

NEW JERSEY HIGHLANDS AND BOROUGH OF GLEN GARDNER INITIAL ASSESSMENT GRANT REPORT



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1. INTRODUCTION

1.1 Overview

The purpose of this report is to provide Glen Gardner Borough officials and residents with an understanding of the Highlands Regional Master Plan (RMP), the level of consistency of local plans with the Highlands Regional Master Plan, the extent of work needed to bring local plans into conformance with the Highlands Regional Master Plan, and the relative merits of Plan Conformance. The New Jersey Highlands Council provided an Initial Assessment Grant of \$15,000 to fund the report.

It is important to note that the report was prepared during a period in which new information and updates were being continually released by the Highlands Council. Thus, it reflects a snapshot of the information available at the time of publication. Furthermore, it is important to note that the analysis and recommendations contained herein reflect the knowledge, interpretations and conclusions of Glen Gardner's Highlands Planning Consultant. Recommendations do not necessarily reflect the opinions of Borough officials.

Following an Executive Summary, this document begins with an overview of the key State mandates that govern activities in the Highlands region. These include the Highlands Water Protection and Planning Act, Highlands Regional Master Plan (RMP), Highlands Water Protection and Planning Act Rules, Executive Order 114, issued by the Governor, and a Memorandum of Understanding between The Highlands Council and Council on Affordable Housing (COAH). This discussion is followed by a brief overview of the advantages and implications of conforming with or "opting into" the Highlands Regional Master Plan.

Next, the report assesses the relative consistency of local planning documents with the Highlands Regional Master Plan and identifies local planning and regulatory changes needed in order for Glen Gardner to fully conform to the RMP. Current plans and ordinances that were reviewed include the Comprehensive Master Plan (1989), Periodic 2007 Reexamination Report, and Land Use Regulations (printed April 2008). **Since the local planning documents being reviewed were adopted prior to adoption of the Highlands RMP, one cannot expect a high level of consistency.** Thus, the purpose of this comparison is really to understand the extent of change needed to bring local plans and regulations into conformance. Also, it is important to note that this assessment is not an exhaustive review of every goal, policy and objective contained in the RMP. Clearly, at the time that the Borough's planning documents are amended to conform to the RMP, they will have to address all relevant items. For purposes of this report, only those policies and goals deemed of critical and immediate relevance to Glen Gardner were reviewed.

Following the consistency review, the report identifies specific documentation needed to achieve Basic Plan Conformance with the Highlands Regional Master Plan. Included in this discussion is an explanation of the steps that Glen Gardner must take to obtain Basic Plan Conformance as well as the type of assistance needed from the Highlands Council to support local efforts.

Appendix A provides a table of specific RMP policies and objectives that are referenced in the comparison of local plans and the Highlands RMP. Appendix B contains the complete list of activities that are exempt from the Highlands Act, RMP and Rules.

There is one more important point to clarify. The Highlands Council Initial Assessment Grant approved for Glen Gardner also funded a review of maps prepared by the Highlands Council for data accuracy. Maps specifically related to existing preserved lands, existing areas served by public water, and existing areas served by public sewer were all reviewed. Corrections to the maps are being compiled for submission to the Highlands Council. This is being done under separate cover from this Report.

1.2 Information Sources

In the coming weeks and months, the Highlands Council will continue to release technical guidance materials, including model master plan elements and zoning standards to assist in the conformance process. In the meantime, absent such documentation, this report relied primarily on the Highlands Regional Master Plan and Highlands Water Protection and Planning Act Rules. Additionally, it utilized Basic Plan Conformance For Municipalities Key Requirements, a guidance document produced by the Highlands Council; Highlands Council memo on Plan Conformance dated October 9, 2008; Highlands Council memo entitled The Highlands Regional Master Plan and the Benefits and Incentives to municipal and County Conformance; digital spatial data available for download from the Highlands Council website, and updated data transmitted to the Borough; Highlands Council Water Resources Technical Report Volume 1: Watersheds and Water Quality (2008); Highlands Council Technical Report Regional Land Use Conditions and Smart Design (2008); Land Preservation and Stewardship Technical Report (2008); and Highlands Council Technical Report Land Use Capability Zone Map (2008).

2. EXECUTIVE SUMMARY

Enactment of the Highlands Protection and Planning Act in 2004 created a regionally-based resource protection and management approach for a 1,343 square mile area of northern New Jersey known as the Highlands region. Glen Gardner is one of 88 municipalities within the Highlands region. Located within the Preservation Area of the Highlands region, Glen Gardner is effectively required to amend its master plan and land use regulations to make them consistent with the Highlands Regional Master Plan.

The Highlands Regional Master Plan (RMP) is a highly technical and complex document. In the simplest terms possible, it establishes a set of goals, policies and objectives governing environmental protection, water and wastewater utilities, land use, transportation, agriculture, open space, and historic/cultural and scenic resources. Some of these are universally applied throughout the Highlands region. Others are applied differently in the Planning and Preservation Areas and further distinguished according to "Land Use Capability Zones."

The net effect of the Highlands RMP is to place the most severe limitations on growth in the Preservation Area, particularly when combined with the stringent environmental standards associated with the Highlands Water Protection and Planning Act Rules. The most limiting factor to future development will be the ability to create public water and sewer service and the strict standards governing septic system density outside of sewer service areas. This will have a significant effect on zoning densities that will be permitted in the Highlands Preservation Area.

The Highlands Act does provide for some approaches to mitigating landowner equity impacts of restricting development. First, it includes a series of 17 exempt activities that are not subject to the Highlands RMP, Rules or any other aspect of the Act. Additionally, waivers from specific standards may be granted on a case-by-case basis by the New Jersey Department of Environmental Protection and/or the Highlands Council. Also, the RMP establishes a voluntary Transfer of Development Rights program for interested municipalities. An initial review of properties in the Borough suggests that a fair number may qualify for exemptions.

A review of Glen Gardner's planning documents show that they must be amended and new master plan elements created in order to be in conformance with the Highlands Regional Master Plan. The same holds true for its land use regulations. This will require a good deal of work that must take place over the course of 2009 and beyond.

To achieve consistency with the Highlands Regional Master Plan, Glen Gardner will have to make significant changes to its Master Plan and Land Use Regulations. It will also have to introduce new Master Plan elements that do not currently exist. Although existing environmental constraints and absence of sewer infrastructure create significant constraints on development, the likely result of revising its plans will be a further reduction in growth potential within Glen Gardner.

Glen Gardner's existing zoning regulations allow for more development than will be permitted under the Highlands RMP. Minimum lot sizes and densities will have to be adjusted to reflect both the RMP and NJDEP Rules. Its cluster regulations will also have to be revised to meet RMP standards.

The Highlands Council will help support municipalities during the process of revising local documents with grant funding. Additionally, it will be releasing model master plan elements and land use regulations to help simplify the amendment process.

The process by which municipalities bring local planning and regulatory documents into consistency with the Highlands Regional Master Plan is called Plan Conformance. The Highlands Council requires municipalities to petition for the first phase of Plan Conformance – called Basic Plan Conformance - no later than December 8, 2009. There is no deadline as yet for obtaining Full Plan Conformance.

Municipalities that petition the Highlands Council for Basic Plan Conformance by December 8, 2009 and submit their Third Round housing element and fair share plan to the Council on Affordable Housing (COAH) by the same date are eligible for an adjusted growth projection for purposes of calculating affordable housing obligations. This will likely reduce their affordable housing obligation. Glen Gardner has already forwarded its notice of intent to petition to the Council and a resolution to COAH indicating that it will submit its housing documents no later than December 8, 2009.

An important initial step in the Basic Plan Conformance process will be to reconcile data inconsistencies between local information and Highlands Council information. There appear to be some data discrepancies regarding preserved lands and existing parcels served by public water supplies and community on-site sewerage treatment systems. Glen Gardner intends to identify these parcels using a portion of its Initial Assessment Grant funding and notify the Highlands Council accordingly.

Among the key plans and regulations that Glen Gardner must prepare or update for Basic Plan Conformance are the following:

- ✓ A new Highlands Master Plan Element
- ✓ Revised/updated Master Plan goal statements consistent with the Highlands RMP
- ✓ Third Round housing element and fair share plan
- ✓ Environmental Resource Inventory
- ✓ Revised zoning densities
- ✓ Revised cluster development regulations
- ✓ Adoption of Regional Master Plan Land Use Capability Zones
- ✓ Revised forest resource protection regulations
- ✓ Open waters and riparian area regulations
- ✓ Revised steep slope regulations
- ✓ Critical habitat regulations
- ✓ Ground water recharge area regulations
- ✓ Updated stormwater management regulations
- ✓ Wellhead protection regulations
- ✓ Low impact development regulations
- ✓ Scenic resource regulations

3. OVERVIEW OF THE NEW JERSEY HIGHLANDS

3.1 Highlands Water Protection and Planning Act

The Highlands Water Protection and Planning Act, signed into law in 2004, created a planning and regulatory framework for protecting a 1,343 square mile area of New Jersey, known as the Highlands region. The intent is to protect and enhance the region's vast and critical resources, including its drinking water resources that serve half of the State's population. The Highlands region is divided into the Preservation and Planning Areas, each comprising roughly half of the region. Goals for the Preservation Area, in which Glen Gardner falls in its entirety, are as follows:

Preservation Area Goals:

- Protect, restore, and enhance the quality and quantity of surface and ground waters therein;
- Preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region;
- 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;
- 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;
- Promote compatible agricultural, horticultural, recreational and cultural uses and opportunities within the framework of protecting the Highlands environment;
- Prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.

In adopting the Act, the Legislature determined that the Preservation Area contains exceptional resource values and warrants an especially high level of protection. Therefore, the Act required the New Jersey Department of Environmental Protection (NJDEP) to establish regulations in the Preservation Area.

The Act also created a Highlands Water Protection and Planning Council charged with adopting a Regional Master Plan which establishes goals, standards and policies for the entire Highlands region. Once the Highlands RMP is adopted, the Highlands Council has the authority to review final municipal action on non-exempt development applications in the Preservation Area and issue approval or rejection of local action. After the municipality is deemed in conformance with the RMP, Highlands Council review of local actions is limited to applications for development providing for disturbance of two or more acres of land or a cumulative increase in impervious surface by one or more acres. Within the Planning Area, in municipalities that voluntarily conform to the Highlands RMP, the Council may review local actions on the same types of development applications as those reviewed in the Preservation Area.

3.2 Highlands Water Protection and Planning Act Rules

The Rules, governing certain actions by the New Jersey Department of Environmental Protection (NJDEP), were adopted in response to the Highlands Act. The Act calls for the creation of environmental standards and procedures to be used by NJDEP in reviewing applications for major Highlands development in the Preservation area, for waivers from any requirement for a Highlands Preservation Area Approval, for exemptions from the Act and for permits or plans reviewed by NJDEP.

The Rules define major Highlands development as all non-residential development; residential development requiring an environmental land use or water permit or disturbs at least one acre of land or cumulatively increases impervious surface by one quarter acre or more; activities resulting in disturbance of at least one quarter acre of forested areas or a cumulative increase in impervious surface of at least one quarter acre on a lot; or certain State or local projects. Agricultural and horticultural activities are not included in the definition of major Highlands development. The Rules require that any major Highlands development in the Preservation Area receive an approval from NJDEP or a determination that the application is exempt from the Rules before proceeding with an activity regulated under the Highlands Act or Rules. Even if an activity is deemed exempt or does not qualify as a major Highlands development, it cannot receive any Department permits if it is inconsistent with the applicable areawide water quality management plan.

Major Highlands developments must comply with a series of very stringent environmental standards governing septic system densities, impervious surfaces, open waters buffers, flood hazard areas, steep slopes, upland forests, historic and archaeological areas, rare, threatened or endangered plant and animal species, and unique or irreplaceable land types including vernal habitats and ecological communities identified in the Department's Natural Heritage Database.

In addition to regulating major Highlands development, the Rules direct NJDEP to deny permits or approvals for proposed activities that are deemed inconsistent with the applicable areawide water quality management plan. This applies to any activities regulated by NJDEP, including but not limited to major Highlands development and exempt activities.

The Rules provide a few avenues for relief. As mentioned above, projects that qualify for exemptions are not subject to the Rules. There are 17 exemptions in total (see Appendix B for a complete list). NJDEP may issue a waiver from any provision in the Rules on a case-by-case basis. There are four such waivers, including a waiver to protect public health and safety, for redevelopment of certain previously developed sites, to avoid taking of property without just compensation and to permit the construction of a 100% affordable housing development. The last waiver is applicable in only a few municipalities, including Glen Gardner.

NJDEP must give "great consideration and weight" to the Highlands Regional Master Plan in making any decisions governed by the Rules. If there are any inconsistencies in standards between the RMP and the Rules, NJDEP is required to apply the RMP standards.

3.3 Highlands Regional Master Plan

The Highlands Regional Master Plan was adopted by the Highlands Council on July 17, 2008 and approved by the Governor on September 5, 2008. The legislative goal of the Highlands Regional Master Plan is to protect and enhance the significant values of the resources thereof. The Highlands Regional Master Plan establishes both natural and infrastructure-based capacity limitations for future growth based on the region's carrying capacity. It presents a series of goals, policies, and objectives guiding development in the Preservation and Planning Areas, and a set of programs to implement them. Some are applied exclusively in the Preservation or Planning Area respectively, while others apply to both.

A series of Land Use Capability Zones creates the RMP framework for growth. Land Use Capability Zones are located throughout the Highlands Region, including the Preservation and Planning Areas. Those relevant to Glen Gardner include the Protection, Conservation and Existing Community Zones, Wildlife Management Sub-zone, and Environmentally Constrained Sub-Zones of the Conservation and Existing Community Zones. (See Table entitled Land Use Capability Zones on the following page).

