing air occurs, ozone is a harmful air pollutant, contributing to the formation of smog. Ground-level ozone is formed when pollutants such as volatile organic compounds (VOCs) and NO<sub>x</sub> emitted by automobiles and industrial facilities, chemical solvents, and other sources react in the presence of sunlight. The

northern New Jersey-New York-Connecticut Non-attainment Area includes the Highlands Region.

Particulate Matter is a mixture of fine liquid and solid particles such as dust, smoke, mist, fumes, or soot that pollutes the air and water, causing serious health problems. Major contributors of particulates from in-State sources include diesel exhaust from on-road vehicles and wood smoke. Within the Highlands Region, Bergen, Passaic, Morris, and Somerset counties are designated non-attainment areas for PM, while Sussex, Warren, and Hunterdon counties are in attainment.

Sulfur Dioxide gases are formed when coal and oil fuel containing sulfur is burned. SO<sub>2</sub> emissions from upwind power plants can be transformed into particulate matter and accounts for about half of the fine particulates in New Jersey's air. High concentrations of SO<sub>2</sub> can result in temporary breathing impairment for asthmatic children and adults who are active outdoors. Within the Highlands Region, only the municipalities of Belvidere, Harmony, Oxford, White, and portions of Liberty Township in Warren County are non-attainment for SO<sub>2</sub>, primarily due to emissions from two power plants located in Pennsylvania. Through coordination with federal, regional, state, county, and local agencies and entities and in accordance with Regional Master Plan policies the Highlands Council will monitor and support the protection of regional air quality.



Taryn McLean

The technical basis and additional background information on transportation and air quality can be found in the Highlands Council's *Transportation System Preservation and Enhancement Technical Report* and the *Air Quality Assessment Technical Report*.







# GOALS, POLICIES, AND OBJECTIVES

- ▶ **PART 1**  
Natural Resources
- ▶ **PART 2**  
Water Resources and Water Utilities
- ▶ **PART 3**  
Agricultural Resources
- ▶ **PART 4**  
Historic, Cultural, Archaeological,  
and Scenic Resources
- ▶ **PART 5**  
Transportation
- ▶ **PART 6**  
Future Land Use
- ▶ **PART 7**  
Landowner Equity
- ▶ **PART 8**  
Sustainable Economic Development
- ▶ **PART 9**  
Air Quality
- ▶ **PART 10**  
Local Participation



The Goals, Policies, and Objectives of the Highlands Regional Master Plan (RMP) provide the substantive standards and direction for implementing the goals and requirements of the Highlands Act, and are used in Chapters 5 and 6 as the basis for the implementation programs. Goals are defined as broad statements of intent, with Policies providing a more detailed statement of direction. Objectives, in turn, provide the specific, substantive requirements that will be used to measure implementation progress and plan conformance. Many will be used directly within Plan Conformance Standards and guidance developed by the Highlands Council, and often will affect land development. Others will be used in the development of long-term programs for improvement of the RMP, action by governmental and nongovernmental partners, and non-regulatory efforts of the Highlands Council to improve the Highlands Region. The sequence of the Goals, Policies, and Objectives follows the general outline of Chapter 3. Part 1 addresses a wide variety of natural resources, including forests, Highlands Open Waters and Riparian Areas, steep slopes, Critical Habitat, land preservation and stewardship, carbonate rock topography, and lake management. Part 2 focuses on water resources, regarding water resources availability, protection of water resources quantity, and water quality.

Part 3 addresses the sustainability of agricultural resources, while Part 4 focuses on the recognition and management of historical, cultural, archaeological, and scenic resources. Part 5 addresses transportation, including transit systems. Part 6 provides direction with regard to the nature and management of the Land Use Capability Zones, development and redevelopment, smart growth, and housing. Landowner equity issues, including the Highlands Transfer of Development Rights (TDR) Program and Highlands Act exemptions and waivers are the subject of Part 7. Parts 8, 9, and 10 address sustainable economic development, air quality, and local participation, respectively.

Each part and subpart provides a general narrative regarding the main issue and the critical issues addressed therein; they are not intended to be an extensive analysis. More detailed information is provided in Chapters 2 and 3, and in the various Technical Reports developed in support of the RMP.

## **PART 1 Natural Resources**

The natural resources of the Highlands Region join to create a landscape that supports endangered species, scenic vistas, agriculture, small towns, manufacturing, and the water supplies for New Jersey's largest metropolitan areas. Forest, waterways, Critical Habitat, and agricultural soils are affected by and intermixed with steep slopes, limestone valleys and lake areas. In turn, these features have encouraged and shaped the prehistoric and historic pattern of human activity and settlements. Only in the last 50 years have the historic patterns been overcome by suburban patterns of development facilitated by new road systems and new zoning techniques that emphasize large lots rather than compact forms of growth. The Highlands Act was created largely to protect the Region's natural resources and the water supplies that depend upon them. The Highlands RMP is a critical component of this protection effort.

### **SUBPART A FOREST RESOURCES**

The Highlands Region contains some of the most important forests in the state. These forests are vitally important to every element of the Highlands Region, including the natural and the built environment. Forests provide essential ecosystem functions, including the recharge of ground water aquifers that supply Highlands Region wells and surface water filtration, both of which are important to protecting essential drinking water supplies for the Highlands Region and for the state as a whole. Forests protect stream water quality, supporting wild trout and healthy aquatic communities. Forests sequester atmospheric carbon and contribute to combating global warming. Forests serve as habitat

for plants and animals, and as forests constitute a majority of the Region's Critical Habitat, are critically important to the maintenance of biodiversity in one of the most populous states in the nation. Highlands forests offer important recreational resources and contribute to the Region's unique scenic value. In addition, when managed for sustainable use, forests can be a source of renewable wood products. Forests are a defining visible and functional feature of the Highlands Region.

The RMP acknowledges the Highlands Act exemption under N.J.S.A. 13:20-30.a(7) for activity conducted in accordance with an approved Woodland Management Plan, pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) or the normal harvesting of forest products in accordance with a Forest Management Plan approved by the State Forester. Beyond exempt forestry activities, the Highlands Act mandates that the RMP provide for the protection of the Region's forests.

**GOAL 1A: PROTECTION OF LARGE AREAS OF CONTIGUOUS FORESTED LANDS OF THE HIGHLANDS REGION TO THE MAXIMUM EXTENT POSSIBLE.**

**Policy 1A1:** To meet the goal for the Preservation Area to “preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state,” and to “protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests.”

**Policy 1A2:** To limit human development in the Forest Resource Area in the Preservation Area in order to protect and enhance forest resources, forest ecosystem integrity, Critical Habitat, and the quantity and quality of water resources.

**Objective 1A2a:** Density mapping of the Region's contiguous forested lands as the Forest Resource Area.

**Objective 1A2b:** Implementation of regulations through Plan Conformance which limit permissible uses within the Forest Resource Area to maintenance of pre-existing uses and restoration of impaired forest areas; relief from strict adherence to these standards shall be permitted only upon approval of a forest mitigation plan and, for a major Highlands Development, approval of a Highlands Preservation Area Approval (HPAA) by the NJDEP.

**Objective 1A2c:** To prohibit through local development review and Highlands Project Review the deforestation of lands within the Forest Resource Area of the Preservation Area for human development except where authorized as an exemption by the Highlands Act, or is an agricultural or horticultural development as defined at N.J.S.A. 13:20-31 and meets the requirement of that provision of the Highlands Act, or if qualifying as a major Highlands Development, the project must, at a minimum, be in conformance with the New Jersey Department of Environmental Protection (NJDEP) Preservation Area Rules at N.J.A.C. 7:38-3.9.

**Objective 1A2d:** To prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into forested areas of the Forest Resource Area within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.

**Objective 1A2e:** To require through local development review and Highlands Project Review that projects qualifying as major Highlands Developments, affecting or potentially affecting forests outside the Forest Resource Area in the Preservation Area, comply with the NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.9. All projects in the Preservation Area that are not major Highlands Developments shall comply with Policies 1A1 and 1A2.

- Policy 1A3:** To promote the priority use of available funding to acquire forested lands within the Forest Resource Area.
- Policy 1A4:** To assign land within the Forest Resource Area a high priority for fee simple and easement acquisition.
- Policy 1A5:** To prohibit through local development review and Highlands Project Review forest clear-cutting within the Forest Resource Area except in accordance with a Forest Management Plan approved by the State Forester.

### **GOAL 1B: PROTECTION AND ENHANCEMENT OF FORESTS IN THE HIGHLANDS REGION**

- Policy 1B1:** To provide resource management guidance to encourage sustainable forest management, restoration, improved ecological health, carbon sequestration, and stewardship practices on public and private lands in the Forest Resource Areas within the Protection Zone and the Conservation Zone in the Planning Area.

**Objective 1B1a:** Implementation of resource management programs to encourage sustainable forest management, restoration and stewardship practices on public and private lands, including ecological and watershed protection measures such as those provided through New Jersey Forest Stewardship Program.

**Objective 1B1b:** Implementation of programs which encourage owners and operators of farmland with woodlots to obtain approved Forest Management Plans or Forest Stewardship Plans that conform to the protection standards of the RMP.

**Objective 1B1c:** Implementation of programs which encourage the inclusion of appropriate rare, threatened, and endangered wildlife and habitat protection and enhancement, and appropriate wildlife and invasive species management techniques in Forest Management Plans or in New Jersey Forest Stewardship Program's Forest Stewardship Plans adopted by any federal, state, county, or municipal government entity.

**Objective 1B1d:** Implementation of programs which encourage the application of agro-forestry practices and techniques within cultivated farmland located within both the Agriculture Resource Area and Forest Resource Area.

**Objective 1B1e:** To encourage private lands management of forests for non-commodity benefits (e.g., wildlife habitat, water quality, recreation) or traditional commodities (e.g., timber and wood products) in accordance with the New Jersey Forest Stewardship Program's Forest Stewardship Plan.

- Policy 1B2:** To limit, through local development review and Highlands Project Review, human development of forests to low impact residential development in the Protection Zone and the Conservation Zone in the Planning Area.

**Objective 1B2a:** Implementation through Plan Conformance of regulations which limit permissible uses within forested lands in High and Moderate Integrity Forest Subwatersheds of the Planning Area to 1) maintenance of pre-existing uses, 2) the removal of woody vegetation from forested lands subject to an approved Forest Management Plan, 3) forest stewardship practices in accordance with a New Jersey Forest Stewardship Program's Forest Stewardship Plan, or 4) low impact residential development that utilizes Low Impact Development Best Management Practices and an approved forest mitigation plan.

**Objective 1B2b:** Implementation of regulations through Plan Conformance which allow for redevelopment of previously developed areas and for other compatible uses that minimize losses to forested lands within Low Integrity Forest Subwatersheds in accordance with an approved forest mitigation plan or Low Impact Development Best Management Practices.

**Policy 1B3:** To limit through local development review and Highlands Project Review deforestation in the Forest Resource Area and forested lands within High Integrity Forest Subwatersheds within the Existing Community Zone (ECZ) to maximum extent practicable.

**Objective 1B3a:** Implementation through Plan Conformance of regulations which limit the clearing of trees in conjunction with human development to circumstances where the clearing will not diminish the integrity of forest resources.

**Objective 1B3b:** Implementation of resource management programs to avoid loss of forests such as Low Impact Development Best Management Practices and mitigation and/or restoration.

**Policy 1B4:** To encourage the restoration of forest resources through forest management and stewardship practices.

**Policy 1B5:** To ensure that forest resources are protected on a site specific basis during local development review and Highlands Project Review.

**Objective 1B5a:** Applications for local development review and Highlands Project Review require identification of any forest area on and adjacent to a site in accordance with the Highlands Council's Method for Identifying Upland Forest Areas in the Highlands Region.

**Policy 1B6:** To encourage conformance with standards and criteria for sustainable forestry activities in order to conserve and enhance the Forest Resource Areas and forested lands within High Integrity Forest Subwatersheds within the Highlands Region.

**Objective 1B6a:** Forestry activities will be allowed within a Forest Resource Area or forested lands within a High Integrity Forest Subwatershed only in compliance with an approved Forest Management Plan.

**Policy 1B7:** To prohibit clear-cutting of forest lands except pursuant to an approved Forest Management Plan approved by the State Forester.

**Policy 1B8:** To encourage the development of forest management strategies and programs that improve the ecological health, water resource benefits, and scenic quality of Highlands forests.

**GOAL 1C: CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE FOREST PROTECTION PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.**

**Policy 1C1:** To require that conforming municipalities and counties address the protection of forested portions of Forest Resource Areas and High Integrity Forest Subwatersheds in their master plans and development regulations.

**Objective 1C1a:** Maintain forest cover to the maximum extent possible in the Highlands Region in the natural as well as the built environment.

**Policy 1C2:** To provide technical guidelines and procedures to assist municipalities and counties in the development of forest protection, mitigation, and community forestry plans for inclusion in municipal and county master plans and development regulations.

**Objective 1C2a:** Provide technical guidelines and procedures for development and implementation of Low Impact Development Best Management Practices to protect, enhance, and restore forest resources.

**Objective 1C2b:** Provide guidelines for the development of community forestry plans by municipalities for inclusion in municipal master plans.

**Objective 1C2c:** Provide a model municipal tree ordinance for municipalities that allows active forest management with a Forest Management Plan approved by the State Forester.

**Objective 1C2d:** Support incentives and funding opportunities and provide criteria for demonstrating and maintaining intrinsic forest values and societal benefits through various means including, but not limited to, the use of stewardship benefit credits.

**Objective 1C2e:** Provide technical guidelines establishing forest clearing thresholds and mitigation requirements for inclusion in municipal development regulations.

**Policy 1C3:** To require that conforming municipalities adopt a tree clearing ordinance consistent with an approved community forestry plan under the New Jersey Forest Service Community Forestry Program as part of the municipal master plan and local development regulations.

**Objective 1C3a:** Standardize municipal tree protection ordinances throughout the Highlands Region to the extent feasible.

## SUBPART B HIGHLANDS OPEN WATERS AND RIPARIAN AREAS

Highlands Open Waters and their associated Riparian Areas are a primary focus of the Highlands Act and must be protected, enhanced, and restored to ensure achievement of the Act's goals for water quality, water supply, and ecological sustainability. The Highlands Regional Master Plan (RMP) focuses on four areas of action to address the need to protect, restore, and enhance Highlands Open Waters and Riparian Areas:

- ▶ Identify and inventory each type of resource area;
- ▶ Evaluate the integrity of each type of resource area;
- ▶ Establish resource protection measures; and
- ▶ Establish programs to promote consistent standards for the protection, restoration, and acquisition of important waters and Riparian Areas of the Highlands Region.

Highlands Open Waters are defined by the Highlands Act as all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial (excluding swimming pools), located wholly or partially within the boundaries of the Highlands Region. Highlands Riparian Areas are the lands associated with and bordering Highlands Open Waters that provide critical hydrologic, ecologic, and pollutant attenuation functions for the Open Waters. Highlands Open Waters and Riparian Areas exist in a wide variety of settings, ranging from preserved lands to urban areas. Some support very high quality ecosystems, while others are degraded by existing land uses, stream corridor modifications, stormwater flows, and pollutant loadings.

A high priority is for municipalities to develop and implement a Stream Corridor Protection/Restoration Plan that achieves the policies and objectives below, as refined using local scientific knowledge, with incorporation of local planning goals where they do not conflict with these policies and objectives. The Stream Corridor Protection/Restoration Plan will be used as a basis for both development review and restoration activities. Where a Stream Corridor Protection/Restoration Plan has not been approved by the Council, site-by-site development applications in municipalities will be required to strictly adhere to the RMP Goals, Policies, and Objectives below.

### **GOAL 1D: PROTECTION, RESTORATION, AND ENHANCEMENT OF HIGHLANDS OPEN WATERS AND RIPARIAN AREAS.**

**Policy 1D1:** To establish and maintain an inventory of Highlands Open Waters and their integrity. Highlands Open Waters are all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools.

**Objective 1D1a:** The Watershed Resource Value of Highlands HUC14 subwatersheds shall be established through an analysis of the relative amount of developed lands, habitat quality for threatened and endangered wildlife species, total forest and core forest in each HUC14 subwatershed.

**Policy 1D2:** To establish and maintain an inventory of Highlands Riparian Areas and their integrity.

**Objective 1D2a:** Highlands Riparian Areas shall consist of the floodprone areas, wetlands, soils that are hydric, alluvial or have a shallow depth to ground water, and wildlife passage corridors that are associated with Highlands Open Waters.

**Objective 1D2b:** The integrity value of Highlands Riparian Areas within each Highlands HUC14 subwatershed shall be established through an analysis of the relative amount of impervious cover, agricultural land use, density of road crossings of streams, vegetative condition, and habitat for wetland/water dependent threatened and endangered wildlife species of the Riparian Areas.

**Policy 1D3:** To periodically review and update, as necessary, the Watershed Resource Value and Riparian Area Integrity Values.

**Policy 1D4:** Highlands Open Waters shall include a protection buffer of 300 feet from the edge of the discernable bank of Highlands Open Waters feature, or from the centerline where no discernable bank exists. With respect to wetlands and other Highlands Open Waters features (e.g., seeps, springs, etc.), the feature shall include a protection buffer of 300 feet from the delineated Letter of Interpretation (LOI) line issued by the NJDEP for wetlands, or from a field-delineated boundary for other features. In areas where existing development or land uses within the protection buffers have reduced or impaired the functional values of the buffers, the Council will seek opportunities to restore the buffer and its functions. Any proposed disturbance shall, through local development review and Highlands Project Review, comply with Highlands Open Waters buffer standards. The protection buffer width for Category 2 streams in the Planning Area may be modified through a Stream Corridor Protection/Restoration Plan, as specified in Objective 1D4i. In approved Redevelopment Areas, the Council may, at its discretion, modify the required buffer, upon a showing of no alternatives, no impact to the functional value of the buffer, and provision of alternative approaches to enhancing or protecting Highlands Open Waters and resources of the buffer area.

**Objective 1D4a:** Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Open Waters.

**Objective 1D4b:** Preservation Area buffers for Highlands Open Waters shall comply with the Highlands Preservation Area rules at N.J.A.C. 7:38, which provide that all major Highlands developments are prohibited within Highlands Open Waters and its adjacent 300 foot buffer in the Preservation Area except for linear development, which may be permitted provided that there is no feasible alternative for the linear development outside Highlands Open Waters or its buffer. Structures or other land improvements existing within Highlands Open Waters buffer in the Preservation Area on August 10, 2004 may remain, provided that the area of disturbance is not increased other than through a HPAA. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered “land improvements,” “development,” “land disturbances,” or “land uses.”

**Objective 1D4c:** Require that proposed development within all Highlands Open Waters buffers (Preservation and Planning Areas) conforms through local development review and Highlands Project Review with the buffer requirements of N.J.A.C. 7:8 (Stormwater Management Rules), N.J.A.C. 7:13 (Flood Hazard Area Rules), and N.J.A.C. 7:7 (Freshwater Wetland Rules), and with any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).

**Objective 1D4d:** Structures or other land improvements existing within a Highlands Open Waters buffer of the Planning Area on August 10, 2004 may remain, provided that the area of disturbance shall not be increased unless approved through local development review or Highlands Project Review in compliance with RMP policies and objectives. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered “land improvements,” “development,” “land disturbances,” or “land uses.”

**Objective 1D4e:** In the Protection and Conservation Zones of the Planning Area, proposed disturbances of Highlands Open Waters buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council under Policy 7G2. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered “land improvements,” “development,” “land disturbances,” or “land uses.” Such proposed disturbances must demonstrate full utilization of the following performance standards in the listed order, to demonstrate the necessity of an encroachment into Highlands Open Waters buffers: 1) avoid the disturbance of Highlands Open Waters buffers; 2) minimize impacts to Highlands Open Waters buffers; and 3) mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with Objective 1D4h. Minimization and mitigation opportunities shall be considered only upon a clear and convincing demonstration by the applicant that the protection buffer can not be avoided and in no case shall the remaining buffer be reduced to less than 150 feet from the edge of Highlands Open Waters, unless a waiver is granted by the Highlands Council under Policy 7G2 and the proposed disturbance complies with Objective 1D4c.

**Objective 1D4f:** In the ECZ of the Planning Area, proposed disturbances of Highlands Open Waters buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council under Policy 7G2 and the proposed disturbance complies with Objective 1D4c. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered “land improvements,” “development,” “land disturbances,” or “land uses.” Such disturbances shall employ performance standards such that all proposed disturbances of Highlands Open Waters buffers shall employ Low Impact Development Best Management Practices to mitigate all adverse modification to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with Objective 1D4h.

**Objective 1D4g:** Encourage opportunities to restore and enhance Highlands Open Waters buffers of all zones in both the Preservation and Planning Areas. Restoration activities shall be targeted to ensure improvements to one or more of the functional values that the buffers provide while ensuring that there is no net loss of any of the functional elements, in compliance with Objective 1D4h. Specifically during site redevelopment, techniques may include, but are not limited to: disconnecting the direct drainage of impervious surfaces to Highlands Open Waters; retrofitting of stormwater management facilities to achieve the water quality, quantity, and recharge standards of the Stormwater Management Rules as specified in N.J.A.C. 7:8; reducing the temperature of stormwater discharges; and minimizing concentrated stormwater discharges through or into protection buffers.

**Objective 1D4h:** Key functional values that Highlands Open Waters buffers provide or contribute to include but are not limited to habitat, stormwater and flood water retention and filtration, water quality protection, temperature moderation, aquatic ecosystem integrity and channel integrity. The mitigation requirement of no net loss of functional value shall ensure improvements to one or more function and that there shall be no net loss of any function in the mitigation design. For the Highlands Open Waters buffer functional value assessment, require that the applicant demonstrate improvement or no net loss of functions as follows:

1. *Habitat* – No net loss of instream food sources and no net loss of terrestrial and aquatic habitat functional value due to a shift to a less valuable overall vegetative condition in the protection buffer based on the following continuum from highest to lowest: forest or wetland, scrub/shrub, pasture or meadow, agriculture, maintained lawn, unpaved impervious surface, and other structures;
2. *Water Quality* – A degradation of this functional value will occur if, as a result of the proposed land conversions, pollutant loads increase to the Highlands Open Waters;
3. *Temperature Moderation* – A loss in temperature moderation functional value will occur if changes to the existing vegetation result in reduced shading of the Highlands Open Waters or stormwater that discharges to Highlands Open Waters. Further, a loss in temperature moderation functional value may occur with the heating of stormwater by new structures and other impervious surface. Mitigation approaches include removing or relocating impervious surfaces away from the Highlands Open Water or ensuring that stormwater temperature is reduced through shading or other techniques; and
4. *Channel Integrity* – A loss of channel integrity functional value will occur if the project will result in: the loss of bank stabilizing vegetation; the placement of infrastructure that can be feasibly located outside the stream corridor; an increase in the peak rate of stream flow generated, or in localized scour potential, that will increase stream bank and stream bed erosion; or the removal or burial of aquatic habitat in any substantial part of a stream bed or for threatened or endangered species.

**Objective 1D4i:** Develop through Plan Conformance and implement stream corridor or subwatershed-based Stream Corridor Protection/Restoration Plans which shall include Steps 1, 2, and 3, and may include Steps 4 and 5:

1. Identify areas where existing development, land disturbances, or land uses are within Highlands Open Waters buffers have removed or substantially impaired natural vegetation communities, and have significantly reduced or impaired the functional values of Highlands Open Waters buffers. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered “land improvements,” “development,” “land disturbances,” or “land uses”;
2. Identify and require opportunities for restoration of areas identified in Step 1 as part of mitigation requirements under a Highlands Act waiver or Objectives 1D4e and 1D4f, and public or nongovernmental restoration/stabilization projects;
3. Identify the extent of stream corridor features that are critical to supporting the functions of a healthy Highlands Open Waters buffer and that extend beyond the buffers required by Objectives 1D4b and 1D4c. The 300 foot buffer in these areas may be expanded to be most protective of these features which may include, but are not limited to, Critical Habitat, pollutant source areas identified through scientific techniques, and steep slopes;

4. Where Highlands Open Waters buffers include areas identified in Step 1, regarding Category 2 surface waters in the Planning Area only, the Stream Corridor Protection/Restoration Plan may identify where, based on scientific analysis of site-specific conditions (e.g., topography, vegetation cover type, habitat, soil type, upstream land uses and pollution inputs, width of floodplain, rate, and volume of run-off), a buffer of less than the full 300 feet (but including the undisturbed buffer area at a minimum) is sufficient to maintain or improve the protection of Highlands Open Waters and Riparian Areas. The plan must identify alternative buffers that provide functional buffer values at least equivalent to existing conditions and are no less than 150 feet or no less than the extent allowed in State or municipal regulation (including Objectives 1D4b and 1D4c), whichever is greater. Further, the plan shall include a functional value assessment to ensure that there is no net loss in the overall functional value of the subwatershed's stream buffers. Buffers established through this process shall be determined based on site conditions rather than fixed distances, reflecting findings of the scientific analysis, and shall be used in the site design and development review process regarding determinations of restoration, continued use, or increased use of the disturbed buffer area. Buffer averaging for the purpose of accommodating development proposals is deemed not to meet the requirements of this provision; and
5. Where a proposed Highlands Redevelopment Area would not meet, in full, Objectives 1D4b through 1D4h but affects an undisturbed buffer area determined to not be necessary for the protection of the functional values for Highlands Open Waters buffer (as determined through scientific analysis of site-specific conditions), modification of the undisturbed buffer may be allowed to no less than the extent allowed in State or municipal regulation. However the Council shall first determine that there is no alternative to the proposed reduction of the buffer, and require a showing of no impact to the functional values of the buffer and provision of alternative approaches to enhancing or protecting Highlands Open Waters and resources of the buffer area. Restoration or enhancement of buffer functional values shall be provided on-site or within the same stream reach to achieve a net improvement of existing buffer functional values.

**Objective 1D4j:** The Highlands Council may require on a case-by-case basis, through Highlands Project Review, an expansion of the 300 foot buffer to protect the habitat of a water or wetlands-dependant rare, threatened or endangered species, to the minimum expansion necessary to achieve protection of that species.

**Policy 1D5:** Protect the integrity of the Riparian Areas through the application of RMP standards during local development review and Highlands Project Review.

**Objective 1D5a:** Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Riparian Areas, including those identified by the Highlands Council and by site-specific analysis.

**Objective 1D5b:** Limit disturbance of existing natural vegetation or increases in impervious area within High and Moderate Integrity Riparian Areas in any Land Use Capability Zone to the minimum alteration feasible in areas beyond Highlands Open Waters buffer requirements; protect the water quality of adjacent Highlands Open Waters; and maintain or restore habitat value of the Riparian Area.

**Objective 1D5c:** Prohibit modifications to Riparian Areas in the Protection Zone except where a waiver is approved by the NJDEP or the Highlands Council under Policy 7G1 or 7G2.

**Objective 1D5d:** Restrict modifications to Riparian Areas in the ECZ, other than those addressed by Objective 1D5b, that would alter or be detrimental to the water quality and habitat value of a Riparian Area.

**Objective 1D5e:** Implement Low Impact Development Best Management Practices for any development activity proposed within a Riparian Area, which minimize both alterations of natural vegetation and increases in impervious area, in compliance with Policies 6N3 and 6N4 and provide for mitigation through restoration of impaired Riparian Areas in the same HUC14 subwatershed.

**Objective 1D5f:** Require that development within Riparian Areas conforms through local development review and Highlands Project Review to any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).

**Objective 1D5g:** Require identification and implementation of opportunities where the restoration and enhancement of previously impaired Riparian Areas are feasible and appropriate as mitigation to any allowable modification to Riparian Area requirements.

**Policy 1D6:** To establish priorities for preservation of Riparian Areas.

**Objective 1D6a:** Assign high priority to land acquisition and development restrictions for lands within both High Resource Value Watersheds and High Integrity Riparian Areas.

**Objective 1D6b:** Consistent with Policy 1H1, identify opportunities for and implement Riparian Area restoration practices on public and private lands that give priority to ecological and watershed protection measures.

### SUBPART C STEEP SLOPES

Steep slopes within the Highlands Region play an important ecological, recreational, scenic, and functional role. Steep slopes and rocky ridgelines provide specialized habitats that are home to rare plant and animal species. Areas of steep slope provide popular recreational opportunities including hiking, climbing, and wildlife observation. Ridgelines, hillsides, and steep slopes provide scenic views and vistas, which contribute to the rural character of the Highlands Region and help to define the landscape. Disturbance of areas containing steep slopes can trigger erosion and sedimentation, resulting in the loss of topsoil. Silting of wetlands, lakes, ponds, and streams damages and degrades wetland and aquatic habitats, especially trout streams that are found throughout the Highlands and receive the State's highest water quality protections. Steep slope disturbance can also result in the loss of habitat quality, degradation of surface water quality, silting of wetlands, and alteration of drainage patterns. These processes, when severe, can also result in land slumping and landslides that can damage both developed property and ecosystems. The severity and extent of slopes, soil characteristics, and land cover all affect the potential for damages from the disturbance of steep slopes. The identification and classification of steep slopes is important in order to effectively manage critical natural resources in the Highlands Region.

**GOAL 1E: PROTECTION AND ENHANCEMENT OF THE NATURAL, SCENIC, AND OTHER RESOURCES OF THE HIGHLANDS REGION BY PROTECTION OF STEEP SLOPES FROM INAPPROPRIATE DEVELOPMENT AND DISTURBANCE.**

**Policy 1E1:** To develop, maintain, and improve a mapped inventory of steep slope areas in the Highlands Region.

**Objective 1E1a:** A mapped inventory of the Steep Slope Protection Area in the Highlands Region showing areas that are a minimum of 5,000 square feet for any combination of the following categories of steep slopes: a) 10% to less than 15%, b) 15% to less than 20%, and c) 20% and greater.

**Objective 1E1b:** Periodic updates and refinements to the Steep Slope Protection Area.

**Objective 1E1c:** Apply Light Detection and Ranging (LiDAR) technology to develop a two-foot interval contour topographic map as a basis for refining the identification of the Steep Slope Protection Area.

- Policy 1E2:** All lands with slopes of 20% or greater and lands within Riparian Areas with slopes of 10% and greater shall be considered as Severely Constrained Slopes.
- Policy 1E3:** All non-Riparian Area lands having a slope of 15% to less than 20% which are forested shall be considered Moderately Constrained Slopes.
- Policy 1E4:** All non-Riparian Area lands having a slope of 15% to less than 20% which are non-forested with one or more of the following characteristics shall be considered Constrained Slopes: a) highly susceptible to erosion; b) shallow depth to bedrock; or c) a Soil Capability Class indicative of wet or stony soils.
- Policy 1E5:** All non-Riparian Area lands having a slope of 15% to less than 20%, which are non-forested, are not highly susceptible to erosion, and do not have a shallow depth to bedrock or a Soil Capability Class indicative of wet or stony soils, shall be considered Limited Constrained Slopes.
- Policy 1E6:** To require through local development review and Highlands Project Review that applications for development include topographic information identifying the location of any Steep Slope Protection Areas located on the parcel proposed for development.
- Policy 1E7:** To require through local development review and Highlands Project Review that applications for development involving parcels of land with slopes of 10% or greater include identification of forested lands, areas which are highly susceptible to erosion, depth to bedrock, and Soil Capability Classes.
- Policy 1E8:** To prohibit through local development review and Highlands Project Review land disturbance within areas which are Severely Constrained Slopes and Moderately Constrained Slopes, except for linear development in both the Preservation and Planning Areas that meets the requirements of N.J.A.C. 7:38-3.8(c)1-4.
- Policy 1E9:** To require through local development review and Highlands Project Review the use of Low Impact Best Development Practices for any land disturbance or human development within areas which are Constrained or Limited Constrained Slopes, or that involves an approved disturbance of a Severely Constrained or Moderately Constrained Slope.
- Policy 1E10:** To require that conforming municipalities and counties implement the steep slope protection provisions of Policies 1E2 through 1E9 through master plans and development regulations.
- Policy 1E11:** To provide technical guidelines and assistance in support of Plan Conformance activities.

## SUBPART D CRITICAL HABITAT

Biodiversity is the variety of plant species, animal species, and all other organisms found in a particular environment and is a critical indicator of ecological integrity. The protection of habitats that are critical to maintaining biodiversity contributes to the protection of rare, threatened, and endangered plant and animal species of the Highlands Region. As discussed in Chapter 2, there are three categories of Critical Habitat in the Highlands Region: 1) Critical Wildlife Habitat (habitat for rare, threatened, or endangered species); 2) Significant Natural Areas (regionally significant ecological communities, including habitat for documented threatened and endangered plant species); and 3) vernal pools (confined, ephemeral wet depressions that support distinctive, and often endangered, species

that are specially adapted to periodic extremes in water pool levels). Critical Wildlife Habitat and Significant Natural Areas are designated based on the presence of, and associated habitat required for the survival and propagation of, species of concern. Vernal pools are certified by the NJDEP, and to protect and promote the biodiversity of vernal pools, the Highlands Council has determined that a terrestrial habitat protection buffer of 1,000 feet around vernal pools will generally address the habitat requirements of vernal pool-breeding wildlife. The Critical Habitat area for each is established based on mapped information but may be modified based on site-specific field information that disproves the mapped information.

Protection of Critical Habitat will depend heavily on two approaches. A high priority is for municipalities to develop and implement a Council-approved Critical Habitat Conservation and Management Plan that achieves the standards and criteria below, as refined using local scientific knowledge, with incorporation of local planning goals where they do not conflict with the standards and criteria. The Critical Habitat Conservation and Management Plan will be used for both development review and restoration activities. Where a Critical Habitat Conservation and Management Plan has not been approved by Council, site-by-site development applications in municipalities will be required to adhere to the RMP Goals, Policies, and Objectives below.

**GOAL 1F: PROTECTION AND ENHANCEMENT OF CRITICAL WILDLIFE HABITATS, SIGNIFICANT NATURAL AREAS, AND VERNAL POOLS.**

**Policy 1F1:** Critical Habitat shall be:

1. Critical Wildlife Habitat, defined as those areas within the NJDEP's Landscape Project Version 3 that are Landscape Rank 3 through 5 and Landscape Rank 2 with Highlands Conservation Rank of Critically Significant or Significant.
  - a. Landscape Rank 5 – Habitat supporting a federally listed threatened or endangered species;
  - b. Landscape Rank 4 – Habitat supporting a species designated as State Endangered;
  - c. Landscape Rank 3 – Habitat supporting a species designated as State Threatened; and
  - d. Landscape Rank 2 – Habitat supporting a species designated as Special Concern. The Highlands Conservation Rank index for each species occurrence based upon how critical the Highlands Region is to the continued existence of the species within New Jersey. Following are the Highlands Conservation Ranks that were used:
    - i. Critically Significant (Rank 3) – If habitats in the Highlands Region were lost, that species would not exist in the State;
    - ii. Significant (Rank 2) – Highlands Region habitats play a significant role for that species' existence in the State;
2. Significant Natural Areas, defined as the 95 NJDEP Natural Heritage Priority Sites, including habitat for documented threatened and endangered plant species, and lands that include unique or regionally significant ecological communities and other significant natural sites or features; and
3. Vernal pools, defined as NJDEP-certified vernal pools plus a 1,000 foot protection buffer.