LAND USE CAPABILITY ZONES

	GENERAL DESCRIPTION	GENERAL POLICIES
PROTECTION ZONE	Land characterized by having high natural resource values	Prioritize land acquisition; development activities extremely limited and subject to stringent limitations on water use, degradation of water quality and impacts to environmentally sensitive lands
WILDLIFE MANAGEMENT SUB-ZONE	Areas managed by the US Fish and Wildlife Service and NJDEP Division of Fish & Wildlife's Bureau of Land Management	Conservation, management and restoration of fish, wildlife and plant resources and habitats; compatible wildlife-dependent recreation
CONSERVATION ZONE	Areas with significant agricultural lands and interspersed with associated woodlands and environmental features	Non-agricultural development limited in area and intensity due to infrastructure constraints and resource protection goals
CONSERVATION ZONE – ENVIRONMENTALLY CONSTRAINED SUB-ZONE	Significant environmental features within Conservation Zone	Preservation of environmental features and protection of them from non-agricultural uses; development activities limited and subject to stringent limitations on water use, degradation of water quality and impacts to environmentally sensitive lands
EXISTING COMMUNITY ZONE	Areas with regionally significant concentrated development signifying existing communities; limited environmental constraints due to previous development patterns; may have existing infrastructure to support growth	Development and redevelopment to be compatible with protection and character of Highlands environment and at levels appropriate to maintain character of established communities
EXISTING COMMUNITY ZONE – ENVIRONMENTALLY CONSTRAINED SUB-ZONE	Significant contiguous critical habitat, steep slopes, forested lands	Resources to be protected from further fragmentation; development subject to stringent limitations on water use, degradation of water quality and impacts to environmentally sensitive lands

In an effort to advance “smart growth” solutions, the Plan authorizes the use of Transfer of Development Rights (TDR) and redevelopment in strategic locations. TDR is a program that enables designated preservation areas – called “sending zones” - while transferring development rights from those parcels to designated growth areas or “receiving zones.” Municipalities that elect to designate a receiving zone with a density of at least five residential units per acre are eligible for numerous financial incentives and the ability to impose \$15,000 per unit impact fees for all new development. Those that choose to participate in TDR but prefer to create a receiving zone that is less dense can still do so as well. The Transfer of Development Rights can either occur within an individual municipality or between more than one municipality. TDR is entirely voluntary. No municipality is required to participate.

While redevelopment can occur in both the Preservation and Planning Areas, it is more difficult to accomplish in the Preservation Area, where additional NJDEP requirements are imposed under the Highlands Water Protection and Planning Act Rules.

It is important to note that although the RMP encourages redevelopment, mixed use, and other “smart growth” approaches, it states that **“[g]rowth is not a mandatory aspect of the RMP. Rather, the RMP clearly specifies that growth is at the discretion of municipalities. However, when a municipality chooses growth that is supported by utilities, the RMP provides certain standards to ensure that the growth is well-planned, protective of environmental resources, and cost-efficient.”** (RMP, p. 273). Thus, to the extent that municipalities choose to accommodate concentrated growth patterns necessitating utilities, they must conform to RMP policies.

The Permit Extension Act of 2008, signed into law by Governor Corzine in September, 2008, extends the approval period for various development applications, permits and projects. Within the Highlands region, it is only applicable to growth areas designated by the Highlands Council. To date, no growth areas have been identified by the Council. Therefore, the Act has no bearing either in the Preservation or Planning Areas.

3.4 Executive Order 114

Executive Order 114, issued by Governor Corzine on September 5, 2008, establishes important directives affecting affordable housing and NJDEP permitting within the Highlands region. The Order directs the Highlands Council to enter into a Memorandum of Understanding with COAH. One of the critically important issues to be addressed through the MOU is the revision of COAH's Third Round growth projections, which are used to generate projected affordable housing obligations at the local level. The reason for revising the projections is to ensure that they are consistent with the Highlands RMP. **The likely effect of revised projections is a reduction in affordable housing obligations at the local level.**

The Executive Order also directs the Highlands Council and COAH to coordinate deadlines for submission of Third Round housing elements and fair share plans. This is intended to coordinate the timing of affordable housing plan submissions to COAH with the submission of municipal plans and draft ordinances to the Highlands Council for Plan Conformance.

The Executive Order institutes a couple of additional requirements that directly impact municipalities in the Highlands region. It requires NJDEP to withhold approvals of any amendments to areawide water quality management plans or water allocation permits within the Protection Zone, Conservation Zone or Environmentally–constrained Sub-zones located within a subwatershed (called HUC14 subwatersheds) that is in or expected to be in a deficit of net water availability. Approvals can only be granted once there is in place at the local level a fully implemented municipal water use and conservation management plan, approved by the Highlands Council.

3.5 Memorandum of Understanding Between Highlands Council and Council on Affordable Housing

In response to the Governor's Executive Order, the Highlands Council entered into a Memorandum of Understanding with COAH. Signed on October 30, 2008, the MOU establishes numerous provisions for implementing the Executive Order. Key to the MOU is the agreement to prepare adjusted growth projections for the Third Round period extending from 2004 to 2018. The adjusted growth projections are to be based on a build-out analysis at a municipal scale and applicable exclusively to municipalities that agree to conform to the RMP. Furthermore, the MOU establishes an extension for petitioning COAH for Substantive Certification from December 31, 2008 to December 8, 2009. The extension is available to municipalities in the Highlands region that 1) submit an adopted a Notice of Intent to conform to the RMP and 2) submit an adopted resolution to COAH indicating the intent to petition COAH no later than December 8, 2009. **Glen Gardner submitted this documentation. At the time of this report's preparation, the Borough received a written determination from COAH granting an extension for submitting affordable housing documentation until December 8, 2009.**

4. THE BENEFITS AND OTHER IMPLICATIONS OF PLAN CONFORMANCE

Plan Conformance is the process set up by the Highlands Council for bringing local plans and development regulations into consistency with the Highlands RMP. Recognizing the tight time frame for achieving Conformance, the Highlands Council established a two-tiered approach to Conformance. Basic Plan Conformance establishes a reduced set of requirements to be achieved within 15 months of the time that the RMP is adopted and approved. It does not relieve a municipality from the requirement to achieve Full Conformance in the Preservation Area; instead, it makes the process more manageable within the time frame established. This is discussed in greater detail in Chapter 6.

The Highlands Act effectively makes Plan Conformance mandatory for Preservation Area municipalities. If a municipality in the Preservation Area fails to implement local plans or regulations that are in conformance with the RMP, they must relinquish all local enforcement authorities under the Municipal Land Use Law to the Highlands Council. Municipalities wholly or partially in the Planning Act can choose whether or not to seek conformance in the Planning Area.

Plan Conformance brings with it a number of benefits exclusively available to municipalities in the Highlands region. Among the key benefits are legal protections from local land use challenges, planning and implementing grant funding and technical assistance, and reduced affordable housing obligations.

Although some raise concern about the increased regional and state regulation associated with the Highlands region, the fact remains that some additional level of state regulation will occur whether or not municipalities choose to conform to the RMP. An example of this, as noted earlier, is the withholding of NJDEP water allocation permits and approvals of an amendment to areawide water quality management plans in certain parts of the Highlands region until a municipal water use and conservation management plan is approved by the Highlands Council and fully implemented. This is a mandate established by the Governor's Executive Order 114. These provisions apply regardless of whether a municipality chooses to conform to the RMP.

By participating in the Plan Conformance process, municipalities will work with the Highlands Council and in doing so, will have a better chance of addressing local concerns and goals than if they ignore the process.

A summary of the benefits and other implications of Plan Conformance, as viewed by the author of this document, is provided in the following table.

BENEFITS OF HIGHLANDS PLAN CONFORMANCE

- ✓ **The Highlands RMP gives strong emphasis to natural resource protection.** A resource-based approach to planning for future growth is an approach that is consistent with the Glen Gardner Master Plan goals as they relate to protection of environmental assets and rural character.
- ✓ **Conforming municipalities are awarded legal protection through a strong presumption of validity of municipal master plans and ordinances when they are challenged.** This applies to the master plan and development regulations which are in conformance with the Highlands RMP. Furthermore, in any conforming municipality where local actions or decisions made pursuant to the Municipal Land Use Law, State Uniform Construction Code Act, or Highlands Act are being challenged, the court must give extraordinary deference to the municipality. According to the Highlands Council, *"This enhanced presumption of validity is one of the strongest levels of legal protection available in the State."* (The Highlands Regional Master Plan and the Benefits and Incentives to Municipal and County Conformance, p. 1).
- ✓ **Conforming municipalities are granted legal representation upon request.** This is available when local actions are challenged, providing that the act or decision of the municipality is consistent with the Highlands Regional Master Plan and is the result of action involving a development application providing for the ultimate disturbance of two or more acres of land or a cumulative increase in impervious surface of at least one acre.
- ✓ **The Highlands Council will provide planning assistance to municipalities during the Plan Conformance process.** The Council will release numerous model planning documents and land use regulations for use by municipalities to help simplify and expedite the conformance process. These are expected to become available in early 2009.
- ✓ **Conforming municipalities are eligible to receive funding from the Highlands Municipal Property Tax Stabilization Fund.** This Fund, established by the Highlands Act, provides for compensation due to a decline in the aggregate true value of vacant land directly attributable to implementation of the Highlands Act. It is available within the Preservation Area.
- ✓ **Conforming municipalities are eligible for an extended deadline petitioning the Council on Affordable Housing for Third Round Substantive Certification.** The deadline is extended from December 31, 2008 to December 8, 2009.

BENEFITS OF HIGHLANDS PLAN CONFORMANCE, cont'd

- ✓ **Conforming municipalities will be entitled to receive a revised affordable housing allocation based on adjusted growth projections that reflect consistency with the Highlands RMP.** This will likely mean a reduction in the fair share affordable housing obligation.
- ✓ **Revised growth projections that form the basis for the Borough's affordable housing obligation will be derived through a transparent, bottom-up process.** The Highlands Council will release a build-out tool that relies on tax maps of each municipality. Each municipality will then analyze these parcels, based on local knowledge to determine actual growth potential under Highlands Regional Master Plan policies. Most likely, the projections will be reduced under Highlands Plan Conformance compared to projections exclusive of the Highlands process.
- ✓ **Municipalities that agree to petition for Plan Conformance are eligible for planning grants to help offset the cost of bringing plans and regulations into conformance with the RMP.** Currently, the Highlands Council has \$21 million to distribute to municipalities and counties toward that end. Thus far, the Council has received an annual appropriation of \$4.5 million toward this end. The Initial Assessment Grant, which funded this report, is only a small piece of the pie. There is much more money that become available through the Plan Conformance process.
- ✓ **The Highlands Act provides avenues, including the Transfer of Development Rights, exemptions and waivers to address landowner equity impacts of implementing the stringent provisions of the RMP.** Additionally, for landowners interested in preserving properties through the State's Green Acres program or through the Farmland Preservation Program, the Highlands Act provides for a dual appraisal methodology of valuing the land. This approach requires one appraisal reflecting current values and a second reflecting the zoning in place as of January 1, 2004. The higher of the two must be used.
- ✓ **Through Conformance, municipalities are assured continued land use authorities and more cooperation from regional and State agencies.** It is true that Conformance brings with it a higher level of regional regulatory powers. For instance, municipal plans and regulations are subject to Highlands Council approval through the Conformance process. Also, the Council has authority to review and reverse municipal actions on certain development projects. However, with Conformance comes the assurance that authorities granted under the Municipal Land Use Law will remain at the local level and not be transferred to the Highlands Council. Furthermore, irrespective of Conformance, State agency permitting and regulations are becoming increasingly tied to the Highlands Act and RMP. Thus, it behooves municipalities to work with these agencies to ensure greater cooperation and a stronger voice.

OTHER IMPLICATIONS OF HIGHLANDS PLAN CONFORMANCE

- ✓ **The Highlands Water Protection and Planning Act Rules are especially stringent in terms of permitted densities outside of sewer service areas.** Development potential in Glen Gardner will therefore be far more limited than would be the case under current zoning. On the other hand, many such parcels will still likely qualify under the Highlands RMP exemptions, which will permit some additional uses on the property.
- ✓ **Municipal planning requirements to achieve Plan Conformance are far more extensive, complex and costly than are the minimum requirements under the Municipal Land Use Law.** The reason is that the Conformance process requires more analysis and more master plan elements than the MLUL. However, grants are available to help offset these costs. Also mentioned above is the soon-to-be-released model documents that the Highlands Council will make available to municipalities for use in the conformance process.
- ✓ **Highlands Conformance brings with it an additional layer of regulatory oversight at the regional level.** Municipal plans and regulations are subject to Highlands Council approval through the Conformance process. Furthermore, the Council has authority review and reverse municipal actions on certain development projects. There will also be a greater level of State review, primarily through NJDEP. But heightened state agency review will be a reality to some extent, regardless of Plan Conformance. The most prominent example presently is NJDEP actions on water allocation permits and amendments to areawide water quality management plans under Executive Order 114. Thus, it can be argued that it makes more sense for municipalities like Glen Gardner to play by the rules and work cooperatively with regional and state agencies.
- ✓ **During the initial stages of Plan Conformance, there will likely be a learning period for all entities involved.** This may result in delays in the planning and approval processes. But if this occurs, it is likely to be a temporary condition. Once the process is fully fleshed out and understood by all parties, it will certainly become more efficient. It is important to note here that the Highlands Council staff has been extremely helpful so far in issuing information, attending local meetings upon request, and assisting municipalities in addressing locally-specific questions and concerns.

5. CONSISTENCY REVIEW

This chapter begins with a brief description of Glen Gardner in the context of the Highlands region and RMP Land Use Capability Zones.

Next, local plans and regulations are reviewed in light of the Highlands RMP goals, policies and objectives. This discussion is organized according to the topic areas contained in the RMP. For each topic area, the discussion concludes with a summary of actions that must be taken locally to achieve consistency with the RMP.

5.1 Overview of Glen Gardner Borough

Glen Gardner Borough, one of Hunterdon County's historic villages, is located in the northwestern quadrant of Hunterdon County. Of the 88 municipalities in the Highlands region, 15 are located in Hunterdon County. Glen Gardner is one of only one of five in the Highlands region that falls entirely within the Highlands Preservation Area. The Borough is 998 acres or about 1.5 square miles in size. It had a population of 1,958 in 2007, according to U.S. Census estimates, which translates into approximately 840 households. (See Regional Context Map).

The historic core of Glen Gardner, situated along Main Street (County Route 645), parallels Spruce Run. The designated historic district also includes a portion of Sanatorium Road. Main Street and Route 31 traverse the Borough in a north-south direction at its lower elevations. Main Street is largely residential, with homes on very small lots, well under an acre in size. The Glen Gardner Inn, municipal building, post office and general store reside in the heart of the village as well. Newer, larger lot residential development is dispersed primarily on residential roads off of Hill Road east of Main Street. Spruce Hills, a condominium community built in the 1980s, and Park Side Apartments, constructed in the 1970s, are located off of Glenn Manor Drive west of Route 31. Small retail stores, commercial uses and restaurants are scattered along Route 31. Grochowicz Farms is situated at the north end of the Borough where Main Street and Route 31 converge. Eastern Concrete Materials operates a quarry at the southern tip of the Borough, east of the railroad tracks.

More than 45% of Glen Gardner is forested land, according to 2002 NJDEP land use/land cover data. Approximately 39% of Glen Gardner is developed. Most of this (328.6 acres) is residential development. Farmland occupies only 8.3% of the Borough, comprising but a handful of properties, mostly at the northern limits of the Borough. The quarry site, classified as barren land, occupies 2.4% of the Borough's land base. The remainder of the Borough consists of water and adjacent wetlands. (See Table on following page and Land Use/Land Cover Map).

2002 LAND USE/LAND COVER IN GLEN GARDNER BOROUGH

	ACRES	PERCENT OF TOTAL ACRES
AGRICULTURE	82.5	8.3
BARREN LAND	24.1	2.4
FORESTED	453	45.4
URBAN	389.4	39.0
WATER & WETLANDS	48.8	4.9
TOTAL	997.9	

The location of environmental features and existing development coincide closely with the boundaries of the Land Use Capability Zones in Glen Gardner, as mapped in the Highlands Regional Master Plan. The Protection Zone follows the boundaries of contiguous forested areas. The Conservation Zone is aligned with existing agricultural lands, while the Conservation Environmentally-constrained Sub-zone captures streams, wetlands and small forested patches. The Existing Community Zone includes primarily currently developed lands as well as the quarry at the southern end of the Borough. Wooded areas and wetlands within developed areas fall into the Existing Community Environmentally-constrained Sub-zone. The Wildlife Management Sub-zone is part of the Spruce Run Recreational Area and is a State Parks and Forestry property. Nearly half of the Borough falls into the Protection Zone and over one-third In the Existing Community Zone (See NJ Highlands Land Use Capability Zones Map).

LAND USE CAPABILITY ZONES BY TOTAL ACREAGE & PERCENTAGE OF BOROUGH ACREAGE

	ACRES	PERCENT OF TOTAL ACREAGE
PROTECTION ZONE	472.6	47.4
CONSERVATION ZONE	51.3	5.1
EXISTING COMMUNITY ZONE	366.1	36.7
CONSERVATION – ENVIRONMENTALLY CONSTRAINED SUB-ZONE	55.7	5.6
EXISTING COMMUNITY – ENVIRONMENTALLY CONSTRAINED SUB-ZONE	21.7	2.2
WILDLIFE MANAGEMENT SUB-ZONE	30.5	3.1
TOTAL	997.9	

There are 11 zoning districts, including seven residential districts, established in the Glen Gardner Land Development Regulations. (See Zoning Districts Map). The Conservation Management Residential Districts (CM-1 and CM-2) are the more restrictive of the residential zoning districts with a maximum permitted density of .20 and .13 units per acre respectively. This translates into 1 unit per 5 acres and 1 unit per 7.7 acres respectively. Both districts permit clustering and lot-size averaging. Densities remain .20 in the CM-1 District under these alternative scenarios. However minimum lot sizes are reduced from 5 acres to 2 acres. In CM-2 District, the density is .26 units per acre for a cluster development with a minimum lot size of 3 acres. Lot-size averaged developments are subject to a density of .13 and minimum lot size of 3 acres. The cluster options calls for a minimum 50% open space set aside in both districts.

The Rural Residential District establishes a maximum density of .33 units per acre and a minimum lot size of 3 acres for a conventional lot. Lot sizes can be reduced to 1 acre in a cluster development or lot-size averaged development. Maximum density increases to .55 dwelling units per acre in a cluster development, with a 25% minimum set aside for open space. Single family detached units are the only residential dwellings permitted in these three districts.

Of the Village Residential Districts, VR-1 permits more varied housing types. The VR-1 District permits single family units as well as a variety of attached housing unit types. The maximum density is 4 units to the acre. The minimum lot size ranges from 5,000 square feet to 11,000 square feet. The VR-1 District comprises most lots along Main Street and is largely built out. Additionally, it extends along both sides of Sanatorium Road to the end of Second Street and picks up again on the south side just below Tall Timber Drive. The VR-2 District permits a maximum of 1 dwelling unit per acre and a 1 acre minimum lot size. The VR-3 District permits a maximum density of 2.5 units per acre and minimum lot size of 17,424 acres. All new residential subdivision lots that are less than an acre must be served

by common sewage and water systems according to Article VII, Section 104-54 of the Land Use Regulations. Spruce Hills condominiums are served by a community on-site wastewater treatment system. This is located in the Multifamily District.

Nonresidential districts include the Professional Office (PRO), Commercial Office (CO) and Industrial/Office Research (I/OR) Districts. The PRO District establishes a maximum Floor Area Ratio of .25 without sewers and .5 with public sewers. Residential uses are also permitted and are governed by the VR-1 District regulations. The CO District establishes a maximum Floor Area Ratio of .3 without sewers and .6 with sewers. Residential flats are permitted above nonresidential uses as well. The I/OR District permits a Floor Area Ratio of .25. Residential uses conforming to the RR District are also permitted.

The Land Use Regulations acknowledge a Mixed Use District, however, no such district appears on the Zoning Map.

5.2 Consistency Assessment

5.2.1 Forested Areas

RMP Goals, Policies & Objectives

The RMP limits development of designated forest resource areas, particularly in the Preservation Area, to protect forest resources and ecosystem integrity, critical habitats and water resources. Forest resource areas comprise forest areas of high ecological value which exhibit the least fragmentation and are necessary for maintaining ecological processes (see Forest Resource Area Map). These are contiguous forests of at least 500 acres; areas of more than 250 acres of core forest that are more than 300 feet from an altered edge; or areas with over 45% mean total forest cover and mean distance to the nearest forest patch.

The RMP also classifies subwatersheds by forest cover integrity. There are three such classifications. High integrity subwatersheds are predominantly forested and consist mostly of high core area, large patch size and low distance to the nearest patch. Moderate integrity forest subwatersheds are predominantly forested. However, they do not exhibit a high percentage of forest cover, core area or patch size and have an increased distance to the nearest patch. Low integrity forest subwatersheds are mostly non-forested or they include low values for proportion of forest cover and patch size or a high distance to the nearest patch.

Conformance requires that municipal master plans and regulations address protection of forested portions of the forest resource areas as well as designated high integrity forest subwatersheds (see Forest Integrity Map), by maintaining forest cover to the maximum possible extent.

Within the Preservation Area, locally-adopted regulations must limit permitted uses within the forest resource area to maintenance of pre-existing uses and restoration of impaired forests. Relief from these standards can only be granted upon Highlands Council approval of a forest mitigation plan and, if a major Highlands development, by NJDEP.

Deforestation for development purposes within the forest resource areas of the Preservation Area is prohibited unless it is authorized as an exemption under the Highlands Act; it is an agricultural/horticultural development; or it is a major Highlands development in conformance with the NJDEP Preservation Area Rules (Objective 1A2b and 1A2c).

Within the Existing Community Zone, deforestation in the Forest Resource Area and forested lands within high integrity forest subwatersheds must be limited to the maximum extent practicable (Policy 1B3). Municipal regulations must be enacted which limit tree clearing in conjunction with development so that clearing will not diminish the integrity of forest resources. Resource management programs, such as "low impact best management practices" and mitigation and/or restoration must be implemented to avoid loss of forests. (Low impact best management practices include a variety of site design and development techniques, open space and landscaping, water conservation, stormwater management, pervious pavements, green roofs, narrow roads, rain garden, natural landscaping among other practices that reduce or eliminate negative impacts of development. Low impact development involves a prescribed site planning process that results in "green" and energy efficient site design and layout, and use of low impact techniques). Furthermore, applications for local development review must identify forest areas consistent with the Highlands Council's method for identifying upland forest areas in the Highlands Region (Objective 1B5a).

Municipal master plans and development regulations must address protection of forested portions of forest resource areas and high integrity forest subwatersheds (Policy 1C1). As part of this, municipalities must adopt a tree clearing ordinance consistent with an approved community forestry plan under the New Jersey Forest Service Community Forestry Program (Policy 1C3).

To assist municipalities in implementing these provisions, the Highlands RMP directs the Council to provide a model municipal tree ordinance, forest area resource protection standards, and forest conservation and mitigation plan guidance. The Council will also provide guidance on low impact development best management practices and community forestry plans.

Glen Gardner Master Plan and Land Development Regulations

Within Glen Gardner's municipal boundaries, the Highlands RMP mapped the area east of Route 31, with the exception of a couple of small patches which are mostly developed, as a forest resource area. Additionally, the area sandwiched between Route 31, Fountain Grove Road, and the municipal border, mostly comprising the Spruce Run Recreation Area, is a forest resource area. The entire Borough falls within high integrity forested subwatersheds.

Glen Gardner does not have an Environmental Resource Inventory. However, included in the 1989 Comprehensive Master Plan is a background report on Natural Features as well as a Conservation Plan. The Natural Features report contains a subsection on vegetation. It notes the general location of forest resources, which is accompanied by a map, and identifies dominant tree species.

The Conservation Plan includes six goals, all of which directly or indirectly help to protect forested areas. It calls for ensuring the preservation of critical natural features throughout the Borough by:

- Providing a continuous network of open space along streams, steep slopes, scenic areas and critical areas;
- Limiting or prohibiting development in critical environmental areas which are subject to environmental constraints;
- Limiting environmental degradation and adverse impacts such as noise, air and water pollution due to improper use of land;
- Encouraging land development which preserves natural amenities and does not aggravate drainage problems affecting the borough and water quality;
- Prohibiting stream channel relocation and development; and
- Providing and retaining suitable wildlife habitats through the preservation of open space.

Among the strategies proposed to achieve these goals is the adoption of a tree protection ordinance and development designs which preserve mature forests and restrictions in terms of permitted development or disturbance in woodland areas based on the type of woodland association.

The Glen Gardner Land Use Regulations address forested areas and trees in a couple of different sections. Article VI, Environmental Performance Standards, establishes site capacity calculations. In effect, it provides a formula to calculate the acreage of resource protection land on a property. The formula assigns percentages to various environmental features. These are multiplied by the acreage of each feature on a given development site. The calculation is then used in two ways. First, it helps determine the minimum required open space in a development. Secondly, the calculation is used to determine maximum net buildable area by subtracting the minimum open space acreage from the gross site area. Minimum required resource protection percentages associated with woodlands are 90% for floodplain association, 70% for meisc association, and 50% for upland association. Areas with natural resource restrictions, including woodland associations, must be left undisturbed to the greatest possible extent. These regulations apply to all subdivisions and site plans with the exception of nonresidential uses in the Commercial Office District and all uses proposed in the Village Residential 1 District.

Article VI also calls for natural resource restrictions on development sites. Where individual woodland associations comprise more than ¼ acre, no more than a certain percentage can be developed, regraded or cleared depending on the association. The limits are 10% for the Floodplain association, 30% for Meisc association, and 50% for Upland association. The regulations allow the Planning Board to grant exemptions from these requirements under three circumstances: 1) when there will be no adverse effect; 2) for a

portion of land directly affected by the location of a master plan road or other community facility deemed necessary; or 3) when the subject application is for an individual lot which had been the subject of a prior site plan or subdivision approval.

Article VII includes the requirement that development applications before the Planning Board involving new buildings or land disturbance include submission of an Environmental Impact Statement. The EIS must address woodlands as well as other environmental features and infrastructure on site. The Planning Board may reject the development proposal on an environmental basis if it is deemed to result in appreciable harm to the environment or public health and safety; is not designed to protect natural resources; and will place excessive demand on resources on this and future projects.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Updated written and mapped descriptions of forest resources, specifically forest resource areas and high integrity forested subwatersheds in Glen Gardner consistent with Highlands RMP mapping. This must be included in a newly created Environmental Resource Inventory.
- ✓ Strategies for managing and protecting forest resources consistent with RMP goals, policies and strategies, to be included in an updated Conservation Plan.
- ✓ Community Forestry Plan to be adopted as part of the Master Plan.
- ✓ Revised land development regulations requiring submission of forest conservation and mitigation plans, following guidance to be provided by the Highlands Council.
- ✓ Revised land development regulations to require applicants to map upland forests consistent with the Highlands Council methodology and replacing or supplementing the Borough's current methodology.
- ✓ Revised land development regulations to prohibit deforestation in forest resource areas unless the activity is exempt from the Highlands Act, is a major Highlands development that received NJDEP approval, or is an agricultural/horticultural activity.
- ✓ Low impact development best management practices to be incorporated in the land development regulations as a means of having development applicants mitigate forest impacts.
- ✓ Tree clearing ordinance.

5.2.2 Open Waters and Riparian Areas

RMP Goals, Policies & Objectives

Highlands open waters are defined 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. Riparian areas are lands associated with and bordering Highlands open waters that provide critical hydrologic, ecologic, and pollutant attenuation functions for open waters. They include areas that exhibit periodic inundation or saturation of soils, areas subject to periodic flooding and wildlife corridors within 300 feet of a surface water feature. Riparian areas sometimes extend beyond the width of open waters buffers, which are discussed below. (See Highlands Open Waters Map which also illustrates regulated buffers and riparian areas).

The RMP calls for municipal stream corridor protection/restoration plans to protect open waters and buffers. Stream corridor protection/restoration plans identify existing disturbed areas, identify and require opportunities for restoration of such areas, and identify the extent of stream corridor features needed to support the functions of a healthy Highlands open waters.

Local development applications must include identification and mapping of Highlands open waters and riparian areas (Objectives 1D4a and 1D5a). Open waters must include a protection buffer of 300 feet. It is possible that the 300 foot buffer needs to be expanded to be more protective of such features as critical habitats and steep slopes, among others. In the Preservation Area, local development applications must comply with Preservation Area buffers along open waters as required under the Highlands Water Protection and Planning Act Rules (Objective 1D4b). Within open waters and associated buffers, these Rules restrict major Highlands development to linear development and then only if there is no feasible alternative outside of the buffers.

The RMP classifies subwatersheds by the quality of their riparian areas, that is, the ability of riparian areas to protect water resources and ecological functions such as water quality protection, nutrient and sediment filtration, streambank stabilization, flood storage among other functions. Subwatersheds classified as high integrity have a predominance of natural vegetation, and low incidence of impervious cover, agricultural uses and/or road crossings.