**Policy 1F2:** To prohibit through Plan Conformance, local development review and Highlands Project Review the direct impact of new human development or expansion or increased intensity of existing development within Critical Habitat.

**Policy 1F3:** To assign land within Critical Habitat a high priority for fee simple and/or easement acquisition with periodic monitoring of easement restrictions protecting Critical Habitat, species, and ecological communities from any changes in land use or management practices that would impair these resources.

**Policy 1F4:** To promote the restoration and enhancement of impaired lands in Critical Habitat.

**Policy 1F5:** To establish a Habitat Conservation and Management Program, including minimum performance standards and criteria for the protection, enhancement, and restoration of lands within Critical Habitat.

**Objective 1F5a:** Implement the Habitat Conservation and Management Program through a Critical Habitat Conservation and Management Plan to include performance standards to be required through local development review and Highlands Project Review.

**Objective 1F5b:** Establish performance standards such that all development shall employ Low Impact Development Best Management Practices to, in this order: 1) avoid the disturbance of Critical Habitat, 2) minimize impacts to Critical Habitat, and 3) mitigate all adverse modification to Critical Habitat so that there is no net loss of habitat value. Habitat value is determined by quantity (e.g., acreage), quality (e.g., core forest vs. edge forest), type (e.g., scrub-shrub), and function (e.g., winter hibernacula for timber rattlesnakes). The mitigation requirement of no net loss of habitat value shall ensure that all four elements are accounted for and included in the mitigation design. Mitigation must meet the habitat and life-cycle requirements of the specific impacted species.

**Objective 1F5c:** Establish performance standards that include a requirement and criteria for mitigation of disturbed Critical Habitat. Mitigation shall be required for all adverse modification to Critical Habitat so that there is no net loss of habitat value based on the criteria in Objectives 1F5a and 1F5b.

**Objective 1F5d:** Establish performance standards for the enhancement or restoration of historically disturbed Critical Habitat.

**Objective 1F5e:** The Critical Habitat Conservation and Management Plan shall include a GIS or map-series Critical Habitat Overlay District for inclusion in municipal master plans to identify Critical Habitat that highlights:

- ▶ Habitat in need of protection from fragmentation and other anthropogenic impacts;
- ▶ Habitat critical to maintaining wildlife and plant populations; and
- ▶ Habitat that serves other essential ecosystem functions, including, but not limited to, carbon sequestration and ground water recharge.

**Objective 1F5f:** The Critical Habitat Conservation and Management Plan shall include guidelines for a municipal habitat stewardship program, including, but not limited to prevention of habitat fragmentation through open space preservation and corporate, non-profit, and community involvement in creating, protecting, and restoring habitat.

**Policy 1F6:** To require that applications for any local development review and Highlands Project Review for Critical Habitat be subject to minimum standards and criteria outlined in the Habitat Conservation and Management Plan.

**Objective 1F6a:** Prohibit direct impacts from new development or expansion or increased intensity of existing development that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver under Policy 7G1 or 7G2.

**Objective 1F6b:** Prohibit indirect impacts from activity that is off-site, adjacent to, or within Critical Habitat that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver under Policy 7G1 or 7G2.

**Objective 1F6c:** Waiver applications under Policy 7G2 for local development in a municipality with a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the minimum standards and criteria for waiver provisions as set forth in the plan, to the maximum extent practicable.

**Objective 1F6d:** Waiver applications under Policy 7G2 for development in a municipality without a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the Low Impact Development Best Management Practices required in Objective 1F5b.

**Objective 1F6e:** A vernal pools protection buffer may be reduced only if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with the NJDEP's Endangered and Nongame Species Program, that the reduction is the minimum feasible and that:

- ▶ In an undisturbed wetland, documented and field-determined vernal pool-breeding wildlife require a smaller protective buffer, as documented in scientific literature; or
- ▶ Existing land uses present a significant, insurmountable and permanent barrier to the migration or viability of vernal pool-breeding wildlife that is infeasible to mitigate.

Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.

**Objective 1F6f:** A Critical Wildlife Habitat area or Significant Natural Area delineation may be modified if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with the NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, that:

- ▶ The nature of the site is such that it does not provide habitat for species of concern;
- ▶ The species of concern are not present on the site during any critical part of their life cycle, do not depend upon the site for food, shelter or breeding, and the habitat on the site is either unsuitable or not critical to species' recovery in the Region; or
- ▶ Existing land uses present a human, natural or development barrier to the use of the site by species of concern.

Requirements for demonstrating the above criteria shall be included in the Critical Habitat-Conservation and Management Plan.

**Policy 1F7:** To require through local development review and Highlands Project Review that projects qualifying as major Highlands Developments, affecting or potentially affecting Critical Habitat in the Preservation Area, comply with the NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.11 and with the minimum standards and criteria outlined in the Critical Habitat Conservation and Management Plan. All projects in the Preservation Area that are not major Highlands Developments shall comply with Policies 1F1 through 1F6.

**Policy 1F8:** To establish standards and procedures, in coordination with the NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, for the identification of lands where it is necessary that Critical Wildlife Habitat, Significant Natural Areas, or vernal pool buffers be expanded in order to protect an individual species or ecological community in the event that it is determined that a larger area is required to protect the functional integrity of the habitat.

**Policy 1F9:** To establish standards and criteria for the identification of Critical Habitat features in coordination with the NJDEP's Endangered and Nongame Species Program or Natural Heritage Program.

**GOAL 1G: INCLUSION OF CRITICAL HABITAT AREA MANAGEMENT PROGRAMS IN THE MASTER PLANS AND DEVELOPMENT REGULATIONS OF CONFORMING MUNICIPALITIES AND COUNTIES.**

**Policy 1G1:** To require that conforming municipalities and counties identify Critical Habitat and management programs in their master plans and development regulations.

**Policy 1G2:** To require that conforming municipalities and counties include approved Habitat Conservation and Management Plans in master plans and development regulations.

**SUBPART E LAND PRESERVATION AND STEWARDSHIP**

Public and private investment in land preservation over the years has preserved nearly a third of the Highlands Region. Maintaining the land in a natural condition is necessary to preserve and enhance ecosystem integrity and to protect drinking water supplies. The Highlands Act contemplates preservation of additional open space resources in order to protect and enhance ecosystem function, protect drinking water resources, and provide for passive and active recreational lands. In order to accomplish these purposes, the case for preservation and stewardship must be addressed by the Highlands Council including identifying and maintaining an inventory of open space and preserved lands, coordinating and implementing strategies for land preservation and stewardship among preservation partners, and ensuring that sufficient financial, institutional, and innovative resources are available for land preservation and stewardship.

Open space preservation currently occurs through compensation to landowners through fee simple or easement acquisition, donations, and bequests. However, it will also occur, under the Highlands TDR Program, through the sale of such credits. Agriculture, forestry, and historic structures are also a vital component of the preserved landscape and the Goals, Policies, and Objectives specifically addressing these issues are outlined in Agricultural Resources, Highlands Forest Resources, and Historic, Cultural, Archaeological, and Scenic Resources. The Land Preservation and Stewardship Goals, Policies, and Objectives address land preservation in the Highlands Region holistically.

**GOAL 1H: PROTECTION OF CRITICAL RESOURCES THROUGH LAND PRESERVATION AND STEWARDSHIP OF OPEN SPACE THROUGHOUT THE HIGHLANDS REGION.**

**Policy 1H1:** To identify and maintain an inventory of private and public open space land holdings and conservation easements in the Highlands Region.

**Objective 1H1a:** Create a coordinated and continually updated open space database that includes preserved lands and stewardship activities by municipal, county, state and federal agencies, non-profit organization, and individuals.

**Policy 1H2:** To serve as a regional clearinghouse for information regarding preservation programs and funding sources for land acquisition, restoration and enhancement; technical assistance; and long-term stewardship of preserved lands, for public and private organizations in order to maximize land preservation efforts in the Highlands Region.

**Objective 1H2a:** Promote the coordination by appropriate federal, state, county, and municipal land preservation agencies of open space acquisition activities under new or existing programs, including identification of high priority lands for preservation, stewardship initiatives, and funding needs.

**Objective 1H2b:** Create a landowner assistance program to provide technical assistance and guidance with regard to land preservation options and the Highlands TDR Program to owners of land which should not be developed in order to protect water resources and environmentally sensitive resources.

**Objective 1H2c:** Implement or support implementation of new, innovative, and alternative methods and programs of land preservation that are deemed most appropriate for the Highlands Region.

**Policy 1H3:** To develop and maintain a confidential inventory of open space lands and farmland within Conservation Priority Areas and Agricultural Priority Areas which should be preserved.

**Objective 1H3a:** Include, within the confidential inventory, those lands which are five and ten year priorities for land acquisition in the Highlands Region in order to determine the cost of implementing the RMP.

**Objective 1H3b:** Coordinate Highlands Region priority open space preservation and land stewardship activities with the NJDEP Green Acres Program and the State Agriculture Development Committee (SADC) with regard to land acquisition and preservation priorities in the Highlands Region.

**Objective 1H3c:** Coordinate with the NJDEP, the review of applications for Green Acres diversions for consistency with the RMP.

**Policy 1H4:** To advocate for the establishment of dedicated sources of funding for the preservation and stewardship of open space lands in the Highlands Region including, but not limited to:

1. Dedicated sources of State revenue to be used for open space preservation in the Highlands Region, such as coordination with the NJDEP Green Acres Program for re-authorization of the Garden State Preservation Trust (GSPT) Fund, including a dedicated fund for the anticipated land acquisition needs of the Highlands Region, and enactment of a water user fee.
2. Dedicated sources of State revenue for a reserve fund to capitalize the Highlands Development Credit Bank.
3. An ongoing program to secure significant federal funding in support of land acquisition and stewardship efforts in the Highlands Region including, but not limited to, additional appropriations under the Federal Highlands Conservation Act (HCA).
4. An ongoing program to seek funding for land acquisition and stewardship from unique sources of funding such as gifts, endowments and donations, and federal and state court-imposed fines for natural resource damages.
5. A dedicated source of revenue for the preservation and stewardship of open space through a surcharge on public water supply system rates for any system that directly or indirectly relies on Highlands water resources for more than 5% of their annual needs.
6. A Highlands Conservation Trust to secure monies from alternate sources of funding to assist in land acquisition and stewardship.

**Policy 1H5:** To encourage municipalities and counties to establish and fund local open space acquisition and stewardship programs or to expand existing open space and stewardship programs.

**Policy 1H6:** To support legislation to extend the dual appraisal methodology used by the GSPT for lands in the Highlands Region beyond the June 30, 2009 expiration date to a minimum of five years beyond adoption of the RMP.

**Policy 1H7:** To identify and designate a Special Environmental Zone in the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools including, but not limited to, fee simple acquisition, easement acquisition, transfer of development programs, and development regulations.

**Objective 1H7a:** Create and maintain a Special Environmental Zone based upon RMP Conservation Priority Area rank and indicators designed to identify lands with the highest water resource and environmental integrity.

**Objective 1H7b:** Adopt and enforce development regulations which prohibit the development of those portions of a parcel of land which are located within a Special Environmental Zone.

**Objective 1H7c:** Require through Plan Conformance, local development review, Highlands Project Review, and the NJDEP review under N.J.A.C. 7:38 that development shall not occur within a Special Environmental Zone. In any Special Environmental Zone, any exemption identified through Policy 7F1 or waiver issued under the Highlands Act under Policy 7G1 or 7G2 shall be conditioned upon a determination that the State or local government unit has exhausted all means for the permanent preservation of these lands through use of preservation tools including, but not limited to, fee simple acquisition, easement acquisition, and TDR.

**Objective 1H7d:** Prepare and deliver documents to appropriate land preservation/acquisition agencies identifying parcels of land wholly or partially within a Special Environmental Zone.

**Objective 1H7e:** Implement the Highlands TDR Program as a means of permanently preserving land in a Special Environmental Zone.

**GOAL 11: CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE OPEN SPACE PRESERVATION AND LAND STEWARDSHIP PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.**

**Policy 111:** To require conforming municipalities and counties to include an open space preservation and land stewardship element in their master plans.

**Policy 112:** To require conforming municipalities and counties to: identify and delineate existing preserved open space, including fee simple and easements; maintain a current Recreation and Open Space Inventory (ROSI) where required by the NJDEP Green Acres Program; and identify lands subject to stewardship programs in their master plans and provide that information to the Highlands Council.

**Policy 113:** To require conforming municipalities and counties to require conservation or land stewardship easements, enforceable by the Highlands Council and at least one of the following: the appropriate municipality, the County Agriculture Development Board, the SADC, Green Acres, or a non-profit land trust organized pursuant to § 501 (c)(3) of the federal tax code and engaged in the protection of land for the purpose of providing long-term stewardship of important resources as a condition of development approval for lands within parcels proposed for development that are identified for preservation on a proposed site plan or subdivision plat.

**Policy 114:** To require conforming municipalities and counties to establish stewardship and monitoring programs for preserved lands owned by the municipality or county by fee acquisition or easement acquisition. Such programs can be administered by the municipality or county, or a non-profit land trust organized pursuant to § 501 (c)(3) of the federal tax code and engaged in the protection of land for the purpose of providing long-term stewardship of important resources.

**GOAL 1J: PRESERVATION OF FORESTS IN PRIVATE OWNERSHIP THROUGH CREATION OF A FOREST PRESERVATION EASEMENT PROGRAM.**

**Policy 1J1:** To promote the creation of a Forest Preservation Easement Program for the Highlands Region, eligible for use through the SADC or the Green Acres Program.

**Objective 1J1a:** Achieve maximum preservation of working forests through the Forest Preservation Easement Program.

**SUBPART F CARBONATE ROCK (KARST) TOPOGRAPHY**

The term karst describes a distinctive topography that indicates dissolution of underlying carbonate rocks (such as limestone and dolomite) by surface water or ground water over time. This dissolution process causes surface depressions and the development of such features as sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams. Sinking streams range in size from intermittent streams to perennial rivers. They may sink through a segment of the stream bed or through a discrete opening such as a fracture or cave entrance, and then reappear further downstream. Sinkholes function as funnels, directing surface water runoff into karst aquifers with little or no attenuation of any transported contaminants. Stormwater basins, septic system leaching fields, sewers, agricultural runoff, lawn runoff, underground pipelines, and soil disturbance may also contribute contaminants directly to ground water through karst features. Soils in sinkhole bottoms may be thin or non-existent. In addition to ground water concerns, communities in karst areas must contend with safety concerns. Sinkholes present a geologic hazard as they may undermine such infrastructure as stormwater basins, roads, sewer lines, septic systems, and natural gas lines.

Beyond the potential deleterious effects of karst areas with respect to ground water and public safety, karst features provide natural, scenic, and recreational resource values. Karst aquifers are high yielding, particularly where carbonate rock is overlain by permeable materials such as glacial sands and gravels. These prolific aquifers have significance as water supplies and are extremely vulnerable to contamination. Karst areas often offer unique topographic features and opportunities for outdoor recreation. They typically occupy valley bottoms, producing dramatic contrasts in relief and valuable scenic vistas, especially when viewed from the higher elevations of ridges. Carbonate rock areas also offer unique habitats that contribute to the Region's biodiversity such as the calcareous wetland fens of the upper Wallkill River valley and the limestone forests of the Johnsonburg Swamp Preserve in Frelinghuysen Township.

The Highlands Region has several large areas with carbonate rock formations, usually located in river valleys such as the Musconetcong, the South Branch of the Raritan and the Lamington Rivers. Karst features exist in some, but not all, of these areas.

**GOAL 1K: PROTECTION OF GROUND WATER QUALITY AND PUBLIC SAFETY REGARDING KARST FEATURES IN THE HIGHLANDS.**

**Policy 1K1:** To map and make readily available to the public areas of the Highlands Region that are underlain by carbonate rocks to define a Carbonate Rock Area.

**Policy 1K2:** To identify and delineate through local development review and Highlands Project Review land areas that drain surface water into the Carbonate Rock Area, as changes in the quantity, quality, and rate of discharge of surface water runoff from upslope lands can impair ground water resources in the Carbonate Rock Area.

**Policy 1K3:** To establish and maintain inventories of karst features and subwatersheds that drain directly to Carbonate Rock Areas in the Highlands Region.

**Policy 1K4:** To ensure through Plan Conformance that municipalities in, or within subwatersheds draining directly to, the Carbonate Rock Area protect public health and safety and the quality of ground waters from inappropriate land uses and pollutant discharges.

**Objective 1K4a:** Identification of critical requirements for development review ordinances to be adopted by municipalities, and for county development review procedures regarding roads and stormwater systems at a minimum, with technical guidance.

**Objective 1K4b:** Applications for site plan or subdivision approval will include a multi-phased geotechnical site investigation (e.g., test borings, test pits) to locate any potential karst features and potential hazards to public health and safety, structures, and ground water quality.

**Objective 1K4c:** Local development reviews and Highlands Project Reviews and requirements shall ensure that all potential hazards to public health and safety, structures and ground water quality, including but not limited to concentrated surface water flows that dissolve carbonate rock, are fully addressed and mitigated in the construction plans and subsequent approval process, with the maximum emphasis on nonstructural measures, including, but not limited to, avoidance of modifications to the karst features.

**Objective 1K4d:** Public works projects, including but not limited to water supply, sewerage, stormwater, and transportation facilities, shall be constructed and maintained such that the potential for damage from karst features and the contamination of ground water are avoided.

**Objective 1K4e:** Highlands Project Reviews and requirements and local development reviews (where applicable) shall prohibit new land uses and facilities that constitute unacceptable risks of discharge due to karst topography where karst features have been identified, including but not limited to:

- ▶ Underground storage tanks;
- ▶ Solid waste landfills;
- ▶ Hazardous waste storage and disposal; and
- ▶ Hazardous materials storage and handling.

**Objective 1K4f:** High priority is given, and state agency coordination will be undertaken, with respect to management and remedial action regarding high risk land uses and facilities where karst features have been identified including, but not limited to:

- ▶ Known contaminated sites such as Superfund sites, brownfields, and landfills;
- ▶ Hazardous waste storage, handling, and disposal facilities;
- ▶ Failing septic systems; and
- ▶ Existing underground storage tanks.

## SUBPART G LAKE MANAGEMENT

The management of lands surrounding lakes is an important issue for the Highlands Region. Overdeveloped, damaged, and poorly managed shoreland areas can result in the degradation of water quality, harm the lake ecosystem, decrease natural aesthetic values, and cause an overall loss of property values for lake communities. Lakes can be harmed by pollutant sources in the watershed area draining to them. Polluted lakes can, in turn, damage downstream streams and rivers. Most existing lake communities are fully built out, predate modern environmental protection requirements, and have limited potential for major land use changes. Some have sewer systems, but many rely on septic systems (or even cesspools) on inadequately sized lots, where direct contamination of the lakes is possible. Past NJDEP studies indicate that nearly every public lake (privately-owned lakes were not evaluated) is experiencing unacceptable contamination, often including excessive bacteria and nutrients. In addition, many lake communities have been

evolving from summer communities to year-round communities, and many are experiencing greatly intensified land uses as the original buildings are torn down and replaced by much larger structures. Addressing land uses within lake communities allows for potential opportunities to improve community value, to protect the cultural and historic resources often associated with lake communities, to protect natural resources and enhance and restore the quality of lake environments in the Region, and in some cases, to allow for in-fill development where appropriate.

**GOAL 1L: PROTECTION OF HIGHLANDS REGION LAKES FROM THE IMPACTS OF PRESENT AND FUTURE DEVELOPMENT.**

**Policy 1L1:** To establish a Lake Management Area around all Highlands Region lakes of greater than ten acres in size.

**Policy 1L2:** To establish tiers of lake management appropriate to management strategies that help protect lake water quality and community value from the impacts of present and future development.

**Objective 1L2a:** Lake management programs shall use the following management tiers around all Highlands Region lakes of greater than ten acres in size:

- ▶ A Shoreland Protection Tier consisting of an area measured 300 foot or the first property line perpendicular from the shoreline of the lake;
- ▶ A Water Quality Management Tier consisting of an area measured 1,000 foot perpendicular from the shoreline of the lake, including the Shoreland Protection Tier;
- ▶ A Scenic Resources Tier consisting of an area measured 300 to 1,000 foot perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake, with wider portions of lakes having longer view distances; and
- ▶ A Lake Watershed Tier consisting of the entire land area draining to the lake, through the evaluation of drainage areas using LiDAR topographic analyses or other topographic data where LiDAR data are not available.

**Policy 1L3:** To establish unique standards (as compared to lakes within the Protection and Conservation Zones) for the Lake Community Sub-Zone within the ECZ within 1,000 feet of lakes, particularly with respect to the Shoreline Protection Tier, to prevent degradation of water quality, harm to lake ecosystems, and promote aesthetic values within the ECZ.

**Policy 1L4:** To establish and implement management strategies to help protect lake water quality and ecosystem values from the impacts of present and future development for all lakes.

**Objective 1L4a:** Implementation of standards through Plan Conformance regarding lake ecosystem and water quality in the Shoreland Protection Tier to address direct and proximate impacts upon the lake, including but not limited to shoreline modification and development (including limits to the hardscaping of shorelines using bulkheads, rip-rap, and walls), docks, piers, boathouses, dredging, vegetation removal, and increased impervious cover. Pollutant discharges shall also be addressed, including the potential for contamination from septic systems, cesspools and other wastewater management systems within the tier that are failing or are inadequately designed and constructed. As such systems fail, landowners should be required to provide upgraded treatment (whether on-site or through public or community systems) to minimize pollutant movement to the lake. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.

**Objective 1L4b:** Implementation of standards through Plan Conformance regarding land use compatibility and water quality in the Water Quality Management Tier, to prevent or minimize continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the Shoreland Protection Tier.

**Objective 1L4c:** Implementation of standards through Plan Conformance regarding the protection of visual and scenic resources in the Scenic Resources Tier, including but not limited to requirements for vegetative screening of buildings, building height limitations, and limits on tree and understory removal for reasons other than public health and safety or as the minimum necessary to make reasonable use of the designated building envelope for the parcel proposed for development. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.

**Objective 1L4d:** Implementation of lake restoration plans to restore, protect and, where possible, enhance lake water quality through management of pollutant sources in the Lake Watershed Tier, including but not limited to the development, adoption and implementation of TMDLs by the NJDEP pursuant to the Water Quality Management Planning Rules, N.J.A.C. 7:15. Ongoing coordination will be undertaken with the Greenwood Lake and Lake Hopatcong Commissions as well as individual lake associations, as appropriate, regarding lake management issues.

**Policy 1L5:** To require that conforming municipalities adopt and implement for all lakes the standards applicable to the Shoreland Protection and Water Quality Management Tiers; the standards applicable to the scenic resources tier shall be adopted and implemented for all public lakes (e.g., with shorelines that are not entirely privately-held and managed through a lake association), and for privately-held lakes to the extent feasible under law, recognizing the existence of previously approved lake community development plans.

**Objective 1L5a:** Shoreland Protection and Water Quality Management Tier requirements shall apply to all new development, regardless of lake ownership.

**Objective 1L5b:** Scenic Resource Tier requirements shall apply to all lakes with public access and to lakes with no public access that are not entirely managed by a single homeowner or lake community association. For lakes that are privately-held and managed by a single homeowner or lake community association, the scenic resource tier requirements shall be voluntary.

**Policy 1L6:** To require that conforming municipalities develop and adopt lake restoration plans, with sufficient input from lake community residents and landowners, for each of the municipality's developed lakes that has been identified as water quality impaired, to include watershed delineation, description of point and nonpoint sources of pollution in the watershed, lake monitoring schedules, existing and proposed in-lake management techniques, and recommended watershed best management practices. TMDLs adopted by the NJDEP to address known pollution problems may be used as lake restoration plans. For lakes that are privately-held and managed by a single homeowners or lake community association, the municipality may require that the association share in or assume the costs of developing such plans.

**Objective 1L6a:** Provide Lake Management Plan guidance to municipalities that includes watershed delineation mapping methodology, point and nonpoint source pollution references, example lake monitoring schedule with monitoring goals and methods, existing successful in-lake management techniques, and best management practices.

**Objective 1L6b:** Septic systems and cesspools on small lots in close proximity to lakes shall be replaced with upgraded individual treatment systems, communal septic systems or community-based wastewater systems wherever feasible and cost-effective, with the selection of replacement technology to ensure minimal secondary impacts, including potential reductions

in net water availability, maximum environmental benefit, and financial viability. Community-based systems should not provide for additional land development capacity except for exempt lots within that existing lake community that are not environmentally constrained, or for areas that are otherwise permitted to have wastewater service under the Goals, Policies, and Objectives in Part 2, Subpart D, Sustainable Development, and Water Resources.

**GOAL 1M: PROTECT THE UNIQUE CHARACTER OF HIGHLANDS LAKE COMMUNITIES.**

**Policy 1M1:** To provide guidance regarding evaluation of and standards for lake character and aesthetics that shall be adopted by municipal ordinance for application to public lakes, or that may be voluntarily adopted by privately-owned lake communities within their by-laws and regulations.

**Policy 1M2:** To encourage increased public access to publicly-owned lakes, within the lake's carrying capacity and while maintaining the lake character.

**Policy 1M3:** To discourage or control teardowns that result in altered lake community character, and the potential loss of historic and cultural values, and to encourage community-supported limitations in lot coverage and building height for new construction.

**Policy 1M4:** To establish and implement performance and development standards through local development review and Highlands Project Review for shoreline uses which achieve compatibility among shoreline activities and nearby neighborhoods.

**Policy 1M5:** To encourage municipalities to utilize recreational sites as opportunities to educate the public regarding the ecological value of lake environs.

**Policy 1M6:** To encourage municipalities to explore appropriate means to provide public recreation at the shoreline and on the water while ensuring retention of opportunities for passive recreation (e.g., natural areas, open space).

**GOAL 1N: MAINTAIN PUBLIC AND PRIVATE LAKES, OR RESTORE LAKE BEDS AND DOWNSTREAM AREAS WHEN LAKES ARE DRAINED.**

**Policy 1N1:** To develop innovative financing and administrative mechanisms for the maintenance and operation of public and private dams and lakes, where those dams and lakes provide a continuing public or private purpose.

**Policy 1N2:** To restore appropriate habitats in the lake beds and to prevent, mitigate, or restore downstream habitats from damages due to lake drainage, when dams are allowed to fail or are deliberately breached or removed.

**PART 2 Water Resources and Water Utilities**

A fundamental purpose of the Highlands Act is to protect water supplies for human use and ecological sustainability both within and outside of the Highlands Region. The Highlands RMP addresses five fundamental issues with regard to water resources in the Highlands Region:

- ▶ The availability of water resources for human and ecological use;
- ▶ The protection and restoration of water resource availability;
- ▶ The protection, restoration, and enhancement of water quality;
- ▶ The management of land development patterns and densities to ensure that the carrying capacity of water resources are not exceeded; and
- ▶ The cost-effective and efficient provision and use of water utility capacity in a manner that ensures compatibility with the carrying capacity of water resources.

## SUBPART A WATER RESOURCES AVAILABILITY

The availability of water for human use is a critical factor in determining the capacity for growth and continued economic vitality for both existing development and agriculture within and outside the Highlands Region. The availability of water for ecological purposes is critical to sustaining the aquatic ecosystems of streams, ponds and lakes in the Highlands Region. The Highlands RMP provides a method for identifying the quantity of available water resources in the Highlands Region, which is used to identify areas where water resources are or are not sufficient to support existing human and ecological uses, and to support future uses. Where sufficient water availability exists, the method fairly allocates available water resources among future human uses as shown in the Land Use Capability Zone Map. Where water resources have been stressed, additional planning and mitigation is necessary.

The Goals, Policies, and Objectives for water resources availability establish a method for determining available water for human use by each subwatershed (HUC14), of which 183 are in (or partially in) the Highlands Region. Surface water availability from existing reservoir systems are addressed through regulations of the NJDEP and a major purpose of the RMP is to protect the safe yields of those reservoir systems by limiting upstream use of ground waters, which has the added benefit of protecting aquatic ecosystems. Ground water availability is determined using stream flow information, with thresholds based upon the predominant Land Use Capability Zone for each subwatershed. Net water availability reflects current uses, and may show surpluses or deficits. For all subwatersheds, municipal Plan Conformance requires development of Water Use and Conservation Plans that will set priorities for the use of available water (where net water availability is positive) and will establish methods to reduce and, where feasible, eliminate deficits where they exist. In all cases, efficient use of water is required to make the best use of limited resources. Where deficits exist and a Water Use and Conservation Plan has not yet been adopted, limited amounts of conditional water availability are provided for uses that will be permitted while the deficits are reduced through water conservation and enhanced recharge. The amount of mitigation is determined based on the amount of water use proposed and the severity of the current deficit, but is never less than 125%; mitigation will be required prior to the water use where either the proposed water use or current deficit is large.

**GOAL 2A:** PROTECTION OF THE VALUE OF THE HIGHLANDS REGION AS AN “ESSENTIAL SOURCE OF DRINKING WATER, PROVIDING CLEAN AND PLENTIFUL DRINKING WATER FOR ONE-HALF OF THE STATE’S POPULATION” (HIGHLANDS ACT, SECTION 2), ALONG WITH THE ECOLOGICAL VALUES OF CLEAN WATER, THROUGH THE PROTECTION, ENHANCEMENT AND RESTORATION OF WATER RESOURCES QUANTITY, FLOW CHARACTERISTICS AND QUALITY AS FUNDAMENTAL TO ENSURING THAT THERE ARE ADEQUATE WATER SUPPLIES TO SUPPORT THESE NEEDS.

**Policy 2A1:** To identify and periodically update net water availability and water deficits as a factor in the Land Use Capability Water Availability Map.

**Policy 2A2:** To ensure that increasing water demands do not exceed Net Water Availability or exacerbate existing deficits of subwatersheds. Net Water Availability is affected at a subwatershed level by location and extent of Land Use Capability Zone Map and its status as Current Deficit Area or Existing Constrained Area.

**GOAL 2B:** PROTECTION, RESTORATION AND ENHANCEMENT OF WATER QUALITY AND QUANTITY OF SURFACE AND GROUND WATERS (SECTIONS 10.B(1) AND 10.C(1)), AND TO DETERMINE “THE AMOUNT AND TYPE OF HUMAN DEVELOPMENT AND ACTIVITY WHICH THE ECOSYSTEM OF THE HIGHLANDS REGION CAN SUSTAIN WHILE STILL MAINTAINING THE OVERALL ECOLOGICAL VALUES THEREOF, WITH SPECIAL REFERENCE TO SURFACE AND GROUND WATER QUALITY AND SUPPLY...” (SECTION 11.A.(1)(A)).

**Policy 2B1:** To track and consider water availability in local development review and Highlands Project Review.

**Policy 2B2:** To estimate Net Water Availability on a HUC14 subwatershed basis.

**Objective 2B2a:** Establish Ground Water Capacity by HUC14 subwatershed by subtracting the subwatershed’s MA7CD10 (minimum average seven day low flow with a return period of ten years, also known as the 7Q10) from the September median stream flow.

**Objective 2B2b:** Establish Ground Water Availability thresholds for application to HUC14 subwatersheds based on the Land Use Capability Zone and watershed resource value, and as modified by status as an Existing Constrained Area. Ground Water Availability shall be determined by multiplying Ground Water Capacity by percentage thresholds specified in the following table that are related to the nature of the environmental resources and conservation objectives of the Plan for each Zone. Ground Water Availability within the Protection Zone and Conservation Zone shall emphasize the integrity of aquatic ecosystems by ensuring that Ground Water Capacity is predominantly reserved for maintenance of stream flows, recognizing the regional significance of these resources; in the Conservation Zone, Ground Water Availability thresholds shall also specifically recognize agricultural water needs. Ground Water Availability within Existing Community Zone subwatersheds shall provide for the protection of water supply, water resources and ecological values of the Region.

GROUND WATER AVAILABILITY THRESHOLDS AS PERCENTAGE AGE OF GROUND WATER CAPACITY		
Predominant Land Use Capability Zone (or Watershed Value)	Standard Threshold	Existing Constrained Area*
Protection Zone (High)	5%	5%
Conservation Zone (Moderate)	5% non-agricultural 10% agricultural	5% + 2003 Depletive & Consumptive Use (up to Standard Threshold)
Existing Community Zone (Low)	20%	5% + 2003 Depletive & Consumptive Use (up to Standard Threshold)

\*Within HUC14 Subwatershed upstream of a Current Deficit Area

**Objective 2B2c:** Estimate Net Water Availability for each HUC14 subwatershed by subtracting from Ground Water Availability an estimate of maximum monthly consumptive and depletive ground water and surface water use (other than from reservoir storage or other supply with a NJDEP approved safe yield). Adjust consumptive and depletive water use to account for the return of wastewater to the same HUC14 subwatershed from which the water originated, or as appropriate, water originating from another HUC14 subwatershed.

**Objective 2B2d:** Designate Current Deficit Areas as those HUC14 subwatersheds where the Net Water Availability is less than zero.

**Objective 2B2e:** Designate Existing Constrained Areas as those HUC14 subwatersheds that have positive Net Water Availability and are upstream of and contributing flow to a Current Deficit Area.

**Objective 2B2f:** Modify Net Water Availability in Existing Constrained Areas to be the 2003 consumptive and depletive ground and surface water use plus 5% of the Ground Water Capacity (up to the standard thresholds assigned to each Land Use Capability Zone) to ensure continued stream flows to downstream Current Deficit Areas, emphasizing techniques including, but not limited to, water reuse, recycling and conservation.

**Policy 2B3:** To conditionally provide water availability (Conditional Water Availability) within a Current Deficit Area with appropriate standards regarding its use.

**Objective 2B3a:** A Current Deficit Area subwatershed that is primarily within the Protection Zone or Conservation Zone shall be assigned Conditional Water Availability not to exceed an aggregate of 1% of Ground Water Capacity, and will be applied to consumptive and depletive water uses that comply with the mitigation requirement in Objective 2B8b.