Within high and moderate integrity riparian areas, local development regulations must limit disturbance of existing natural vegetation or increased impervious areas to the minimum feasible in areas beyond open waters buffer requirements (Objective 1D5b). Within the Protection Zone, modifications to riparian areas must be prohibited except with a waiver from NJDEP or Highlands Council. A waiver can be granted on a case-by-case basis if deemed necessary to protect public health and safety; for redevelopment in certain previously developed areas; or to avoid the taking of property without just compensation (Objective 1D5c). Modifications (other than disturbance to existing vegetation or increased impervious areas to the minimum feasible outside of open waters buffers) within the Existing Community Zone must be restricted if they would alter water quality and habitat values of riparian areas (Objective

1D5d). Low impact development techniques must be implemented for development within a riparian area to minimize alterations of natural vegetation and increases in impervious area and to provide for mitigation by restoring impaired riparian areas within the same subwatershed (Objective 1D5e). Additionally, local regulations must require restoration and enhancement of previously impaired riparian areas where feasible, as mitigation to any permitted modification to riparian area requirements.

To assist municipalities, the RMP directs the Highlands Council to provide technical guidance for developing local stream corridor protection/restoration plans, as well as technical guidance documents for undertaking restoration of impaired streams and riparian areas. The Council is expected to release model open waters and riparian areas resource protection standards.

Glen Gardner Master Plan and Land Development Regulations

Glen Gardner's open waters and associated riparian corridors and buffers mapped in the Highlands RMP are generally associated with stream corridors and wetlands in the Borough. (see Open Waters Map and Riparian Integrity Map). With the exception of a very small area abutting Hampton Borough, Glen Gardner is located entirely within high integrity riparian subwatershed.

The 2007 Reexamination Report for Glen Gardner acknowledges that all waterways in the Highlands Preservation Area have a 300 buffer associated with them, as do wetlands. Moreover, the Borough adopted a stormwater management plan and ordinance in compliance with the State's new Stormwater Management Rules, adopted in 2004.

While the 1989 Master Plan Natural Features background study describes a variety of environmental resources that may comprise a portion of Highlands-defined riparian areas, it does not contain the definition of riparian areas in the RMP, nor does it map riparian corridors per say. Similarly, the 1989 Master Plan precedes institution of 300 foot buffers associated with Category One (C-1) waters under the 2004 stormwater management rules and the more inclusive 300 foot buffers for all open waters established in the RMP and Highlands Water Protection and Planning Act Rules. The local stormwater management regulations institute buffer requirements for Category One waters in compliance with the statewide Stormwater Management Rules. The local regulations adapted the definition of major development that are subject to the State's stormwater management rules, so that it is now based on the Highlands Rules definition of major Highlands development. The 300 foot buffer requirement is applicable to C-1 waters, which appear to include all of the streams and tributaries in the Borough.

Site capacity calculations required under Article VI of the Land Development Regulations calculate minimum open space requirements in residential developments in part by factoring in flood plains, flood plain soils, water bodies and wetlands. The entire acreage encumbered by these features must be used to calculate minimum open space set asides. Net buildable area of development site is then calculated by subtracting the minimum required open space from the gross tract area.

No structures, filling, piping, diverting or stormwater detention basins are permitted in the flood plain unless in compliance with the Borough's flood plain regulations. Likewise, the municipal regulations prohibit development, filling, piping and diverting in wetlands, waterbodies and watercourses unless permitted by state or federal agency with jurisdiction over the activity.

Article VII includes the requirement that development applications before the Planning Board involving new buildings or land disturbance submit an Environmental Impact Statement. The EIS must address surface waterbodies as well as other environmental features and infrastructure on site, though it does not include riparian areas. The Planning Board may reject the development proposal on an environmental basis if it is deemed to result in appreciable harm to the environment or public health and safety; is not designed to protect natural resources; and will place excessive demand on resources on this and future projects.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Updated mapping and written description of Highlands open waters, riparian areas, minimum 300 foot buffers and riparian area integrity by subwatershed, consistent with Highlands RMP and contained in a new Environmental Resource Inventory.
- ✓ Updated Conservation Plan goals, policies and objectives consistent with the RMP.
- ✓ Review of municipal stormwater management plan and ordinance to determine extent of change needed to be consistent with Highlands RMP requirements.
- ✓ Amended land development regulations requiring identification and mapping of riparian areas; limiting disturbance of existing natural vegetation or increase in impervious cover within high and moderate integrity riparian areas to the minimum feasible in areas beyond the required buffers; requiring maintenance or restoration of habitat value of a riparian area; prohibiting modifications to riparian areas in the Protection Zone unless the applicant is granted a waiver from NJDEP and Highlands Council; restricting modifications to riparian areas in the Existing Community Zone that would negatively impact water quality and habitat value of a riparian area; requiring low impact development best management practices for development within a riparian area; and requiring restoration and enhancement of previously impaired riparian areas, where feasible as mitigation to any permitted modification to riparian area requirements.
- ✓ Local stream corridor protection/restoration plan that is consistent with Highlands RMP requirements.

5.2.3 Steep Slopes

RMP Goals, Policies & Objectives

Municipal master plans and development regulations must protect steep slopes as defined in the RMP (Policy 1E10). The RMP defines steep slope protection areas as those with at least 5,000 square feet with any combination of slopes of 10% to less than 15%; 15% to less than 20% and 20% or greater. The RMP goes on to define constrained areas in terms of slopes. Slopes of 20% or greater and lands within riparian areas with slopes of 10% or greater are severely constrained. Non-riparian area lands with a slope of 15% to less than 20% and are forested are moderately constrained. Non-riparian areas having a slope of 15% to less than 20%, are non-forested, and are either highly susceptible to erosion, or exhibit shallow depth to bedrock or a soil capability class indicative of wet or stony soils are constrained slopes. Non-riparian areas with a slope of 15% to less than 20% that do not meet the definition of constrained are considered limited constrained slopes.

Municipalities must adopt regulations that require applicants to identify steep slope protection areas. The regulations must prohibit land disturbance within areas that have severely and moderately constrained slopes (except for linear development). Municipalities must require low impact development practices for land disturbance or development within areas of constrained or limited constrained slopes or that involve an approved disturbance of a severely constrained or moderately constrained slope (Policies 1E6 – 1E9).

To assist municipalities, the Highlands Council will provide model steep slope protection standards for inclusion in municipal planning and regulatory documents.

Glen Gardner Master Plan and Land Development Regulations

As mentioned above, the Highlands Council has provided steep slopes mapping that categorizes them into slopes of 10% to under 15%, 15% to less than 20% and 20% or greater. The Council has not provided a GIS data layer for constrained slopes, although they can be viewed on the Highlands Council's interactive mapping site on its webpage. Steep slope maps based on Highlands data shows that the majority of the Borough falls within steep slopes protection areas. The steepest slopes are concentrated in the southern half of the Borough. (See Steep Slopes Map).

The Glen Gardner Master Plan Natural Features background report recognizes slopes of 8% or greater as creating potential negative impacts if development or soil disturbance takes place. Steep slopes are categorized by degree of vulnerability from 8%-15%, 15%-25% and 25% or greater. The Conservation Plan calls for restricting development intensity and coverage on steep slopes.

Under Article VI of the Land Development Regulations, 100% of a site's slopes that are 20% or greater are factored into minimum open space requirements. For slopes between 10% and less than 20%, 80% of the area must be factored in. Net buildable area of development site is then calculated by subtracting the minimum required open space from the gross tract area.

Natural resource restrictions contained in Article VI provide further protection of steep slopes. Development, regarding and stripping of vegetation is restricted to 50% of steep slopes between 10% and 20%, 20% of slopes between 20% and 30%. No such disturbance is permitted on slopes of 30% or greater. Steep slope areas less than 3,000 square feet and previously developed lots may qualify for exemptions from natural resource restrictions. Furthermore, these regulations do not apply on a lot by lot basis in certain instances.

Under Article VII, an environmental impact statement, required as part of any development application involving new buildings or land disturbance and requiring Planning Board approval, must include a statement of impact on critical areas including steep slopes. The Planning Board may reject the development proposal on an environmental basis if it is deemed to result in appreciable harm to the environment or public health and safety; is not designed to protect natural resources; and will place excessive demand on resources on this and future projects.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Environmental resource inventory with written and mapped depictions of steep slope protect areas and constrained slope categories as defined in the RMP.
- ✓ Revised Conservation Plan acknowledging steep slope protection areas and constrained slope categories as defined in the RMP and associated goals, policies and objectives.
- ✓ Revised land development regulations requiring applications to identify steep slope protection areas as defined by the RMP. (Note that the current municipal regulations governing natural resource restrictions are more encompassing than RMP requirements to the extent that steep slope areas subject to local regulations are at least 3,000 square feet; the RMP defines steep slope protection areas as a minimum of 5,000 square feet. Municipal regulations are allowed to be more restrictive than the RMP).
- ✓ Revised land development regulations that prohibit land disturbance within severely and moderately constrained slopes except for linear development.
- ✓ Revised land development regulations requiring use of low impact best development practices for land disturbance or development in constrained or limited constrained slopes or that involves an approved disturbance of a severely constrained or moderately constrained slope.

5.2.4 Critical Habitats

RMP Goals, Policies & Objectives

Protection of critical habitats is key to RMP conformance. The RMP maps critical wildlife habitats, significant natural areas, and vernal pools with associated buffers (see Critical Habitats Map). Critical habitats are identified as follows:

- Critical wildlife habitat defined as NJDEP's Landscape Project Version 3 mapping of Threatened, Endangered Species and Rare Species Habitats Ranks 3 (habitat supporting a State threatened species), 4 (Habitat supporting a State endangered species) and 5 (habitat supporting a Federally listed threatened or endangered species) and Landscapes Project Version 3 Rank 2 (Habitat supporting a species of special concern) with Highlands Conservation Rank of Critically Significant or Significant¹.
- Significant natural areas defined as the NJDEP Natural Heritage Priority Sites.
- Vernal pools defined as NJDEP-certified plus a 1,000 foot protection buffer around them.

The RMP relies on municipalities to adopt and implement a Highlands Council-approved critical habitat conservation and management plan to achieve a number of standards and criteria delineated in the RMP.

Conforming master plans and development regulations must include these habitat areas and associated management programs and habitat conservation management plans (Policies 1G1, 1G2). The critical habitat conservation and management plan implements a habitat conservation and management program, and includes performance standards and criteria for protecting, enhancing and restoring critical habitats (Objective 1F5a). Performance standards address prohibition of direct or indirect adverse impacts to critical habitats, buffer area reductions for vernal pools, modifications to critical wildlife habitat areas or significant natural areas and waiver applications from requirements in the critical habitat conservation and management plan.

Locally adopted performance standards must also require that all development use low impact development practices to avoid, minimize and mitigate impacts to critical habitats and address mitigation of disturbed habitat, as well as enhancement or restoration of disturbed habitat (Objective 1F5b). The critical habitat conservation and management plan must include a mapped depiction of a critical habitat overlay district (Objective 1F5e). It also must include guidelines for a municipal habitat stewardship program to prevent habitat fragmentation through open space preservation and community efforts to create, protect and restore habitats (Objective 1F5f).

¹ Critically Significant – If habitats in the Highlands region were lost, that species would not exist in NJ.
Significant – Highlands Region habitats play a significant role for that species' existence in NJ.

Local development applications must conform to minimum standards and criteria in the critical habitat conservation and management plan (Objective 1F5a). Local regulations must prohibit direct impacts from new development or expansion of existing development that jeopardizes critical habitats unless permitted through a waiver issued by NJDEP in the Preservation Area or the Highlands Council. Regulations must also prohibit indirect impacts from offsite activities or those adjacent to or within critical habitats. Waivers for both direct and indirect impacts described above are issued on a case-by-case basis if necessary to protect public health and safety; for redevelopment; or to avoid a taking of property without just compensation. Any projects issued waivers must nonetheless address the minimum standards and criteria for waivers set forth in the critical habitat conservation and management plan.

Local regulations in the Preservation Area must reference Highlands Water Protection and Planning Act Rules governing critical habitats in relation to major Highlands developments. However, Preservation Area projects that are not considered major Highlands developments are still subject to all relevant RMP policies (Policy 1F7).

To assist municipalities, the RMP directs the Highlands Council to provide technical guidance for critical habitat conservation and management plans and develop a conservation and management overlay district ordinance for municipal use.

Glen Gardner Master Plan and Land Development Regulations

There are no vernal pools or "significant natural areas" mapped in Glen Gardner. However, most of the undeveloped areas in Glen Gardner Borough fall within areas mapped by the Highlands Council as critical wildlife habitat. (See Critical Habitats Map).

The Borough Master Plan Natural Features background report does not address wildlife habitats. The Conservation Plan includes a goal to provide and retain suitable wildlife habitats through open space preservation. Among its policies is to set aside a portion of each development tract to remain as undisturbed wildlife habitat. Said areas should be linked together to create a continuous habitat system.

Wildlife habitat protection does not appear to be addressed in the land development regulations.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Mapping and written description of critical habitat areas based on Highlands RMP definitions in a new Environmental Resource Inventory.
- ✓ Updated Conservation Plan goals, policies and objectives consistent with the RMP goals, policies and objectives.
- ✓ Habitat conservation and management plan as part of the master plan (perhaps as part of the Conservation Plan element).

- ✓ Critical habitat and management program as part of the habitat conservation and management plan.
- ✓ Critical habitat overlay district with standards and requirements consistent with Highlands RMP, including mandatory use of low impact development best practices in critical habitat areas.
- ✓ Revised land use regulations requiring that major Highlands developments comply with the Highlands Rules as they pertain to critical habitats.

5.2.5 Land Preservation and Stewardship

RMP Goals, Policies & Objectives

The Highlands RMP calls for the identification of a Special Environmental Zone within the Preservation Area. Development may not occur in the Special Environmental Zone in order to protect water resources and environmentally sensitive lands (Policy 1H7). Designated lands are to be protected through acquisition, Transfer of Development Rights and development regulations. The RMP also calls for the development and maintenance of a confidential inventory of open space and farmland, within conservation priority areas and agricultural priority areas (see Conservation Priority Area and Agricultural Priority Area maps). Those areas contained on the confidential list are targeted for preservation (Policy 1H3).

Conservation priority areas reflect the Highlands Council prioritization system for identifying areas of moderate and high priority based on ecological and water supply value for land preservation. Agricultural priority areas are identified according to other criteria such as the presence of farmland soils, contiguity of agricultural lands, and proximity to existing preserved farmland.

Plan Conformance requires the inclusion of an open space preservation and land stewardship element in local master plans (Policy 111). Municipalities must delineate existing open space and lands subject to stewardship programs, and provide that information to the Highlands Council (Policy 112). On parcels proposed for development and identified for preservation on a development application, municipalities must mandate conservation or land stewardship easements that are enforceable by the Highlands Council along with the municipality, County Agriculture Development Board, State Agriculture Development Committee, Green Acres or qualifying non-profit organization (Policy 113). Additionally, municipalities must establish monitoring programs for preserved lands or easements thereon owned by the municipality.