**Objective 2B3b:** A Current Deficit Area subwatershed that is primarily within the Existing Community Zone shall be assigned Conditional Water Availability not to exceed an aggregate of 2% of Ground Water Capacity, and will be applied to consumptive and depletive water uses that comply with the mitigation requirement in Objective 2B8b.

**Objective 2B3c:** The Highlands Council will track the use of Conditional Water Availability within each Current Deficit Area allocated during local development review and Highlands Project Review and adjust remaining Conditional Water Availability accordingly.

**Policy 2B4:** To strictly limit consumptive and depletive water uses to the water availability in each HUC14 subwatershed and to establish priorities for water uses that implement the policies and objectives of the RMP.

**Objective 2B4a:** Give highest priority for the use of non-agricultural Net Water Availability or Conditional Water Availability within Protection Zone and Conservation Zone subwatersheds, through a Water Use and Conservation Plan developed under Objective 2B8c, local development review and Highlands Project review:

1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for Net Water Availability;
2. To serve development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2;
3. To serve a cluster development that complies with Objective 2J4b; and
4. To serve affordable housing projects where at least 10% of the units are affordable.

**Objective 2B4b:** The highest priority for use of Net Water Availability or Conditional Water Availability within ECZ subwatersheds, through a Water Use and Conservation Plan developed under Objective 2B8c, local development review and Highlands Project review to serve documented threats to public health and safety from contaminated water supplies, designated TDR Receiving Zones, infill development, designated Highlands Redevelopment Area, affordable housing projects where at least 10% of the units are affordable, or new areas for development that meet all other requirements of the RMP.

**Objective 2B4c:** Establish and implement mandatory stormwater reuse for recreational and other non-agricultural irrigation, as well as other non-potable water purposes to minimize both the volume of stormwater discharges and water withdrawals for these purposes.

**Objective 2B4d:** The highest priority for agricultural water uses in the Conservation Zone shall be those Preservation Area uses that promote agricultural and horticultural uses and opportunities that are compatible with protection of the Highlands environment, and those Planning Area uses that promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities. Compatible agricultural and horticultural uses shall minimize consumptive water uses through efficiency measures.

**Policy 2B5:** To require, through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, and Highlands Project Review, the use of water conservation, recycling and reuse methods (where appropriate) and devices for any redevelopment or development activity, including renovations to existing residential, institutional, commercial or industrial buildings, to minimize consumptive water use tailored to meet the resource protection and other goals for each Zone and considering subwatershed-specific conditions and Net Water Availability status.

**Objective 2B5a:** Coordinate with NJDEP to encourage water conservation, reuse, recycling, and other related measures and mitigation for water distribution system losses both in Highlands municipalities and in municipalities supplied with Highlands water.

**Policy 2B6:** To require through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, Highlands Project Review, and interagency coordination that proposed public water supply and wastewater service areas, new or increased water allocations and bulk water purchases will not directly or indirectly cause or contribute to a Net Water Availability deficit, and where feasible will help mitigate any existing deficit.

**Objective 2B6a:** Areawide Water Quality Management Plans (WQMPs), Wastewater Management Plans (WMPs) or their amendments shall ensure that the proposed service area will not directly or indirectly cause or contribute to a Net Water Availability deficit, and shall be in conformance with any Water Use and Conservation Plan developed under Objective 2B8c.

**Objective 2B6b:** NJDEP Water Allocation decisions and Highlands Project Reviews shall ensure that any new or increased water allocation permits within the Highlands Region are in conformance with the policies and objectives of the RMP and do not result in significant reductions in safe yields for any water supply facility with an existing water allocation permit and the NJDEP-approved safe yield.

**Policy 2B7:** To ensure through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, and Highlands Project Review that the use of Net Water Availability and Conditional Water Availability within each subwatershed supports development patterns that are in conformance with RMP policies and objectives.

**Objective 2B7a:** Establish and implement best management practices for recreational, landscape irrigation and other practices through applicable State and federal programs.

**Policy 2B8:** To require through Plan Conformance, local development review, and Highlands Project Review the efficient and effective use of water availability, the planning for future water needs, the reduction and elimination of water deficits, and the mitigation of new consumptive or depletive use in any Current Deficit Areas or subwatersheds that could become deficit areas based on projected development and water uses, to ensure sustainable water supply, water resource, and ecological values in conformance with RMP policies and objectives.

**Objective 2B8a:** Prevent net increases in consumptive or depletive water uses in Current Water Deficit Areas to prevent exacerbation of and help reduce or eliminate the deficit to ensure sustainable water supply, water resource and ecological values, emphasizing techniques including, but not limited to water reuse, recycling, and conservation.

**Objective 2B8b:** Proposed new consumptive or depletive water uses within a Current Deficit Area shall only occur under the auspices of a Water Use and Conservation Management Plan approved under Objective 2B8c or through mitigation of the proposed consumptive or depletive use within the same HUC14 subwatershed through: a permanent reduction of existing consumptive and depletive water uses; ground water recharge in excess of the requirements of N.J.A.C. 7:8 (Stormwater Management Rules); or other permanent means. Where a Water Use and Conservation Management Plan has not been approved:

1. Each project shall achieve mitigation ranging from 125% to 200%, based on the severity of the Current Deficit and the amount of consumptive or depletive water use proposed;
2. Total consumptive and depletive water uses from any single project and all projects combined are not to exceed the Conditional Water Availability of Objectives 2B3a or 2B3b for any HUC14 subwatershed;
3. Mitigation shall be successfully completed prior to initiation of the water use, except as required by #4, below. Mitigation may be phased in keeping with project development;
4. For water uses where the combination of proposed consumptive and depletive water uses and current subwatershed deficit is high, according to a schedule established by the Highlands Council, off-site mitigation shall be successfully completed prior to any on-site construction. On-site mitigation shall be successfully completed prior to initiation of the water use but may be implemented concurrent with on-site construction. Mitigation may be phased in keeping with the level of consumptive or depletive water uses; and
5. Mitigation plans for a project shall include: specific objectives for each mitigation component; monitoring and reporting requirements; methods by which shortfalls in meeting the mitigation objectives shall be addressed through additional action; and be guaranteed through performance bonds.

**Objective 2B8c:** Water Use and Conservation Management Plans shall be required through municipal Plan Conformance for all subwatersheds to meet the policies and objectives of Goal 2B, to ensure efficient use of water through water conservation and Low Impact Development Best Management Practices, and to avoid the creation of new deficits in Net Water Availability. Where developed for Current Deficit Areas, the plans shall include provisions to reduce or manage consumptive and depletive uses of ground and surface waters as necessary to reduce or eliminate deficits in Net Water Availability, or to ensure continued stream flows to downstream Current Deficit Areas from Existing Constrained Areas, to the maximum extent practicable within each HUC14 subwatershed. Water Use and Conservation Management Plans shall demonstrate through a detailed implementation plan and schedule how and when the current deficit will be resolved in a subwatershed prior to approval for new water uses in the subwatersheds with the most severe deficits (e.g., in excess of 0.25 million gallons per day or mgd), and the plan shall be implemented prior to initiation of new water uses.

**Objective 2B8d:** All water users within a Current Deficit Area shall seek funding and opportunities to meet the intent of Objective 2B4b.

**Objective 2B8e:** Allow water resource transfers between or from Highlands subwatersheds only when there is no other viable alternative and where such transfers would demonstrably not result in impairment of resources in any subwatershed. Potential effects on upstream and downstream subwatersheds should be included in any such evaluation.

## SUBPART B PROTECTION OF WATER RESOURCES QUANTITY

The Highlands RMP focuses on a variety of measures to protect the replenishment of water resources in the Highlands Region through ground water recharge and other means, to ensure the maintenance of aquatic ecosystems and human water uses. Science agenda items include improvements to the methods for estimating Net Water Availability, safe yields and passing flow requirements, better watershed delineations, and improved tracking of water and wastewater flows across watershed boundaries. The protection of Prime Ground Water Recharge Areas is emphasized, as these areas provide the most productive recharge of waters that are critical for stream flow and water supply wells. Protection is provided for both the quantity and quality of recharge.

### GOAL 2C: REFINEMENT OF WATER AVAILABILITY METHODS AND ESTIMATES.

- Policy 2C1:** To improve estimates of Net Water Availability over time, including testing, development and adoption of ecologically-based assessment techniques to evaluate the high and low flow needs of streams necessary to maintain the health of aquatic ecosystems, and the relationship between ground water recharge, ecological flow needs, consumptive water uses and estimates of water availability for both ground and surface water resources.
- Policy 2C2:** To evaluate potable water supply reservoir safe yield and passing flow requirements and examine the effects of upstream consumptive and depletive water uses on safe yields and of passing flows on Highlands Open Waters and recommend regulatory changes to the NJDEP as appropriate.
- Policy 2C3:** To develop a more refined Hydrologic Unit Map using LiDAR technology and high resolution digital elevation modeling to support more detailed geographic estimates of water availability.
- Policy 2C4:** To develop more refined estimates of the effects on Net Water Availability regarding the exportation and importation of water and wastewater.

### GOAL 2D: MAINTENANCE OF HYDROLOGIC INTEGRITY THROUGH THE PROTECTION OF GROUND WATER RECHARGE.

- Policy 2D1:** To map and maintain an inventory of ground water recharge potential for the Highlands Region.
- Policy 2D2:** To delineate Prime Ground Water Recharge Areas as those lands within a HUC14 subwatershed that have the highest recharge volumes as of the most recent land use/land cover data available, relative to other land areas, and in the aggregate provide 40% of total ground water recharge during drought conditions.
- Policy 2D3:** To protect, enhance, and restore the quantity and quality of Prime Ground Water Recharge Areas.

**Objective 2D3a:** Establish Low Impact Development and other Best Management Practices, technical guidelines and procedures to protect, restore and enhance Prime Ground Water Recharge Areas, to maximize the protection of natural ground water recharge and to minimize the need for engineered recharge methods for the purpose of complying with N.J.A.C. 7:8 (Stormwater Management Rules).

**Objective 2D3b:** Establish model municipal development regulations and master plan elements for the protection of Prime Ground Water Recharge Areas, through mechanisms that both complement and supplement the provisions of N.J.A.C. 7:8 (Stormwater Management Rules).

**Objective 2D3c:** Implement master plans and development review ordinances through Plan Conformance that protect Prime Ground Water Recharge Areas and minimize the potential for disruption of recharge in such areas by development.

**Objective 2D3d:** Establish minimum site design guidelines and permissible uses within a Prime Ground Water Recharge Area, including identification of land use categories or other activities posing sufficient risk of contamination that are not allowed within Prime Ground Water Recharge Areas.

**Objective 2D3e:** Identify and implement opportunities for the restoration or enhancement of recharge in Prime Ground Water Recharge Areas and other lands through the retrofit or rehabilitation of stormwater recharge facilities, land management improvements, reforestation, etc.

**Objective 2D3f:** Implement programs for Prime Ground Water Recharge Areas which encourage redevelopment of previously developed areas and allow for other compatible uses that improve recharge area productivity or water quality.

**Objective 2D3g:** Require through Plan Conformance and local health ordinances, that existing land uses that have a significant potential to result in major discharges of pollutants to ground water or to the land surface (including but not limited to non-sanitary wastewater effluent and any major sources of potential discharges such as spills and leaks), such that they may degrade ground water quality within a Prime Ground Water Recharge Area, shall incorporate ongoing management of toxic chemical sources and prohibition of unregulated discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized.

**Policy 2D4:** To apply standards through Plan Conformance, local development review and Highlands Project Review to protect, restore and enhance the functionality and the water resource value of Prime Ground Water Recharge Areas by restricting development and uses of land within a Prime Ground Water Recharge Area that reduce natural ground water recharge volumes or may directly or indirectly contribute to or result in water quality degradation.

**Objective 2D4a:** Development shall not occur in Prime Ground Water Recharge Areas unless necessary to avoid Critical Habitat, Highlands Open Waters Buffers and Moderately and Severely Constrained Steep Slopes.

**Objective 2D4b:** Any development activity approved to occur in a Prime Ground Water Recharge Area shall provide an equivalent of 125% of pre-construction recharge volumes for the affected Prime Ground Water Recharge Area of the site within the following areas, in order of priority: (1) the same development site where feasible; (2) the same HUC14 subwatershed, or (3) an interrelated HUC14 subwatershed as approved by the Highlands Council where no feasible option exists in the same HUC14 subwatershed. This requirement shall apply to all portions of the Prime Ground Water Recharge Area where the recharge is disrupted through impervious surfaces, routing of stormwater runoff and recharge from natural flow paths, and other similar changes.

**Objective 2D4c:** Require through Plan Conformance, local development review and Highlands Project Review that the disruption of Prime Ground Water Recharge Area shall be minimized through the implementation of Low Impact Development Best Management Practices meeting the requirements of Objective 2D3a.

**Objective 2D4d:** Require through Plan Conformance, local development review and Highlands Project Review that the disruption of Prime Ground Water Recharge Area, after conformance with Objectives 2D4a, 2D4b and 2D4c is achieved, shall be limited to no greater than 15% of the Prime Ground Water Recharge Area on the site and shall be preferentially be sited on that portion of the Prime Ground Water Recharge Area that has the lowest ground water recharge rates and the lowest potential for aquifer recharge.

**Objective 2D4e:** Prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into a Prime Ground Water Recharge Area within the Protection or Conservation Zone within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.

**Objective 2D4f:** Prohibit through Plan Conformance, local development review and Highlands Project Review new land uses, including those identified through Objective 2D3d, that have a significant potential to result in the discharge of persistent organic chemicals sources (including but not limited to existing discharges of industrial or other non-sanitary wastewater effluent) to ground water or to the land surface within a Prime Ground Water Recharge Area, such that they may degrade or contribute to the degradation of ground water quality.

**Objective 2D4g:** Require conformance with applicable components of regional stormwater management plans, where applicable, as a mandatory requirement for any site plan application.

**Objective 2D4h:** Achieve a net improvement in ground water recharge volume and maintenance of water quality as required through compliance with and implementation of any related provisions of an adopted regional stormwater plan.

**Objective 2D4i:** Achieve a net improvement in ground water volume and maintenance of water quality through redevelopment, enhanced infiltration, pretreatment or other means where feasible.

**GOAL 2E: IMPROVEMENT OF GROUND WATER RECHARGE THROUGH REGIONAL MANAGEMENT EFFORTS.**

**Policy 2E1:** To develop regional stormwater plans to promote regional protection, restoration and enhancement of ground water recharge volume and quality where specific watersheds are at risk in the absence of regional analysis and enhanced standards (see N.J.A.C. 7:8, Stormwater Management Rules).

**Policy 2E2:** To coordinate programs, funding and activities among public and private entities to encourage regional ground water recharge protection, restoration and enhancement activities consistent with the Plan.

## SUBPART C WATER QUALITY

The Highlands RMP focuses on a variety of measures to protect, enhance and restore as necessary the quality of water resources in the Highlands Region to ensure that human and ecological water uses have water quality appropriate to those uses, and that human water uses do not alter water quality in unacceptable ways.

### **GOAL 2F: ASSESSMENT AND RESTORATION OF SURFACE AND GROUND WATER QUALITY OF THE HIGHLANDS REGION.**

- Policy 2F1:** To identify surface and ground water resources currently impaired or at risk of impairment, and in need of protection, restoration, or enhancement.
- Policy 2F2:** To coordinate with the NJDEP regarding a unified water quality assessment and the development and implementation of Total Maximum Daily Loads (TMDLs), where necessary, for all surface waters within the Highlands Region.
- Policy 2F3:** To coordinate with the NJDEP regarding a unified ground water quality assessment, monitoring, and attainment program.
- Policy 2F4:** To coordinate with the NJDEP regarding efforts to monitor areas of known contamination to ground water resources within the Highlands Region and activities to remediate and restore water quality.
- Policy 2F5:** To coordinate with the NJDEP and other agencies to identify impairments and implement improved regulatory actions and management practices that will also support the water quality goals of the Highlands Act.
- Policy 2F6:** To remedy the pollutant sources associated with existing or historic land uses in conjunction with redevelopment.

### **GOAL 2G: PROTECTION, RESTORATION AND ENHANCEMENT OF THE WATER QUALITY OF THE HIGHLANDS REGION.**

- Policy 2G1:** To evaluate locations and densities of development which are sustainable in conjunction with the use of best management practices applicable to these various water resource needs and support the protection and management of critical lands for water quality purposes.
- Policy 2G2:** To reduce or avoid water quality impacts using requirements for water quality protection measures for new land uses through local development review and Highlands Project Review.
- Policy 2G3:** To adopt and implement water quality protections through Plan Conformance, local development review, and Highlands Project Review.

**Objective 2G3a:** Prohibit land uses that would increase pollutant loadings to waters for which TMDLs have been adopted by the NJDEP unless in compliance with the relevant TMDL.

**Objective 2G3b:** Ensure that new land uses draining to a stream designated as impaired but lacking a TMDL (e.g., Sublist 5) avoid increased pollutant loadings for the parameter or parameters for which a TMDL is required.

**Objective 2G3c:** WQMPs, WMPs or amendments shall demonstrate that the proposed service area will not directly or indirectly support development that would be in violation of an adopted TMDL.

- Policy 2G4:** To determine where water quality improvements are necessary or beneficial for the improvement of water availability, develop watershed-based plans to achieve such improvements such as restoration techniques including disconnection and reduction of existing impervious surfaces, develop implementation mechanisms, and implement these plans.

**Policy 2G5:** To adopt and implement stormwater management controls through Plan Conformance, local development review and Highlands Project Review.

**Objective 2G5a:** Require recharge of clean stormwater rather than contaminated stormwater wherever feasible to meet stormwater management requirements, and to pretreat contaminated stormwater wherever its recharge is required.

**Objective 2G5b:** Require Low Impact Development and other Best Management Practices standards for stormwater management to minimize the discharge of stormwater-entrained pollutants to ground and surface waters.

**Objective 2G5c:** Implement agricultural best management practices for water conservation, water reuse, nutrient and pesticide application, animal waste management, environmental restoration, pollution assessment and prevention, and irrigation efficiency in farm operations for the protection of ground and surface water quality.

**Policy 2G6:** To establish minimum criteria for municipal water quality management programs.

**Objective 2G6a:** Develop technical guidelines and procedures for Low Impact Development Best Management Practices to protect ground and surface water quality.

**Objective 2G6b:** Develop model municipal development regulations for the protection of ground and surface water quality.

**Objective 2G6c:** Require conforming municipal and county master plans and development regulations to incorporate relevant TMDLs, additional water quality protection measures and wellhead protection for public water supply wells and nitrate standards as development standards.

**Policy 2G7:** To promote the implementation of Low Impact Development Best Management Practices to protect the quality of ground and surface water quality.

**Policy 2G8:** To develop an educational program to further the understanding of the importance of water quality and methods of protecting water resources in the Highlands.

## **GOAL 2H: LIMITATION OF THE TYPE AND AMOUNT OF HUMAN DEVELOPMENT IN THE WELL-HEAD PROTECTION AREAS OF PUBLIC WATER SUPPLY WELLS.**

**Policy 2H1:** To identify Wellhead Protection Areas for public community and public noncommunity nontransient water supply wells in or affecting the Highlands Region.

**Objective 2H1a:** Coordinate with the NJDEP to establish and maintain an inventory of Wellhead Protection Areas in or affecting the Highlands Region.

**Objective 2H1b:** Identify land uses within the Wellhead Protection Areas that have a significant potential for contributing pollutants of concern to ground water.

**Objective 2H1c:** Each Wellhead Protection Area shall include three tiers. The time of travel for ground water to the well in Tier 1 shall be up to two years; Tier 2 shall be up to five years; and Tier 3 shall be up to 12 years. Each tier shall include the area of each smaller tier within it.

**Policy 2H2:** To develop and implement, through Plan Conformance, local development review and Highlands Project Review, resource protection measures to protect and enhance ground water and water supply resources within Wellhead Protection Areas consistent with the source water assessments for each water supply source.

**Objective 2H2a:** Prohibit land uses that have a significant potential to result in the discharge of pathogens (including, but not limited to, septic systems and engineered stormwater infiltration from surfaces with significant potential for contact with pathogenic contaminants) to ground water or to the land surface within a designated Tier 1 Wellhead Protection Area, such that they may degrade or contribute to the degradation of ground water quality. Require that the construction of sewer lines within Tier 1 of a Well Head Protection Area prevent seepage of untreated sewage into ground water.

**Objective 2H2b:** Prohibit land uses that have a significant potential to result in the discharge of persistent organic or toxic chemicals sources (including but not limited to existing discharges of industrial or other non-sanitary wastewater effluent) to ground water or to the land surface within a designated Tier 2 Wellhead Protection Area, such that they may degrade or contribute to the degradation of ground water quality.

**Objective 2H2c:** Require that land uses that have a significant potential to result in major discharges of persistent organic or toxic pollutants to ground water or to the land surface (including but not limited to non-sanitary wastewater effluent and any major sources of potential discharges such as spills and leaks), such that they may degrade ground water quality within a designated Tier 3 Wellhead Protection Area, shall incorporate ongoing management of toxic chemical sources and prohibition of unregulated discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized.

**Policy 2H3:** To develop educational materials to further the understanding of the importance of Wellhead Protection Areas to protect ground water supply.

**Policy 2H4:** To prepare design standards in order to encourage appropriate conservation-based design.

**Objective 2H4a:** Require site specific and municipal stormwater management plans to address wellhead protection requirements.

**Objective 2H4b:** Encourage stormwater reuse for non-agricultural irrigation and other non-potable water purposes to minimize the volume of stormwater discharges (other than from clean sources) within a Tier 1 or Tier 2 Wellhead Protection Area.

**Objective 2H4c:** Develop technical guidelines and procedures for the identification of potable sources at risk and protection of Wellhead Protection Areas for public water supply wells in the Highlands Region.

**Objective 2H4d:** Develop technical guidelines and procedures for wellhead protection best management practices to protect ground water quality.

**Policy 2H5:** To require that conforming municipalities revise master plans and development regulations to address wellhead protection requirements.

**Objective 2H5a:** Develop model master plan elements and land development regulations for Wellhead Protection Areas.

**Objective 2H5b:** Restrict development activities that pose threats to the water quality of public water supply wells.

**Objective 2H5c:** Ensure that development activities and existing land use activities implement best management practices to protect the quality of ground water within Wellhead Protection Areas.

**Objective 2H5d:** Amend Areawide WQMPs or WMPs for conforming municipalities and counties to ensure that any activity associated with the proposed service area will not adversely affect a Wellhead Protection Area.

## SUBPART D SUSTAINABLE DEVELOPMENT AND WATER RESOURCES

The Highlands RMP includes a variety of measures to ensure that future development is at densities necessary to remain within the carrying capacity of water resources for both quality and quantity, and to ensure that water supply and wastewater utility capacities are made available in ways that provide maximum regional benefit within the constraints of water availability and water quality protection, and are used in ways that provide cost-effective and efficient service. Highlands Act restrictions on the creation or extension of water supply and wastewater utility services in the Preservation Area are emphasized. Likewise, RMP restrictions are placed on such extensions into the Protection and Conservation Zones and the Environmentally-Constrained Sub-Zones of the Planning Area except where allowed through Highlands Act waivers or for cluster development that meets certain standards. Septic system densities for new development are provided, along with requirements for maintenance of all wastewater treatment systems.

### **GOAL 2I: LIMITATION OF THE EXPANSION OF WATER AND WASTEWATER INFRASTRUCTURE IN THE PRESERVATION AREA.**

**Policy 2I1:** To prohibit the expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area unless approved through a Highlands Applicability Determination (HAD) or a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1.

**Objective 2I1a:** Designated sewer service areas in the Preservation Area shall be restricted to the Existing Area Served as of August 10, 2004, except to serve development that is approved through a HAD or a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1.

**Objective 2I1b:** The expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area as approved through a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1 shall maximize the protection of sensitive environmental resources including avoidance of Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas (ARAs), Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat.

**Policy 2I2:** To identify through Plan Conformance and Highlands Redevelopment Area designation procedures those lands of the Preservation Area that may be appropriate for the extension or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities for redevelopment that would meet the waiver requirements of N.J.A.C. 7:38 and Policy 7G1.

### **GOAL 2J: ALL EXISTING AND FUTURE DEVELOPMENT IN THE HIGHLANDS REGION THAT USE PUBLIC WATER SUPPLY SYSTEMS ARE SERVED BY ADEQUATE AND APPROPRIATE INFRASTRUCTURE.**

**Policy 2J1:** To establish and maintain an inventory of Highlands Public Community Water System infrastructure, including developed parcels with current connections to existing utility service areas.

**Objective 2J1a:** The development and maintenance of an inventory of Existing Areas Served.

**Objective 2J1b:** The development and maintenance of an inventory of the service areas and capacity of Highlands Public Community Water Supply Systems, including a comprehensive data base of water utilities that are dependent on Current Deficit Areas or Existing Constrained Areas as a source of water, with estimates of the extent to which service area demands and water allocation permits may exceed available water.

**Objective 2J1c:** The development of an estimate of available water supply capacity for each Highlands Public Community Water Supply System.

**Objective 2J1d:** The identification of remaining available water supply system capacity to support regional growth opportunities within the Highlands Region.

**Policy 2J2:** To ensure, through Plan Conformance and Highlands Project Review, that Highlands Public Community Water Systems conform with Policy 2B6.

**Objective 2J2a:** Limit future water system demand and reduce existing demand where feasible by water systems that are dependent on Current Deficit Areas or Existing Constrained Areas as a source of water.

**Objective 2J2b:** Limit future water system demands to levels that will not create a Current Deficit Area where one does not currently exist.

**Policy 2J3:** To identify, through Plan Conformance, the RMP Water Resources Science Agenda and other means, areas of the Highlands Region with existing or imminent threats to public health and safety from contaminated domestic and other on-site water supplies that are of sufficient scale to potentially justify the extension or creation of a public water supply.

**Policy 2J4:** To minimize, through Plan Conformance, local development review and Highlands Project Review, the creation or extension of public water supply systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area, and to allow for the creation or extension of public water supply systems where appropriate within the ECZ.

**Objective 2J4a:** Prohibit new, expanded, or extended public water systems within the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of ARAs, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of ARAs, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are:

1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or
3. To serve a cluster development that meets all requirements of Objective 2J4b.

**Objective 2J4b:** Clustered development served by public water supply within the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in ARAs pursuant to Policy 3A5;
2. Extension of an existing public water system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;
3. Creation of a new public water system will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity;
4. The clustered development preserves at least 80% of the cluster project area in perpetuity for environmental protection or agricultural purposes. To the maximum extent feasible the developed portion (e.g., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system; and
5. Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA Natural Resources Conservation Service (NRCS), Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).

**Objective 2J4c:** Allow the expansion or creation of public water systems within the ECZ of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill, or redevelopment, to meet needs and protection requirements equivalent to Objective 2J4a within the ECZ, or to serve new areas for development that meet all other requirements of the RMP. TDR Receiving Zones, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than expansion of public water service areas within this Zone.

**Objective 2J4d:** All development within the Highlands Region, in areas that are not served by public water systems, shall be at a density that can be supported by on-site wells. Where cluster development in the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area will be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster development in combination with the Agriculture Retention/Farmland Preservation Plan required by Objective 2J4b shall provide for Best Management Practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total cluster project area including the preserved agricultural lands.

**Policy 2J5:** To prohibit, through local development review and Highlands Project Review, new or increased water resource transfers between subwatersheds unless it is demonstrated that no other option exists to meet public health, safety and welfare objectives and where such transfers do not result in impairment of resources in the subwatershed from which water is proposed to be transferred.

**Policy 2J6:** To encourage water recycling/reuse measures, such as domestic and institutional gray water systems, where appropriate, to minimize water use in existing land uses.

**Policy 2J7:** To require water resource management for all development in the Highlands Region, through local development review and Highlands Project Review.

**Objective 2J7a:** Require the maximum feasible water conservation and recycling for any redevelopment or development activity, including renovations to existing single family residences and commercial/industrial buildings.

**Objective 2J7b:** Require consideration of and the cost-effective use of recycled or re-used water rather than potable public water for non-potable purposes such as fountains, and non-essential uses such as golf courses, certain recreational, commercial, or agricultural uses.

**Objective 2J7c:** Require that new residential development served by public community water systems, be except where also served by septic systems, at a minimum density of 1/2 acre per dwelling unit for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, recreational space), to ensure cost-effective utility service.

**Objective 2J7d:** Require that new non-residential development served by public water systems, except where also served by septic systems, be designed to target a floor area ratio (FAR) of 0.84 for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, recreational lands) to the maximum extent feasible, as a means to maximize parking and employment efficiency and compact development.

**Policy 2J8:** To ensure continued refinement and development of the RMP.

**Objective 2J8a:** Implement a coordinated program with the NJDEP to track ground water and surface water withdrawals and water allocations within the Highlands Region to maintain current estimates of net utility capacity and to fill critical missing data gaps.

**Objective 2J8b:** Coordinate with the NJDEP, water purveyors and water utilities to ensure that service areas and franchise areas are supplied by and consistent with sustainable yields from their designated sources.

**Objective 2J8c:** Determine where water quality improvements are necessary or beneficial for the improvement of Net Water Availability or protection of existing drinking water supplies, develop watershed-based plans to achieve such improvements, and develop mechanisms to implement these plans.

**GOAL 2K:** ALL EXISTING AND FUTURE DEVELOPMENT IN THE HIGHLANDS REGION THAT USE PUBLIC WASTEWATER TREATMENT SYSTEMS ARE SERVED BY ADEQUATE AND APPROPRIATE INFRASTRUCTURE.

**Policy 2K1:** To establish and maintain an inventory of Highlands public wastewater management infrastructure, including developed parcels with current connections to existing utility service areas.

**Objective 2K1a:** The development and maintenance of an inventory of Existing Areas Served.

**Objective 2K1b:** The development and maintenance of an inventory of the service areas and capacity of Highlands Domestic Sewerage Facilities.

**Objective 2K1c:** The development of an estimated Available Wastewater Treatment Capacity for each Highlands Domestic Sewer Facility.

**Objective 2K1d:** The identification of remaining available wastewater treatment capacity to support regional growth opportunities within the Highlands Region.

**Policy 2K2:** To base projected demand for current needs, appropriate economic revitalization and opportunities for designated TDR Receiving Zones within Existing Areas Served on existing maximum three month demands plus an estimate of redevelopment needs based on either Highlands Council regional analyses or more detailed local analyses, to assess whether there is adequate treatment capacity to encourage redevelopment.

**Policy 2K3:** To provide adequate, appropriate, efficient and cost-effective wastewater management to all development in the Highlands Region, through Plan Conformance, local development review, and Highlands Project Review.

**Objective 2K3a:** Areawide WQMPs, including WMPs and project-specific amendments, shall be examined for consistency with requirements of this Plan. The Highlands Council shall prepare and transmit to NJDEP consistency determinations for these amendments prior to the NJDEP decision in accordance with N.J.A.C. 7:38-1.1 and N.J.A.C. 7:15.

**Objective 2K3b:** Existing wastewater collection and treatments systems which are non-compliant with state water quality standards for wastewater treatment and effluent discharge shall be prohibited from collecting and treating additional wastewater until the treatment systems are fully compliant with State permit requirements.

**Objective 2K3c:** Prohibit new, expanded, or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of ARAs, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of ARAs, and Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are:

1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety, such needs shall have highest priority for allocation of existing system capacity;
2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or
3. To serve a cluster development that meets all requirements of Objective 2K3d.

**Objective 2K3d:** Clustered development served by a public wastewater collection and treatment system or community on-site treatment facility within the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in ARAs pursuant to Policy 3A5;
2. Extension of an existing public wastewater collection and treatment system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;

3. Creation of a community on-site treatment facility will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity, where the proposed system is designed, permitted, and constructed at a capacity limited to the needs of the clustered development, and where the system does not create the potential for future expansion into areas that are not the subject of cluster developments immediately adjacent to the initial cluster served;
4. The cluster development preserves at least 80% of the cluster project area in perpetuity for environmental protection or agriculture purposes. To the maximum extent feasible the developed portion of the project area (e.g., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system; and
5. Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA NRCS, TSP, appropriate agent or NJDA staff, and approved by the local SCD.

**Objective 2K3e:** Allow the expansion or creation of wastewater collection systems within the ECZ of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to those provided at Objective 2K3c within the ECZ, or to serve new areas for development that meet all other requirements of the RMP. The highest priority for allocation of excess or additional wastewater treatment capacity is to areas where there are clusters of failed septic systems that are located within or adjacent to Existing Areas Served. TDR Receiving Areas, where designated, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than other developments requiring expansion of sewer service areas.

**Objective 2K3f:** All development within the Highlands Region, in areas which are not served by public wastewater collection and treatment system or community on-site treatment facility, shall be at a density that can be supported by septic systems under Goal 2L. Where cluster development in the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-Zones of the Planning Area shall be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster development and the Agriculture Retention/Farmland Preservation Plan required by Objective 2K3d in combination shall include provisions for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total cluster project area including the preserved agricultural lands.

**Policy 2K4:** To ensure the efficiency and cost-effectiveness of public wastewater collection and treatment systems, through Plan Conformance, local development review, and Highlands Project Review.

**Objective 2K4a:** Require that new residential development served by public wastewater collection and treatment systems be at a minimum density of 1/2 acre per dwelling unit for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, and recreational space) to ensure cost-effective utility service.

**Objective 2K4b:** Require that new non-residential development served by public wastewater collection and treatment systems be designed to target a floor area ratio (FAR) of 0.84 for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, recreational space) to the maximum extent feasible, as a means to maximize parking and employment efficiency and compact development.

**Objective 2K4c:** Require the use of recycled or re-used water wherever possible including aesthetic purposes and non-potable purposes such as fountains, golf courses, and other recreational, commercial or agricultural uses.

**GOAL 2L: ENSURE THAT ON-SITE WASTEWATER SYSTEM DISCHARGES DO NOT EXCEED THE NATURAL CAPACITY OF GROUND WATER TO ATTENUATE LOADINGS, EXACERBATE EXISTING NITRATE IMPAIRMENT, OR CONTRIBUTE TO POTENTIAL NITRATE IMPAIRMENT FOR SUBWATERSHEDS OF THE HIGHLANDS REGION.**

**Policy 2L1:** To use nitrate concentrations in ground water as an indicator of water quality, and to use nitrate dilution modeling as the primary method for assessing the carrying capacity of lands for development that relies on septic systems for wastewater treatment.

**Objective 2L1a:** Determine background median concentrations of nitrate in ground water by HUC14 subwatershed.

**Objective 2L1b:** Identify the factors affecting the suitability of densities for development that relies on septic systems for wastewater treatment.

**Objective 2L1c:** Develop appropriate protection measures to minimize contamination of ground water from septic systems.