To assist municipalities, the RMP directs the Highlands Council to aid in the development of stewardship plans and model development standards that utilize such techniques as clustering and lot-size averaging to preserve open space.

Glen Gardner Master Plan and Land Development Regulations

Mapping of existing preserved lands as mapped by the Highlands Council reveals discrepancies with data provided by Hunterdon County. (See Maps entitled Open Space Preservation (Highlands Data) and Open Space Preservation (County Data)). In addition, there are preserved properties that do not appear on either County or Highlands databases. This will have to be reconciled during the Plan Conformance process.

There are no Special Environmental Zones located in Glen Gardner. Oddly, while a fair extent of the conservation priority areas mapped by the Highlands Council generally coincide with forested areas and riparian corridors, some conservation priority areas overlap with existing developed areas. Not surprisingly, agricultural priority areas coincide with the general location of remaining farmlands including the Grochowicz Farms. These farm areas border Hampton Borough.

The Borough's Conservation Plan contains a map of proposed conservation and open space areas. The map, however, does not indicate existing preserved open space and parks. The existing land use map in the Master Plan does show parks and open space, though it is dated information at this point.

Article VII contains regulations pertaining to open space associated with clustered developments. Open space must either be dedicated in fee simple to the Borough or else conveyed to a conservancy, corporation, association, funded community trust, condominium association, individual or other legal entity.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Open space element as part of the Master Plan, which includes an inventory of existing preserved lands.
- ✓ Revised land use regulations that require open space easements to be dedicated to the Highlands Council along with one additional entity that can be the municipality, County Agriculture Development Board, State Agriculture Development Committee, Green Acres or qualifying non-profit organization.
- ✓ Revised land development regulations specifying monitoring programs for preserved lands or easements.

5.2.6 Water Supply & Quality

RMP Goals, Policies & Objectives

The Highlands RMP establishes parameters for growth based on water availability both for human use and aquatic ecosystems. The RMP creates a method for identifying the quantity of available water to support these two functions. Where there is sufficient water available, water resources are allocated among future human uses according to the Land Use Capability Zone Map. Where water supply is in deficit, conditional water availability is granted.

Water availability was determined by HUC14 subwatershed. First the Highlands Council estimated ground water capacity by subwatershed. Ground water capacity is the natural ability of a subwatershed to support stream flow over time during dry weather conditions. A HUC14 subwatershed is an area within which water drains to a surface water body. It is the smallest geographic unit in a watershed classification system created by the US Geological Survey. The Council established certain percentages for each Land Use Capability Zone that reflect how much ground water should be made available for human uses such that its use wouldn't compromise other users and aquatic ecosystems. From that, the Council estimated net water availability for each subwatershed. This was done by subtracting out from ground water availability various consumptive and depletive water uses identified within each subwatershed.² Where the resulting net water availability is less than zero, then the subwatershed is designated as being a current deficit area.

In subwatersheds with conditional water availability, proposed uses that consume or deplete water must implement additional planning and mitigation before they can be approved. Within the Protection and Conservation Zones, conditional water availability cannot exceed an aggregate of 1% of ground water capacity. In the Existing Community Zone, it cannot exceed an aggregate of 2% of ground water capacity.

All Highlands municipalities, regardless of whether they fall within current deficit areas, must adopt a water use and conservation plan (Objective 2B4c). The plan must identify water sources and uses, validate or modify the Highlands Council's estimated net water availability, and identify and prioritize mitigation strategies and implementation schedule to reduce or eliminate deficits. Executive Order 114 elevates the importance of these plans in deficit subwatersheds by making future water allocation permits or wastewater management plan approval by NJDEP contingent upon a fully implemented water use and conservation plan that is approved by the Highlands Council. This requirement applies to the Protection and Conservation Zones and Environmentally-constrained Sub-zones.

² Consumptive water use means water that is evaporated, transpired, incorporated into products or crops, consumed by people or animals or otherwise removed from a watershed or subwatershed other than by conveyances as potable water or wastewater. Depletive water use means water which is withdrawn from a HUC14 subwatershed and transported outside of the subwatershed (through utility conveyances), resulting in a net loss of water to the subwatershed from which it originated.

Within subwatersheds that are considered deficit areas, the RMP establishes policies that vary with each Land Use Capability Zone. Conditional water availability is granted to each under different conditions. In subwatersheds dominated by the Protection or Conservation Zones, local water use and conservation management plans and local regulations must give highest priority for use of non-agricultural water availability to address documented public health and safety threats, or to serve designated Highlands redevelopment areas, cluster developments served by public water within certain parts of the Planning Area, and affordable housing projects (Objective 2B4a). In the Existing Community Zone, highest priority goes to efforts that address documented public health and safety threats, designated TDR receiving zones, infill development, designated Highlands redevelopment areas, affordable housing projects or new areas for development meeting all other requirements of the RMP (Objective 2B4b). The highest priority for agricultural water uses in the Conservation Zone goes to those that support protection of Highlands resources (Objective 2B4d). Regardless of Land Use Capability Zone, municipal plans and regulations must require use of water conservation, recycling and reuse methods for development and redevelopment (Policy 2B5).

The Highlands RMP delineates prime ground water recharge areas. These are lands within each subwatershed (HUC14) that have the highest recharge volumes relative to other land areas and in the aggregate, provide 40% of total ground water recharge during drought conditions. Municipal plans and regulations must protect prime ground water recharge areas in part by establishing appropriate minimum design guidelines and permitted uses to protect water quality and prohibit development in these areas unless needed in order to avoid critical habitat, Highlands open waters buffers or moderately and severely constrained steep slopes (Objectives 2D3c, 2D3d, 2D4a). Development activity that is permitted in prime ground water recharge areas is subject to a variety of municipal standards and limitations set forth in the RMP, including low impact development best management practices.

Disruption of prime ground water recharge areas is limited to no more than 15% of the prime ground water recharge area on the site (Objective 2D4d). Public water and sewer systems and community wastewater systems cannot be expanded or built in prime ground water recharge areas within the Preservation Area. The only exception to this is by way of a waiver from NJDEP, based on public health and safety, for redevelopment, or to avoid a taking of property without just compensation (Objective 2D4e).

Wellhead protection areas are the areas around a public water supply well that represent the horizontal extent of ground water captured by the wells. These areas are mapped by the Highlands Council and divided into three tiers. Local regulations must prohibit or restrict certain uses pertinent to each tier. They must require use of best management practices for development activities. Stormwater management regulations must also be enacted that address wellhead protection.

To assist municipalities, the Highlands Council is presently soliciting consultant assistance in developing water use and conservation management plans and planning guidance for select locations in the Highlands region. Hopefully the guidance will be useful in other parts of the Highlands. Additionally, the RMP directs the Council to develop technical guidance for low impact development best management practices and model land development regulations that protect ground and surface water quality, and model master plan elements and land development regulations for wellhead protection areas.

Glen Gardner Master Plan and Land Development Regulations

Glen Gardner is located within three different HUC14 subwatersheds, all of which are considered by the Highlands Council to be in net water availability deficit. (See Net Water Availability Map). Each is assigned conditional water availability that makes water available to proposed uses which deplete or consume water, providing they provide acceptable mitigation to compensate for this. (See also Land Use Capability – Net Water Availability Map which shows the amount of water conditionally available by subwatershed expressed in millions of gallons per day).

Prime ground water recharge areas and wellhead protection areas are also mapped by the Highlands Council. (See Wellhead Protection Map). One of the four wells mapped, located on Bell Avenue, is owned by Hampton Borough. Hampton provides limited water supplies to some properties in the northern part of Glen Gardner. This well is presently closed, however. If the well is permanently closed and sealed, then there may not longer be an applicable wellhead protection area. **Glen Gardner Borough should confirm the legal status of this well and depending upon the outcome, request an RMP update to reflect the elimination of a wellhead protection area around it.**

Glen Gardner's Land Use Regulations impose requirements on new development in terms of water supply impacts. It also has adopted stormwater management regulations. Regulations require an impact assessment of water supply for developments in which water is to be supplied from the site and a flow of 100,000 gallons per day or less is required. If total project demand for water supply exceeds 100,000 gpd, the applicant must obtain a diversion permit from NJDEP. If anticipated demand exceeds available safe yield, the Planning Board must determine that the aquifer on the site can yield the desired amount of water. Furthermore, if water is to be supplied from the development site, nonresidential uses and residential developments of at least three lots must perform test wells to determine safe ground water yield and impacts on surrounding wells.

Ultimately, both water supply and stormwater regulations will have to be updated to conform to RMP requirements. Likewise, wellhead protection regulations will have to be adopted.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Water use and conservation management plan.
- ✓ Mapped and written depiction of prime ground water recharge areas in a municipal Environmental Resource Inventory.
- ✓ Protection of prime ground water recharge areas through land use regulations.
- ✓ Minimum site design guidelines and permissible uses within prime ground water recharge areas consistent with RMP policies, including prohibition of development in prime ground water recharge areas unless needed to avoid critical habitat, Highlands open water buffers or moderately or severely constrained steep slopes.
- ✓ Land use regulations requiring that disruption of prime ground water recharge areas must be minimized by implementing low impact development best management practices and that any disruption affect no more than 15% of the prime ground water recharge area on the site.
- ✓ Land use regulations requiring use of low impact development best management practices for stormwater management and wellhead protection.

5.2.7 Water and Wastewater Infrastructure

RMP Goals, Policies & Objectives

The RMP prohibits new or expanded public water supply and wastewater systems and community on-site wastewater treatment systems in the Preservation Area unless deemed exempt from the Highlands Rules, deemed not to be a major Highlands development, or by waiver from NJDEP and Highlands Council on an individual case-by-case basis. If granted a waiver, they must nevertheless protect sensitive environmental features (Policy 2I1).³ Waivers for major Highlands developments from NJDEP regulations may be obtained to address protection of public health and safety, taking of property without just compensation, or provision of a 100% affordable housing project. Highlands redevelopment areas are also among those situations that may be granted an NJDEP waiver from this prohibition (Policy 2I2). Waivers may be issued by the Highlands Council on a case-by-case basis if deemed needed to protect public health and safety; for redevelopment; or to avoid a taking of property without just compensation. The Plan Conformance process enables municipalities to identify lands potentially appropriate for extension or creation of public water and wastewater systems that might meet the waiver requirements.

³ Sensitive environmental resources such as Highlands open water buffers, riparian areas, forested portion of the forest resource area, agricultural lands of agricultural resource areas, steep slopes, prime groundwater recharge areas, and critical habitats.

New residential development served by public community water must be at a minimum density of .5 acres per dwelling unit for the developed portion of the site unless served by septic systems. New non-residential development served by public water systems must have a target floor area ratio of .84 for the developed portion of the site, unless served by septic systems. The same thresholds apply to new residential development served by public sewer systems (Objectives 2J7c and 2J7d and 2k4a and 2K4b).

Within the Highlands Preservation Area, the RMP requires use of the Highlands Water Protection and Planning Act Rules to guide septic system yield in areas served by septic systems (Objective 2L2c). The Rules prohibit more than one new individual subsurface disposal system for a single family home per 88 acres of forested areas and one per 25 acres on non-forested lots (N.J.A.C. 7:38-3.4 (b) 1 and 2). For residential development comprising other than single family homes and for nonresidential development, an aggregate of systems is permitted so long as they collectively discharge no more than 2,000 gallons per day. The Rules also pose a series of environmental resource protection standards that could further reduce development potential. In almost all circumstances, cluster development in the Preservation Area is not eligible for any sort of infrastructure waivers and therefore, as a general rule, can only be served by septic systems. However, they may be served by water or wastewater infrastructure to address a documented health or safety threat, serve Highlands redevelopment areas or provide for "minimum practical use in the absence of any alternative." This latter condition may occur in limited situations where lots are encumbered by severe environmental constraints, precluding use of individual, on-site systems, and the proposed development is next to existing utility services. (RMP, pp. 271, 272).

To assist municipalities, the Highlands RMP directs the Council to develop standards for water and wastewater utility capacity, service areas, service densities, and environmental protection requirements. Additionally, the Council will release a build-out analysis tool that uses information about utility capacity, septic system capacity and available, developable land to estimate development potential in the municipality.

Glen Gardner Master Plan and Land Development Regulations

Glen Gardner is not presently served by public sewers. A private, community on-site system serves the Spruce Hills condominium development. Parkside Apartments is served by its own State-permitted facility. Existing areas served by public wells include a larger portion of the Borough (See Land Use Capability - Public Community Water Systems Map).

Glen Gardner does not have a wastewater management plan adopted into an areawide water quality management plan in accordance with State rules. A plan originally submitted to NJDEP in 1994 was never adopted by NJDEP into the areawide water quality management plan. Executive Order 114 states that for areas in the Protection and Conservation Zones and Environmentally-constrained Sub-zones in subwatersheds with net water deficits, until a water use and conservation management plan is prepared, approved by the Highlands Council, and fully implemented, NJDEP cannot approve an amendment to an areawide water quality management plan (i.e. a wastewater management plan). Therefore, if Glen Gardner sought the creation of a public sewer system, it would have to first comply with Executive Order 114.

Current zoning regulations permit lot sizes in all districts not served by sewers, far in excess of the restrictions imposed under the Highlands Water Protection and Planning Act Rules. A fair number of parcels in the Borough may qualify for an exemption, however. One of the exemptions permitted under the Act is for the construction of a single family dwelling for one's own or family's use. Another is for construction of a single family home, so long as it disturbs less than one acre or limits impervious surface to less than ¼ acre. Thus, for parcels less than 25 acres in non-forested areas or parcels less than 88 acres in forested areas, one single family home would be permitted under these exemptions. In the process of seeking Plan Conformance, the Borough will need to scrutinize existing properties to determine how many would likely qualify for an exemption.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ List of locations (if any) appropriate for new water or sewer service and that would meet Highlands waiver requirements.
- ✓ Revised land use regulations with permitted densities that are consistent with RMP requirements and Highlands Rules as they apply outside of sewer service areas.
- ✓ Revised land use regulations that eliminate reference to public or community wastewater systems in areas not presently served unless permitted by way of Highlands Council waiver.
- ✓ Regulations to ensure proper septic system operation and maintenance.
- ✓ Regulations requiring that new residential development relying on septic systems include location for a replacement disposal field.