**Objective 2L1d:** Develop drought ground water recharge estimates by HUC14 subwatershed for use in the NJDEP nitrate dilution model.

**Policy 2L2:** To use the median background nitrate concentrations in ground water in the Highlands Region as a basis for establishing on-site wastewater treatment densities through Plan Conformance, local development review, and Highlands Project Review.

**Objective 2L2a:** Use the median concentrations of nitrate in ground water for Planning Area HUC14 subwatersheds where the Protection Zone is predominant as the nitrate target for new development reliant on septic systems within the Protection Zone. The median is 0.72 mg/L.

**Objective 2L2b:** Use the median concentrations of nitrate in ground water for Planning Area HUC14 subwatersheds where the Conservation Zone is predominant as the nitrate target for new development reliant on septic systems within the Conservation Zone. The median is 1.87 mg/L.

**Objective 2L2c:** Use the NJDEP Highlands Preservation Area rules and nitrate thresholds for the Preservation Area.

**Objective 2L2d:** Use a nitrate target of 2 mg/L for the Existing Community Zone within Planning Area, on a project-by-project basis, where new development will rely on septic systems.

**Objective 2L2e:** New residential development using septic systems where clustering or conservation design techniques are employed shall have a gross density (for all parcels involved in the development proposal) based on the nitrate dilution target appropriate for the Land Use Capability Zone, but with the density for the developed portion of the site based on a nitrate dilution target not to exceed 10 mg/L or any more stringent requirement as required by N.J.A.C. 7:15.

**Objective 2L2f:** Carrying capacity shall be documented through the Land Use Capability Septic System Yield Map as the number of allowable septic systems per Conservation and Protection Zone for each HUC14 subwatershed, taking into account the nitrate target, the HUC14 subwatershed drought ground water recharge, and the acreage that is privately owned, undeveloped or underdeveloped, and not preserved.

**Objective 2L2g:** New residential development utilizing septic systems shall be designed in a manner that ensures that the untreated well water meets the State drinking water quality standards and that minimizes the risk of well contamination due to the flow of septic system plumes within or between developed lots, addressing general ground water flow patterns, major fracture systems and other appropriate geological, geophysical, and hydrogeological issues.

**Policy 2L3:** To prepare and maintain an inventory of areas where existing ground water or surface water quality is impaired to such a degree that any increase in nitrate concentration would have an adverse impact on water quality.

**Policy 2L4:** To establish methods for restoration of ground water quality for subwatersheds where existing ground water is impaired on a subwatershed by subwatershed basis.

**Policy 2L5:** To establish minimum standards for the placement, design, monitoring and maintenance of septic systems necessary to protect, restore, and enhance ground water quality.

#### **GOAL 2M: REFINEMENT AND IMPROVEMENT OF THE GROUND WATER RESOURCE MANAGEMENT ELEMENT.**

**Policy 2M1:** To monitor and assess nitrate-related impacts and other pollutants enumerated in the Private Well Testing Act to water resources within the Highlands Region.

**Objective 2M1a:** To monitor well water and surface water for nitrate concentrations, as funding is available, to evaluate background nitrate changes on a HUC14 subwatershed basis and to track new sources of nitrates from Highlands development projects on a site specific basis.

**Policy 2M2:** To develop appropriate and innovative resource management programs to protect, restore, and enhance subwatersheds where existing ground water quality is impaired.

**Objective 2M2a:** Identify innovative technologies that may be appropriate for the design, installation, and maintenance of on-site wastewater treatment systems to minimize impairment to ground water or surface water quality due to elevated nitrate concentrations and other pollutant loads from septic systems provided the systems meet the minimum standards of N.J.A.C 7:9A.

### **PART 3 Agricultural Resources**

Agriculture is a vital component of the Highlands Region's culture, landscape and economy. It provides important economic benefits to the Highlands Region in the form of agricultural production and agri-tourism, provides a local food source to area residents using less energy than would be required to import produce from other regions, and helps maintain the Highland's rural character. Agriculture is also an industry in which the land is the primary instrument of production. Therefore it is imperative to retain the land base and preserve contiguous areas of agriculture to sustain and enhance agricultural resources and the agricultural industry.

The major Goals, Policies, and Objectives for Agricultural Resources seek to meet two essential objectives of the Highlands Act; the preservation of agricultural land and the viability of the agricultural industry. The New Jersey Legislature declared that the agricultural lands in active production in the Highlands Region are important resources

of the State that should be preserved, and that the agricultural industry in the Highlands Region is a vital component of the economy, welfare, and culture of the Garden State. The Legislature also declared that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible whenever appropriate in the Highlands Region. The Goals, Policies, and Objectives below lay the foundation to carry out these objectives, and to provide incentives and funding opportunities, to not only preserve agriculture, but to encourage best management practices (BMPs) that enhance the resources of the Highlands Region. As stewards of the land, many farmers already implement BMPs, and the Goals, Policies, and Objectives seek to reward these individuals with incentives and cost-share opportunities.

**GOAL 3A: PROTECTION AND ENHANCEMENT OF AGRICULTURAL RESOURCES AND THE AGRICULTURAL INDUSTRY IN THE HIGHLANDS REGION.**

**Policy 3A1:** To create and maintain an inventory of preserved farms, farmland assessed lands, other lands in agricultural use, and undeveloped vacant lands which contain soils which are highly suitable for agricultural use in the Highlands Region.

**Policy 3A2:** To consider Prime, Statewide Importance, Unique, and Locally Important soils as Important Farmland Soils which are critical agricultural resources of the Highlands Region.

**Policy 3A3:** To delineate Agricultural Resource Areas in the Highlands Region as those areas of contiguous and the most concentrated agricultural uses, using Important Farmland Soils as a critical factor.

**Policy 3A4:** To promote farmland preservation and limit non-agricultural uses within the ARAs and accord priority to the preservation of agricultural lands within Agricultural Priority Areas, through fee simple acquisition, easement acquisition, TDR, and other agricultural land conservation techniques.

**Objective 3A4a:** Create and maintain a confidential inventory of agricultural lands in the ARAs, in coordination with the New Jersey Department of Agriculture (NJDA) and the SADC, to prioritize the preservation of farmland.

**Objective 3A4b:** Implement through Plan Conformance Agriculture Retention/Farmland Preservation Plan elements and development regulations promoting preservation in the ARAs and limiting non-agricultural uses within the ARA to those uses that support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect important farmland soils, and meet resource management and protection requirements of the RMP.

**Policy 3A5:** Where it is not feasible to preserve agricultural lands within the ARA by such methods as fee simple acquisition, easement acquisition, or a TDR Program, require mandatory clustering through Municipal Plan Conformance, local development review and Highlands Project Review for residential development in an ARA. Cluster development within the Planning Area that incorporates public or community on-site wastewater utilities shall meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area shall meet the requirements of Policy 2I1 and Objectives 2I1a and 2I1b, and where reliant on septic systems shall meet the requirements of Objective 6I1a.

**Objective 3A5a:** Implement regulations requiring that cluster or conservation design development proposed within an ARA support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect Important Farmland Soils, and meet resource management and protection requirements of the RMP.

**Objective 3A5b:** Implement regulations requiring that all cluster or conservation design development proposed in an ARA be buffered appropriately with existing natural resources, such as hedgerows or trees, or with new buffers to avoid conflicts between non-agricultural development and agricultural activities, and to protect existing agricultural uses and sensitive environmental resources.

**Objective 3A5c:** Implement regulations requiring that all land preserved in perpetuity for environmental protection or agricultural purposes as a result of clustering be subject to a conservation easement enforceable by the Highlands Council and at least one of the following: the appropriate municipality, for agricultural purposes the CADB or the SADC and for environmental purposes Green Acres or a qualified land trust non-profit organization.

**Objective 3A5d:** Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA NRCS, TSP, appropriate agent or NJDA staff, and approved by the local SCD.

**Policy 3A6:** To permit through local development review and Highlands Project Review limited development, including family and farm labor housing in ARAs which are necessary to support the viability of the agricultural operation, in coordination with the NJDA and the SADC, and subject to compliance with the resource management and protection requirements of the RMP.

**Objective 3A6a:** Implement regulations allowing for construction of ancillary structures and family and farm labor housing that is necessary to support the viability of the agricultural operation, upon a demonstration that the proposed development is consistent with the resource management and protection requirements of the RMP.

**Policy 3A7:** To implement programs which encourage owners and operators of farmland with woodlots within Agricultural Resource Areas to prepare and implement approved Forest Management Plans that conform to the resource management and protection requirements of the RMP.

**Objective 3A7a:** Coordinate with the NJDEP State Forester and conservation experts to provide guidance for the development of Forest Management Plans that improve the maintenance of ecosystem and water resource values of the Highlands Region.

**Policy 3A8:** To serve as a regional clearinghouse for information regarding agriculture preservation and stewardship funding and programs, protection and enhancement of the agricultural industry, and technical assistance for public and private organizations in order to maximize agriculture preservation efforts in the Highlands Region.

**Objective 3A8a:** Encourage coordinated activities of appropriate federal, State, county, municipal, and non-profit representatives for agriculture preservation and stewardship funding and programs, and technical assistance in order to maximize agriculture preservation efforts in the Highlands Region.

**Objective 3A8b:** Coordinate with the State Historic Preservation Office (SHPO) and the SADC to include historic structures in tax incentive and adaptive reuse funding programs.

**GOAL 3B: PROTECTION AND ENHANCEMENT OF AGRICULTURAL SUSTAINABILITY AND VIABILITY OF THE AGRICULTURAL INDUSTRY WITHIN THE HIGHLANDS REGION.**

- Policy 3B1:** To encourage private and public owners of lands within an ARA to lease open lands to farmers and/or to manage open space lands in a manner which is compatible with adjoining agricultural uses.
- Policy 3B2:** To promote research and study, and support proposals to enhance the long-term viability of the agricultural industry in the Highlands Region through innovative programs including, but not limited to, health care, banking practices, housing, food distribution, education, energy, and labor.
- Policy 3B3:** To seek additional funding from any and all state and federal funding programs to maintain and enhance sustainability and continued viability of the agricultural industry within the Highlands Region.
- Policy 3B4:** To support incentives and funding opportunities for the control of invasive species, white-tailed deer reduction programs, and the water value of well-managed agricultural lands.
- Policy 3B5:** To promote and enhance innovative agricultural practices and programs that promote long-term viability of the agricultural industry including, but not limited to, direct marketing, organic farming, agri-tourism such as farmers markets and road side stands, niche markets, and community supported agriculture.

**GOAL 3C: MINIMIZE CONSTRUCTION OF NON-AGRICULTURAL DEVELOPMENT-INDUCING WATER AND WASTEWATER INFRASTRUCTURE IN AGRICULTURAL RESOURCE AREAS.**

- Policy 3C1:** To prohibit through Plan Conformance, local development review and Highlands Project Review the development of additional water and wastewater infrastructure in a ARA within the Conservation and Protection Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the preservation of agricultural lands within the ARA.

**GOAL 3D: PROTECTION AND ENHANCEMENT OF SURFACE AND GROUND WATER QUALITY AND NATURAL RESOURCES IN THE HIGHLANDS REGION AND AGRICULTURAL RESOURCE AREAS.**

- Policy 3D1:** To work with the SADC and the GSPT to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on the farm to a maximum of 5% of the total land area of the Farm Management Unit.
- Policy 3D2:** To require any agricultural or horticultural development in the Preservation Area and the Planning Area which involves new agricultural impervious cover, since enactment of the Highlands Act, to the total land area of a Farm Management Unit (either individually or cumulatively) of greater than 3% but less than 9%, to develop and implement a Farm Conservation Plan prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD.

- Policy 3D3:** To require any agricultural or horticultural development in the Preservation Area and the Planning Area which involves new agricultural impervious cover, since enactment of the Highlands Act, to the total land area of a Farm Management Unit (either individually or cumulatively) of 9% or greater to develop and implement a Resource Management System Plan prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD.
- Policy 3D4:** To promote the use of appropriate alternative and innovative wastewater treatment systems to provide enhanced protection of surface and ground water quality in ARAs of the Conservation Zone.
- Policy 3D5:** To promote efforts to increase the use of USDA NRCS and Farm Service Agency cost-share programs, Integrated Pest Management, and Integrated Crop Management programs and other innovative management techniques, in coordination with the NJDA and Rutgers Cooperative Extension, that reduce pesticide and fertilizer use and promote Best Management Practices in conjunction with agricultural activities.
- Policy 3D6:** To identify subwatersheds with elevated nitrate levels and develop and implement management plans to enhance water quality in these subwatersheds while maintaining and enhancing agricultural viability.

**GOAL 3E: CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE AGRICULTURE RETENTION/FARMLAND PRESERVATION PLAN ELEMENTS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.**

- Policy 3E1:** To prepare technical guidelines for the preparation of an Agriculture Retention/Farmland Preservation Plan (AR/FPP) element for inclusion in municipal and county master plans and development regulations.
- Policy 3E2:** To require conforming municipalities and counties to include an AR/FPP element consistent with the RMP in municipal and county master plans and development regulations.
- Policy 3E3:** To require conforming municipalities and counties, with farmland preservation programs or a significant agricultural land base, to incorporate Right to Farm provisions, in accordance with N.J.S.A. 4:1C-1 et seq. and N.J.A.C. 2:76-2, in their master plans and development regulations.
- Policy 3E4:** To address agricultural or horticultural development and agricultural or horticultural use through Plan Conformance in accordance with the Right to Farm Act, N.J.S.A. 4:1C-1, and in coordination with the NJDA, the SADC, and the CADB.

**Objective 3E4a:** To cooperatively develop, in coordination with the SADC, specific Agricultural Management Practices that address air and water quality control, noise control, pesticide control, fertilizer application, integrated pest management, labor practices, and other related activities consistent with the resource management and protection requirements of the RMP.

**Objective 3E4b:** To develop municipal and county development regulations through Plan Conformance that are consistent with the Right to Farm Act and necessary to address agricultural practices that pose a direct threat to public health and safety.

## PART 4 Historic, Cultural, Archaeological, and Scenic Resources

The Highlands Region contains important historic, cultural, archaeological, and scenic resources and the Highlands Act includes goals for their protection. These resources provide the public with an understanding of how the land and the people of the Highlands Region have changed over time. They are also important for fostering an appreciation for the events that contributed to the development of the towns, villages, and cities of the Highlands Region.

Historic resources include buildings, structures, districts, areas or sites which are significant to the history or culture of a place or time and connect communities with their pasts. Cultural resources include sites, artifacts, or materials which relate to the people and how they live or lived. Cultural resources also reflect the way in which a community currently lives and the values which are important to it. Scenic resources are sites, landscapes and vistas that are remarkable or distinctive because of geology, topography, vegetation, history, culture, or use of land. In the Highlands Region, topography forming ridgelines and mountainsides, panoramic views, streams and rivers, forests, agricultural landscapes, and leafy suburbs are important scenic resources. The Highlands Council has assembled a Historic and Cultural Resource Inventory and a Scenic Resources Inventory.

### **GOAL 4A: PROTECTION AND PRESERVATION OF THE HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES OF THE HIGHLANDS REGION.**

**Policy 4A1:** To maintain and periodically update the Highlands Region Historic and Cultural Resources Inventory.

**Objective 4A1a:** Encourage municipalities and counties to include a historic, cultural, and archaeological survey(s) as part of the Historic Preservation Plan element of their master plans.

**Policy 4A2:** To provide a process whereby resources may be nominated, considered, and included in the Highlands Historic and Cultural Resources Inventory.

**Objective 4A2a:** Evaluate the cultural and historic significance of the concentration of abandoned mines within the Highlands Region.

**Objective 4A2b:** Consider the inclusion of cultural sites of regional significance due to their importance in the history of the region.

**Policy 4A3:** To ensure through local development review, where a municipality has adopted an historic preservation ordinance under Policy 4C2, that human development does not adversely affect the character or value of resources which are listed on the Highlands Historic and Cultural Resource Inventory to the maximum extent practicable.

**Objective 4A3a:** All development and redevelopment applications shall include submission of a report identifying potential historic, cultural and/or archaeological resources on the subject property or immediately adjacent properties.

**Objective 4A3b:** Historic, cultural, and/or archaeological resources identified through the development review process shall be evaluated for inclusion in the Highlands Region Historic and Cultural Resources Inventory and local surveys, as appropriate.

**Policy 4A4:** To require that the impact of proposed human development on the historic and cultural resources of the Highlands Region be addressed during local development review and Highlands Project Review and approval.

**Objective 4A4a:** All applications for site plan or subdivision approval shall include identification of any cultural, historic, or archaeological resources in the Highlands Region which are listed on the Highlands Historic and Cultural Resource Inventory and may be affected by the proposed development.

**Objective 4A4b:** Where a municipality has adopted an historic preservation ordinance under Policy 4C2, all development which affects identified cultural, historic sites/districts, or archaeological resources shall comply with minimum standards for the preservation of the affected resources.

**Policy 4A5:** To use the US Secretary of the Interior’s Standards for the Treatment of Historic Properties as guidance for municipal historic and cultural preservation review and include, at a minimum, the preservation and re-use of historic structures.

**Policy 4A6:** To coordinate the Highlands Council’s activities with regard to the historic sites/districts and cultural resources with the New Jersey Historic Trust and the SHPO.

**Policy 4A7:** To promote historic and cultural heritage tourism in the Highlands Region.

**Policy 4A8:** To encourage municipalities and counties to establish an advisory historic preservation body to review and make recommendations on applications for development or municipal permits which affect historic, cultural, and archaeological resources listed on the Highlands Historic and Cultural Resources Inventory.

**Policy 4A9:** To advocate on the federal and state levels for grants and financial incentives to aid landowners in the preservation and maintenance of historic, cultural, and archaeological resources.

**GOAL 4B: PROTECTION AND ENHANCEMENT OF THE SCENIC RESOURCES WITHIN THE HIGHLANDS REGION.**

**Policy 4B1:** To maintain and periodically update the Highlands Scenic Resources Inventory.

**Objective 4B1a:** Encourage municipalities, or groups of municipalities and/or counties, to conduct a scenic inventory(ies) to identify locally and regionally significant scenic resources, and involve local residents.

**Policy 4B2:** To provide a process whereby regionally significant resources may be nominated, considered and included in the Highlands Scenic Resources Inventory.

**Policy 4B3:** To ensure that human development does not adversely affect the character or value of resources which are listed on the Highlands Scenic Resources Inventory.

**Policy 4B4:** To establish minimum standards to ensure that Highlands Scenic Resources are not impaired by new human development.

**Policy 4B5:** To require that the impact of proposed human development on the scenic resources of the Highlands Region be addressed during local development review and Highlands Project Review and approval.

**Objective 4B5a:** All development applications shall include identification of any scenic resources in the Highlands Region that are listed on the Highlands Scenic Resources Inventory and may be affected by the proposed development.

**Objective 4B5b:** All development which affects identified scenic resources shall comply with minimum standards for the preservation of the affected resources.

**Objective 4B5c:** Any proposed action that requires federal permits, involves federal grants, or involves other federal actions that may impact the resource values of the Musconetcong National Scenic and Recreational River and the Lower Delaware National Scenic and Recreational River, pursuant to section 10(a) of the National Wild and Scenic Rivers Act, shall require review by the National Park Service, National Wild and Scenic Rivers Program.

**Policy 4B6:** To advocate on the federal and state levels for grants and financial incentives to aid landowners in the maintenance and protection of scenic resources.

**GOAL 4C: CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE MINIMUM STANDARDS FOR HISTORIC, CULTURAL, ARCHAEOLOGICAL, AND SCENIC PROTECTION IN MUNICIPAL AND COUNTY MASTER PLANS AND LAND DEVELOPMENT REGULATIONS.**

**Policy 4C1:** To require that conforming municipalities and counties include a Historic, Cultural, and Scenic Resource Protection Element in municipal and county master plans and development regulations and update the Historic and Cultural Resources Inventory through local development reviews.

**Policy 4C2:** To encourage that conforming municipalities and counties adopt a local historic preservation ordinance with minimum standards for the protection and enhancement of historic, cultural, and archaeological resources listed in the Highlands Historic and Cultural Resources Inventory in their development regulations.

**Policy 4C3:** To require that conforming municipalities and counties include minimum standards for the protection and enhancement of scenic resources listed in the Highlands Scenic Resources Inventory in their development regulations.

## PART 5 Transportation

The Highlands Regional transportation system is a complex network of roads, highways, railways, and bridges which support various modes of travel, including private automobile, buses, truck, passenger and freight rail, airport, bicycle, and walking. There are four major commuter rail lines with 24 stations on these lines which are located within the Highlands Region as well as seven regional airport facilities. The Region is served by four interstate highways, eight state roads, and many county and local roads. In general, most of the highways and roads within the Highlands Region operate at or above design capacity. There is limited intra-regional bus service except for extensive commuter service which is provided by NJ Transit and by private operators, particularly in Morris County and along the Route 78 and 80 corridors. The seven regional airport facilities within the Region vary in size and aircraft capacity.

The Highlands Act (Section 11) requires that the Regional Master Plan (RMP) address the preservation and enhancement of the transportation system and the promotion of a balanced, efficient transportation system that is consistent with resource protection needs and smart growth strategies. The Highlands Act (Section 10c(10)) Planning Area goal requires that the transportation component preserve the mobility of the transportation network, maintain the transportation infrastructure of the Region and recognize projects that promote a sound and balanced transportation system consistent with smart growth principles. The RMP policies support the requirements of the Act and recognize the need to evaluate transportation projects that may result in unintended growth due to increased motorized vehicle roadways.

**GOAL 5A: PROVISION OF SAFE AND EFFICIENT MOBILITY WITHIN THE HIGHLANDS, AND BETWEEN THE HIGHLANDS AND DESTINATIONS OUTSIDE OF THE REGION.**

**Policy 5A1:** To ensure that the Highlands transportation system provides safe and efficient intra-regional and inter-regional mobility and that critical safety road improvements use design and engineering controls to minimize induced demand and maximize resource protection.

**Policy 5A2:** To ensure that the Highlands transportation system affords the Highlands private economic sector, including agriculture, cost-effective transportation for raw materials, products, and employees.

**Objective 5A2a:** Encourage the movement of goods from the roadway network to the freight rail network wherever possible.

**Objective 5A2b:** Evaluate opportunities to increase freight service through the reactivation of abandoned freight lines.

**Objective 5A2c:** Ensure sustainability of regional airport facilities and appropriately include the role of general aviation in meeting regional transportation planning needs.

**Policy 5A3:** To improve public safety through implementation of traffic calming measures in areas with high pedestrian activity.

**Policy 5A4:** To provide for safe and efficient pedestrian connections including features such as sidewalks, proper lighting, signage, shelters, and green street initiatives consistent with the NJDOT's Pedestrian Safety Initiative.

**Policy 5A5:** To promote safe routes for children to travel to and from school in support of the NJDOT's Safe Routes to School Program.

**GOAL 5B: MAINTENANCE OF A SAFE AND EFFECTIVE LEVEL OF SERVICE ON THE EXISTING HIGHLANDS ROAD SYSTEM WITHOUT THE USE OF CAPACITY IMPROVEMENTS THAT COULD TRIGGER ADDITIONAL DEVELOPMENT IN AREAS THAT ARE NOT APPROPRIATE FOR "GROWTH INDUCING" LAND USES.**

**Policy 5B1:** To promote more efficient use of existing road capacity by appropriate means, including but not limited to increased bus, van, jitney, and car pool ridership.

**Policy 5B2:** To require through Plan Conformance and Highlands Project Review an evaluation of potential growth inducing effects such as substantial new land use, new residents, or new employment that could occur as a result of road improvements for increased motorized vehicle traffic capacity.

**Policy 5B3:** To prohibit through Plan Conformance and Highlands Project Review road improvements in the Highlands Region in areas for which a Growth Inducing Study, conducted in consultation with agencies including but not limited to the NJDOT, demonstrates that proposed improvements do not support the RMP resource protection and smart growth policies and are likely to be growth-inducing for lands with limited or no capacity to support human development without a significant adverse impact on the Highlands ecosystem.

**GOAL 5C: TRANSPORTATION IMPROVEMENTS WITHIN THE HIGHLANDS REGION THAT ARE CONSISTENT WITH THE HIGHLANDS REGIONAL MASTER PLAN.**

**Policy 5C1:** To ensure, to the extent practicable, that proposed transportation improvements which are not consistent with the RMP be modified to be consistent or be re-evaluated in the context of state and regional planning goals.

**Policy 5C2:** To coordinate with NJDOT, NJ Transit, NJTPA, counties and municipalities with regard to transportation planning and strategies within both the Highlands Region and the larger 13-county metropolitan planning region.

**Objective 5C2a:** Highlands Region transportation site development activities will reflect RMP resource protection, development, and redevelopment goals.

**Policy 5C3:** To limit road improvements through local development review and Highlands Project Review where roads are constrained by topography, forested lands, or the community character of land uses fronting on the road.

**Policy 5C4:** To support economic development by ensuring that transportation planning and improvements support regional development, redevelopment, and tourism opportunities.

**Objective 5C4a:** Increase tourism opportunities through innovative multi-modal transportation measures and accessible transit schedules.

**Objective 5C4b:** Support regional tourism economy through enhanced street furnishings, directional signage, and Highlands Region tourism information.

**Objective 5C4c:** Support regional tourism through the recognition and protection of scenic resource view sheds along scenic byways and road corridors.

**Policy 5C5:** To recognize and support the unique needs of the agricultural industry to move farm vehicles and goods along transportation corridors, and establish safe travel routes for farmers and agri-tourism in order to ensure the safety and viability of farming as an occupation in the Highlands Region.

**Policy 5C6:** To require conforming municipalities to adopt a Circulation Plan Element that coordinates with the land use plan and demonstrates consistency with the RMP.

**Policy 5C7:** To require conforming counties to adopt a transportation plan that supports local and regional land use planning that promotes connectivity, shared service opportunities, long-term transportation network needs and demonstrates consistency with the RMP.

**Policy 5C8:** To evaluate the existing and proposed Residential Site Improvement Standards (RSIS) in the context of the RMP and develop recommendations for amendments that would minimize detrimental environmental impacts resulting from new residential developments while maximizing utility efficiency in a manner that addresses community and landscape character.

**GOAL 5D:** A MULTI-MODAL TRANSPORTATION SYSTEM WHICH FACILITATES THE MOVEMENT OF PEOPLE AND GOODS WITHIN AND THROUGH THE HIGHLANDS REGION WITHOUT ADVERSELY AFFECTING ECOSYSTEM INTEGRITY AND COMMUNITY CHARACTER.

**Policy 5D1:** To promote the use of mass transit and other alternative modes of transportation within the Highlands Region.

**Objective 5D1a:** Increase the performance of the public and private bus carrier systems within the Highlands Region.

**Objective 5D1b:** Increase overall transit ridership and the use of multi-modal transportation systems for peak hour travel.

**Objective 5D1c:** Increase employer initiated transit opportunities in the Highlands Region such as shuttle bus service, van, jitney and car pool service, and innovative car sharing rental options.

**Policy 5D2:** To promote transit improvements within the Highlands Region which primarily support intra-regional mobility.

**Policy 5D3:** To promote priority for transportation improvements which primarily improve intra-regional mobility.

**Policy 5D4:** To promote transit improvements that will increase capacity for inter-regional mobility.

**Policy 5D5:** To encourage and promote recreation and tourism through appropriate transportation measures, accessible transit schedules, and enhanced street furnishings and information and directional signage.

**GOAL 5E: MINIMIZATION OF TRAVEL DEMAND AND VEHICLE MILES OF TRAVEL.**

**Policy 5E1:** To promote land use patterns that support a balance of jobs to housing as a means of reducing average trip lengths.

**Objective 5E1a:** Development and redevelopment which provides housing and jobs in close proximity.

**Objective 5E1b:** Development and redevelopment in close proximity to rail stations and along bus routes.

**Policy 5E2:** To promote municipal and county master plans and development regulations which facilitate the development of mixed land uses in locations that result in reduced average trip lengths, increase community and regional connectivity and support existing development patterns.

**Policy 5E3:** To promote land use patterns which facilitate use of alternative modes of transportation including walking and the use of bicycles.

**Policy 5E4:** To promote shared parking programs in support of mixed use development and redevelopment.

**Objective 5E4a:** Circulation plan elements that include, where appropriate, a municipal and county evaluation of shared parking opportunities to support transit, commuter, commercial and mixed-use neighborhoods through a comprehensive parking study.

**PART 6 Future Land Use**

The Highlands RMP establishes a framework for future land use which guides development away from environmentally sensitive lands and agricultural lands. This framework also promotes compact development and redevelopment in or adjacent to existing developed areas where adequate public facilities are available to serve new growth and development, provided that such development and redevelopment is compatible with existing land uses and community character. The Goals, Policies and Objectives for Future Land Use address the basis for Land Use Capability Zones and Sub-Zones, methods for modifying RMP data layers and maps through RMP Updates, applicable standards for Plan Adjustments, local build out analyses, and general guidelines for new land uses in the Zones and Sub-Zones.

**SUBPART A LAND USE CAPABILITY ZONES**

The LUCM Series provides the basis for defining the six zones of the Highlands Region, which are found in both the Preservation and Planning Areas. These six zones include three major zones (the Protection Zone, the Conservation Zone, and the Existing Community Zone) and three sub-zones (the Lake Community Zone, and the Environmentally-Constrained Sub-Zone within both the Conservation Zone, and the Existing Community Zone). These Zones and Sub-Zones are then related to a series of additional information layers, using both tabular results and maps, to help define the land use capability of the various parts of the Highlands Region. Details on the delineation of the Land Use Capability Zones are provided within the *Land Use Capability Zone Map Technical Report*.

The Protection Zone include lands within the Highlands Region which contain the highest quality resource value lands, which are essential to maintaining and enhancing water quality and quantity and preserving ecological function. The Protection Zone includes regionally significant lands that serve to protect environmentally sensitive resources of the Highlands Region.

The Conservation Zone includes lands of significant agricultural importance and associated natural resource lands that are adjacent to, or in common ownership with, land used for agricultural purposes. Development potential in the Conservation Zone is limited in location and intensity because of agricultural and natural resource protection requirements and infrastructure constraints.

The Existing Community Zone includes those areas characterized by existing development with comparatively fewer natural resource constraints than the Protection and Conservation Zones; they often are currently or more easily served with public infrastructure. The Existing Community Zone includes previously developed lands of regional significance in size, geography and infrastructure that may include areas of opportunity for future growth and development, including development and redevelopment which may involve the use of Highlands Development Credits (HDC), provided that such growth and development are consistent and compatible with existing community character, natural resource constraints and is desired by the municipality.

**GOAL 6A: USE THE HIGHLANDS LAND USE CAPABILITY MAP SERIES AS A FRAMEWORK FOR DETERMINING THE CHARACTER, LOCATION, AND MAGNITUDE OF NEW GROWTH AND DEVELOPMENT IN THE HIGHLANDS REGION.**

**Policy 6A1:** To use the LUCM Series as a geographic framework for land use planning and management within the Highlands Region.

**Objective 6A1a:** A Highlands LUCM Series based on the most current, relevant and available data.

**Policy 6A2:** To develop a program for RMP Updates for all substantive components of the RMP based upon the receipt of new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP.

**Objective 6A2a:** The facilitation and coordination of the exchange of factual information for the purpose of updating municipal and county planning elements and the RMP.

**Objective 6A2b:** An ongoing update process to accept factual updates, verify the information and use it, when and where necessary, to improve the accuracy of the RMP.

**Objective 6A2c:** A centralized repository for verified and approved factual updates which can be administered locally and shared regionally.

**GOAL 6B: PRESERVATION OF THE LAND AND WATER RESOURCES AND ECOLOGICAL FUNCTION OF HIGHLANDS AREAS IN THE PROTECTION ZONE.**

**Policy 6B1:** To preserve high quality land and water resources and ecological function within the Protection Zone.

**Objective 6B1a:** The Protection Zone of the Highlands Land Use Capability Zone Map shall include regionally significant environmental resources to the maximum extent feasible.

**Policy 6B2:** To limit use and development of land in Protection Zone through appropriate policies regarding resource protection, septic system densities, water supply and wastewater utilities and water availability.

**Policy 6B3:** To give the highest land acquisition priority to non-preserved, undeveloped lands within the Protection Zone in the Preservation Area.

**Policy 6B4:** To define a Sub-Zone of the Land Use Capability Zone Map that reflect areas managed by the United States Fish and Wildlife Service as part of the National Wildlife Refuge System and Wildlife Management Area System administered by the NJDEP Division of Fish & Wildlife's Bureau of Land Management.

**GOAL 6C: LIMITATION OF DEVELOPMENT IN THE PROTECTION ZONE TO DEVELOPMENT AND REDEVELOPMENT WHICH DOES NOT ADVERSELY AFFECT THE NATURAL RESOURCES OF THE HIGHLANDS REGION ECOSYSTEM.**

**Policy 6C1:** To limit new human development in the Protection Zone to redevelopment, exempt activities, and environmentally-compatible low density new land uses, in accordance with RMP resource protection needs and water quality and quantity capacity constraints and to ensure that the impacts of development using exemptions under the Highlands Act (see Policy 7F1) are considered in regional protection measures.

**Objective 6C1a:** Centers in the Protection Zone, potentially including clustered development, shall be at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan, and the use of septic systems or community wastewater systems.

**Policy 6C2:** To ensure through Plan Conformance, local development review and Highlands Project Review that any future development or redevelopment which does occur in a Protection Zone is subject to standards and criteria which protect the land and water resources of the Protection Zone from any potential adverse impact to the maximum extent possible.

**Policy 6C3:** To encourage owners of lands which are eligible for exemptions under the Highlands Act (see Policy 7F1) to voluntarily offer their land for acquisition, participate in the TDR program, or use cluster or conservation design development in cooperation with other exempt landowners, and comply with standards and criteria which protect the land and water resources of the Highlands Region from any adverse impacts.

**Policy 6C4:** To establish voluntary programs whereby owners of land who are eligible for exemptions under the Highlands Act (see Policy 7F1) have an incentive to develop or use such exemptions in a manner which limits or mitigates any potential adverse impacts on the land and water resources of the Protection Zone.

**GOAL 6D: PROTECTION AND ENHANCEMENT OF AGRICULTURAL USES AND PRESERVATION OF ASSOCIATED LAND AND WATER RESOURCES IN HIGHLANDS AREAS IN THE CONSERVATION ZONE.**

**Policy 6D1:** To protect existing agricultural uses in the Conservation Zone from incompatible development.

**Objective 6D1a:** The Conservation Zone of the Land Use Capability Zone Map shall include regionally significant agricultural lands within the Highlands Region.

**Policy 6D2:** To promote the expansion of sustainable and economically viable agricultural activities in the Conservation Zone where not constrained by existing environmentally sensitive resources.

**Policy 6D3:** To limit through Plan Conformance, local development review and Highlands Project Review the use and development of lands within the Conservation Zone to agriculture use and development, including ancillary and support uses, redevelopment of existing developed areas, and environmentally-compatible low density land uses that are to the maximum extent possible achieved in compact development patterns, to be designed and developed in a manner which is compatible with the long term use of adjacent land for agricultural purposes.

**Objective 6D3a:** Identification of major environmentally sensitive areas within the Conservation Zone as environmentally constrained sub-zones, and preparation and implementation of standards ensuring that development capacity is directed away from such areas to the maximum extent feasible.

**Objective 6D3b:** Centers in the Conservation Zone, potentially including clustered development, shall be at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan, and the use of septic systems or community wastewater systems.

**GOAL 6E: INCORPORATION OF REGIONAL DEVELOPMENT PATTERNS AND RELATED ENVIRONMENTALLY SENSITIVE AREAS WITHIN EXISTING COMMUNITY ZONES.**

**Policy 6E1:** To promote the location of sustainable and economically viable development activities in the Existing Community Zone where not constrained by existing environmentally sensitive resources.

**Objective 6E1a:** The Existing Community Zone in the Highlands Land Use Capability Zone Map shall include existing previously developed areas of regional significance.

**Policy 6E2:** To define sub-zones of the Land Use Capability Zone Map that reflect resource management needs specific to environmentally-sensitive lands and lake communities within the Existing Community Zone.

**Objective 6E2a:** Identification of major environmentally sensitive areas within the Existing Community Zone as environmentally constrained sub-zones, and preparation and implementation of standards ensuring that development capacity is directed away from such areas to the maximum extent feasible.

**Objective 6E2b:** Identification of developed lake communities within the Existing Community Zone as Lake Community Sub-Zones, and preparation and implementation of standards ensuring management of land uses within the Sub-Zones for protection and restoration of lake quality, ecosystems and community character to the maximum extent feasible.

**GOAL 6F: SUPPORT OF COMPACT DEVELOPMENT, MIXED USE DEVELOPMENT AND REDEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITY ZONE.**

**Policy 6F1:** To promote compatible development and redevelopment within the ECZ.

**Policy 6F2:** To promote the restoration and redevelopment of brownfields, particularly those located in or adjacent to transportation corridors or transit stations. In cases where redevelopment is not appropriate, encourage “brownfield to greenfield” approaches.

**Policy 6F3:** To ensure that development activities within the ECZ are subject to standards and criteria which ensure that development and redevelopment incorporate smart growth principles and do not adversely affect natural resources.

**Policy 6F4:** To ensure that development and redevelopment within the ECZ are served by adequate public facilities including water supply, wastewater treatment, transportation, educational and community facilities.

**Policy 6F5:** To ensure that development and redevelopment in the ECZ are compatible with existing community character.

**Policy 6F6:** To encourage new population growth, where desired by the municipality, and development in the ECZ is in the form of center based and mixed use development.

**Objective 6F6a:** Center based development initiatives shall be planned within the Existing Community Zone at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan. Densities of five dwelling units and above are encouraged, and are required in areas designated as voluntary TDR Receiving Zones where TDR benefits are sought under the Highlands Act.

**Policy 6F7:** To encourage redevelopment in the Existing Community Zone as a means to relieve development pressure from more environmentally sensitive areas.

## SUBPART B RMP UPDATES, MAP ADJUSTMENTS, AND LOCAL BUILD OUT ANALYSES

The Regional Master Plan (RMP) Update process is provided for making factual improvement to the RMP, whether regarding mapped or other information that affects land use capability. The Map Adjustment process allows for limited changes to the Land Use Capability Zone Map based on local planning factors; compliance with the protection standards of the RMP must be ensured and no net loss of resources or resource values may occur, among other limitations. During the Plan Conformance process, a municipality will complete a local build out analysis, using the Highlands Build Out Model with local information. In addition, general policies are provided in this section for the Zones and Sub-Zones, which are supplemented in the following sections.

### **GOAL 6G: CONTINUALLY UPDATE AND IMPROVE THE HIGHLANDS LAND USE CAPABILITY MAP SERIES.**

**Policy 6G1:** To develop a program for RMP Updates for all substantive components of the RMP, based upon the receipt of new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP.

**Policy 6G2:** To develop a program allowing for petitions by municipalities and counties (with accompanying municipal support by resolution) for a Map Adjustments to the Land Use Capability Zone Map in the Highlands Region.

**Objective 6G2a:** A Council review process to assess local initiatives where Map Adjustments may be approved to the Land Use Capability Zone Map's designations of Protection and Conservation Zones or the Environmentally-Constrained Sub-Zones.

**Objective 6G2b:** Map Adjustments proposed to change Protection and Conservation Zones or the Environmentally-Constrained Sub-Zones may be approved by the Highlands Council where it finds that the petition does not result in deleterious impacts to the affected or adjacent Land Use Capability Zones or to RMP policies and objectives applicable to adjacent or nearby lands, and the petitioner demonstrates that the proposed adjustment:

1. Complies with the intent and purposes of the Highlands Act and the RMP and demonstrates that Highlands resource protection and smart growth planning principles have been addressed;
2. Will result in no net loss of Highlands resources or resource values (including but not limited to water availability, water quality, Critical Habitat, and agriculture) within the Region or as appropriate, within any HUC 14 subwatershed, such that on the whole, the results equal or exceed the resource protections provided by the RMP;
3. Will under no circumstance result in the allocation of water or wastewater capacity in excess of that available in any HUC 14 subwatershed; and
4. Cannot appropriately or adequately be addressed via other options, such as:
  - ▶ Waivers under The Highlands Act;
  - ▶ Exemptions from the Highlands Act; and
  - ▶ RMP Updates Program.

Where a Map Adjustment creates opportunity for an increase in density, such density must be offset by an equivalent reduction in density elsewhere in the Region, or alternatively, by use of HDCs.

Where a petition seeks the creation or extension of an ECZ, it must demonstrate that the area in question can accommodate ECZ-appropriate development. The Council will look most favorably upon ECZ petitions that create a meaningful opportunity to provide affordable housing; improve the balance of housing and employment; and promote the use of alternative modes of transportation, such as transit, by for example, a location proximate to Highlands Baseline Transportation and Transit features.

**Objective 6G2c:** Map adjustments that will change an Existing Community Zone to another Land Use Capability Zone or Sub-Zone may be approved by the Highlands Council where it finds that the affected area

1. Is not currently developed at a density and scale that prevents the area from providing the agricultural or environmental protection benefits of the Conservation or Protection Zones, or the Environmentally-Constrained Sub-Zones;
2. Is not currently served by public wastewater infrastructure;
3. Includes ecological or agricultural attributes that are associated with the Conservation or Protection Zones; and
4. Does not include a designated Redevelopment Site or TDR Receiving Zone.

**Policy 6G3:** To require conforming counties and municipalities to review the parcel based Developed Land Inventory, and identify additional developed properties appropriate for the inventory, and track development activities in the Highlands Region.

**Policy 6G4:** To evaluate land use capability and support planning for development, redevelopment and infill that meets RMP policies and objectives.

**Objective 6G4a:** Provide a Highlands Build Out Model that evaluates RMP policies, supports State, regional and local requirements, and provides a consistent framework for water supply, wastewater, transportation and affordable housing planning and the SDRP Plan Endorsement process.

**Objective 6G4b:** Counties shall, through Plan Conformance, use the Highlands Build Out Model or its equivalent to prepare a utilities plan element of the County Master Plan that evaluates available development capacity based on lands, resources, and utilities.

**Objective 6G4c:** Municipalities shall, through Plan Conformance, use the Highlands Build Out Model to develop a local build out analysis that incorporates RMP policies and objectives to evaluate land use capability and capacity planning.

### SUBPART C REGIONAL GUIDANCE FOR DEVELOPMENT AND REDEVELOPMENT

The RMP emphasizes that new development should protect environmentally sensitive and agricultural lands, be located in areas with existing development wherever feasible, and be designed in ways that make efficient use of land while creating sustainable communities. This section provides general policies that address these issues.

**GOAL 6H: GUIDE DEVELOPMENT AWAY FROM ENVIRONMENTALLY SENSITIVE AND AGRICULTURAL LANDS AND PROMOTE DEVELOPMENT AND REDEVELOPMENT IN OR ADJACENT TO EXISTING DEVELOPED LANDS.**

**Policy 6H1:** To protect, restore, or enhance sensitive environmental resources of the Highlands Region, including but not limited to Forests, Critical Habitat, Highlands Open Waters and their buffers, Riparian Areas, Steep Slopes, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and ARAs.

**Objective 6H1a:** Identification of lands within the Highlands Region which contain sensitive environmental resources of the Highlands Region.

**Objective 6H1b:** Prevent the extension or creation of water and wastewater utility services in the Protection Zone, Conservation Zone, and Environmentally Constrained Sub-Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the protection of agricultural and environmentally sensitive resources.

**Objective 6H1c:** Encourage the protection, restoration and enhancement of Environmentally-Constrained Sub-Zones of the Conservation and Existing Community Zones of the Planning Area through measures that may include but are not limited to: fee simple and easement acquisition (see Policy 1H2 and Policy 3A5); designation as TDR Sending Zones (see Policy 7B4); incentives for development and implementation of Forest Stewardship Plans (see Policy 1B1) and Resource Management System Plans (see Policy 3A8) for forestry and agricultural operations, respectively; restoration of Highlands Open Waters buffers (see Objective 1D4i); and restoration of Critical Habitat (see Policy 1F3).

**Objective 6H1d:** Cluster and conservation design development plans and regulations shall consider existing community character, incorporate smart growth design principles, and require Low Impact Development including but not limited to: locating development adjacent to existing infrastructure such as water, wastewater, transportation, and public facilities to limit the degree of new impervious surface, and permitting smaller residential lots in order to incorporate community open space and existing natural resources into the design.

**Policy 6H2:** To protect and promote agriculture by protecting and enhancing lands within the Highlands Region currently or capable of being used for agricultural purposes and ensuring that lands associated with or adjacent to agricultural lands are not developed in a manner that conflicts with the ongoing agricultural uses.

**Objective 6H2a:** Identification of Agricultural Resource Areas within the Highlands Region.

**Policy 6H3:** To require conforming municipalities and counties to include site development programs, such as clustering, to preserve land in perpetuity for environmental protection or agricultural purposes.

**Policy 6H4:** To promote compatible growth opportunities that include in-fill development, adaptive re-use, redevelopment, and brownfields redevelopment in existing developed areas.

**Objective 6H4a:** Identification of existing developed areas within the Highlands Region using the Developed Lands Analysis.

**Objective 6H4b:** Identification of brownfields, grayfields and underutilized properties that have potential for redevelopment that is compatible with resource protection and smart growth principles.

**Policy 6H5:** To promote land uses which create a sense of place with attractive, walkable neighborhoods that support community connectivity of developed lands and community facilities.

**Objective 6H5a:** Communities of place with a mix of uses which promote multi-purpose trips, through proximity of neighborhood retail, commercial, and entertainment uses to residential land uses that create communities that are largely self-sufficient regarding daily needs.

**Objective 6H5b:** Communities of place with a pattern of development which promotes the use of transit, walking, and biking.

**Policy 6H6:** To integrate public parks and green spaces into development and redevelopment projects and ensure restoration of impaired natural resources to the extent required by law, at a minimum, and where feasible to a greater extent to maximize long term value of the project.

**Policy 6H7:** Provisions and standards relating to regional growth activities which increase the intensity of development shall be discretionary for conforming municipalities and counties.

**Policy 6H8:** Regional growth, where accepted through local planning and regulations, should identify opportunities to maximize land use intensity while protecting natural features and community character.

**Objective 6H8a:** Development and redevelopment initiatives shall encourage the use of HDC as a means to enhance the existing or adjacent community while protecting local and regional natural resources.

**Objective 6H8b:** Preparation and implementation of standards ensuring that development protects environmentally sensitive resources in all Land Use Capability Zones and Sub-Zones.

**Policy 6H9:** To incorporate smart growth principles and green building design and technology in development and redevelopment initiatives.

**GOAL 6I: CONFORMING MUNICIPALITIES AND COUNTIES INCORPORATE REGIONAL AND LOCAL LAND AND WATER RESOURCE PLANNING AND MANAGEMENT PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.**

**Policy 6I1:** To require that conforming municipalities and counties include land and water resource planning and management programs in their master plans and development regulations.

**Objective 6I1a:** Adopt municipal and county master plans and land development regulations that require that cluster developments preserve in perpetuity for environmental protection or agricultural purposes at least 80% of the cluster project area. To the maximum extent feasible the developed portion (i.e., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system.

**Objective 6I1b:** Municipal and county master plans and development regulations which require appropriate and potable water, wastewater disposal, and transportation facilities.

**Policy 6I2:** To encourage conforming municipalities and counties to include voluntary programs with incentives for the development or use of Highlands Act exemptions (see Policy 7F1) in a manner which limits or mitigates any potential adverse impacts on the land and water resources of the Protection Zone.

**Policy 6I3:** To require conforming municipalities and counties to incorporate land and water resource planning and management programs for the Conservation Zone which protect natural resources from the adverse impacts and support agricultural sustainability.

**Objective 6I3a:** Municipal and county master plans and development regulations that ensure that new non-agricultural development is compatible with the long term vitality of agriculture in the Conservation Zone.

## SUBPART D REDEVELOPMENT

Redevelopment is a planning tool that converts underutilized areas, brownfields, and grayfields into new land uses through structure replacement, infill, and adaptive reuse approaches. Redevelopment will help to meet the Region's growth needs by optimizing the efficient use of previously settled areas with existing communities and available infrastructure, thus conserving natural resources. Brownfields and grayfields are two types of sites which commonly possess characteristics worthy of investigating for purposes of redevelopment. The definition of a brownfield is, "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been, a discharge of a contaminant." Grayfields are sites usually containing industrial or commercial facilities exhibiting signs of abandonment or underutilization in areas with existing infrastructure, but without evidence or expectation of contamination. As a concept, these sites are termed "Highlands Redevelopment Areas."

In the Preservation Area, Highlands Redevelopment Areas are limited to redevelopment sites and brownfield sites as designated by the Highlands Council, which are then eligible for waivers from the NJDEP. In the Planning Area, Highlands Redevelopment Areas include redevelopment sites and brownfield sites using the Preservation Area definition, but may in addition include grayfields and underutilized areas, depending on the Land Use Capability Zone of the area. Infill is permissible in any of the Highlands Redevelopment Areas as long as the area meets the designation requirements. Highlands Redevelopment Areas may be designated for the entire property, a portion of the property, or for collections of contiguous parcels in part or in whole.

### **GOAL 6J: ACCOMMODATION OF REGIONAL GROWTH AND DEVELOPMENT NEEDS THROUGH THE REUSE AND REDEVELOPMENT OF PREVIOUSLY DEVELOPED AREAS, INCLUDING BROWNFIELDS, GRAYFIELDS, AND UNDERUTILIZED SITES.**

**Policy 6J1:** To encourage Preservation Area redevelopment of sites with 70% or greater impervious surfaces or a brownfield in areas designated by the Highlands Council as Highlands Redevelopment Areas in accordance with N.J.A.C 7:38-6.6 and 6.7.

**Policy 6J2:** To encourage redevelopment in the ECZ in the Planning Area of brownfields, grayfields, and other previously developed areas that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.

**Policy 6J3:** To encourage redevelopment in the Conservation and Protection Zones in the Planning Area of brownfields and grayfields that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.

### **GOAL 6K: CONCENTRATE RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DEVELOPMENT, REDEVELOPMENT, AND ECONOMIC GROWTH IN EXISTING DEVELOPED AREAS IN LOCATIONS WITH LIMITED ENVIRONMENTAL CONSTRAINTS, ACCESS TO EXISTING UTILITY, AND TRANSPORTATION INFRASTRUCTURE.**

**Policy 6K1:** To promote redevelopment of brownfields, grayfields, and other previously developed areas in a manner consistent with the goals and requirements of the Plan.

**Objective 6K1a:** Establish interagency teams as necessary to support and expedite redevelopment and development activities that conform to the Plan.

**Objective 6K1b:** Encourage and support the use of planning and financing tools that are available through state agencies and programs for appropriate redevelopment.

**GOAL 6L: CONFORMING MUNICIPALITIES AND COUNTIES CONSIDER DEVELOPMENT, REDEVELOPMENT AND BROWNFIELDS OPPORTUNITIES IN THEIR MASTER PLANS.**

**Policy 6L1:** To require that conforming municipalities identify any development, redevelopment, and brownfield opportunities in the local land use plan element of their master plans, as appropriate.

**Objective 6L1a:** Municipal review of the Redevelopment and Infill Analysis Tool.

**Policy 6L2:** To require that conforming municipalities amend development regulations and zoning to enable project implementation of local redevelopment initiatives that are identified under Policy 6L1 and locally endorsed through Plan Conformance.

**Objective 6L2a:** Municipal review of local redevelopment projects consistent with RMP smart growth and Low Impact Development policies and objectives.

**Policy 6L3:** To require that conforming municipalities identify existing and planned community facilities and encourage shared service opportunities as part of the local Community Facility Plan element.

**GOAL 6M: PROTECTION AND ENHANCEMENT OF HIGHLANDS RESOURCES THROUGH THE REMEDIATION OF CONTAMINATED SITES IN REGION.**

**Policy 6M1:** Encourage and support the restoration and redevelopment or open space use of contaminated areas.

**Objective 6M1a:** Coordinate with the NJDEP on Highlands Brownfield designations and in support of a mechanism that facilitates remedial activities within the Highlands Region.

**Objective 6M1b:** Evaluate mechanisms for remedial activities that apply resource protection, enhancement, and restoration approaches that allow for a minimal redevelopment footprint, encourage “brownfields to greenfields” approaches, and include green energy and building concepts.

**Objective 6M1c:** Any restoration of contaminated sites shall be conducted in accordance with the criteria required by the NJDEP’s Technical Requirements for Site Remediation (N.J.A.C. 7:26E).

**Objective 6M1d:** As needed to ensure resource protection, prepare enhanced remediation standards for application in the Highlands Region through the NJDEP’s Technical Requirements for Site Remediation (N.J.A.C. 7:26E).

## SUBPART E SMART GROWTH

Smart growth is an approach to resource planning and management where growth and development are concentrated and organized around “centers” with compact, walk-able, bicycle-friendly land use patterns, typically including mixed-use development with a range of housing choices. It generally reflects value for long-range, regional considerations of sustainability over short-term economic benefits. Smart growth promotes land use patterns with a sense of community and place, multi-modal and alternative modes of transportation, a balance of employment and housing, and an equitable distribution of the costs and benefits of development. It also includes the preservation and enhancement of natural and cultural resources. Finally, as an efficient and less automobile dependent pattern and form of growth, it reduces energy use, which in turn improves air quality and reduces carbon dioxide emissions linked to global warming.

Low Impact Development is an element of smart growth that achieves improved protection of environmental resources. It is an environmentally sensitive approach to land use planning that uses a variety of landscape and design techniques to manage development activities to mitigate potential adverse impacts on the natural environment. Low Impact Development encompasses a broad array of development and management techniques and can be implemented in resource management practices, stormwater management methods, and low impact “green” construction activities. Low Impact Development for resource management is applied as Best Management Practices and is geared toward protection and conservation of the resources. Low Impact Development for stormwater management is aimed at capturing rainfall onsite, filtering it through vegetation and allowing it to recharge ground water. Low Impact Development treats stormwater as a resource. Low Impact Development for site design includes stormwater management techniques as well as other measures designed to reduce site disturbance, limit impervious coverage and utilize the natural features of a site to guide site development. Similar Low Impact Development techniques may be applied for each of these purposes with the overall goal of minimizing adverse impacts of the activity.

### **GOAL 6N: USE OF SMART GROWTH PRINCIPLES, INCLUDING LOW IMPACT DEVELOPMENT, TO GUIDE DEVELOPMENT AND REDEVELOPMENT IN THE HIGHLANDS REGION.**

**Policy 6N1:** To establish smart growth programs and Low Impact Development principles for use within the Highlands Region to guide and control development and redevelopment throughout the Highlands Region.

**Objective 6N1a:** Conservation development standards which protect natural resources, environmentally sensitive areas, open space and agricultural lands, and enhance community character.

**Objective 6N1b:** Implement flexible site development review programs that allow for adjustments such as reduction of minimum setbacks, modification of uniform road frontage requirements, increase in maximum permitted height or allowing non-contiguous clustering of development entitlements where necessary to mitigate or eliminate adverse impacts on Highlands natural resources.

**Objective 6N1c:** Development standards which recognize that portions of a parcel proposed for development which are not developable may be considered for the purpose of satisfying on-site passive open space requirements.

**Objective 6N1d:** Minimum requirements for water conservation measures in site layout and structures, including but not limited to water efficient landscaping (including use of native and drought-tolerant plant species), rain collection systems, use of gray water, and water-efficient landscape irrigation.

**Objective 6N1e:** Minimum requirements for use of micro-climate conditions to maximize solar gain for winter heating and minimize solar gain during high temperature summer conditions.

**Objective 6N1f:** Minimum requirements for re-use and recycling of building materials when development involves demolition.

**Objective 6N1g:** Minimum requirements that all development include energy efficient features in site layouts and all structures.

**Objective 6N1h:** Design roadway improvements to have minimum impacts on Highlands resources by assessing alternative designs regarding drainage, impervious cover, native vegetation, and other “green street” considerations.

**Policy 6N2:** To require municipalities and counties to adopt stormwater management Low Impact Development standards to preserve or mimic the natural hydrologic features and characteristics of the land.

**Objective 6N2a:** Implementation of on-site stormwater management features that maintain, restore and enhance the pre-existing natural drainage patterns of the site.

**Objective 6N2b:** Limitations on the amount of impervious cover allowed on a site as a means to protect and increase stormwater infiltration and reduce stormwater runoff.

**Objective 6N2c:** Minimum requirements for site-specific hydrologic studies during local development review and Highlands Project Review which identify the velocity, volume and pattern of water flow into, through, and off of the parcel proposed for development.

**Objective 6N2d:** Minimum requirements that stormwater management systems employ a “design with nature” approach.

**Objective 6N2e:** Minimum requirements for use of grass channels, dry swales, wet swales, infiltration basins, bio-swales and water gardens, green roofs, and other low impact approaches to attenuate and control stormwater and provide multiple environmental benefits.

**Policy 6N3:** To require through Plan Conformance that municipalities and counties adopt Low Impact Development practices to minimize land disturbance during construction activities.

**Objective 6N3a:** Local development review programs which require a site specific analysis of environmental features and constraints of the property proposed for development as a basis for determining compliance with sustainable design requirements.

**Objective 6N3b:** Limitation of site disturbance, clearing and grading to the minimum necessary to make reasonable use of the designated building envelope for the development parcel.

**Objective 6N3c:** Reduce impacts of construction activities by controlling soil erosion, sedimentation traveling to water bodies, and airborne dust.

**Policy 6N4:** To require through Plan Conformance that municipalities and counties adopt Low Impact Development Best Management Practices where disturbance of Highlands resources is proposed, including but not limited to Steep Slopes, forest resources, Critical Habitat, Highlands Open Waters and Riparian Areas, and Prime Ground Water Recharge Areas.

**Objective 6N4a:** Identification of Highlands resources as an early step in site planning in order to avoid disturbance, in conformance with the RMP.

**Objective 6N4b:** Avoid or minimize the net loss of Highlands resources through site design so that the allowable development to the maximum extent practical is located on portions of the project site that lack Highlands resources.

**Objective 6N4c:** Maintain the quality and value of Highlands resources through site design so that any allowable disturbance of Highlands resources has the minimum impact possible,

including but not limited to, minimization of disturbances to natural vegetation and topography, of the exposure of stormwater runoff to pollutant-generating land uses, and modification of the hydrologic response to precipitation from natural patterns.

**Policy 6N5:** To require through Plan Conformance that municipalities and counties incorporate programs for community and neighborhood design that support a variety of housing options, mixed uses, redevelopment, adaptive re-use of historic sites and structures, and infill development in their master plans and development regulations.

**Objective 6N5a:** Minimum requirements for the use of Low Impact Development and sustainable design practices to support affordable maintenance of housing, particularly affordable housing.

**Objective 6N5b:** Local development regulations and guidelines that advocate mixed use development and redevelopment where appropriate.

**Objective 6N5c:** Local development regulations and guidelines that incorporate form-based zoning, where appropriate, to support compact, walkable communities.

**Objective 6N5d:** Increased opportunities for pedestrian and bicycle networks, including sidewalks, bike lanes, trails, and supportive facilities such as bike racks.

**Objective 6N5e:** Local development regulations and guidelines that advocate shared parking, driveways, and other infrastructure in order to limit paved surfaces.

**Policy 6N6:** To require through Plan Conformance that municipalities and counties include community outreach, collaboration, and meaningful involvement from the local population in the development of planning and design regulations and programs.

## SUBPART F HOUSING AND COMMUNITY FACILITIES

The Highlands RMP seeks to address a full range of housing needs for the Region. This includes housing needs for low and moderate income ranges as well as middle and upper income ranges. In addition, the Region should support a variety of housing types such as rental housing, multi-family housing, age-restricted housing, and supportive and special needs housing. Housing issues can be complex and are related to economic, social, and environmental considerations. Communities should plan for a sensible balance of land uses, including job and housing opportunities, open space, services, and community facilities. The Highlands RMP seeks to provide mechanisms to address the need for a full range of variety and choice in housing opportunities in the Highlands Region, while protecting the character and natural resources of the Region and acknowledging infrastructure limitations.

**GOAL 60: MARKET-RATE AND AFFORDABLE HOUSING SUFFICIENT TO MEET THE NEEDS OF THE HIGHLANDS REGION WITHIN THE CONTEXT OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS.**

**Policy 6O1:** To establish a region-wide, comprehensive approach to addressing housing needs in the Highlands Region, serving all age groups, income levels, and mobility options.

**Objective 6O1a:** A comprehensive housing program addressing regional housing needs within the context of preserving the character and environmental integrity of the Highlands.

**Objective 6O1b:** An interagency partnership with the COAH in support of the achievement of both the resource protection requirements of the RMP and the municipal constitutional obligation, in “growth areas,” to provide a realistic opportunity for the construction of a fair share of affordable housing for low and moderate income households.

**Objective 6O1c:** Preserve and monitor existing stocks of affordable housing.

- Policy 602:** To promote, where appropriate and permitted by the Land Use Capability Zone, center-based development approaches that address a mix of housing types, support mixed uses, and implement compact development approaches.
- Policy 603:** To promote, where appropriate and permitted by the Land Use Capability Zone, affordable housing within new residential and mixed use development, redevelopment, or adaptive reuse projects.
- Policy 604:** To encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.
- Policy 605:** To locate and maintain community facilities and services that support compact development patterns, shared services, and provide a high level of service.
- Policy 606:** To require that conforming municipalities identify existing and planned community facilities and encourage shared service opportunities as part of the local Community Facility Plan element.
- Policy 607:** To require that conforming municipalities implement both the resource protection requirements of the RMP along with the New Jersey Supreme Court’s doctrine, in its Mount Laurel decisions, that every municipality in a “growth area” has a constitutional obligation to provide through its land use regulations, sound land use, and long range planning, a realistic opportunity for a fair share of its region’s present and prospective needs for housing for low and moderate income families.
- Policy 608:** To require that conforming municipalities update and adopt a housing element, fair share plan, and implementing ordinance(s) to reflect current conditions and resource protection requirements of the RMP.
- Objective 608a:** Conforming municipalities, through housing plans, will evaluate and provide for alternate mechanisms to address affordable housing obligations where RMP resource protection standards restrict the ability of planned but not built sites to be developed for affordable housing.

## PART 7 Landowner Equity

The Highlands Act recognizes that implementation of the RMP, which directs and guides future development, inevitably has an impact on reasonable landowner expectations regarding future land use potential. The Act provides several mechanisms that seek to mitigate such impacts, including a TDR Program, land acquisition, exemptions, and waivers.

The Act requires the Highlands Council to establish a regional Highlands TDR Program. This is intended as an equitable means of guiding human development away from sensitive lands in the Highlands Region to areas both within the Region as well as outside the boundaries of the Highlands Region, but within other parts of the seven Highlands counties which are suitable for more intense human development. The Act contemplates that transferable development rights will be allocated to the owners of land which should not be developed at all or be developed at very low densities and impacts, and that voluntary TDR Receiving Zones for HDCs will be identified. The Highlands TDR Program is required to be consistent with the State Transfer of Development Rights Act, except as otherwise expressly provided for in the Highlands Act TDR provisions (Section 13.a).

The Highlands RMP also recognizes the need to set priorities for acquisition or purchase of conservation easements in those lands within the Region that have the most significant resource values. To this end, the RMP includes numerous policies to address open space acquisition and farmland preservation.

Additionally, the Highlands Act includes 17 exemptions. If a project or activity falls within one of these 17 exemptions, the project or activity is exempt from the Highlands Act, the Highlands Preservation Area rules adopted by the NJDEP, the RMP, and any municipal master plan or development regulations that are revised to conform to the RMP.

Tens of thousands of acres throughout the Region could potentially be developed under the exemptions based upon an analysis conducted by the Highlands Council. While the exemptions are one of the primary means for landowners to utilize their properties where development potential is limited by the Highlands Act, the exercise of these exemptions may result in further fragmentation of the Region's ecosystems due to the construction of additional impervious surface. Given this circumstance, the RMP addresses the need to develop voluntary programs that attempt to mitigate these impacts, including programs to encourage non-contiguous clustering, intra-local government transfers of development rights and economic incentives.

Lastly, the Act provides the NJDEP with the authority to grant waivers from its Highlands rules on a case by case basis under certain circumstances. Under this authority, the NJDEP may issue waivers (1) where a project or activity is necessary in order to protect public health and safety; (2) for redevelopment in previously developed areas as identified by the Highlands Council, provided that the areas are either a brownfield site designated by the NJDEP or a site at which at least 70% of the area thereof is covered with impervious surface; or (3) necessary to avoid a taking of property without just compensation.

**GOAL 7A: PROTECTION OF LANDS THAT HAVE LIMITED OR NO CAPACITY TO SUPPORT HUMAN DEVELOPMENT WITHOUT COMPROMISING THE ECOLOGICAL INTEGRITY OF THE HIGHLANDS REGION, THROUGH MECHANISMS INCLUDING BUT NOT LIMITED TO A REGION-WIDE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.**

**Policy 7A1:** Transferable development rights shall be used by willing municipalities to guide growth and development away from ecologically sensitive lands and towards lands which have the capacity to support additional human development without compromising the ecological integrity of the Highlands Region. These rights shall also be used to guide growth towards lands outside of the Highlands Region, but within the seven Highlands counties, to willing municipalities.

**Objective 7A1a:** Creation of a region-wide Highlands TDR Program as soon as practicable.

**Objective 7A1b:** Identification and implementation of any and all program elements which would promote the transfer and use of development rights.

**Policy 7A2:** To maximize the preservation of Preservation Area properties outside of the Existing Community Zone or a Highlands Redevelopment Area, with emphasis on properties with the highest Conservation Priority scores and Agricultural Priority scores, through acquisition or donation of fee simple and easement ownership.

**GOAL 7B: PROVISION FOR COMPENSATION THROUGH A REGION-WIDE PROGRAM OF TRANSFERABLE DEVELOPMENT RIGHTS TO LANDOWNERS WHOSE PROPERTIES HAVE LIMITED OR NO CAPACITY TO SUPPORT ADDITIONAL DEVELOPMENT BASED UPON ANALYSES CONDUCTED BY THE HIGHLANDS COUNCIL AND WHO ARE DISPROPORTIONATELY BURDENED BY THE PROVISIONS OF THE HIGHLANDS ACT.**

**Policy 7B1:** The Highlands TDR Program shall seek to mitigate impacts of the Highlands Act and the Highlands RMP on reasonable landowner development expectations which have been disproportionately affected.

**Policy 7B2:** The Highlands TDR Program shall establish a transferable development right to be known as a "Highlands Development Credit."

- Policy 7B3:** All lands within the Preservation Area, except for those in the Existing Community Zone and approved Highlands Redevelopment Areas, shall be eligible to serve as Sending Zones under the Highlands TDR Program.
- Policy 7B4:** Upon municipal conformance, all lands within the Planning Area, except for those in the Existing Community Zone and approved Highlands Redevelopment Areas, shall be eligible to serve as Sending Zones under the Highlands TDR Program.
- Policy 7B5:** The Highlands TDR Program shall provide for the allocation of HDCs to eligible Sending Zone parcels where reasonable future development expectations have been disproportionately limited by the provisions of the Highlands Act or implementation of the programs established by the RMP.
- Policy 7B6:** Lands in the Existing Community Zone and approved Highlands Redevelopment Areas shall not be eligible for an allocation of HDCs.
- Policy 7B7:** Establish a Highlands TDR Program which is sufficiently certain and predictable to allow Sending Zone landowners to sell Highlands Development Credits or borrow against the value of such credits.
- Objective 7B7a:** Establishment of eligibility criteria for an allocation of HDCs.
- Objective 7B7b:** Creation of a process by which affected landowners can apply to the Highlands Council for an allocation of HDCs.
- Objective 7B7c:** Establishment of a HDC conveyance system, including covenants and restrictions on the use of Sending Zone parcels.
- Objective 7B7d:** Creation of a tracking system for HDCs which provides public records for the transfer and use of HDCs.
- Objective 7B7e:** Establishment of Receiving Zones where HDCs can be used as soon as possible.
- Objective 7B7f:** Active transfer and use of HDCs throughout the Highlands Region and the seven Highlands counties.
- Objective 7B7g:** Review and assessment of the Highlands TDR Program five years after the effective date of the Highlands RMP.
- Policy 7B8:** The determination as to whether a particular parcel of land is disproportionately limited by the provisions of the Highlands Act or implementation of the Highlands RMP shall be based upon the development potential as of August 9, 2004, based upon municipal zoning and land use regulations then in effect; State and federal environmental laws and regulations then in effect; and a determination of whether development is precluded or severely constrained by the restrictions imposed pursuant to the Highlands Act.
- Policy 7B9:** The allocation of HDCs to individual Sending Zone parcels shall be adjusted according to the location of the parcel within the Highlands Region, the comparative development potential of the parcel, and whether a Sending Zone landowner chooses to exercise an applicable Highlands Act exemption.
- GOAL 7C: CREATION OF A HIGHLANDS DEVELOPMENT CREDIT BANK.**
- Policy 7C1:** A Highlands Development Credit Bank shall be created and become operational as soon as possible.