5.2.8 Agriculture

RMP Goals, Policies & Objectives

The RMP calls for Agriculture Retention/Farmland Preservation Plan elements in municipalities within agricultural resource areas. (See Agricultural Resource Area Map). Agricultural resource areas were mapped by the Highlands Council based on several factors that were used to assess the Highlands farmland and identify important agricultural resources. These include farming landscapes of 250 or more contiguous acres; farms containing important farmland soils, extent of lands adjoining an active farm; and concentrations of preserved farmland.

Municipalities must also enact development regulations promoting preservation in the agricultural resource areas and limiting non-agricultural uses within these areas to those supportive of farmland preservation, agricultural sustainability, protection of important farmland soils and resources (Objective 3A4b).

Clustering is mandatory in agricultural resource areas where farmland preservation or the Transfer of Development Rights is not feasible (Policy 3A5). Regardless of whether a cluster development is inside or outside of an agricultural resource area, it must be buffered to avoid conflicts with non-agricultural uses (Objective 3A5b). Land preserved through clustering must be subject to a conservation easement enforceable by the Highlands Council, along with the municipality, County Agriculture Development Board, State Agriculture Development Committee, Green Acres or qualified land trust (Objective 3A5c). When preserved land is dedicated to agricultural purposes, the local ordinance must require implementation of best management practices (Objective 3A5d). At least 80% of the site must be preserved in farmland or open space if served by septic systems in the Preservation Area (Policy 3A5 and Objective 611a).

Glen Gardner Master Plan and Land Development Regulations

Agricultural resource areas are limited to the northern reaches of the Borough, and correspond closely to mapped agricultural priority areas as well. The Borough Master Plan notes that only five tracts of land are devoted to agricultural use. According to the 2002 land use/land cover data supplied by NJDEP, agricultural land represents only 8.2% of the entire land base. While farmland preservation is not a focus of the Master Plan, preservation of rural character is an important goal.

Several zoning districts fall within the agricultural resource area. None of the density standards comport with the Highlands Rules governing the Preservation Area outside of sewer service areas. The Borough ordinance provides for buffer regulations in Article VII but the buffer regulations do not affect address screening between clustered developments and agricultural lands.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Possibly, a farmland preservation plan. (Whether municipalities like Glen Gardner with limited agricultural resource areas are required to prepare such plan is unclear).
- ✓ Land development regulations limiting non- agricultural uses within the agricultural resource area to those supportive of farmland preservation, agricultural sustainability, protection of important farmland soils and resources.
- ✓ Revised land development regulations increasing the required open space set aside in cluster developments to a minimum of 80%.
- ✓ Revised land development regulations that require open space easements to be dedicated to the Highlands Council along with one additional entity that can be the municipality, County Agriculture Development Board, State Agriculture Development Committee, Green Acres or qualifying non-profit organization.
- ✓ Revised land development regulations that address buffer requirements between clustered development and adjacent agricultural lands.

5.2.9 Historic, Cultural, Archaeological, and Scenic Resources

RMP Goals, Policies & Objectives

The Highlands Council developed a baseline inventory of historic and cultural resources within the Highlands Region. The inventory includes all properties currently listed on the New Jersey or National Register of Historic Places; those deemed eligible for these listings; and properties for which a formal opinion on eligibility from the State Historic Preservation office has been issued. Additionally, the Council has identified a series of scenic resource areas. These include national historic landmarks, publicly owned parks, forests and recreation areas. While mapping has been released showing historic resources, to date, no such mapping is known to have been released for scenic resources.

Municipalities are required to include a historic, cultural and scenic resource protection element in their master plans, including an historic and cultural resources inventory that is updated through local development reviews. Also, they must include minimum standards in their land use regulations for protecting and enhancing scenic resources that are listed in the Highlands scenic resources inventory (Policies 4C1 and 4C3).

Municipal regulations must require site plan and subdivision applications to identify any cultural, historic or archaeological resources in the Highlands region which are listed on the Highlands inventory and may be affected by the project. Developments affecting scenic resources must comply with minimum standards for preservation of these resources (Objective 4A4a and 4B5b).

To assist municipalities, the Highlands RMP directs the Highlands Council to develop a scenic resource protection model ordinance.

Glen Gardner Master Plan and Land Development Regulations

The Highlands RMP delineates an area deemed eligible for listing on the State or National Register of Historic Places and identifies individual sites that are either listed or eligible to be listed on the same. (See Historic\Cultural Resources Map). The eligible historic district boundary extends most of the length of Main Street on either side and a portion of Sanatorium Road. According to the NJDEP State Historic Preservation Office website, current to July 22, 2008, numerous properties are deemed eligible for inclusion but only one structure is actually listed on the State and National Registers. That is the pony pratt truss bridge in Mill Street over Spruce Run.

The Glen Gardner Borough Master Plan contains a map and description of individual historic sites and structures drawn from the Glen Gardner Bicentennial Celebration Booklet (1976) and well as a general discussion of the Borough's history. A Historic Resources Preservation Plan element of the Master Plan acknowledges that while there is presently no formal mechanism used by the Borough to protect historic sites in the development review process, it may be desirable to do so, utilizing the tools available through the Municipal Land Use Law. The Plan includes a map showing boundaries of proposed historic districts. The map, though not identical,

closely follows the map prepared by the Highlands Council. The Historic Preservation Plan does not contain a discussion of the impact of other components of the Master Plan on historic preservation, a requirement under the Municipal Land Use Law.

The Borough's 2007 Reexamination Report notes that Glen Gardner has not adopted neighborhood conservation and historic architectural design guidelines. However, the Borough has adopted regulations governing certain impacts to designated historic landmarks and districts. The regulations provide the authority to create a Historic Preservation Commission, an advisory body to the Planning Board and the ability for the Planning Board to approval or deny certain actions affecting activities on properties containing historic landmarks within any historic district. The ordinance contains a series of standards by which to evaluate proposed historic landmark demolitions or improvements to historic districts.

The Land Use Code's Environmental Impact Statement regulations require applicants for development to include an inventory of existing natural features as well as archaeological and historic features. As stated earlier, the Planning Board can reject a proposed project on an environmental basis if the project is demonstrated to result in appreciable harm to the environment or public health and safety; has not been designed in concert with the protection of natural resources; and place excessive demand on the total resources available for this project and for any future project.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Submit to the Highlands Council any historic sites or districts proposed for inclusion in the municipal master plan so they can be evaluated for inclusion on the Highlands Region Historic and Cultural Resources Inventory. Local and Highlands Council inventories should be consistent with each other.
- ✓ Updated and amended Historic Preservation Plan to ensure that it addresses all aspects of the Municipal Land Use Law provisions.
- ✓ Land use regulations to protect scenic resources.
- ✓ Land use regulations requiring site plan and subdivision applications to include identification of any cultural, historic or archaeological resources listed on the Highlands Historic and Cultural Resource inventory that may be affected by the proposed development.

5.2.10 Future Land Use, Redevelopment and Smart Growth

RMP Goals, Policies & Objectives

As mentioned earlier, the RMP utilizes Land Use Capability Zones to help determine development intensities, land uses and acquisition priorities in the Highlands region. The Protection Zone within the Preservation Area is where highest land acquisition priority is assigned

to undeveloped lands (Policy 6B3). New development in the Protection Zone is limited to redevelopment, exempt activities and environmentally-compatible low density land uses (Policy 6C1).

In the Conservation Zone, land use should be limited to agriculture, redevelopment of existing developed areas and environmentally-compatible low density land uses that are as compact as possible (Policy 6D3).

In the Existing Community Zone, the RMP encourages redevelopment of brownfields, especially those located near transportation corridors or transit stations. (Brownfields are former or current commercial or industrial sites that are vacant or underused and on which there has been or is suspected to have been a discharge of a contaminant). Development and redevelopment in the Existing Community Zone should be served by adequate public facilities and infrastructure (Policies 6F2 and 6F4). If municipalities choose to encourage development in the Existing Community Zone, it should be in the form of center-based, mixed use development (Policy 6F6).

Redevelopment and center-based growth necessarily rely upon water and sewer infrastructure. This is something that will likely be of limited availability in the Preservation Area where it is not already available. For Preservation Area municipalities without public infrastructure (i.e. water and sewer), this will only be possible with a waiver from NJDEP and the Highlands Council. (For further information on waiver provisions, refer back to p.39, Water and Wastewater Infrastructure).

As a condition of Highlands RMP conformance, municipalities must identify any opportunities for development, redevelopment and brownfield redevelopment in local land use plans, as appropriate (Policy 6L1). Redevelopment, in Highlands RMP terminology, takes on broader meaning than that used in relation to New Jersey's Local Redevelopment and Housing Law (LRHL). Highlands redevelopment is not limited to projects that are designated as areas in need of redevelopment under the LRHL. By the same token, given an additional layer of approvals required by NJDEP and the Council, projects that do fall under the LRHL are subject to additional oversight vis-à-vis the Highlands RMP provisions.

In the Preservation Area, the Highlands Council encourages redevelopment of sites with 70% or more impervious surfaces and brownfield sites (Policy 6J1). Redevelopment of these areas must be in accordance with Highlands Water Protection and Planning Act Rules. In the Preservation Area, NJDEP grants waivers from the Highlands Rules on a case-by-case basis for redevelopment in brownfields and areas previously developed with 70% impervious coverage.

The Highlands Council also plays a role in Preservation Area redevelopment, in that the proposed site must be deemed appropriate by the Council before it can qualify for a waiver from the Highlands Rules. For previously developed properties with at least 70% impervious coverage, the Highlands Council must first approve designation of the site through an approval process called the

Highlands Redevelopment Area Designation process. Next NJDEP must review the proposed project and issue a Highlands Preservation Area Approval with waiver if all requirements are addressed.

If the site in the Preservation Area is a brownfield site, it must first be designated as a Highlands brownfield site by NJDEP. Next, the Highlands Council must designate the site as appropriate for redevelopment through the Highlands Redevelopment Area Designation process. Then, NJDEP must review the proposed redevelopment project and grant a Highlands Preservation Area Approval with waiver once all requirements are met.

Municipal master plans and regulations must incorporate programs for community and neighborhood design that support varied housing options, mixed uses, redevelopment, adaptive re-use of historic sites and structures and infill development (Policy 6N5). As stated earlier, new development in the Existing Community Zone should be "center-based" in design, to the extent that municipalities want to encourage growth (Policy 6F6). By center-based, it means that development should be compact, walkable and support a mix of uses. While densities of five dwelling units per acre or more are encouraged, they are not mandated. Clearly, if any portion of the Existing Community Zone is outside of an existing sewer service area and is not planned for future sewer service, then densities and design must respect the constraints to center-based design posed by septic systems.

Municipalities are required to adopt low impact development best management practices where disturbance to environmentally sensitive resources are proposed. Such resources include, for example, steep slopes, forest resources, critical habitat, Highlands open waters and riparian areas, and prime ground water recharge areas (Policy 6N4). The RMP proposes a site analysis and planning process for development projects to ensure that appropriate natural and energy resources are conserved.

Municipalities are also required to prepare an economic plan element providing strategies to achieve sustainable and appropriate economic development that is consistent with local goals and includes opportunities for development, redevelopment and brownfields opportunities (Policy 8A6).

To assist municipalities, the RMP directs the Highlands Council to provide site development standards for all projects including redevelopment projects. The Council is preparing model municipal development standards governing housing, economic development and community facilities, as well as a smart growth and community design handbook for local planning, design and review processes.

Glen Gardner Master Plan and Land Development Regulations

Nearly 50% of Glen Gardner falls within the Protection Zone, limiting future development in much of the Borough. Again, development restrictions will be dictated largely by the Highlands rules which severely restrict development in areas served by septic systems. This comprises the vast majority of the Borough.

The 2007 Reexamination Report notes that Glen Gardner has no pending redevelopment plans. However, redevelopment may be something that is desirable in the future. This could help facilitate the 2007 Reexamination Report observation that the Borough should enhance and revitalize its business community to the extent possible within the constraints presented by the Highlands Rules. It is something the Borough will want to consider as part of the Highlands Plan Conformance process. To promote economic revitalization, the Borough would also benefit from the preparation of an economic plan element of its master plan. The Regional Master Plan, in fact, requires municipal economic plan elements to their master plans.

Mixed use, center-based design is appropriate for neighborhoods and downtowns where compact, walkable environments are preferred. Because of the environmental constraints that are so prevalent in Glen Gardner, a traditional town center block structure is not the historical pattern of growth that emerged in the Borough. It's historic center – namely Main Street - is linear in configuration. Nonetheless, because of its compact configuration, with houses and limited commercial and civic uses on tight lots, it tends to be a walkable area. Sidewalks are present in the heart of historic center, on at least one side of the street. The 2007 Reexamination Report recommended a pedestrian circulation plan be prepared, though that has not occurred to date.

The existing Commercial Office District, which extends the length of Route 31, may be an appropriate location to identify possible sites for future redevelopment as center-based growth on a small scale that promote economic revitalization with residential uses as well. The Commercial Office District regulations were revised recently to permit residential flats above commercial uses. This is one important means of facilitating center-based solutions. However, the density and compact nature of such center-based growth patterns will necessarily require sewer solutions other than septic systems. This will be the greatest challenge to center-based growth solutions in the Borough.

Adaptive reuse and infill are reasonable expectations for future development in the Borough. There have been recent examples of conversions of buildings from residential to commercial use (Glen Gardner Inn), and conversion of a second floor to residential uses, with the bottom floor providing retail and deli uses. Varied residential solutions will continue to be a necessity in order to accommodate affordable housing and comply with State mandates.

What is Needed to Achieve RMP Consistency

To achieve consistency with RMP goals, policies and objectives, Glen Gardner Borough will need to prepare/adopt:

- ✓ Land Use Plan including description and delineation of Land Use Capability Zones.
- ✓ Local land use and site analysis to identify potential redevelopment sites, if any.
- ✓ Revised land development regulations to include the requirement for low impact development best management practices.
- ✓ Economic plan element.

5.2.11 Transfer of Development Rights

RMP Goals, Policies & Objectives

TDR enables owners of properties targeted for preservation (called TDR sending zones) to sell their development rights to developers who then transfer development potential to designated growth areas (called TDR receiving zones). All Highlands Preservation Area lands outside of any Existing Community Zones are eligible to become TDR sending properties.

The Highlands Act acknowledges the ability to site receiving zones in the Planning Area but is silent on receiving zones in the Preservation Area. However, Highlands staff confirm that the RMP permits receiving zones within the Preservation Area as well. TDR receiving zones can be located in the Existing Community Zone, Highlands Redevelopment Areas, or under certain circumstances, in the Conservation Zone (Policies 7D1 and 7D2).