- Policy 7C2:** The Highlands Development Credit Bank shall be authorized to serve and shall serve as a region-wide information clearinghouse.
- Policy 7C3:** The Highlands Development Credit Bank shall be authorized to buy and sell HDCs.
- Policy 7C4:** The Highlands Development Credit Bank shall be authorized to serve as the official records keeper of the Highlands TDR Program, including recording and tracking all HDC transactions and use.
- Policy 7C5:** The Highlands Development Credit Bank shall be authorized to enter into any agreement which promotes the transfer and use of HDCs, provided that the substance of the agreement is not in conflict with any express provision of the Highlands Act or the State Transfer of Development Rights Act (N.J.S.A. 40:55D-137 et seq.).
- Policy 7C6:** The Highlands Development Credit Bank should establish a program for the purchase of HDCs as soon as possible.
- Policy 7C7:** The Highlands Development Credit Bank should seek to provide an opportunity for Sending Zone landowners to sell their HDCs in advance of the establishment of Receiving Zones.
- Objective 7C7a:** Funding for the purchase of HDCs prior to the establishment of Receiving Zones pursuant to municipal Plan Conformance.
- Objective 7C7b:** A purchase of HDCs program which gives priority to landowners who can demonstrate unique and extenuating financial circumstances as a direct result of the Highlands Act.
- Policy 7C8:** The Highlands Development Credit Bank shall monitor real estate values throughout the Highlands region and shall submit an annual report to the Highlands Council, including a recommendation with regard to the minimum value of a HDC.
- Policy 7C9:** To secure sufficient capitalization for operation of the Highlands Development Credit Bank.
- GOAL 7D: ESTABLISHMENT OF SUFFICIENT HIGHLANDS RECEIVING ZONES TO CREATE A POSITIVE MARKET FOR TDR CREDITS.**
- Policy 7D1:** Lands located within the Existing Community Zone or Highlands Redevelopment Areas may be designated as Receiving Zones by a Highlands municipality upon approval by the Highlands Council, provided that such Receiving Zones are consistent with the RMP.
- Policy 7D2:** Lands located within the Conservation Zone may be designated as Receiving Zones by a Highlands municipality upon approval of the Highlands Council, provided that such Receiving Zones are consistent with the RMP and the development does not conflict with the maintenance of viable agriculture.
- Policy 7D3:** A municipality located within a Highlands County, but not within the Highlands Region, may also designate Receiving Zones to participate in the Highlands TDR Program upon approval of the Highlands Council, provided that the municipality seeks endorsement by the State Planning Commission as required by subsection l of section 13 of the Highlands Act.
- Policy 7D4:** A Highlands municipality in the Planning Area may seek designation of Receiving Zones and participate in the Highlands TDR Program without regard to whether such municipality is in conformance with the Highlands RMP upon approval of the Highlands Council, provided that the municipality seeks endorsement by the State Planning Commission as required by the State Transfer of Development Rights Act.

**Policy 7D5:** The Highlands Council shall provide technical assistance to Highlands municipalities in support of designating appropriate Receiving Zones.

**Policy 7D6:** The Highlands Council shall provide Highlands municipalities with financial grants-in-aid for planning and feasibility studies in support of designating appropriate Receiving Zones.

**Policy 7D7:** A Highlands municipality may limit the use of HDCs to intra-municipal transfers in designated Receiving Zones if the Highlands Council determines that the goals, policies and objectives of the Highlands RMP will be best served by a determination of conformance, notwithstanding the limited use of HDCs within the municipality.

**Policy 7D8:** The Highlands Council shall seek legislation that permits municipalities outside of the seven Highlands counties to designate Receiving Zones that may accept HDCs.

**GOAL 7E: MAXIMIZATION OF THE TRANSFER AND USE OF HDCS.**

**Policy 7E1:** The Highlands Council shall develop and implement incentive mechanisms to create the highest possible demand for HDCs.

**Policy 7E2:** The Highlands Council shall identify ways and means by which the highest possible value of HDCs can be achieved.

**Policy 7E3:** The Highlands Council shall promote the availability of capital funding for municipal infrastructure which is required to support additional human development achieved using HDCs.

**Policy 7E4:** The Highlands Council shall seek and support priority allocation of available State and federal funding for Highlands municipalities which have established TDR Receiving Zones for HDCs.

**Policy 7E5:** The Highlands Council shall seek legislation that requires the payment of a fee to the Highlands Development Credit Bank for any increases in density or intensity of development beyond the allowable development yield as of the effective date of the act, where that development relies on a potable water source located in the Highlands Region and the development is situated in any municipality other than a conforming municipality.

**Policy 7E6:** After the date of Highlands Council determination of conformance, any municipal action that results in a density increase or change of use with more intense development will require a project applicant to secure HDCs prior to municipal approval.

**GOAL 7F: ENSURE THAT HIGHLANDS ACT EXEMPTIONS ARE PROPERLY ISSUED AND MONITORED.**

**Policy 7F1:** To provide guidance on the activities that are exempt from the provisions of the Highlands Act, the RMP, any rules or regulations adopted by NJDEP pursuant to the Highlands Act, and any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the RMP.

**Objective 7F1a:** Provide a guidance document that outlines the process for obtaining approval of the 17 exemptions available under the Highlands Act. These detailed exemptions are summarized below:

1. Construction of a single family dwelling for one's own use or family use on a lot owned by the individual on August 10, 2004.
2. Construction of a single family dwelling on a lot in existence on August 10, 2007 provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more.

3. Developments that received certain municipal approval and specific NJDEP Approvals on or before March 29, 2004 where construction beyond site preparation commenced on or before August 10, 2007.
4. Reconstruction of buildings or structures within 125% of the footprint of the lawfully existing impervious surfaces provided there is not an increase in impervious surface by one-quarter acre or more (not applicable to conversion of an agricultural or horticultural building or structure to a non-agricultural or non-horticultural use).
5. Improvement to a single family dwelling in existence on August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.
6. Expansion of or improvement to any existing places of worship, schools, or hospitals for non-residential purposes.
7. Activities conducted pursuant to approved woodland and forest management plans.
8. Construction or extension of trails (with non-impervious surfaces) on public or private lands.
9. Public transportation or infrastructure systems – Routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair, consistent with the goals and purposes of the Act without any new through-capacity travel lanes.
10. Transportation safety projects by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes.
11. Public utility lines, rights of way, or systems – Routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade by a public utility, consistent with the goals and purposes of the Act.
12. Reactivation of rail lines and rail beds existing on August 10, 2004.
13. Public infrastructure projects approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005.
14. Mining or quarrying on any mine, mine site, or construction materials facility existing on June 7, 2004.
15. Site Remediation of contaminated sites.
16. Military lands existing on August 10, 2004.
17. Affordable Housing pursuant to Settlements in Planning Area 1 or Planning Area 2.

**Objective 7F1b:** Provide guidance that the Highlands Act exemptions apply for the entire Highlands Region including both the Preservation Area and the Planning Area.

**Objective 7F1c:** Preservation Area exemptions issued by the NJDEP in accordance with N.J.A.C. 7:38, shall be required, where appropriate, prior to consideration of a local development review or a Highlands Project Review. Guidance shall specify the exceptions where a review may proceed absent an exemption determination from the NJDEP.

**Objective 7F1d:** Planning Area exemptions, issued by the Highlands Council, shall be required, where appropriate, prior to consideration of a local development review or a Highlands Project Review. Guidance shall specify the exceptions where a review may proceed absent such an exemption determination. Applications for exemptions submitted to the Highlands Council shall be based upon the application requirements exemptions codified in N.J.A.C. 7:38.

**Objective 7F1e:** Projects in the Planning Area that nearly qualify for exemptions #3 and #17, which are limited by the Highlands Act to major Highlands development in the Preservation Area, should be given priority consideration for a waiver where appropriate.

**Objective 7F1f:** Activities authorized under exemptions #9 and #11, which require a finding that the activity is consistent with the goals and purposes of the Highlands Act, shall be based upon a finding that the proposed activities are consistent with Highlands Act, the RMP, any rules or regulations adopted by the NJDEP pursuant to the Highlands Act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the RMP.

**Objective 7F1g:** Highlands municipalities and counties may not issue Highlands Act exemption determinations. Delegation of Highlands Act exemption determinations, in the Highlands Region, may be authorized for conforming municipalities and counties through specific delegation approvals issued by the Highlands Council and the NJDEP.

**Objective 7F1h:** Ensure that Highlands Act exemption determinations are limited to the activities specifically authorized under the Act. While the construction activities of a single family dwelling may be authorized under an exemption, water conservation requirements, septic maintenance requirements, or any other activities related to the use of that dwelling are not exempt.

**Policy 7F2:** To monitor and track activities which are, or may be, deemed to be exempt from the provisions of the Highlands Act.

**Objective 7F2a:** Develop and maintain an inventory of the exemptions that have been formally issued and map the land disturbance authorized under these exemptions.

**Objective 7F2b:** Develop and maintain an inventory of the exemptions that may be exercised and map the potential land disturbance that may occur under these exemptions.

**GOAL 7G: ENSURE THAT HIGHLANDS ACT PERMITS AND WAIVERS ARE PROPERLY ISSUED, TRACKED, AND MONITORED.**

**Policy 7G1:** For the Preservation Area, coordinate with NJDEP during Highlands permit review for any major Highlands development including the review of waivers on a case-by-case basis: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation.

**Objective 7G1a:** Ensure through agency coordination in accordance with N.J.A.C. 7:38-1.1 that any Highlands permit, or permit with a waiver, be issued only with due consideration of the RMP and/or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them to the RMP.

**Policy 7G2:** For both the Preservation Area and the Planning Area, a waiver may be issued by the Highlands Council on a case-by-case basis from the requirements of the RMP or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the RMP: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation. Any waiver issued shall be conditioned upon a determination that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.

**Policy 7G3:** For both the Preservation Area and the Planning Area during local development review, any variance or exception issued shall be conditioned upon a written determination, specifically included in an approving resolution, that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.

**GOAL 7H: MITIGATION TO THE MAXIMUM EXTENT POSSIBLE OF THE IMPACTS OF EXEMPT DEVELOPMENT ON THE ECOSYSTEM INTEGRITY OF THE HIGHLANDS REGION THROUGH USE OF INNOVATIVE LAND USE PROGRAMS.**

**Policy 7H1:** To encourage municipalities with jurisdiction over lands which are entitled to any exemption(s) under Section 30 of the Highlands Act to establish voluntary, incentive-based land use programs to avoid adverse impacts to the Highlands ecosystem or to the fiscal integrity of the municipality.

**Objective 7H1a:** Establish an intra-municipal TDR Program for landowners whose property is entitled to an exemption under Section 30 of the Highlands Act and who voluntarily apply for and receive transferable development rights under a municipal TDR program.

**Objective 7H1b:** Establish municipal clustering programs which allow for the clustering of development rights from willing landowners whose property is entitled to an exemption under the Highlands Act, for both contiguous and non-contiguous properties, so as to minimize the impact of such exempted development on the ecological integrity of the Highlands Region.

**Policy 7H2:** To provide an opportunity for landowners whose property is entitled to an exemption under the Highlands Act to voluntarily apply for and receive an allocation of Highlands Development Credits in lieu of developing on-site under the provisions of Section 30.

## PART 8 Sustainable Economic Development

The Highlands Act establishes natural resource protection as the fundamental goal for the Highlands Region but recognizes that development, redevelopment, and economic growth in certain appropriate areas of the Region are in the best interests of all citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities. The long term integrity of the Highlands Region requires economic and fiscal vitality as well as the preservation of natural resources. Economic development can be broadly described as any effort or activity that improves general economic health. It may involve a range of activities aimed at increasing the local tax base and providing employment opportunities, and efforts can range in scale from local to regional.

In the Highlands Region, economic development plans can be developed for municipalities that chose to grow and those that chose not to; individual economic development activities will vary based on local conditions but all will contribute to achieving regional economic vitality. In some areas, the sustainable use of the natural resources of the Region, such as agriculture, forestry, and tourism, will remain a critical local economic initiative, while other areas may be well suited for technology-dependent enterprises ranging from home occupations to corporate headquarters. Main street or downtown revitalization and business retention efforts may be the primary economic initiative for some municipalities. Economic development in the Highlands Region must be sustainable over time, and will depend heavily on renewal and improvement of economic output without continual development of undeveloped lands. As such, strategies must consider land development and non-development approaches to achieving economic development goals.

**GOAL 8A: SUSTAINABLE ECONOMIC DEVELOPMENT IN THE HIGHLANDS REGION.**

**Policy 8A1:** To maintain and expand the existing job and economic base by promoting appropriate, sustainable, and environmentally compatible economic development throughout the Highlands Region.

**Objective 8A1a:** Highlands Economic Development Program to identify and promote sustainable economic development opportunities in the Highlands Region, in a manner that integrates economic, social, and environmental factors.

**Objective 8A1b:** Serve as an advocate and technical resource for Highlands economic development initiatives in work with municipalities, counties, regional agencies, and the private sector to promote sustainable economic development in the Highlands Region.

**Objective 8A1c:** Public private partnerships to support economic development initiatives.

**Objective 8A1d:** Positive fiscal impact to local governments and the Region through appropriate economic development initiatives.

**Policy 8A2:** To preserve the high quality of life in the Highlands Region through economic planning and implementation of the RMP.

**Policy 8A3:** To identify and pursue state and federal programs that offer financial and/or technical assistance for sustainable economic development in the Highlands Region.

**Policy 8A4:** To serve as a clearinghouse for economic development opportunities in the Highlands Region.

**Objective 8A4a:** Identification, marketing, and support of Highlands Region areas including brownfield sites that may be appropriate for local and regional economic development initiatives.

**Objective 8A4b:** A long-term Economic Tracking Program as a means to continually assess the long-term economic progress of the Region through specified economic indicators in order to establish Highlands trends and to support municipal economic plan elements.

**Policy 8A5:** To advocate for appropriate public investment in the Highlands Region through the strategic location of public facilities and institutions that will spur sustainable and appropriate economic activity.

**Policy 8A6:** To require that conforming municipalities develop an economic plan element that provides strategies for achieving sustainable and appropriate economic development consistent with local desire and identifies any development, redevelopment, and brownfield opportunities.

**Objective 8A6a:** Coordinate with municipalities and counties as local and regional strategies are developed to improve the tax base and to create jobs and economic opportunities consistent with the policies and objectives of the RMP.

**GOAL 8B: PROTECTION AND ENHANCEMENT OF THE AGRICULTURE INDUSTRY IN THE HIGHLANDS REGION.**

**Policy 8B1:** To enhance the sustainable economic benefits of agricultural practices in the Highlands Region.

**Objective 8B1a:** Coordinate activities with the NJDA and other entities to maximize the potential benefits of existing programs that sustain agriculture.

**Policy 8B2:** To protect and enhance the agricultural economy in the Highlands Region.

**Objective 8B2a:** Coordinate activities with the NJDA and other entities to ensure a sustainable agricultural industry and agricultural operations that improve farm incomes and the long-term viability of farming.

**GOAL 8C: EXPANSION OF COMPATIBLE AND SUSTAINABLE TOURISM AND RECREATION WITHIN THE HIGHLANDS REGION.**

**Policy 8C1:** To promote recreation and tourism based economic initiatives, which derive economic benefit from sustainable use of the natural resources of the Highlands Region.

**Objective 8C1a:** Identification of specific economic development initiatives which would encourage and promote eco-, agri- and heritage tourism in the Highlands Region.

**Policy 8C2:** To enhance the Region's tourism infrastructure in order to increase visitors to the Highlands Region.

**Objective 8C2a:** Encourage the development of overnight accommodations and other services to support recreation and tourism attractions in the Highlands Region, where appropriate and permitted by Land Use Capability Zone.

**Objective 8C2b:** Encourage transit-oriented recreation and tourism connections.

**Policy 8C3:** To promote public and private tourism attractions in the Highlands Region through the marketing of natural resources, the arts, cultural, historic, scenic, agricultural, and recreational resources, urban amenities, and accommodations.

**Policy 8C4:** To support local, state, and federal eco-, agri- and heritage tourism programs.

**Policy 8C5:** To advocate for state and federal funding of recreation and tourism initiatives in the Highlands Region.

**GOAL 8D: EXPANSION OF INNOVATIVE TECHNOLOGY AND ENTREPRENEURIAL BUSINESSES INCLUDING HOME OFFICE, ENERGY EFFICIENCY, AND RESOURCE CONSERVATION ENTERPRISES IN THE HIGHLANDS REGION.**

**Policy 8D1:** To ensure opportunities for home office, entrepreneurial, and other small business activities in the Highlands Region.

**Objective 8D1a:** Municipal and county development regulations which permit the establishment of home occupations, participation in small business incubator programs, and use of innovative technologies that promote compact design, native species landscaping, Low Impact Development, energy efficiency and resource conservation in support of comprehensive RMP goals.

**GOAL 8E: ESTIMATE AND TRACK OVER TIME THE COSTS AND BENEFITS ASSOCIATED WITH PLAN IMPLEMENTATION AND THE PROTECTION OF CRITICAL RESOURCES OF THE HIGHLANDS REGION.**

**Policy 8E1:** The Cash Flow Timetable shall track the revenues and costs associated with the Highlands Protection Fund, with the exception of the Pinelands Property Tax Stabilization Aid category. Four components that shall be tracked in the Cash Flow Timetable include:

- ▶ Planning Grants Program (including Incentive Planning Aid and RMP Compliance Aid);
- ▶ Highlands Property Tax Stabilization Aid;
- ▶ State Aid for Local Government Units (Watershed Moratorium Offset Aid and other State Aid funding); and
- ▶ Land Acquisition Tracking.

## PART 9 Air Quality

The Highlands Act recognizes that the Highlands Region includes “exceptional natural resources such as clean air” (Section 2) and the Highlands RMP seeks to establish mechanisms for the protection and enhancement of air quality resources for the Highlands Region that consider the interplay of air quality conditions at local, regional, inter-state, and global levels. The RMP policies support the State Global Warming Response Act in reducing the level of greenhouse gas emissions in the state by the year 2020 through the reduction of mobile sources, resource protection and energy efficient practices. The RMP also recognizes the importance of the State Energy Master Plan as a means to plan and evaluate for energy efficiency and greenhouse gas reductions at all levels of government.

### **GOAL 9A: REDUCTION OF AIR POLLUTION THROUGH USE OF ALTERNATIVE AND EFFICIENT MODES OF TRANSPORTATION AND THE USE OF RENEWABLE ENERGY SOURCES.**

- Policy 9A1:** To encourage capital facility development and redevelopment that leads to attainment of the National Ambient Air Quality Standards (NAAQS).
- Policy 9A2:** To support continued, consistent and thorough air quality monitoring and assessment programs as a means of evaluating and managing major air toxic point sources that affect the Region.
- Policy 9A3:** To encourage land use development and redevelopment practices that promote center-based growth and mixed-use development and offer alternative modes of transportation as a means to reduce automobile dependency, vehicle miles traveled, vehicle trip length, and duration, for the reduction of local and regional air pollutants and of carbon dioxide emissions linked to global warming.
- Policy 9A4:** To encourage and support state and federal air quality monitoring for the Highlands Region and regulatory action to reduce levels of air pollutants including but not limited to: ozone, carbon dioxide, sulfur compounds, volatile organic compounds, methane, and fine particulate matter pollutants in the Highlands Region.
- Policy 9A5:** To encourage energy efficient design and green building practices in support of regional resource protection and smart growth planning policies.
- Objective 9A5a:** Encourage development design, as appropriate, to include measures to avoid, limit or mitigate the creation of air pollutants, including but not limited to reduced vehicle emissions, ambient air toxic substances, and hazardous air pollutants as related to development practices and end use activities.
- Policy 9A6:** To support State and federal initiatives that will reduce air pollution emanating from power plants, incinerators and landfills within and affecting the Highlands Region and particularly in Warren County due to out-of-State power plant air pollution.

## PART 10 Local Participation

The Highlands Act calls for local participation in the development and implementation of the RMP. Plan Conformance is voluntary in the Planning Area and mandatory in the Preservation Area and in both cases, municipal participation will be critical to ensure that the RMP achieves its goals. In addition, the programs and policies of the RMP must be effectively coordinated and must remain effective over time. Cooperation between other governmental and nongovernmental interests will also be important.

**GOAL 10A: MAXIMIZE MUNICIPAL PARTICIPATION TO ENSURE THE REGIONAL MASTER PLAN ACHIEVES ITS LONG TERM GOALS OF PROTECTING, ENHANCING AND RESTORING HIGHLANDS RESOURCES AND MAINTAINING A SUSTAINABLE ECONOMY IN THE HIGHLANDS REGION.**

**Policy 10A1:** To ensure that programs and policies are effectively coordinated to promote the purpose and provisions of the RMP, through efforts with all levels of government, including local, county, regional, State, and federal agencies.

**Policy 10A2:** To ensure sufficient local participation in the development of the RMP and on-going work of the Highlands Council.

**Objective 10A2a:** Engage stakeholder groups and individuals in public participation opportunities that provide meaningful input in the Highland Council planning process.

**Policy 10A3:** To ensure maximum RMP Conformance by municipalities and counties to achieve the highest level of protection for all important natural systems and resources of the Highlands.

**Objective 10A3a:** Provide benefits and incentives to municipalities and counties that conform to the RMP.

**Policy 10A4:** To ensure the long term success of the RMP, evaluate regional conditions, identify new or emerging issues, and develop future RMP priorities through the tracking and monitoring of regional indicators.

**Objective 10A4a:** Prepare a Highlands RMP Monitoring Review Report triennially to ensure that the RMP is meeting its goals.

**Objective 10A4b:** Prepare a fiscal impact assessment that measures the overall economic health of the Region as compared to the rest of the State, to be included in the Highlands RMP Monitoring Review Report.

**Policy 10A5:** To ensure the long term success of the RMP, evaluate regional conditions, identify new or emerging issues, and develop future RMP priorities through the tracking and monitoring of regional indicators.

**Objective 10A5a:** Prepare a Highlands RMP Monitoring Review Report at least every six years to ensure that the RMP is meeting its goals.

**Objective 10A5b:** Prepare a fiscal impact assessment that measures the overall economic health of the Region as compared to the rest of the State, to be included in the Highlands RMP Monitoring Review Report.

# **Exhibit F**

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NEW JERSEY HIGHLANDS WATER PROTECTION AND  
PLANNING COUNCIL MEETING

January 16, 2020

New Jersey Highlands Council  
100 North Road  
Chester, New Jersey 07930

PRESENT

CARL J. RICHKO, Chairman  
KURT ALSTED, Vice Chairman  
MICHAEL FRANCIS, Council Member  
BRUCE JAMES, Council Member  
JAMES VISIOLI, Council Member  
RICHARD VOHDEN, Council Member  
ROBERT WALTON, Council Member

VIA TELE-CONFERENCE

TRACY CARLUCCIO  
MICHAEL R. DRESSLER  
ROBERT HOLTAWAY  
TIMOTHY P. DOUGHERTY

ABSENT

MICHAEL SEBETICH

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1 CHAIRMAN RICHKO: Roll call.  
2 MS. TAGLIARENI: Kurt Alstede.  
3 MR. ALSTEDE: Here.  
4 MS. TAGLIARENI: Tracy Carluccio.  
5 MS. CARLUCCIO: Here.  
6 MS. TAGLIARENI: Tim Dougherty.  
7 MR. DOUGHERTY: Here.  
8 MS. TAGLIARENI: Michael Dressler. Michael  
9 Francis.  
10 MR. FRANCIS: Here.  
11 MS. TAGLIARENI: Robert Holtaway.  
12 MR. HOLTAWAY: Here.  
13 MS. TAGLIARENI: Bruce James.  
14 MR. JAMES: Here.  
15 MS. TAGLIARENI: Carl Richko.  
16 CHAIRMAN RICHKO: Here.  
17 MS. TAGLIARENI: Michael Sebetich. James  
18 Visioli.  
19 MR. VISIOLI: Here.  
20 MS. TAGLIARENI: Richard Vohden.  
21 MR. VOHDEN: Here.  
22 MS. TAGLIARENI: Robert Walton.  
23 MR. WALTON: Here.  
24 CHAIRMAN RICHKO: The open public meetings  
25 act.

1 MS. TAGLIARENI: This meeting is being held  
2 in accordance with the Open Public Meetings Act. The  
3 Highlands sent written notice of the time, date, and  
4 location of this meeting to newspapers of circulation  
5 throughout the State and posted notice on the Highlands  
6 Council website.

7 CHAIRMAN RICHKO: Will you join me in the  
8 Pledge of Allegiance?

9 (Pledge recited.)

10 CHAIRMAN RICHKO: We have the approval of the  
11 Highlands Council minutes of October 17, 2019. We  
12 needed a motion and a second.

13 MR. JAMES: Moved.

14 CHAIRMAN RICHKO: Moved by Council Member  
15 James seconded by -- anyone else?

16 MR. VISIOLI: I'll second.

17 CHAIRMAN RICHKO: Seconded by Council Member  
18 Visioli. Any discussion? Please poll.

19 MS. TAGLIARENI: Council Member Alstede.

20 MR. ALSTED: Yes.

21 MS. TAGLIARENI: Council Member Carluccio.

22 MS. CARLUCCIO: Yes.

23 MS. TAGLIARENI: Council Member Dougherty.

24 MR. DOUGHERTY: Yes.

25 MR. DRESSLER: I'm Mike Dressler.

1 MS. TAGLIARENI: Council Member Dressler.

2 MR. DRESSLER: Mike Dressler is here.

3 MS. TAGLIARENI: Okay.

4 CHAIRMAN RICHKO: Mike, we're just voting on  
5 the January 16, 2020 -- oh, excuse me. The October 17,  
6 2019, minutes. Would you like to vote yes or no?

7 MR. DRESSLER: Yes.

8 MS. TAGLIARENI: Council Member Francis.

9 MR. FRANCIS: Yes.

10 MS. TAGLIARENI: Council Member Holtaway.

11 MR. HOLTAWAY: Aye.

12 MS. TAGLIARENI: Council Member James.

13 MR. JAMES: Yes.

14 MS. TAGLIARENI: Council Member Sebetich.

15 Council Member Visioli.

16 MR. VISIOLI: Yes.

17 MS. TAGLIARENI: Council Member Vohden.

18 MR. VOHDEN: Yes.

19 MS. TAGLIARENI: Council Member Walton.

20 MR. WALTON: Yes.

21 MS. TAGLIARENI: Chairman Richko.

22 CHAIRMAN RICHKO: Yes. For the Chair's  
23 report, first of all, happy New Year to everyone and  
24 happy 2020. On December 13<sup>th</sup>, Council Member Dressler  
25 and I attended the Jersey Waterworks Conference in New

1 Brunswick, along with staff members Lisa and James,  
2 Maryjude, Keri, and Kelly. And we -- probably, I think  
3 what was discussed that we enjoyed all the information  
4 about infrastructure.

5 But I have to share with you that I was  
6 disappointed, as I was last year, that there was no  
7 mention of the source of the water. The reservoirs,  
8 the watersheds, and the need to protect and preserve  
9 those watersheds.

10 So, hopefully, maybe in the future, we'll  
11 have more discussions at that conference. There was  
12 about 300 people there. And I know that's it for that.  
13 And I hope that it does change in the future, that they  
14 do recognize that they can't take it for granted that  
15 they're going to have clean water coming into those  
16 pipes that they're having trouble with, because of the  
17 lead contamination. That we have to start with the  
18 source.

19 For the Chairman's report for -- next is a  
20 consideration of a resolution is the election of Vice  
21 Chair. This is a voting matter with public comment.  
22 I'm going to open up the floor for nominations. Would  
23 anyone like to nominate someone for the Vice Chair?

24 MR. JAMES: I would.

25 CHAIRMAN RICHKO: Council Member James.

1 MR. JAMES: Yeah, it would my honor to  
2 recommend and nominate my friend, and somebody who has  
3 been on this Council from day one, Kurt Alstede.

4 CHAIRMAN RICHKO: Okay. We have Kurt Alstede  
5 as a nominee.

6 UNIDENTIFIED RESPONDER: Second.

7 MR. VISIOLI: And I will second, Mr.  
8 Chairman.

9 CHAIRMAN RICHKO: Seconds are not necessary  
10 with nominations. But we'll recognize that --

11 MR. VISIOLI: Okay. Thank you.

12 CHAIRMAN RICHKO: -- Council Member Visioli  
13 did second it. Anyone else like to name a nomination  
14 for Vice Chair?

15 MR. JAMES: I move that it be closed.

16 CHAIRMAN RICHKO: Seeing none, I would close  
17 the nominations and this is a voting matter with public  
18 comment, would anyone like to address the Council on  
19 this resolution for Vice Chair? Seeing none. Any  
20 further discussion from the Council's part? Okay.  
21 Please vote either yes or no for the nomination of  
22 Council Member Kurt Alstede to be Vice Chair. Please  
23 poll.

24 MS. TAGLIARENI: Okay. Council Member  
25 Alstede.

1 MR. ALSTED: Yes.

2 MS. TAGLIARENI: Council Member Carluccio.

3 MS. CARLUCCIO: No.

4 MS. TAGLIARENI: Council Member Dougherty.

5 MR. DOUGHERTY: Yes.

6 MS. TAGLIARENI: Council Member Dressler.

7 MR. DRESSLER: Yes.

8 MS. TAGLIARENI: Council Member Francis?

9 MR. FRANCIS: Yes.

10 MS. TAGLIARENI: Council Member Holtaway.

11 MR. HOLTAWAY: Aye.

12 MS. TAGLIARENI: Council Member James.

13 MR. JAMES: Yes.

14 MS. TAGLIARENI: Council Member Visioli.

15 MR. VISIOLI: Yes.

16 MS. TAGLIARENI: Council Member Vohden.

17 MR. VOHDEN: Yes.

18 MS. TAGLIARENI: Council Member Walton.

19 MR. WALTON: Yes.

20 MS. TAGLIARENI: Chairman Richko.

21 CHAIRMAN RICHKO: Yes. Congratulations.

22 MR. ALSTED: Do I get the cost of living

23 raise this year?

24 CHAIRMAN RICHKO: Yeah, it's a whole bunch of

25 --

1 MR. ALSTED: Thank you.

2 CHAIRMAN RICHKO: Our next consideration is a  
3 resolution for the election of treasurer. I'll open it  
4 up for nominations.

5 MR. ALSTED: I'd like to exercise the  
6 privilege of nominating Bob Holtaway as Treasurer.  
7 He's done a great job for a number of years and he  
8 keeps our books straight and his pencil point sharp.

9 UNIDENTIFIED RESPONDER: I second with that.

10 MR. ALSTED: It doesn't require a second,  
11 now, we're told. That's --

12 CHAIRMAN RICHKO: Anyone else like to make a  
13 nomination for Treasurer? Seeing none, I'll close the  
14 nominations, and I'll open it up to the public. Would  
15 anyone like to address the Council on this resolution  
16 for treasurer? Okay. Seeing none. Any further  
17 discussion from the Council? Please poll.

18 MS. TAGLIARENI: Council Member Alstede.

19 MR. ALSTED: Yes.

20 MS. TAGLIARENI: Council Member Carluccio.

21 MS. CARLUCCIO: Yes.

22 MS. TAGLIARENI: Council Member Dougherty.

23 MR. DOUGHERTY: Yes.

24 MS. TAGLIARENI: Council Member Dressler.

25 MR. DRESSLER: Yes.

1 MS. TAGLIARENI: Council Member Francis?

2 MR. FRANCIS: Yes.

3 MS. TAGLIARENI: Council Member Holtaway.

4 MR. HOLTAWAY: Aye.

5 MS. TAGLIARENI: Council Member James.

6 MR. JAMES: Yes.

7 MS. TAGLIARENI: Council Member Visioli.

8 MR. VISIOLI: Yes.

9 MS. TAGLIARENI: Council Member Vohden.

10 MR. VOHDEN: Yes.

11 MS. TAGLIARENI: Council Member Walton.

12 MR. WALTON: Yes.

13 MS. TAGLIARENI: Chairman Richko.

14 CHAIRMAN RICHKO: Yes. We'll move on, now,

15 to the Executive Director's Report. Ms. Plevin?

16 MS. PLEVIN: Thank you, Mr. Chairman. Let me

17 just -- oh, I've got two mics. Thank you. So, as an

18 update on our outreach efforts, we are broadening our

19 outreach to work to include different constituency

20 groups, as well.

21 We determined that about half of our

22 constituent calls coming into the agency come from

23 either realtors or home buyers or sellers, asking

24 questions about restrictions on their property. We

25 felt it would be beneficial to both realtors, and to

1 our agency, to provide training on key Highlands  
2 related issues impacting home-buying and provide the  
3 realtor community with the tools needed to guide their  
4 clients through real estate transactions.

5 So, we reached out to the five realtor boards  
6 in the Highlands region and proposed this training, and  
7 have had several very positive conversations. In fact,  
8 staff is scheduled to give a presentation in February,  
9 at an event hosted by the North Central Jersey  
10 Association of Realtors, with an expected attendance of  
11 over 150 people, many of whom will actually be the  
12 owners of the real estate agents. And we're working  
13 with the other realtor groups on potential dates, as  
14 well.

15 Something I mentioned briefly in my written  
16 December report, was regarding the Interagency Council  
17 on Climate Resilience. And, as I mentioned, the  
18 Highlands Council is now participating in this recently  
19 established interagency council. This stems from  
20 Governor Murphy's Executive Order 89, which directs all  
21 State agencies to take action to integrate climate  
22 considerations in planning and decision-making.

23 This Executive Order established the Climate  
24 Council to lead the exchange of information, as well as  
25 to develop specific policies to enhance the resilience

1 of New Jersey to the impacts of climate change. This  
2 Executive Order also directs the Climate Council to  
3 produce a statewide resiliency strategy by September  
4 1<sup>st</sup> of this year, so, it's a pretty tight time frame,  
5 to promote the long-term resilience of the State's  
6 economy, resources, and communities.

7 We attended our first meeting of this entity,  
8 and are now working to develop responses to a  
9 questionnaire that's meant to guide agencies as they  
10 begin to consider and plan for the impacts of climate  
11 change, and to develop recommendations.

12 And since there's been a great deal of this  
13 discussion that's been focused primarily on sea level  
14 rise, we think that the Highlands Council can play a  
15 unique and important role in focusing this Council on  
16 non-coastal impacts, as well. And, obviously,  
17 particularly ones that could impact the Highlands  
18 region.

19 Under Plan Conformance Updates, I just want  
20 to let you know that Hunterdon County has completed the  
21 final phase of their three part tourism study. So,  
22 that's great news.

23 For municipal exemptions, we've received  
24 notifications of the following municipally issued  
25 exemptions: for Washington Township, in Morris County,

1 they've issued six exemption #5s; Montville Township  
2 has issued one exemption #5; and Byram Township has  
3 issued one exemption #4.

4           For project review updates, we've completed  
5 one water quality management plan amendment review for  
6 a project in Oakland Borough, which is Bergen County.  
7 And this project involved the conversion of almost  
8 25,000 square feet of an office building into a house  
9 of worship, with a commercial kitchen and a one bedroom  
10 apartment.

11           Additionally, we've received materials and  
12 are currently completing four additional water quality  
13 management plan amendment reviews for projects in West  
14 Milford, Harding Township, Stanhope Borough, and  
15 Denville Township.

16           And on the TDR and HDC update front, since  
17 the prior report, three HDC easements have been  
18 recorded and one allocation reconsideration has been  
19 requested. And these easements include: 70 acres of  
20 residential in Tewksbury Township in Hunterdon County,  
21 44.2 HDC's were certified and purchased by the HDC Bank  
22 for \$708,000; 53 acres of residential in Mount Olive  
23 Township, Morris County, 27.75 HDC's were certified and  
24 purchased by the HDC Bank for \$412,000; and 17 acres of  
25 residential in Tewksbury Township, had 26.25 HDC's

1 certified for them by the HDC Bank.

2 And, then, as I mentioned, one additional  
3 project is being reconsidered. Bloomingdale Borough in  
4 Passaic County, 16 acres of residential. Our initial  
5 determination was 12.5 HDC's, and we are currently  
6 under a reconsideration review for that.

7 And, lastly, as an update for the HDC Bank  
8 Board, the Municipal Average Subcommittee held it's  
9 second meeting, and is exploring options for  
10 establishing a Municipal Average, and possibly  
11 retaining outside expertise to assist with this  
12 process.

13 And the next Council meeting is scheduled for  
14 February 20<sup>th</sup> of this year, 2020. And that is it for  
15 my report.

16 CHAIRMAN RICHKO: Thank you. Before we go on  
17 to the Plan Conformance Committee, I just want to  
18 introduce, we have a new representative from the  
19 Attorney General's Office, a Jason Kane. Jason,  
20 welcome aboard.

21 MR. KANE: I'm happy to --

22 CHAIRMAN RICHKO: And, also Bob -- oh, I'm  
23 sorry. Go ahead.

24 MR. KANE: And I just wanted to say I'm happy  
25 to be working with you all.

1                   CHAIRMAN RICHKO: Thank you. And, Bob  
2 Holtaway, I'm sorry before I didn't congratulate you  
3 for becoming our Treasurer again. So, congratulations.

4                   MR. HOLTAWAY: Oh, thank you very much.

5                   CHAIRMAN RICHKO: How's the weather down  
6 there?

7                   MR. HOLTAWAY: Beautiful.

8                   CHAIRMAN RICHKO: Okay. He's in Florida.  
9 All right. We move on to the Plan Conformance  
10 Committee. I will give the report. This is a  
11 consideration of a resolution to amend the petition for  
12 plan conformance for Chester. Chester Borough in  
13 Morris County. This is a voting matter with public  
14 comment.

15                   The Plan conformance Committee met on January  
16 8<sup>th</sup> to discuss and amendment to petition for plan  
17 conformance for the Borough of Chester. Chester  
18 Borough originally petitioned the Council for plan  
19 conformance in July 2016.

20                   Through the amended petition the Borough is  
21 seeking to designate the entirety of the Borough as a  
22 center. This petition was posted for public comment  
23 for 30 days and received no comments. The committee  
24 reviewed staff's Consistency Review and Recommendation  
25 Report, as well as the staff presentation, and found

1 the staff's recommendation to approve the petition with  
2 conditions appropriate to move to the full Council.

3 Staff has a brief presentation for the  
4 Council and members of the public now, and will answer  
5 questions. Also, I just want to acknowledge that  
6 Chester Borough Council President Gary Marshuetz --

7 UNIDENTIFIED RESPONDER: Marshuetz.

8 CHAIRMAN RICHKO: -- Marshuetz. Okay, I've  
9 got to put my glasses on.

10 UNIDENTIFIED RESPONDER: Marshuetz.

11 CHAIRMAN RICHKO: Marshuetz. Okay.

12 Marshuetz. And we've invited him to add a few comments  
13 after Corey's presentation, which will be next, if he'd  
14 like. And, also, we have Margaret Nordstrom who, back  
15 to the future here, huh? She's the Borough  
16 Administrator now. And David Banisch, who is the  
17 Borough Planner, they're all here. And, hopefully,  
18 they'll come up and say a few words after Corey's  
19 presentation.

20 MR. ALSTED: Just for the record, I just  
21 wanted to acknowledge that the company we own -- owns  
22 real estate in Chester Borough. I do not reside in  
23 Chester Borough, nor do I serve an elected office in  
24 Chester Borough. And, consistent with prior  
25 determinations by our Ethics Officer, that does not

1 constitute a conflict of interest. But, I just wanted  
2 everybody to know that that's -- that's out there. So,  
3 I will be participating in this vote.

4 CHAIRMAN RICHKO: Thank you. Corey?

5 MR. PIASECKI: Thank you, Mr. Chairman. I  
6 just have a brief presentation for you all to go  
7 through Chester Borough's amended petition. Chester  
8 Borough was incorporated in 1930, and has an area of  
9 just over a thousand acres lying solely within the  
10 planning area.

11 The Borough received plan conformance  
12 approval in July 2016, and has made significant  
13 progress in completing their implementation plan and  
14 schedule. Today, the Borough is seeking to amend their  
15 approved petition to designate the entirety of the  
16 Borough as the Highlands Center.

17 Chester Borough is a de facto center for  
18 nearly, and has been, for nearly a hundred years,  
19 forming as a result of the agriculture and mining  
20 industries in the surrounding area. In fact, the 2001  
21 State Development and Redevelopment Plan identified the  
22 Borough as the center, though actual designation  
23 through the Plan Endorsement process never occurred.

24 It is notable that Chester Borough first  
25 sought separation from Chester Township, because

1 development led to water supply problems that  
2 necessitated a public water system.

3           As you can see in this map, the Borough is  
4 surrounded by the preservation area to the north,  
5 south, and west. There are significant preserve lands  
6 in the eastern and western sections of the Borough.  
7 And this map represents what we call Highlands of  
8 Environmental Resource Zones. And the recognition of  
9 that is that every center has resources that require  
10 protection, regardless of those resources being within  
11 the center.

12           The Highlands Environmental Resource Zones  
13 depicted here provide resource specific protections in  
14 sensitive lands. But I would like to call your  
15 attention to two issues that were discussed in the Plan  
16 Conformance Committee meeting, and are further  
17 discussed in the Draft Consistency Review and  
18 Recommendations Report that you received.

19           First, the area, the western boundary, I'm  
20 going to try to use the pointer here. This western  
21 area, this adjustment of the HERZ to include that  
22 component that juts in there, is recognition that that  
23 land is currently developed. It's on Mill Ridge Lane.  
24 That land was developed after 2008, when the Land Use  
25 Capability Zone Map was first adopted, and prior to

1 2016, when the Borough completed their Plan  
2 Conformance.

3           Secondly, as a component of the HERZ  
4 condition, there is a provision that allows for the  
5 extension of a sewer outfall into this area, into the  
6 HERZ that's located in the northern center portion of  
7 the map, for those that are on the phone.

8           The Borough is in the planning process for a  
9 new wastewater treatment plan. And the high water  
10 table in the Borough, and lack of suitable locations,  
11 does not permit the Borough to install a groundwater  
12 discharge system that is typical of many modern  
13 systems. Therefore, the Borough is seeking to  
14 discharge the surface water.

15           Current studies underway have demonstrated  
16 the presence of human markers in the discharge  
17 location, and the installation of new treatment system  
18 to connect the surrounding residences will actually  
19 improve water quality. There are no new connections  
20 for development activity proposed within the HERZ  
21 boundary.

22           CHAIRMAN RICHKO: I'm sorry, what does that  
23 stand for?

24           MR. PIASECKI: Highlands Environmental  
25 Resource Zone.

1 CHAIRMAN RICHKO: Okay. Thank you for that

2 -- I --

3 MR. PIASECKI: Certainly.

4 MR. ALSTEDDE: Kurt, can you just explain to  
5 us, quickly, what does it mean for an area to be placed  
6 in the -- in the environmental resource zone? Are  
7 there any additional requirements placed upon a  
8 homeowner, for instance, that is included in there?

9 MR. PIASECKI: No. So, the Highlands  
10 Environmental Resource Zone will act much like the  
11 protection zone. However, by designating the Highlands  
12 Environmental Resource Zones in such a way, it allow us  
13 to provide resource-specific protections. So, all the  
14 --

15 MR. ALSTEDDE: So --

16 MR. PIASECKI: -- I'm sorry, just one second.

17 MR. ALSTEDDE: Yeah. Go ahead.

18 MR. PIASECKI: All of the exemptions that  
19 currently exist in the Highlands Act, and all of the  
20 applicability standards that are currently in the Land  
21 Use Ordinance for the planning area, would continue to  
22 apply.

23 MR. ALSTEDDE: So, I noticed that, and this  
24 might be a question for Gary, our Planner, but Cherry  
25 Tree Lane, there's that little area of Cherry Tree Lane

1 over on the northwest side of the Borough, the roads  
2 start -- it's in the HERZ zone --

3 MR. PIASECKI: Okay.

4 MR. ALSTEDDE: -- all the way to the northwest  
5 side. So, that's a road that starts in the Township,  
6 goes through the Borough, goes back into the Township  
7 again, and I noticed that those homes are included in  
8 the environmental resource end. And that's why I was  
9 asking. Because that's --

10 MR. PIASECKI: Sure.

11 MR. ALSTEDDE: -- really, basically, the only  
12 area where there's residences that are included, and I  
13 wasn't sure if that was deliberate, because that's an  
14 area that will never be sewerred, and because there's  
15 septic systems there, or if there's another basis for  
16 that.

17 MR. PIASECKI: Yeah. So, there's -- there  
18 are septic systems present there. It is not envisioned  
19 that the sewer would extend out there. In addition --  
20 and those areas were previously in the protection zone  
21 of the Land Use Capabilities Zone Map. And, again, the  
22 applicability standards that are in the Land Use  
23 Ordinance, for the planning area, that threshold is the  
24 development of three or more units. So, our review, in  
25 the planning area, doesn't have it, if you're

1 developing one or two new residential units. And, for  
2 those residences that are already there, they don't  
3 meet the applicability standard, because they're  
4 preexisting. So, Highlands will apply, too.

5 MR. ALSTED: And all of the prior exemptions  
6 and --

7 MR. PIASECKI: Every --

8 MR. ALSTED: -- existing home --

9 MR. PIASECKI: -- and it's --

10 MR. ALSTED: -- existing lot, all those  
11 things continue for those folks?

12 MR. PIASECKI: That's correct.

13 MR. ALSTED: The ability to expand the  
14 footprint by 25 percent.

15 MR. PIASECKI: Well, that's just for  
16 commercial. For residential, there is no limitation.

17 MR. ALSTED: Right. Under the lot size  
18 limitations that the municipality --

19 MR. PIASECKI: That's a municipal -- right.  
20 That's a municipal.

21 MR. ALSTED: All right. So, someone who has  
22 a residential home in a HERZ area, is not treated any  
23 differently than someone who is in the planning area?

24 MR. PIASECKI: Correct. They -- and they are  
25 not treated any differently than they are today, under

1 Chester Borough's original plan conformance.

2 MR. ALSTEDDE: Thanks for that clarification.

3 MR. PIASECKI: Sure. Any other -- while

4 we're paused, any other questions --

5 CHAIRMAN RICHKO: Any other --

6 MR. PIASECKI: -- on this --

7 CHAIRMAN RICHKO: -- Council questions?

8 MR. PIASECKI: -- map? We did hold a public

9 comment period for 30 days, from November 15<sup>th</sup> through

10 December 16<sup>th</sup>. No comments were received regarding

11 Chester Borough's petition for plan conformance. Which

12 is unique, because it is the first time that the

13 Council did not receive public comment on a plan

14 conformance designation.

15 And, during the public comment period,

16 though, conversations with the Borough led to an

17 amended implementation planned and scheduled to include

18 funding for a study of the Borough's public lands.

19 Specifically, this study will focus on the removal of

20 invasive species and regrowth of critical habitat in

21 the area of 50 North Road.

22 CHAIRMAN RICHKO: Just across the parking lot

23 here.

24 MS. CARLUCCIO: I had a couple of questions

25 from the phone.

1 MR. PIASECKI: Okay.

2 CHAIRMAN RICHKO: What -- wait --

3 MS. CARLUCCIO: Is this a good time?

4 CHAIRMAN RICHKO: Tracy, are you on the --

5 MR. PIASECKI: I'm almost -- I have two  
6 slides.

7 CHAIRMAN RICHKO: Corey is almost finished,  
8 Tracy. So, once he finishes, how about we wait for  
9 that time for questions?

10 MS. CARLUCCIO: Sure.

11 CHAIRMAN RICHKO: Okay. Thank you.

12 MS. CARLUCCIO: Okay. Great.

13 MR. PIASECKI: The Borough's implementation  
14 plan and schedule includes funding for a land  
15 stewardship plan, redevelopment planning, water use and  
16 conservation management planning, and wastewater  
17 management plan, among other items. The full  
18 implementation plan and schedule is included in  
19 members' packets, and available on the table out front,  
20 as well as being posted on our website, prior to this  
21 meeting.

22 We recommend that Chester's petition for plan  
23 conformance -- in the amended plan petition for plan  
24 conformance for center designation in the planning area  
25 be approved with conditions. Those conditions include

1 adoption of a Council-approved Amended Highlands Land  
2 Use Ordinance, to include the Highlands Environmental  
3 Resource Zones, amended master plan, Highlands Element  
4 Amended Environmental Resource Inventory, a water use  
5 and conservation management plan, and completion of the  
6 wastewater management planning, as well as the  
7 continued adherence to the implementation plan and  
8 schedule. And that's all I have for you today.

9 MR. ALSTED: Thank you. Thanks, Corey.  
10 Council, questions or comments? Council Member  
11 Carluccio, we'll start with you.

12 MS. CARLUCCIO: Okay. Thank you. What is  
13 the receiving stream for the sewer outfall?

14 MR. PIASECKI: It is a tributary of the  
15 Lamington River.

16 MS. CARLUCCIO: And does this meet all water  
17 quality standards today?

18 MR. PIASECKI: The tributary?

19 MS. CARLUCCIO: Yes, the tributary.

20 MR. PIASECKI: Yes, I believe it does.

21 However, there are the presence of human markers in the  
22 stream.

23 MS. CARLUCCIO: Yeah, I heard you say that.

24 But, that doesn't mean it's water quality limited?

25 MR. PIASECKI: Not as far as I'm aware.

1 MS. CARLUCCIO: And, the water source, I know  
2 there's discussion in there of the water fill up  
3 source. It looks like it's going to double the amount  
4 of water that's provided to the Borough. Where -- what  
5 is the sub-watershed that that comes from, and has  
6 there been a look whether or not that's the watershed  
7 is -- is constrained in any way?

8 MR. PIASECKI: There are no proposals that --  
9 that I'm aware of. This particular -- this particular  
10 application was dealing with wastewater. But, the  
11 Borough is interconnected with New Jersey American  
12 Water. So, the -- where the water comes is a bit --  
13 comes from is a little bit of a tricky situation  
14 because of that interconnection.

15 However, there are several HUC 14  
16 sub-watersheds that touch the Borough. Off the top of  
17 my head, I believe, all, if not most, are in surplus.

18 MS. CARLUCCIO: Okay. Yeah. I saw New  
19 Jersey American is the water supplier. And they would  
20 want -- why would they be doubling the amount of water  
21 that they're providing? Is it because of increased  
22 density, as a result of this change?

23 MR. VISIOLI: No, I -- this is James, I  
24 believe it's infrastructure improvements. When you  
25 drive down Route 24, you see the pipe work there?

1 That's -- that's the infrastructure improvements. It's  
2 improving and installing new pump stations, and  
3 installing new pipe work that allows the infrastructure  
4 to be improved, to allow water service to be improved.

5 MS. CARLUCCIO: But the water service --  
6 service is a -- will now go to the houses with the  
7 septic systems?

8 MR. PIASECKI: I'm -- I can't be sure about  
9 the water service. We were talking about sewer service  
10 to those residents.

11 MS. CARLUCCIO: Oh. Okay. Okay. Do you  
12 know about the water service for the houses that are  
13 presently not connected, that are going to be  
14 connected?

15 MR. PIASECKI: I don't know about the water  
16 service, whether those are connected or envisioned to  
17 be connected in the future. That was not something  
18 that was discussed.

19 CHAIRMAN RICHKO: The town -- the Borough is  
20 here, and we can defer to them for the answer to that  
21 question.

22 MS. CARLUCCIO: Okay.

23 CHAIRMAN RICHKO: Anything else?

24 MS. CARLUCCIO: I just have one other  
25 question. So, the -- basically, this change will allow

1 a greater density than would be allowed under the  
2 protection zone? And that's just, basically, what it  
3 is?

4 MR. PIASECKI: Well, as a reminder, the 99  
5 percent of the areas in Chester Borough that are not  
6 covered by that HERZ designation are already in the  
7 existing community zone. Which means that those areas  
8 would be permitted to connect to sewer and water, and  
9 would be permitted at a higher density anyway.

10 MS. CARLUCCIO: Then why are they doing this?

11 MR. PIASECKI: It's primarily for the  
12 wastewater outfall.

13 MS. CARLUCCIO: Okay. Thank you.

14 CHAIRMAN RICHKO: Thank you. Is there any  
15 further questions from the Council for Corey, before I  
16 invite the Chester Borough officials to come up?  
17 Anybody else have any comments or questions?

18 MR. VISIOLI: I do. Corey, if I might, real  
19 quick.

20 CHAIRMAN RICHKO: Council Member Visioli.

21 MR. VISIOLI: To your knowledge, is the  
22 applicant okay with those few exceptions that you noted  
23 earlier?

24 MR. PIASECKI: Yes. Conversations with the  
25 Borough Planner, during the petition process, we sent

1 the map back and forth several times, making  
2 adjustments and talking about future development.

3 MR. VISIOLI: Okay.

4 MR. ALSTEDDE: I've got one other question.  
5 Corey, just help me understand. Now, you had mentioned  
6 the planting activity that they want to do at 50 North  
7 Road. But I notice it's not deemed environmentally  
8 sensitive. What's the background? Is that because of  
9 the prior industrial use and the fact that it might  
10 require remediation, still? Or is -- you know, what  
11 were -- is there some other strategic planning reason  
12 why that's being excluded?

13 MR. PIASECKI: It's not included in the HERZ,  
14 because, at present time, there are no Highlands  
15 resources on the property. So, the creation of the  
16 habitat may justify putting in HERZ. I will at that it  
17 is currently preserved land.

18 MR. ALSTEDDE: Interesting. Thank you.

19 CHAIRMAN RICHKO: Okay. Would anyone from  
20 the Chester Borough officials, would you like to come  
21 up and say anything, or give us any information?

22 MR. BANISCH: Good afternoon.

23 CHAIRMAN RICHKO: You have to state your  
24 name.

25 MR. BANISCH: Yes, I will. My name is David

1 Banisch, I'm the Planner of Chester Borough. And I  
2 just want to make a brief comment in regards to the  
3 questions raised by Council Woman Carluccio.

4 The sewer service expansion is needed,  
5 essentially, to serve existing development in town.  
6 The existing neighborhoods are all on undersized lot  
7 and don't meet NJDEP water quality standards. They'll  
8 benefit greatly from the connection to the centralized  
9 wastewater collection and treatment system.

10 In addition to that, not all the residences  
11 in the Borough are connected to the public water  
12 system. It's envisioned, ideally, that virtually all  
13 of the existing development, in all the existing  
14 neighborhoods in Chester Borough, will be connected to  
15 the water and sewer, eventually. We think it's a  
16 public health issue.

17 Beyond that, it's not the Borough's ambition  
18 for any dramatic increases in density and development.  
19 Chester Borough is a municipality with expansive or  
20 extensive very stable residential neighborhoods, with a  
21 very clearly defined existing character, residential  
22 character. And the Borough has no interest in altering  
23 the character of the existing neighborhoods, by  
24 increasing densities within those neighborhoods.

25 CHAIRMAN RICHKO: Thank you.

1 MR. BANISCH: You're welcome. Thank you very  
2 much.

3 CHAIRMAN RICHKO: Okay.

4 MR. MARSHUETZ: Good afternoon. My name is  
5 Gary Marshuetz, and I'm an elected official in Chester  
6 Borough, and I'm currently serving -- and, actually,  
7 the longest serving Council Member in Chester Borough,  
8 and I just started my third tour of duty, I should say,  
9 as Council President.

10 I'm here today filling in for Mayor Hoven,  
11 who is out of State right now. But, on behalf of Mayor  
12 Hoven and, also, the Council, I'm here to thank you for  
13 what you do, first of all. I'm sure there's a lot of  
14 residents in New Jersey that still don't know that we  
15 have a Highlands Council. And, you know, you do great  
16 work. And I'm sure you don't here it enough. So, we  
17 want to thank you for your work and your volunteerism.

18 But, when I'm not serving as an elected  
19 official of Chester Borough, I serve as the Police  
20 Chief in Livingston, and that's how I know Jason. So,  
21 I've spoken to Jason before.

22 But, again, I'm here today, basically, just  
23 to thank you and to, you know, we -- I can -- we can  
24 certainly answer questions, if you want. But, I've  
25 been on the Council a long time. We've been with you

1 all along. I know the Highlands Act started in 2004, I  
2 think it is. And, you know, we've been behind it a  
3 hundred percent. We understand your goals and your  
4 mission is to support, you know, and maintain a very  
5 valuable resource within the State. And, like I said,  
6 our goal all along has always been, you know,  
7 conformance and compliance and to work with you as a  
8 partner, a true partner.

9 So, we want to continue that partnership that  
10 we've always had. And I think it was well-stated here  
11 what our goals are. Our goals are, basically, we're  
12 running into a situation where we also have to maintain  
13 the health and safety of our residents that are  
14 currently within Chester Borough. And, also, protect  
15 the property values, as well.

16 Again, we're not looking for -- to increase  
17 our density in any way, shape, or form. We're looking  
18 to serve -- to best serve our existing residence. So,  
19 thank you.

20 CHAIRMAN RICHKO: Thank you so much. Thank  
21 you. Margaret, are you sure you don't want to say  
22 anything?

23 MS. NORDSTROM: I think he did it all.

24 CHAIRMAN RICHKO: Okay. We need a motion and  
25 a second on this resolution.

1 MR. JAMES: I move it.

2 CHAIRMAN RICHKO: Moved by Council Member  
3 James.

4 MR. FRANCIS: Second.

5 CHAIRMAN RICHKO: Seconded by Council Member  
6 Francis. This is a voting matter with public comments.  
7 Would anyone from the public like to comment on this  
8 resolution on? Yes, Mr. Kibler?

9 MR. KIBLER: Thank you, Mr. Chairman. Bill  
10 Kibler with Raritan Headwaters. I wanted to address  
11 one question that Tracy raised about potential  
12 impairment in the structure of the Lamington.

13 Every two years the State of New Jersey is  
14 required to report to the Federal Environmental  
15 Protection Agency. Under the Clean Water Act, all  
16 surface water bodies in the State that are impaired --  
17 it's referred to as the 303(d) list.

18 So, if you refer to the 303(d) list, you'll  
19 see that this stretch of the Lamington River is,  
20 indeed, impaired. It's impaired for coliform, which is  
21 a bacteria that would be consistent with the human  
22 markers Corey mentioned.

23 I mention that, not because we have an issue  
24 with this resolution, but, in the future, as you're  
25 reviewing those, it would be useful to refer to the

1 303(d) list to find out what water bodies are impaired  
2 and why they're listed as being impaired.

3           What you'll find, if you look at the 303(d)  
4 list is, for all intents and purposes, 99.9 percent of  
5 surface water bodies in the State of New Jersey are  
6 impaired for something. So, it's an issue of what.

7           That said, we support the resolution. We  
8 think that this will, in the long term, improve water  
9 quality for Chester Borough and we glad that they're  
10 taking this step. Thank you.

11           CHAIRMAN RICHKO: Thank you. Anyone else  
12 like to address the Council? Ms. Post?

13           MS. POST: I would just like to emphasize --

14           CHAIRMAN RICHKO: Can I move that forward?

15           MS. POST: Sure. I would just like to  
16 emphasize what a serious sewer problem Chester Borough  
17 has. And they definitely need additional capacity. I  
18 live across the street from one of their facilities  
19 that malfunctions regularly. I run a retail  
20 agri-tourist business where the public comes to pick  
21 beautiful apples to the stench of Chester Borough's  
22 feces matter.

23           I am well aware that Mayor Hoven is focused  
24 on this problem, and has worked very, very hard to seek  
25 ways to expand the sewer capacity of Chester Borough.

1 But, she hasn't gotten a lot of cooperation. And I  
2 encourage this Council to take on, as one of their  
3 projects, help in Chester Borough, find a suitable  
4 location for additional sewer capacity, which they  
5 desperately need.

6 And I don't hear that coming up. I -- what I  
7 -- what I heard was that no one was really interested  
8 in increasing the need, pursuant to capacity. But, you  
9 already have a huge need for it, and what's there  
10 doesn't function. And it should be this Council's job  
11 to help that Borough find a place to be able to  
12 appropriately and safely expand their current sewer  
13 capacity operations. Thank you.

14 CHAIRMAN RICHKO: Thank you. Anyone else  
15 like to address the Council? Okay. Ms. Somers?

16 MS. SOMERS: Julia Somers, New Jersey  
17 Highlands Coalition. We apologize for not having  
18 commented on this. We have commented in every other  
19 conformance application that's come before you. And,  
20 you know, I'm sorry. You know, when you agree with  
21 something, it's very easy to not submit comments. So,  
22 we support this application.

23 But, I would like to encourage the Council to  
24 take what you have done here and reach out to other  
25 communities. Because, if I remember correctly, maybe

1 this began when the town was challenged by somebody who  
2 wanted to build where it was inappropriate to build in  
3 Chester, and was going to try and force the town to do  
4 that by including affordable housing in a place where  
5 it would be inappropriate to include affordable  
6 housing.

7 Chester came to the -- to the Council, and  
8 you have worked with them. Chester has worked very  
9 hard on this. And we think that this is an entirely  
10 appropriate resolution. But, there are other towns  
11 that can benefit from this kind of experience, and you  
12 should be talking about that to every town -- planning  
13 area town in the Highlands, that may find itself in a  
14 similar situation, being bullied by inappropriate  
15 potential development. Thank you.

16 CHAIRMAN RICHKO: Thank you. Anyone else  
17 like to address the Council on this resolution? Yes?  
18 I'm sorry, I don't know your name.

19 MR. PETERSON: That's okay. Good afternoon,  
20 my name is Shawn Peterson, I'm an associate in the law  
21 firm Wisniewski and Associates. We represent a  
22 property owner in the Chester Borough, and I'm here to  
23 offer my comments to the Borough -- to the Council  
24 regarding this amended plan conformance.

25 So, the act in this regulation state that a

1 Highlands Center is an area where development and  
2 redevelopment is planned and encouraged by providing  
3 for sustainable economic growth, while protecting  
4 critical, natural, and cultural resources.

5           It, therefore, follows that the Highlands  
6 Council, in considering this amended plan conformance,  
7 including the Center designation, would make protecting  
8 critical and natural and cultural resources a priority.

9           Unfortunately, my reading of the consistent  
10 report does not fall in line with this. My request is  
11 that you pause in your deliberations and table  
12 consideration of this petition until all the facts are  
13 taken into account.

14           For example, the recommendations reports  
15 starts off by stating, "The proposed Highlands Center is  
16 located in an area with sufficient water availability,  
17 water supply, and wastewater, and is appropriate for  
18 increased land use intensity.

19           While some of this might be true, part of it  
20 is not. Five pages after this statement is made, the  
21 recommendation reports notes that the current sewerage  
22 system is exceeding capacity, and numerous failing  
23 cesspools and subsurface disposal systems are creating  
24 a public health and safety issue.

25           Additionally, the recommendations report

1 notes, on page 6, that the petition has been filed for  
2 the Highlands Center designation to facilitate the  
3 development of the Turkey Farm and Mill Ridge land  
4 properties as a component of the Borough's Affordable  
5 Housing Settlement.

6           What it fails to know, however, is part of  
7 this settlement, as well as the Chester Borough Land  
8 Minute -- Land Use for Minutes for August 8<sup>th</sup>, 2019,  
9 called for the creation of a new septic system for part  
10 of the development.

11           There does not appear to be any mention of  
12 this new septic system in this recommendations report.  
13 Nor is there any information available about the  
14 design, review, or approval of this new septic system.

15           How is it possible for the Borough of Chester  
16 to simultaneously have sufficient water capacity --  
17 wastewater capacity, having failing cesspools, and  
18 subsurface disposal systems, and propose to create  
19 another subsurface disposal system.

20           CHAIRMAN RICHKO: Excuse me. We have a limit  
21 of three minutes, and you're almost there. So, if you  
22 could conclude, please.

23           MR. PETERSON: Sure. Additionally, there is  
24 issues with the 25 acre Turkey Farm development. This  
25 development is taking land that is largely undeveloped,

1 and putting development on it. Therefore, making the  
2 surface water vulnerable and this concern is not  
3 addressed.

4 Additionally, there is the goal of preserving  
5 historic sights. This is not addressed in the  
6 petition. However, the Sunnyside House and,  
7 potentially, the Corwin House, are being demolished --

8 CHAIRMAN RICHKO: You do need to conclude,  
9 now.

10 MR. PETERSON: Understood.

11 CHAIRMAN RICHKO: Okay. Thank you.

12 MR. PETERSON: Thank you.

13 CHAIRMAN RICHKO: Okay. Anyone else like to  
14 address the Council? And you can submit your comments,  
15 your full comments to -- Annette, just raise your hand.  
16 She'll take your full comments.

17 Anyone else like to address the Council on  
18 this resolution? Seeing none, are there any other  
19 comments from the Council?

20 MR. WALTON: Yeah, I do.

21 CHAIRMAN RICHKO: Okay.

22 MR. WALTON: I have questions. So, I'm  
23 hearing contradictory statements. So, and Kurt, you're  
24 the expert and, so, correct me if I'm wrong. A Town  
25 Center was a place where things will be developed, more

1 density, more people. And the reason we want to pick  
2 and choose where to put more people is because we want  
3 people in certain places, we don't want development in  
4 other places. We want development in these town  
5 centers, we don't want them down in the outskirts,  
6 where there would be septic and routing ground water  
7 and all that good stuff.

8 And, then, I'm told that Chester doesn't want  
9 any more development. They don't want any more  
10 density. And that, I'm told, from the attorney that  
11 just spoke, that, oh, no, in order to get more density  
12 is part of the settlement for affordable housing. So,  
13 I'm at a loss. What's the true -- what's really going  
14 on in Chester Borough? Not that anything -- not that  
15 anything is going to be nefarious here. I'm just  
16 trying to get a straight --

17 CHAIRMAN RICHKO: All right.

18 MR. WALTON: -- story.

19 CHAIRMAN RICHKO: I think we should have our  
20 staff address that issue.

21 MS. CARLUCCIO: This is Tracy. When there is  
22 an opening, I'd like to chime in, too.

23 CHAIRMAN RICHKO: Okay. Hold on.

24 MR. HUMPHRIES: So, it's my belief that all  
25 of those things are happening. So, in -- in part, the

1 Borough is trying to address their affordable housing  
2 obligation through a settlement, whereby they're  
3 allowing a limited amount of development on Mill Ridge  
4 Lane to meet their obligations.

5           It's also my understanding that they don't  
6 want to change the basic nature of the Borough, which  
7 already acts as a Center. So, the purpose of the  
8 sewing -- sewerage (sic) the -- the -- most of the  
9 Borough, is for public health and safety reasons. Most  
10 of those houses are on cesspools.

11           But, they don't want to allow multiple  
12 stories of redevelopment to occur on Main Street and  
13 impact the historic nature of the Borough. And that's  
14 really -- so, it's all of the things you're talking  
15 about.

16           MR. WALTON: Okay. So, they are not in the  
17 -- they're in the planning area; correct?

18           MR. HUMPHRIES: Yes.

19           MR. WALTON: So, they don't really need to --  
20 they can do whatever they want to without our say so;  
21 correct?

22           MR. HUMPHRIES: Yes.

23           MR. WALTON: If they choose.

24           MR. HUMPHRIES: If they choose.

25           MR. WALTON: So, they're coming to us to

1 create -- to comply and create a town center, it sounds  
2 like to me, because because access to grants to help  
3 them deal with all these issue?

4 MR. HUMPHRIES: Yes.

5 MR. WALTON: So, we're a bank, handing out  
6 cash --

7 MR. HUMPHRIES: Well --

8 MR. WALTON: -- to the Borough. Which is --  
9 we do this a lot -- we do this a lot. So, it's not  
10 necessarily pejorative. But that's, in essence, what  
11 this is about.

12 CHAIRMAN RICHKO: All right. Good planning  
13 is -- is good for the Highlands region, and I think  
14 that's what it's about. Good planning, not just money.

15 MR. WALTON: Well, you can get good planning  
16 without having the Highlands vault. Or footing the  
17 bill for it.

18 MR. HUMPHRIES: It allows them access to funds  
19 to do water quality management planning, water use and  
20 -- water use and conservation management planning, that  
21 wouldn't otherwise be available. And those further the  
22 goals of the RMP. So, by then conforming with us, the  
23 RMP is implemented and the water is protected.

24 MS. PLEVIN: But, they're already conforming.  
25 So, they already have access to --

1 MR. WALTON: Right. Because --

2 MS. PLEVIN: -- these grants.

3 MR. WALTON: -- but, correct. They're change

4 their conformance to meet these new challenges.

5 MS. PLEVIN: They're -- they're amending.

6 Yes.

7 MR. WALTON: Right.

8 MS. PLEVIN: To include a Highlands Center.

9 MR. WALTON: Which -- which you aren't going

10 to develop.

11 MS. PLEVIN: I'm sorry?

12 MR. WALTON: Beyond -- which we aren't going

13 to develop.

14 CHAIRMAN RICHKO: Well, there will be some

15 changes.

16 MR. WALTON: They're changing the -- they're

17 creating -- they want to create a Highlands Center to

18 maintain the status quo.

19 MS. PLEVIN: But, the Highlands Center allows

20 for development.

21 MR. HUMPHRIES: Yes, to maintain their

22 character of development.