Participation in TDR is entirely voluntary. The program can be intra-municipal or inter-municipal. The RMP encourages intra-municipal TDR as a way to address properties exempt from the Highlands Rules (Objective 7H1a). It also calls for local programs that allow both clustering and noncontiguous clustering of exempt properties (Objective 7H1b).

Glen Gardner Master Plan and Land Development Regulations

Neither the master plan nor regulations address the Transfer of Development Rights, a tool that only became available to municipalities on a statewide basis in 2004 through statewide enabling legislation. The Highlands TDR program, uniquely tailored to the Highlands region, became available strictly to Highlands communities through the Highlands Act.

Given extensive environmental constraints, limited water and sewer service, and limited future growth opportunities in this Preservation Area community, Glen Gardner is not an appropriate “receiver” of growth through an intermunicipal TDR program. It may be worth examining options for intramunicipal TDR on a very limited scale if the Borough is at all interested in pursuing redevelopment. This might be a means of redirecting growth that occurs in a more spread out manner by way of exemptions into a more confined, compact location. But again, the biggest constraint to TDR is the necessity for a sewer solution to support the receiving site (growth site).

6. BASIC PLAN CONFORMANCE REQUIREMENTS

As of the date of this report, the Highlands Council released two important documents that inform the Plan Conformance process. The first is called "Basic Plan Conformance for Municipalities: Key Requirements" (April 11, 2008). The second document is called "Plan Conformance Guidelines" (September 16, 2008). In 2009, the Council expects to release a model Highlands Master Plan Element, Environmental Resource Inventory, land use regulations, and environmental protection standards for purposes of achieving Basic Plan Conformance. The Master Plan Element is intended to be adopted as a supplemental element to the existing municipal master plan, with relevant changes to it as needed to reflect local conditions. The idea is to minimize the amount of revisions needed to individual elements of the master plan by adopting supplemental plan elements for purposes of attaining Basic Plan Conformance. Release of model master plan documents and regulations will be critical to gaining a better understanding of the extent of change that will have to occur locally to achieve Basic Plan Conformance.

Basic Plan Conformance helps municipalities attain Conformance in the Preservation Area within the statutory time from the date of RMP adoption, that is, December 8, 2009. Full Plan Conformance sets forth additional requirements at the local level but these do not need to be addressed within that time frame.

Municipalities that seek an extension for submitting their Third Round housing element and fair share plan to COAH and seek adjusted growth projections must petition the Highlands Council for Plan Conformance. Glen Gardner Borough has submitted the necessary documentation to the Highlands Council and to the Council on Affordable Housing, indicating its intent to petition the Highlands Council for Basic Plan Conformance by December 1, 2009 and its intent to submit its Third Round housing element and fair share plan to COAH no later than December 8, 2009.

6.1 Mandatory Components of Basic Plan Conformance

Basic Plan Conformance entails the following steps and documentation:

Notice of Intent to Conform – A formal resolution of the governing body indicating its intent to petition the Highlands Council for Plan Conformance no later than December 8, 2009. **Glen Gardner must submit its notice of intent to petition the Highlands Council for Plan Conformance before December 31, 2008 to entitle it to the extended deadline for COAH submissions and adjusted growth projections to be used in generating Third Round affordable housing obligations. Additionally, it must submit a resolution notifying COAH of its intent to petition for third round Substantive Certification no later than December 8, 2009.** This has already taken place, via Resolutions 08-89 and 08-90, adopted by Borough Council on November 17, 2008.

Preservation Area Resolution – A certified resolution from the local governing body endorsing the proposed planning program revisions and petitioning the Highlands Council for a determination of Plan Conformance at the time the Borough is prepared to submit for Basic Plan Conformance.

Regional Master Plan Updates – Municipalities seeking to make factual corrections and changes to any mapped or tabular data contained in the RMP must submit them in the form of RMP Updates. A web-based program will be available for submitting these requests. Alternatively, municipalities can submit requisite documentation in hard copy.

A preliminary review of data supplied by the Highlands Council reveals data discrepancies involving preserved open space, existing areas served by public water, and existing areas served by domestic treatment facilities (facilities other than individual septic systems). Data supplied by the Highlands Council appears to be in conflict with local information and should be resolved as soon as possible, ideally by early 2009. Corrected data will be critical in one of the earliest steps of the planning process toward achieving Basic Plan Conformance and revised COAH growth projections, namely the Highlands build-out analysis.

Glen Gardner Borough has already initiated the process of gathering needed information in support of data corrections and RMP updates. This process is being funded in part through the Initial Assessment Grant but will be submitted to the Highlands Council under separate cover, subsequent to submission of this report.

The Highlands Council requires specific documentation for each category of RMP Updates. For updates on existing areas served by wastewater treatment other than septic systems, Glen Gardner must submit either billing records with appropriate property location information; NJDEP Treatment Works Approval with fully executed As-Built Plans; NJPDES discharge permit for on-site treatment and discharge system, with parcel block and lot identified; or utility engineer certified map or plan with block and lot identified. Additionally, it must include the NJDPES Permit Number, facility name, discharge type (surface vs ground water), acreage of service area within the Highlands, total permitted capacity, Highlands portion of permitted capacity, total maximum three month discharge, Highlands portion thereof, and current available Highlands capacity.

To correct the boundaries of areas currently served with potable water, Glen Gardner must submit one of five types of information. It can submit an NJDEP approved master permit along with written local utility approval of the connection based on the master permit; NJDEP approved initial or renewal physical connection permit; quarterly physical connection and maintenance report; NJDEP approved permit to construct or operate a new public community water system; or existing billing records with appropriate property location information. Along with this information, the Borough must submit the public water system identification number, purveyor name, total water supply, total water demand, maximum monthly water demand and available water capacity.

To update existing preserved lands, Glen Gardner must submit either fully executed conservation easement and mapped delineation of the area to which the easement applies if not the full parcel; municipal or county resolution; or Recreation and Open Space Inventory with block and lot noted.

Map Adjustments – Municipalities seeking to make changes specifically to the Land Use Capability Zone Map that go beyond factual corrections associated with RMP Updates must submit justifications for changes. It does not appear that map adjustments are in calling at this time.

Planning Program Documents – Proposed substantive revisions, updates and/or supplements to the master plan, land use regulations, management plans, redevelopment plans and other assorted planning documents that must be completed as a condition of Plan Conformance. Note that for Basic Plan Conformance, the Highlands Council recommends adoption of relevant RMP provisions and Land Use Capability Zone Map and regulations as a Highlands Master Plan Element and a Zoning Overlay District. More comprehensive revisions to the existing master plan and ordinances can be done later on for Full Plan Conformance.

The following is a description of the plans and regulations needing revisions:

- Adoption of broad-based goal statements consistent with the Highlands RMP - Most likely, these will be drawn directly from language contained in the Highlands Water Protection and Planning Act (see p. 10 of this document).
- Land Use Plan – Glen Gardner will need to adopt the Highlands Land Use Capability Zone categories and the map series upon which Zone policies are based. The Land Use Plan must include the basis for cluster development standards that conform to the RMP. Also, it must incorporate a current developed land inventory map.
- Housing Plan – Glen Gardner must adopt all applicable RMP goals, policies and objectives but modified to reflect local conditions. Revised growth projections based on consistency with the Highlands RMP will be folded into new housing documentation to be submitted to COAH.
- Environmental Resource Inventory – Highlands Resource Area maps must be utilized in an ERI, along with descriptions of the resource categories. Glen Gardner's 1989 Master Plan contains a Natural Features background report. But the information must be updated to include new information, such as critical habitats, riparian areas, and ground water recharge areas, and analyzed in a manner consistent with the data contained in the Highlands RMP. A model ERI will be released by the Highlands Council to assist in this process for purposes of achieving Basic Plan Conformance.

- Conservation Plan – Glen Gardner must update its Conservation Plan element by adopting all applicable Resource Area Maps contained in the RMP, which should in turn be consistent with the maps to be included in the ERI. The plan must also contain applicable goals, policies and objectives contained in the RMP, modified as needed to local conditions. Finally, it must incorporate the basis for requiring low impact development best management practices throughout the resource areas.
- Utilities Plan – Glen Gardner has a Utilities Plan element in its master plan. However, it must be revised. Specifically, it needs to incorporate all applicable RMP goals, policies and objectives, modified to reflect local conditions. The Borough's Plan calls for the possible construction of a public sewer system or private community treatment systems to support clustered development. These policies conflict with RMP goals, policies and objectives in the Preservation Area. The plan needs to emphasize that existing water and sewer service areas will not be extended in the Preservation Area, except by NJDEP approval with a waiver, or exempt uses and activities. It also needs to state that in the Protection and Conservation Zones, existing water and sewer service areas will not be extended unless in conformance with RMP requirements. Existing water and sewer service area maps must be reconciled with Highlands data and appropriate adjustments reflected in the Utilities Plan. The Utilities Plan must include the basis for the preparation and adoption of a water deficit management plan, wellhead protection plan, septic system management/maintenance plan and stormwater management plan that are consistent with the RMP. The Borough's stormwater management plan will have to be reviewed for consistency with the Highlands RMP. All other plans will have to be newly created and adopted to achieve Full Plan Conformance. These additional plans do not have to be prepared for Basic Plan Conformance. However, the basis for each will need to be spelled out in the Highlands Master Plan Element to achieve Basic Plan Conformance. The Utilities Plan will have to recognize adherence to adopted Highlands water and wastewater technical guidance documents. It should also be coordinated with Hunterdon County's development of a countywide wastewater management plan.
- Circulation Plan – Municipalities must adopt all applicable RMP goals, policies and objectives, modified to local conditions. In turn, these must be coordinated with the Land Use Plan and smart growth principles included therein. Glen Gardner's Circulation Plan element, contained in its 1989 Master Plan, will have to be updated. It will need to evaluate potential growth inducing effects of new land uses that could occur due to roadway improvements and create the basis for local regulations that prohibit growth-inducing roadway infrastructure which are detrimental to resource protection and smart growth principles.
- Open Space Plan - Basic Plan Conformance requires adoption of all applicable RMP goals, policies and objectives related to open space planning, as well a mapped recreation and open space inventory. Glen Gardner's Master Plan includes a dated inventory of parkland. It also contains a Recreation Plan element which recommends an interconnected system of trails and proposes a set of standards and criteria to be used in selecting future parkland sites. This will have to be updated and, again, supplemented with adoption of relevant RMP goals, policies objectives and updated open space information.

- Agriculture Retention/Farmland Preservation Plan – All applicable RMP goals, policies and objectives must be adopted and modified as appropriate to local conditions. The plan must incorporate a commitment to the Right to Farm Act and, if desired, promotion and protection of farm labor housing. It also needs to include a current, mapped inventory of preserved farmland. Given the limited amount of farmland in Glen Gardner, it is unclear at this time whether such a plan will be required.
- Community Facilities Plan – The Glen Gardner Borough Master Plan includes a Community Facilities Plan element. This must be updated to reflect improvements made to Borough Hall and construction of the new firehouse. Additionally, it must include not only all applicable RMP goals, policies and objectives, modified to reflect local conditions; it must also contain energy efficiency goals and consideration of shared services.
- Sustainable Economic Development Plan – The RMP contains a variety of goals, policies and objectives that relate to economic development and sustainability. Applicable goals, policies and objectives must be adopted and modified to reflect local conditions and the local desire to enhance and revitalize the business community, as stated in the 2007 Reexamination Report. Glen Gardner does not have an economic development plan element. Thus, this will be a new plan element of the Borough's Master Plan.
- Historic Preservation Plan – The RMP contains goals, policies and objectives related to historic preservation. Those applicable to Glen Gardner must be adopted into an updated Historic Preservation Plan element. Also, the Plan must include a list and discussion of any historic, cultural and archeological resources listed in the Highlands Historic and Cultural Resources Inventory. This Inventory includes all properties listed on the New Jersey or National Register of Historic Places; all properties deemed eligible for listing on either Register; and all properties for which a formal opinion by the State Historic Preservation Office (SHPO) has been issued. A SHPO opinion is an evaluation for eligibility prepared when a federally funded activity is expected to have an effect on historic properties not listed on the National Register. The Historic Preservation Plan should also be reviewed and amended, as needed, to ensure compliance with the Municipal Land Use Law.
- Relationship of Master Plan to Other Plans, including the Highlands RMP – The Master Plan must include a policy statement demonstrating that the proposed development and/or redevelopment of the municipality as set forth in the municipal master plan is consistent with the Highlands RMP. Obviously, this statement is not presently contained in the Borough's Master Plan, since the plan pre-dates the Highlands Regional Master Plan. It should be noted, though, that the 2007 Reexamination Report acknowledges the Highlands Act and the need for the Borough to conform to the Highlands RMP.

- Zoning/Land Use Ordinances & Development Regulations – Basic Plan Conformance requires a number of additions and or changes to municipal regulations. First, the definitions section must be amended to include definitions of “Highlands Council,” Highlands RMP “Areas,” (Preservation and Planning Areas), “Zones” (Land Use Capability Zones), and other terms specific to the Highlands RMP. Zone Districts and District Regulations must be amended by adopting a caveat stating that the NJDEP Preservation Area Rules and Highlands RMP provisions will apply to all non-exempt development. Furthermore, water and wastewater treatment availability and limitations on utility extensions will affect lot size and lot coverage requirements, as will septic system regulations governed by the Highlands Rules in areas not served by public wastewater. Cluster development provisions must be included in the Ordinance, reflecting RMP goals, policies and objectives. Regulations must be enacted supporting resource protection of open water and riparian areas, ground water recharge areas, wellhead protection, stormwater management, steep slopes, carbonate rock, forest areas, agriculture, open space monitoring and stewardship, critical habitats, and low impact development. Resource regulations will dictate that development applications include maps and plans which identify Highlands resources and that protective conservation easements are a condition of approval. Additionally, ordinances must provide for required noticing of the Highlands Council for non-exempt development applications, provisions for noticing the Highlands Council of local actions taken on development applications, and application procedures.
- Application Submission Checklist Ordinance - The application submission checklist ordinance must be amended to include additional required information checklists. Applicants claiming an exemption from the Highlands Act must submit a Highlands Applicability Determination from NJDEP if the application is in the Preservation Area. For non-exempt development, applicants must submit a Highlands Preservation Area Approval (HPAA) or HPAA with waiver from the NJDEP in the Preservation Area. Additionally, they must submit a Highlands Consistency Determination from the Highlands Council which indicates whether the development application is consistent with the RMP. If the Consistency Determination is conditioned on certain plan revisions, then the applicant must also submit certification from his professional that the plans have been revised to address inconsistencies identified by the Highlands Council.