23 MR. PIASECKI: And there's also some

24 redevelopment planning proposed, as well.

25 MR. WALTON: Right. Okay. So, therein lies

1 the contradiction.

2 CHAIRMAN RICHKO: Just --

3 MR. WALTON: The contradiction is we create  
4 centers to increase density and to increase  
5 development. And Chester is using it to, I think  
6 someone -- I think it was Julia said, to make sure we  
7 don't have development where it's not -- where it  
8 doesn't belong. So, why make it a center, then?

9 MR. HUMPHRIES: Because it already is one, I  
10 think is the easy answer. There are -- there are  
11 centers that already exist. Morristown, Hackensack --

12 MR. WALTON: Why just the Highlands --

13 MR. HUMPHRIES: -- Chester Borough.

14 MR. WALTON: -- why does it need a Highlands  
15 Center?

16 MR. HUMPHRIES: Because it provides access to  
17 resources that, otherwise, they wouldn't have access  
18 to.

19 MR. WALTON: That's why they would do it.  
20 I'm trying to figure out why we should be doing it. I  
21 understand what they're --

22 MR. HUMPHRIES: They're -- because it allows  
23 us to give them the resources to improve the water  
24 quality and the water --

25 MR. WALTON: But, part of our Regional Master

1 Plan is to concentrate development into centers.  
2 They've stated, on the record here, that they don't  
3 want to develop in their center. They want to freeze  
4 their center. So, that's not in compliance with our  
5 Regional Master Plan. That is in direct contradiction  
6 to what we're trying to do.

7 So, I understand why they want to do this.  
8 I'm trying to understand why we want to do this.

9 VICE CHAIR ALSTEDDE: I think, one thing  
10 that's important to consider is what is the capability  
11 of developing a system that can handle the current  
12 level of development that's already there.

13 MR. WALTON: We need a sewer system.

14 VICE CHAIR ALSTEDDE: Sewer system. Right.  
15 There's no question the proposed -- on the sewer system  
16 --

17 MR. WALTON: The proposed on this --

18 VICE CHAIR ALSTEDDE: Yeah, sewer systems in  
19 the Borough are in rough shape. So, this has been  
20 something that, I think, anybody in the region has  
21 really sought to have done, and my understanding is the  
22 Borough, the Council, and the Mayor worked hard to come  
23 up with a feasibility plan and, I believe, within four  
24 years, the hope is that it's going to be implemented.  
25 So, I think that they're looking for, obviously,

1 financial resources to help get them across the line,  
2 with moneys and DEP approvals.

3           So, I think, in terms of the next question is  
4 that, you know, once you fix the systems, is there  
5 excess capacity that would even accommodate additional  
6 development, and, even if you wanted it. And, I think,  
7 that they're -- I think -- my sense it, there's so much  
8 -- it's so hard right now to design a system to -- to  
9 function properly for what's there; right? Because  
10 you've already got human markers going down into the  
11 Black River, that I don't know that it would be  
12 appropriate to say that we even want development  
13 anymore. Because we don't know that we can provide a  
14 system to accommodate more growth.

15           MR. WALTON: So, let's -- let me -- so, then,  
16 that begs a question first. Are they going to develop  
17 a sewer system to handle the current capacity, and no  
18 more? Or, are they going to use the Highlands Council  
19 grant money to develop a system that can handle their  
20 current capacity and expansion that we would like to  
21 see in centers? Are my -- our first vote here, my  
22 first vote here, that I recall, was to tell  
23 Hackettstown no, because they were going, because we  
24 wanted -- they were ideal for more growth.

25           VICE CHAIR ALSTED: But, they didn't want to

1 become a receiving zone for TDR.

2 MR. WALTON: Okay. But, the point -- my  
3 point being, we have tried with these grant centers,  
4 and every grant -- every center we've had come to us  
5 has been coming to us, and saying, "We want to do more.  
6 We want to be bigger. We want more density. We want  
7 -- we understand the region has to grow, and we want to  
8 be part of that growth. These places don't." And  
9 we're, like, "Great. We know there's got to be growth  
10 in the Highlands. We want internal locations. This is  
11 the first time we have somebody coming to us, and  
12 saying, "We want to be growth center without any  
13 growth." So, I don't -- I can't -- I have a hard time  
14 supporting it.

15 CHAIRMAN RICHKO: All right. I don't think  
16 that's, you know, what it's -- what they said. That it  
17 would be no growth. I think they want to keep the  
18 character of their -- of their town. I just want to  
19 open up to Ms. Carluccio -- the Council Member  
20 Carluccio, you had something to say; right? Tracy?

21 MS. CARLUCCIO: Yes. Thank you. Yes, I'm  
22 here. Yes, I'm concerned because this application  
23 actually does represent development. And even though  
24 it says that the first area is going to provide the  
25 same protections as the protection zone, in fact, it

1 will allow density where, right now, the density is not  
2 allowed. And that -- that's said in both places in the  
3 consistency review and recommendation report.

4           And, then, also, in the report from someone  
5 -- the Borough, the -- the narrative report that  
6 they've provided with their application. So, if you  
7 look at the map, with the expansion of the sewer  
8 service area, it's enormous. It's -- it's filling out  
9 the rest of the municipality. And, even though, you  
10 know, we've heard that there is going to be 'limited',  
11 in writing as well as verbally, in fill, it is said  
12 that this is going to spur economic development because  
13 of the in fill, and the redevelopment, and that's one  
14 of the reasons that they want to take this step of  
15 designating the entire Borough as the Center.

16           I'm concerned because there is not specific  
17 enough information about how much this in fill is going  
18 to be. And are we talking about knock downs? I mean,  
19 what are we talking about in terms of in fill  
20 development. And just because they -- the area is --  
21 has existing housing doesn't mean that redevelopment is  
22 going to change it's type of use, that they have  
23 greater environmental footprint than the use that's  
24 there now.

25           There is discussion in the Borough's

1 narrative they've provided about a serious  
2 reexamination of their zoning. How will this impact  
3 the chance to be in the Borough. And everything is  
4 really couched in what is in place today, but what is  
5 -- I think we, as the Council, our responsibility is  
6 look at -- looking at what will enable to happen that  
7 wouldn't have been able to happen, under their present  
8 conforming plan?

9           They're in conformance. And the protection  
10 zone is in sight. And there are ways to fix family  
11 septic systems under, you know, N.J.A.C. 7:9A. I mean,  
12 there are options to this. And I haven't heard an  
13 extensive engineering analysis of how. Now we hear  
14 Lamington River section, and maybe Lamington tributary  
15 is -- does not meet State water quality standards. So,  
16 it is impaired. How is this discharge going to improve  
17 the Lamington River?

18           Is it going to, you know, move the needle  
19 towards becoming a water quality -- meeting water  
20 quality standards? Or is it going to continue to be  
21 impaired? And, you knowing that there's going to be  
22 increased capacity, we having heard exactly how much  
23 increased capacity the treatment plant will provide.  
24 But, there really needs to be analysis, a real  
25 assessment of a showing that it will actually improve

1 the water quality, not just statements.

2 And we're talking about the development of  
3 the Turkey Farm, about meeting total requirements. I  
4 mean, there's a lot of development that's going to  
5 occur as a result of our vote today. And I feel very  
6 strongly that if towns and, you know, municipalities,  
7 Townships, Boroughs that presently are in conformance,  
8 and they've gone the extra mile to piece in conformance  
9 and the Borough, you know, is getting extra money in  
10 order to better deal with open space, all of that to be  
11 supported.

12 And we should be working towards restoring  
13 what we have lost in the Highlands, because we're so  
14 far behind in cleaning up our waterways and making sure  
15 that our water-limited areas are stored back to the way  
16 they should be.

17 So, I can't support this application. I'm  
18 very concerned about the implications that, you know,  
19 are not fully fleshed out. And I will be voting  
20 against it.

21 CHAIRMAN RICHKO: Okay. Anyone else on the  
22 Council who would like to make a comment? We do have  
23 the planner here from Chester Borough. If you want to  
24 hear from --

25 MR. FRANCIS: I have a comment.

1 CHAIRMAN RICHKO: You want to comment?

2 MR. FRANCIS: I have --

3 CHAIRMAN RICHKO: Okay. Go ahead.

4 MR. FRANCIS: I would support this.

5 CHAIRMAN RICHKO: This is Council Member  
6 Francis.

7 MR. FRANCIS: I would support this  
8 application, for a couple of reasons. Speaking of the  
9 Mayor, I'm sorry. Speaking of the Mayor, we have this  
10 fellow here before us that doesn't have to be here.  
11 They really want to subscribe to the Regional Master  
12 Plan. They really -- they really want to conform, and  
13 they don't have. But they did. And they want to take  
14 and build on that using our master plan, using center  
15 designations. And, quite frankly, if I'm the mayor of  
16 chester Borough, I'm going to have second thoughts  
17 about the reception of their -- of their willingness,  
18 if you will, to take and subscribe to Regional Master  
19 Plan, and our rules what they are.

20 There's rules in their center designation and  
21 -- and we're kind of treating them like we don't  
22 believe them. But I do. I don't think they're here  
23 that uncontrolled development. I don't think that's  
24 what I see.

25 CHAIRMAN RICHKO: Okay. What --

1           MR. FRANCIS: I think what I see is -- what  
2 is see is that they really want to plan even better.  
3 And, if using a center designation is one them, we  
4 should encourage them to do that, and work with them so  
5 that -- so that they still stay within the Regional  
6 Master Plan, which I kind of think is a pretty good  
7 planning document.

8           And, so, if they're allowed to do certain  
9 things with the controlled Regional Master Plan, then  
10 so be it. How can we say, "You can do this part, but  
11 not that part." So, we either subscribe to what we're  
12 doing with the Regional Master Plan and center  
13 designations or not.

14           And, so, they're saying, now, they want to  
15 use the center designation and subscribe to our rules.  
16 I don't have a problem with that.

17           CHAIRMAN RICHKO: All right. There's, I  
18 think, Council Member Walton wants to speak.

19           MR. WALTON: So, I'll keep it -- I am taking  
20 them at their word when they say they don't wish to  
21 grow. Why not? So, I believe them. I don't  
22 disbelieve them.

23           CHAIRMAN RICHKO: I do, too.

24           MR. WALTON: And, two, I also believe that  
25 our Regional Master Plan creates centers for growth.

1 They've said, "We don't want to grow." So, that's in  
2 conflict with the Regional Master Plan. And I believe  
3 that they're honest about that. For it to maintain  
4 their character, for lots of good reasons. But, that's  
5 not what -- that's not why we have centers -- that's my  
6 contention.

7 CHAIRMAN RICHKO: Okay. We've had good  
8 discussion, good questions. I think it's time to vote.  
9 Everyone agree?

10 MR. ALSTED: Just one more?

11 CHAIRMAN RICHKO: Okay. Yes?

12 MR. ALSTED: If -- if this resolution fails  
13 for lack of the affirmative votes, what's -- what's the  
14 recourse? Just so that we're all clear?

15 MS. LaROCCA: Well, those are --

16 MR. ALSTED: It looks like the -- the  
17 Borough --

18 CHAIRMAN RICHKO: Okay. Christine --

19 MR. ALSTED: -- from Robert's rules --

20 MS. LaROCCA: -- those are --

21 MR. ALSTED: -- from a procedural standpoint

22 --

23 MS. LaROCCA: -- those are two different  
24 things.

25 MR. ALSTED: Okay. Tell us.

1 MS. LaROCCA: So, there may not be enough yes  
2 votes to meet the quorum requirements to have the  
3 resolution pass. Whether it fails will depend on  
4 whether there are more no votes than yes votes.

5 MR. ALSTEDE: Okay.

6 MS. LaROCCA: So, if it's the former, I  
7 believe that the resolution could be re-introduced at a  
8 future meeting, at the discretion of the Chair.

9 MR. ALSTEDE: An okay question. All right --  
10 respond --

11 CHAIRMAN RICHKO: Yes. Okay. Thank you.  
12 All right. I think we're -- we've reached the point of  
13 voting, at this point. Okay. So, please poll.

14 MS. TAGLIARENI: Okay. Council Member  
15 Alstede.

16 MR. ALSTEDE: Yes.

17 MS. TAGLIARENI: Council Member Carluccio.

18 MS. CARLUCCIO: No.

19 MS. TAGLIARENI: Council Member Dougherty.

20 MR. DOUGHERTY: Yes.

21 CHAIRMAN RICHKO: Council Member --

22 MR. DOUGHERTY: Yes.

23 MS. TAGLIARENI: Yeah. Council Member  
24 Dressler. Council Member Dressler?

25 CHAIRMAN RICHKO: Mike? Mike Dressler, are

1 you there?

2 MR. DRESSLER: Yes.

3 CHAIRMAN RICHKO: Okay. Are you voting yes?

4 MR. DRESSLER: Yes.

5 CHAIRMAN RICHKO: Or no?

6 MR. DRESSLER: Yes.

7 MS. TAGLIARENI: Council Member Francis?

8 MR. FRANCIS: Yes.

9 MS. TAGLIARENI: Council Member Holtaway.

10 MR. HOLTAWAY: Aye.

11 MS. TAGLIARENI: Council Member James.

12 MR. JAMES: Yes.

13 MS. TAGLIARENI: Council Member Visioli.

14 MR. VISIOLI: Yes.

15 MS. TAGLIARENI: Council Member Vohden.

16 MR. VOHDEN: No.

17 MS. TAGLIARENI: Council Member Walton.

18 MR. WALTON: No.

19 MS. TAGLIARENI: Chairman Richko.

20 CHAIRMAN RICHKO: Yes. Okay. That was easy.

21 UNIDENTIFIED RESPONDER: We thought so.

22 MS. TAGLIARENI: We've missed you.

23 CHAIRMAN RICHKO: We're going to move on,  
24 now, to the Personnel Committee. Council Member James,  
25 you're the Chair Person.

1 MR. JAMES: I am, and I'm going to refer  
2 action on this to our Chief Counsel.

3 CHAIRMAN RICHKO: This is for a motion to go  
4 into Executive Session.

5 MS. LaROCCA: Okay. And I'll read the  
6 resolution into the record. "Whereas the Open Public  
7 Meetings Act, N.J.S.A. 10:4-6 *et seq.*, permits the  
8 holding of closed sessions by public bodies in certain  
9 circumstances and the Highlands Water Protection and  
10 Planning Council is of the opinion that those  
11 circumstances presently exist; and whereas the Council  
12 will discuss personnel matters within the meeting of  
13 N.J.S.A. 10:4-12(b)(8); now, therefore, be it resolved,  
14 that the Council may enter into closed session at its  
15 public meeting of January 16<sup>th</sup>, 2014, that purpose. It  
16 is anticipated, at this time, that the nature of the  
17 closed session will be made public upon completion of  
18 the resolution of the issues to be discussed, except  
19 any matter protected by the attorney/client privilege  
20 will not be disclosed."

21 This resolution shall become effective upon a  
22 roll call vote to the Council.

23 CHAIRMAN RICHKO: Okay. Thank you. Make a  
24 motion and the second on this.

25 MR. JAMES: I hold it.

1 CHAIRMAN RICHKO: Okay. Moved by Council  
2 Member James.

3 MR. VOHDEN: Second.

4 CHAIRMAN RICHKO: And seconded by Council  
5 Member Vohden. Any discussion. Seeing none, please  
6 poll.

7 MS. TAGLIARENI: Council Member Alstede.

8 MR. ALSTED: Yes.

9 MS. TAGLIARENI: Council Member Carluccio.

10 MS. CARLUCCIO: Yes.

11 MS. TAGLIARENI: Council Member Dougherty.

12 MR. DOUGHERTY: Yes.

13 MS. TAGLIARENI: Council Member Dressler.

14 MR. DRESSLER: Yes.

15 MS. TAGLIARENI: Council Member Francis?

16 MR. FRANCIS: Yes.

17 MS. TAGLIARENI: Council Member Holtaway.

18 MR. HOLTAWAY: Aye.

19 MS. TAGLIARENI: Council Member James.

20 MR. JAMES: Yes.

21 MS. TAGLIARENI: Council Member Visioli.

22 MR. VISIOLI: Yes.

23 MS. TAGLIARENI: Council Member Vohden.

24 MR. VOHDEN: Yes.

25 MS. TAGLIARENI: Council Member Walton.

1 MR. WALTON: Yes.

2 MS. TAGLIARENI: Chairman Richko.

3 CHAIRMAN RICHKO: Yes. I'm going to ask  
4 everyone to please leave. We shouldn't be more than 15  
5 minutes. That's what I'm predicting. So, we'll call  
6 you right back, as soon as we finish. Thank you.

7 MR. JAMES: I'm going to make a motion to  
8 return to the public session and the executive session.

9 CHAIRMAN RICHKO: We have a motion to close  
10 the executive session and reopen the public session.

11 MR. VOHDEN: I second.

12 CHAIRMAN RICHKO: And seconded by Council  
13 Member Vohden. Any discussion? Seeing none, please  
14 poll. I think I could say all in favor; right?

15 MS. TAGLIARENI: Yeah. Yeah, exactly.

16 CHAIRMAN RICHKO: All in favor?

17 ALL COUNCIL MEMBERS: Aye.

18 CHAIRMAN RICHKO: Those opposed? It passes.

19 MS. TAGLIARENI: Who gave the motion for  
20 that? I didn't hear it.

21 CHAIRMAN RICHKO: Council Member James.

22 MS. TAGLIARINI: James.

23 CHAIRMAN RICHKO: All right. Now --

24 MS. TAGLIARENI: That's to close the  
25 executive session?

1 MS. LARocca: Yes.

2 (Pause in session.)

3 CHAIRMAN RICHKO: Okay. We have a resolution  
4 that is not on the agenda. This was a personnel  
5 matter. It's going to be read by Council Member James,  
6 and he -- because he's the Chair Person of the  
7 Personnel Committee.

8 They are -- we are going to be passing out  
9 this resolution.

10 MR. JAMES: Right. "So, whereas the  
11 Highlands Water Protection and Planning Act, Highlands  
12 Act, empowers the Highlands Water Protection and  
13 Planning Council, Highlands Council, to appoint and  
14 retain and employ personnel as it may require without  
15 regard to the provisions of Title 11A of the New Jersey  
16 Statutes, but within the limits of funds appropriated  
17 or otherwise made available for those purposes; and  
18 whereas, the Highlands Act authorizes the Highlands  
19 Council to conduct its business as needed, subject to  
20 the statute, to effectuate for the purposes of the  
21 enabling legislation; and whereas, Section 5.g. of the  
22 Highlands Act provides for the Highlands Council's  
23 appointment of an Executive Director to serve, at the  
24 pleasure of the Council, as its chief administrative  
25 officer; and whereas, pursuant to the Highlands Act,

1 the Highlands Council has adopted bylaws which provide  
2 for the appointment of an Executive Director whose  
3 duties are enumerated -- enumerated in said bylaws and  
4 who shall receive -- who shall serve at the pleasure of  
5 the Council; and whereas, on July 19<sup>th</sup>, 2018, the  
6 Highlands Council appointed Lisa J. Plevin as its  
7 Executive Director and the annual base -- salary basis  
8 of \$116,000 by Resolution 2018-6; and whereas, in  
9 recognition of her high level of performance in the  
10 execution of her duties as Executive Director, the  
11 Highlands Council is increasing Ms. Plevin's salary to  
12 an annual basis of \$125,000; and whereas, pursuant to  
13 N.J.S.A. 13:20-5.j, no action authorized by the  
14 Highlands Council shall have force and effect until 30  
15 days, Saturdays, Sundays, and public holidays excepted,  
16 after a copy of the minutes of the meeting of the  
17 Council has been delivered to the Governor for review,  
18 unless prior to the expiration of the review period,  
19 the Governor shall approve same, in which case the  
20 action shall become effective upon such approval.  
21 Now, therefore, be it resolved that the Highlands  
22 Council hereby increases the Executive Director salary  
23 to an annual basis of \$125,000."

24 CHAIRMAN RICHKO: Okay. And we need --

25 MR. FRANCIS: I'll make a motion.

1                   CHAIRMAN RICHKO:  -- we need the motion and a  
2 second move by Council Member Francis.  Seconded by  
3 Council member --

4                   MR. JAMES:  Second it.

5                   CHAIRMAN RICHKO:  -- James.  For the public,  
6 the Council only votes on two appointments and salaries  
7 of two of our staff members, that's our Chief Council  
8 and our Executive Director.  And that's what we're  
9 doing today.  We're -- we're voting on the Executive  
10 Director's Salary.

11                   Okay.  Any comment -- and this is a -- for  
12 public comment.  This is a voting matter with public  
13 comment.  So, any discussion by the Council?  Seeing  
14 none, I'll open it up to the -- to the public.  Anyone  
15 like to address the Council on this resolution?  Seeing  
16 none, please poll.

17                   MS. TAGLIARENI:  Council Member Alstede.

18                   MR. ALSTED:  Yes.

19                   MS. TAGLIARENI:  Council Member Carluccio.  
20 Council Member Carluccio?

21                   CHAIRMAN RICHKO:  Tracy, are you still there?  
22 Go on.

23                   MS. TAGLIARENI:  Council Member Dougherty.

24                   MR. DOUGHERTY:  Yes.

25                   MS. TAGLIARENI:  Council Member Dressler.

1 MR. DRESSLER: Yes.

2 MS. TAGLIARENI: Council Member Francis?

3 MR. FRANCIS: Yes.

4 MS. TAGLIARENI: Council Member Holtaway.

5 MR. HOLTAWAY: Aye.

6 MS. TAGLIARENI: Council Member James.

7 MR. JAMES: Yes.

8 MS. TAGLIARENI: Council Member Visioli.

9 CHAIRMAN RICHKO: He had to leave.

10 MS. TAGLIARENI: Council Member Vohden.

11 MR. VOHDEN: Yes.

12 MS. TAGLIARENI: Council Member Walton.

13 MR. WALTON: Yes.

14 MS. TAGLIARENI: Chairman Richko.

15 CHAIRMAN RICHKO: Yes. Tracy, are you still

16 there? Okay. She must have left.

17 MS. TAGLIARENI: She's left. Okay.

18 CHAIRMAN RICHKO: All right. Moving on.

19 MR. JAMES: Congratulations.

20 CHAIRMAN RICHKO: And we have old and new

21 business. Any Council Members have any old or new

22 business? No? All right. We now have public comment.

23 Anyone like to address the council?

24 MR. KIBLER: Yes.

25 CHAIRMAN RICHKO: Yes, Mr. Kibler.

1           MR. KIBLER: Mr. Chairman, thank you for this  
2 opportunity. As the Policy Director of the Raritan  
3 Head Waters Association, I also attended the Jersey  
4 Water Works Conference and I share your consternation  
5 that they didn't address source water protection.

6           As everyone at this table knows, I'm sure,  
7 Raritan Head Waters is home to the largest drinking  
8 water reservoir in the State of New Jersey, Round  
9 Valley, and the third largest, Spruce Run. And we are,  
10 by the way, the largest watershed in the Highlands.

11           So, I'd like to invite the Council or the  
12 staff to consider cosponsoring with us, next year, at  
13 Jersey Water Works, a discussion on source water  
14 protection. And, although I have absolutely no  
15 authority to do so, I'm going to throw New Jersey Water  
16 Supply Authority under the bus, also, and suggest that  
17 they should be part of that discussion, too. So, I'll  
18 just put that on the table for you.

19           CHAIRMAN RICHKO: Okay.

20           MR. KIBLER: Something to think about.

21           CHAIRMAN RICHKO: Thank you. Anyone else  
22 like address the Council? Mr. Klumpp?

23           MS. SOMERS: Is this general open?

24           CHAIRMAN RICHKO: Yes.

25           MR. KLUMPP: Yes.

1                   CHAIRMAN RICHKO: Mr. Klumpp?

2                   MR. KLUMPP: Yes. Thanks for letting me  
3 speak here today. I've been doing it for a couple of  
4 years. Let's put it that way. I've got a map in front  
5 of me that Highlands Regional, it's got Pennsylvania,  
6 New York, New Jersey, Connecticut. Nothing in  
7 Massachusetts.

8                   Now, how can this be that seems 15 years ago  
9 the scientific study that put us New Jersey folks into  
10 this Highlands Act was non-existent? There was no  
11 scientific study done to tell New Jersey, or the  
12 politicians who pushed this thing through, how to do  
13 this.

14                   Now, people in Pennsylvania were smart  
15 enough, nothing's ever been done in Pennsylvania,  
16 nothing's been done in New York, and nothing's been  
17 done in Connecticut. Come Massachusetts, all right,  
18 it's blank. There's a line like this. Nothing.

19                   So, how is it that the politicians here in  
20 New Jersey were so smart that they took the equity out  
21 of all the farmers' land, and just said, "Tough, go on  
22 your own." I don't know. Mr. Richko, do you have any  
23 answers for me?

24                   CHAIRMAN RICHKO: No.

25                   MR. KLUMPP: No. Well, nobody has. Fifteen

1 years we haven't been able to. I was hoping that the  
2 Jersey Water Works, or whatever that was, Bill, they --  
3 they found some money up there that -- that will  
4 compensate the land owners for the equity that was  
5 lost. I don't know. Maybe you can put that on your  
6 agenda, too.

7 As you noticed, there was a lot of stuff that  
8 wasn't said. But, there was nothing said about, "Hey,  
9 how about compensating the people who sacrificed the  
10 most?" And that's us land owners. We're still  
11 waiting.

12 Listen, I'm going to cut it short. But I  
13 want to wish everybody a happy New Year. God bless  
14 yous all.

15 CHAIRMAN RICHKO: Anyone else like to address  
16 the Council? Ms. Somers?

17 MS. SOMERS: Julia Somers, New Jersey  
18 Highlands Coalition. We had something very welcome  
19 this evening, the Interagency Council on Climate  
20 Resilience. I'm delighted the Council is participating  
21 in that. Maybe the boss told you to; but that -- we're  
22 pretty excited about this.

23 We hope that your participation in this will  
24 lead to some strategies for the Regional Master Plan  
25 about energy issues in the Highlands. It seems to me

1 that it was an absolute -- it would be an absolutely  
2 natural follow on.

3           Half the world is on fire these days, it  
4 seems. Luckily, not in the New Jersey Highlands. We  
5 get far too much rain for that to happen. But climate  
6 change is definitely affecting New Jersey. Climate  
7 change -- New Jersey is, apparently, ground zero in the  
8 United States for our changing climate. And it is  
9 imperative, really, that the Highlands Council begin to  
10 grapple with the impact of climate change, on region  
11 and on where there should be energy -- new energy  
12 sources crossing the Highlands, where it's appropriate  
13 for that to be introduced.

14           And, so, I really hope that we take  
15 advantages of this opportunity, and move forward with  
16 that kind of -- introducing those strategies to the  
17 Regional Master Plan.

18           It's exciting to hear that Huntington County  
19 is completing their tourism study. It would be even  
20 more exciting if they would work with Warren County,  
21 which has already grown Warren is Hunt -- as Warren  
22 County is planning to promote tourism around  
23 agriculture, and it would be tremendous if the two  
24 neighboring counties worked together on that. And we  
25 look forward to that happening in the future. Happy

1 New Year to everybody. Thank you.

2 CHAIRMAN RICHKO: Thank you. Who else would  
3 like to address the Council? Ms. Post?

4 MS. POST: My name is Deborah Post, I'm a  
5 harmed Highlands landowner, and I hold 80 proxies of  
6 other harmed Highlands landowners, to speak and  
7 advocate on their behalf.

8 Hank is passing out something for you, that I  
9 would like to discuss. In grammar school, we would  
10 often arrive to class to find that the teacher had pop  
11 quiz on the day's agenda. A surprise for which we had  
12 not prepared.

13 Today, I have brought a pop quiz for this  
14 Council. I ask that you complete the assignment before  
15 you leave today, and that each of your individual quiz  
16 results, including arithmetical derivations, be made  
17 part of the record of this meeting.

18 If you find this quiz beyond your grade  
19 level, then I ask that you leave your letter of  
20 resignation on the front desk instead. Anyone who  
21 finds this elementary or arithmetical quiz too  
22 flummoxing, should not be wielding the power of the  
23 chair you are occupying.

24 Incompetency is bringing our government and  
25 society down every place we look. Just turn on your

1 TV. So, please, be honest and take the quiz. And, to  
2 the best of your ability, your approach and thought  
3 patterns will be a road map to provide to your HDC  
4 Bank, with whom you and the statutes charge with  
5 defining the municipal average approach to valuation of  
6 land equity.

7 The quiz is very short, it should take you  
8 less than eight minutes. And it involves the land  
9 takings of Farmer John and Farmer Sally. And I have  
10 provided to you sources of data, and assumptions from  
11 preparing the quiz. I'd like to emphasize that all the  
12 data required here can be found in your Highlands  
13 Council files, or documents attached to your Regional  
14 Master Plan.

15 The total acreage by lot and block for every  
16 part -- for every property in the Highlands with total  
17 constrained and unconstrained acreage calculated by  
18 Council consultants.

19 This work product is know as the TDR Credit  
20 Allocation Database. You can and should be able to get  
21 a copy from your staff. If not, feel free to contact  
22 me with an email, as I procured a copy of the entire  
23 allocation database under OPRA.

24 You need this database to determine exactly  
25 how many buildable lots were lost for Farmer John and

1 Farmer Sally. How many build rights vaporized for  
2 every landowner. The data point is a column calculated  
3 by the Highlands Council staff on the data --

4 CHAIRMAN RICHKO: Ms. Post --

5 MS. POST: -- on the data sheet.

6 CHAIRMAN RICHKO: -- your time is up. But,  
7 please conclude. Thank you.

8 MS. POST: We have asked last year to have  
9 the TDR Bank determine how to calculate equity value  
10 using the municipal average under N.J.S.A., I think,  
11 it's 4:1(c)(31). This was delegated to your TDR Bank,  
12 who set up a committee, who, as far as I can tell, have  
13 done nothing to day. So, I am asking this counsel to  
14 take this quiz and to pass it back to the bank so that  
15 they can see --

16 CHAIRMAN RICHKO: Please conclude.

17 MS. POST: -- how basically simple this is.

18 And, if you don't think --

19 CHAIRMAN RICHKO: Thank you.

20 MS. POST: -- it's simple, then, please  
21 reconsider everything.

22 CHAIRMAN RICHKO: Thank you. Anyone else  
23 like to address the Council?

24 MS. POST: Thank you for being cut off. I so  
25 appreciate it.

1           CHAIRMAN RICHKO: All right. The time limit  
2 is up. I gave you --

3           MS. POST: We know how much you listen to us.

4           CHAIRMAN RICHKO: Thank you.

5           MS. POST: You listen to us and respect us.  
6 Don't you, Mr. Richko?

7           CHAIRMAN RICHKO: Anyone else like to address  
8 the Council? Yes, Mr. Stafford?

9           MR. STAFFORD: I want to tease here, and I  
10 probably shouldn't. Could you hold my opinions until  
11 you guys are done with the quiz, so -- I'm sorry. The  
12 question with the Federal District of the Highlands and  
13 why New Jersey is the one that did all the stuff?  
14 Well, we've got 1,200 people per square mile. I think  
15 Pennsylvania has something like 46 per square mile. We  
16 have more people and less water. And that's why we  
17 have this body here, and the Highlands Act.

18           I want to talk to you about White Township.  
19 I've been spending a lot of time there, over the course  
20 of the last six or seven months. And there's a  
21 gentleman from Pennsylvania who wants to build either a  
22 6.5 million square foot warehouse, a 12 million square  
23 foot warehouse, a 2.5 million square house (sic), or an  
24 800,000 square foot warehouse, on a two-lane road that  
25 runs roughly 22 miles between Route 80 and Route 46 in

1 -- or excuse me, Route 78 and runs pretty much the  
2 entire length of Warren County.

3           The people who are opposed to it, it's a  
4 group of people who are people for sustainable  
5 development, have come up with what they call a, if I  
6 can find the thing here, agricultural -- excuse me.  
7 Anyway, it's an agricultural planning zone --  
8 agricultural advancement zone, for this property.  
9 That, instead of having warehousing, and there's a bit  
10 of a warehouse bubble in New Jersey, at this point in  
11 time, most of it's Hudson County between Sparta and,  
12 say, Fairfield, there's 4.5 million square feet of  
13 warehousing that's been built that's empty. There's  
14 nothing there. There's a couple that are 99 percent  
15 empty. And I guess that's just a guy with a desk and a  
16 chair over in the corner in the warehouse.

17           But, this is something that I've talked to a  
18 lot of people about. And I know your staff has talked  
19 to a lot of people about how we get a sustained  
20 development in this -- in the Highlands, based on  
21 agri-tourism, recreation tour -- the things that have  
22 been traditionally done here.

23           You should look into this. We're going to be  
24 looking into it a lot, and there are a lot of  
25 questions. And the idea that you're going to put a

1 building the size of the Pentagon on farm land outside  
2 of a town that's only got 4,000 people is pretty  
3 ridiculous. So, I wish you would pay attention to that  
4 closely. Thank you very much.

5 CHAIRMAN RICHKO: Thank you.

6 MR. STAFFORD: Right on time, too.

7 CHAIRMAN RICHKO: Right on time. Anyone else  
8 like to address the Council? Mr. Shope?

9 MR. SHOPE: My name is David Shope and I have  
10 the same map that Hank has. And this is the -- this is  
11 the U.S. government's idea of where the Highlands Act  
12 -- or where the Highlands area is. And, for some  
13 strange reason, the Highlands ends dramatically at the  
14 Massachusetts border. Basically, Massachusetts said,  
15 "Get out of here." And -- and, here it is,  
16 Massachusetts said, "Get out."

17 Pennsylvania, by its actions, has done very  
18 little, as has New York and as has Connecticut. New  
19 Jersey grabbed this bill by the bit and, basically,  
20 used it as an attempt to strip landowner equity from a  
21 certain area, and a crude attempt to transfer wealth,  
22 and they cared not whether they transferred wealth from  
23 the republican areas of the State to the democratic  
24 areas of the State, or simply destroyed it. It didn't  
25 matter.



1 like to address the Council? Seeing none, we need a  
2 motion to adjourn.

3 MR. JAMES: I move it.

4 CHAIRMAN RICHKO: Moved by Council Member  
5 James, seconded by Council Member?

6 MR. WALTON: I second it.

7 CHAIRMAN RICHKO: Walton. All votes in  
8 favor?

9 ALL COUNCIL MEMBERS: Aye.

10 CHAIRMAN RICHKO: Those opposed? Thank you.

11 (Council meeting concluded.)

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CERTIFICATION

I, Jenny Power, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on disc, from approximately 1:40 p.m. to 3:03 p.m., is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded.

*/s/ Jenny Power*

*02-28-20*

\_\_\_\_\_  
Jenny Power AOC #640

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