Self-Assessment Report and Implementation Plan – Glen Gardner must prepare a report on progress to date made toward achieving Basic Plan Conformance; remaining steps to achieve Full Plan Conformance; and a proposed implementation plan and schedule to complete outstanding items.

Build-Out Analysis – Municipalities will have to conduct a build-out analysis on an individual property by property basis, using a model that will be available through the Highlands Council. The build-out analysis will indicate the relative consistency of existing zoning to the RMP, confirm maximum septic system yield by subwatershed and Land Use Capability Zone based on RMP goals, policies and objectives, help establish appropriate zoning densities both within and outside of sewer service areas, and examine potential redevelopment sites. The build-out model will be utilized not only for Plan Conformance, but also to calculate revised growth

projections to be used in assigning affordable housing need. The analysis will be conducted by each municipality, enabling local knowledge to inform the ultimate outcome. Glen Gardner will be required to submit to the Highlands Council a report summarizing findings from the build-out analysis. The build-out analysis is currently underway and is funded through a Highlands Council Plan Conformance Grant.

6.2 Technical Assistance from Highlands Council

Although the Highlands Council has appropriately acknowledged the need to simplify and streamline Plan Conformance to meet the statutory deadlines, Basic Plan Conformance will still place significant demands on municipalities, including Glen Gardner. In order to address the ambitious program that the Highlands Council has laid out for Basic Plan Conformance, Glen Gardner will look to the Highlands Council for continued financial and expeditious technical support. The Borough will request the following assistance from the Highlands Council:

- A preliminary meeting to go over elements of Basic Plan Conformance;
- Model Highlands Master Plan Element that can be tailored to the unique local context of each municipality and that will be used as the basis for a Master Plan Element that meets Basic Plan Conformance requirements;
- Model Environmental Resource Inventory;
- Model land use ordinance language;
- Model resource protection standards;
- Design guidelines and grant funding for planning for cluster development (as indicated in RMP Cluster/Conservation Design Development Program);
- Timely delivery of guidance documents needed for Plan Conformance including, for example, the Highlands build-out model, guidance on low impact best management practices, wellhead protection, prime ground water recharge areas, and redevelopment.

7. NEXT STEPS & TIME TABLE

The deadline for submitting required documents for Basic Plan Conformance in the Preservation Area is December 8, 2009. In the interim, there are several actions that Glen Gardner should consider taking immediately. The first series of steps described below ensure that benefits accorded to communities that intend to pursue Conformance. The next set of actions is designed to protect Highlands resources during the period between RMP adoption and adoption of conforming municipal plans and regulations.

7.1 Steps to Achieve Basic Plan Conformance

- Complete Regional Master Plan Updates concerning existing areas served by sewers including community systems, public water supply service areas, preserved farmland and open space. Reconciling data will be critical for purposes of conducting the build-out analysis and ensuring proper application of RMP goals, policies and strategies. The Initial Assessment Grant given to Glen Gardner includes funding to analyze data and maps to determine whether RMP Updates are needed. The Borough's Highlands Planning Consultant is presently reconciling data and will submit any corrections or updates to the Highlands Council under separate cover from this Report.
- Propose Map Adjustments if needed, following Highlands Council review of RMP Update requests. The result of the RMP Updates may automatically yield Map Adjustments by the Highlands Council, rendering unnecessary any additional steps on the part of Glen Gardner. There are none that are obvious at this point but the Borough will await further direction from the Highlands Council after it submits its RMP Update requests.
- Conduct the build-out analysis using the Highlands Build-Out Model. This process began in January, 2009. It is a time-intensive process, anticipated to take three to four months to complete.
- Based on the build-out analysis, complete a revised draft Third Round Housing Element and Fair Share Plan. Draft documents should be submitted to the Highlands Council for its initial review and comments. Prior to submitting these documents to COAH and petitioning for substantive certification, all changes reflecting Council comments must be made and plans adopted by the Planning Board. Draft documents should be completed by October to afford sufficient time for Highlands Council review, local adoption of the plans and submission to COAH by December 8, 2009.
- Prepare draft Highlands Master Plan Element, Environmental Resource Inventory, ordinance revisions, resource protection standards and Municipal Self-Assessment and authorize transmittal of draft documents to the Highlands Council no later than December 8, 2009.

- Revise land development regulations to require applicants in the Preservation Area to provide notice of their development application to the Highlands Council. This can be done as a development review completeness checklist item. Under the Highlands Act, any applicant for development in the Preservation Area must notice the Highlands Council. In turn, the Council has determined that applications for development cannot be deemed administratively complete or eligible for review locally until or unless the applicant demonstrates that s/he has noticed the Council.

7.2 Additional Interim Steps

After the Highlands Regional Master Plan is adopted, but prior to municipal conformance, the Highlands Council is authorized to review final local actions on development applications in the Preservation Area, providing this is done within 15 calendar days after local action is taken and providing the application is not deemed exempt from the Highlands Act by NJDEP. The Council will know whether applications are deemed exempt to the extent that NJDEP is issuing exemption determinations (called Highlands Applicability Determinations) and Highlands Preservation Area Approvals for major Highlands developments. Additionally, the Highlands Act requires that anyone submitting an application for development in the Preservation Area must provide notice to the Highlands Council. Thus, applications for development in the Preservation Area cannot be deemed administratively complete until the applicant demonstrates that s/he has noticed the Highlands Council.

Given the actions that the Highlands Council will be taking on development applications and authority to review local government actions on development applications, it is recommended that Glen Gardner do the following as soon as possible:

- Revise its checklist ordinance to require 1) proof when major Highlands development applications in the Preservation Area are deemed exempt by NJDEP; and 2) proof that notice of non-exempt applications in the Preservation Area has been given to the Highlands Council.
- Authorize transmittal to the Highlands Council of a certified copy of the resolution that memorializes the final local planning board decision on all development applications within the Preservation Area. The Highlands Council may review any application for development in the Preservation Area and approve, reject or conditionally approval the application within 15 calendar days following final local government action. This power is granted through the Highlands Act but only until a municipality has conformed to the RMP. At that point, the Council 's review authority is limited to development applications providing for the ultimate disturbance of two or more acres or cumulative increase in impervious surface by at least one acre of land.

7.3 Recommended Time Table

The following table provides a proposed schedule for Glen Gardner to follow in order to file for Basic Plan Conformance within the mandated time frame.

RECOMMENDED TIME TABLE FOR BASIC PLAN CONFORMANCE & RELATED ACTIVITIES (asterisk indicates mandatory deadline)	
ACTIVITY	DEADLINE
Submit to Highlands Council Notice of Intent to Petition for Plan Conformance in Preservation and Planning Areas	December 30, 2008* (Completed)
Submit to Council on Affordable Housing resolution to petition for Third Round substantive certification no later than December 8, 2009	December 30, 2008* (Completed)
Transmit needed documentation to Highlands Council in support of Highlands Regional Master Plan Updates related to existing areas served by sewers, existing public water service areas, and existing preserved open space	March, 2009
Conduct Highlands build-out analysis	April, 2009
Submit draft Housing Element and Fair Share Plan to Highlands Council staff for review	June, 2009
Submit draft Highlands Master Plan Element and Environmental Resource Inventory to Highlands Council staff for review	October, 2009
Submit draft ordinance revisions to Highlands Council staff for review	November, 2009
Adopt Housing Element and Fair Share Plan	November, 2009
Submit revised draft plans and ordinances, along with Self-Assessment Report, to Highlands Council	December 8, 2009*
Submit petition for substantive certification to COAH	December 8, 2009*

8. FUNDING ASSISTANCE

Section 18b of the Highlands Water Protection and Planning Act directs the Highlands Council to make planning grants available to municipalities and counties to cover the “reasonable expense” of bringing master plans and development regulations into conformance with the Highlands Regional Master Plan.

The Highlands Council has received annual appropriations of approximately \$4.5 million, for a total of over \$21 million to date. This money is to be used for planning and implementation tasks related to Plan Conformance. In addition to the Initial Assessment Grant Program, the Council is awarding funding for Basic Plan Conformance activities, development of affordable housing plans, and planning necessary to move from Basic to Full Plan Conformance. Base grants of up to \$50,000 per municipality are being awarded for Basic Plan Conformance activities, provided a properly completed grant application is submitted to the Highlands Council. If necessary, up to \$50,000 in additional grants will be available for each municipality to complete Basic Plan Conformance requirements. Glen Gardner has completed necessary documentation for the \$50,000 base grant.

The Council has also established a Voluntary Transfer of Development Rights Receiving Zone Feasibility Grant Program to assist municipalities in evaluating the potential for locating TDR receiving zones, with additional funding anticipated to help offset TDR implementation costs. Highlands Incentive Planning Aid Grant funds will become available to help achieve discretionary aspects of the Regional master Plan, such as planning for redevelopment, town center/transit village development, and local and regional economic development strategies.

APPENDIX A – HIGHLANDS REGIONAL MASTER PLAN - SELECT POLICIES & OBJECTIVES

POLICIES/OBJECTIVES	LAND USE CAPABILITY ZONE/S
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 NJDEP.	ALL
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 NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.9.	ALL
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 to maximum extent practicable.	ECZ
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.	ALL
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.	ALL
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.	ALL
1D4: Highlands Open Waters shall include a protection buffer of 300 feet from the edge of the discernable bank of the 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 features 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 provisions of alternative approaches to enhancing or protecting Highlands Open Waters and resources of the buffer area.	ALL
1D4a: Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Open Waters.	ALL

<p>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 [Highlands Preservation Area Approval]. 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."</p>	<p>ALL</p>
<p>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).</p>	<p>ALL</p>
<p>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:</p> <ol style="list-style-type: none"> 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 	<p>ALL</p>

<p>deemed not to meet the requirements of this provision; and</p> <p>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 the 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.</p>	
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.	ALL
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.	ALL
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.	PZ
1D5d: Restrict modifications to Riparian Areas in the Existing Community Zone, other than those addressed by Objective 1D5B, that would alter or be detrimental to the water quality and habitat value of a Riparian Area.	ECZ
1D5e: Implement Low Impact Development Best Management Practices for any development activity proposed within a Riparian Area, which minimize both alternations 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 HUC 14 subwatershed.	ALL
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.	ALL
1E7: 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.	ALL
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.	ALL
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.	ALL
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.	ALL

1F5a: Implement the Habitat Conservation and Management Program through a Critical Habitat and Management Plan to include performance standards to be required through local development review and Highlands Project Review.	ALL
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.	ALL
1F5e: The Critical Habitat Conservation and Management Plan shall include a GIS or map-series Critical 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.	ALL
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.	ALL
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.	ALL
1G1: To require that conforming municipalities and counties identify Critical Habitat and management programs in their master plans and development regulations.	ALL
1G2: To require that conforming municipalities and counties include approved Habitat Conservation and Management Plans in master plans and development regulations.	ALL
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.	ALL
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 rights programs, and development regulations.	ALL
1I1: To require conforming municipalities and counties to include an open space preservation and land stewardship element in their master plans.	ALL
1I2: 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.	ALL

1I3: 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 Section 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.	ALL
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.	ALL
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.	ALL
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.	ALL
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.	PZ,CZ
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.	ECZ
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 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 a designated Highlands Redevelopment Area; 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.	PZ,CZ
2B4d: The highest priority for use of Net Water Availability or Conditional Water Availability within Existing Community Zone subwatersheds, through a Water Use and Conservation Management 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.	ECZ
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	ALL

<p>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.</p>	
<p>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 HUC 14 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 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.</p>	<p>ALL</p>
<p>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 (i.e. in excess of 0.25 million gallons per day), and the plan shall be implemented prior to initiation of new water uses.</p>	<p>ALL</p>
<p>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.</p>	<p>ALL</p>
<p>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.</p>	<p>ALL</p>
<p>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.</p>	<p>ALL</p>
<p>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</p>	<p>ALL</p>

into a prime Ground Water recharge Area within...the Preservation Area except as provided for in Policy 211 and Objectives 211a and 211b.	
211: 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.	ALL
212: 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.	ALL
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.	ALL
2J7d: Require that new non-residential development served by public community 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 space), to ensure cost-effective utility service.	ALL
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, recreational space), to ensure cost-effective utility service.	ALL
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 ensure cost-effective utility service.	ALL
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.	CZ
2L2c: Use the NJDEP Highlands Preservation Area Rules and nitrate thresholds for the Preservation Area.	ALL
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.	ALL
3A4b: Implement through Plan Conformance Agriculture Retention/Farmland Preservation Plan elements and development regulations promoting preservation in the Agricultural Resource Areas (ARA) 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.	ALL
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	ALL

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.	
3A5b: Implement regulations requiring that all cluster or conservation design development proposed in an Agricultural Resource Area 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 features.	ALL
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 County Agriculture Development Board or the SADC and for environmental purposes Green Acres or a qualified land trust non-profit organization.	ALL
3A5d: Where the preserved land in the cluster project area is dedicated to agricultural purposes support continued agricultural viability of the agricultural land, encourage that the original or new farmstead remain attached to the preserved land wherever feasible, and require the implementation of best management practices through the cluster development ordinance and an Agricultural Retention/Farmland Preservation Plan, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA NRCS, Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).	ALL
3D4: To promote the use of alternative and innovative wastewater treatment systems to provide enhanced protection of surface and ground water quality in agricultural resource areas of the Conservation Zone.	CZ
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.	ALL
4B5b: All development which affects identified scenic resources shall comply with minimum standards for the preservation of the affected resources.	ALL
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.	ALL
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.	ALL
6C1: To limit 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 are considered in regional protection measures.	PZ
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	CZ

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.	
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.	ECZ
6F4: To ensure that development and redevelopment within the Existing Community Zone are served by adequate public facilities including water supply, wastewater treatment, transportation, educational and community facilities.	ECZ
6F6: To encourage new population growth, where desired by the municipality, and development in the Existing Community Zone is in the form of center based and mixed use development.	ECZ
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.	ALL
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.	ALL
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.	ALL
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.	ALL
6N4: To require through Plan Conformance that municipalities and counties adopt LID 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.	ALL
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.	ALL
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.	PZ, CZ
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.	ECZ
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.	CZ
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.	ALL

<p>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.</p>	<p>ALL</p>
<p>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.</p>	<p>NA</p>
<p>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.</p>	<p>NA</p>
<p>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.</p>	<p>ALL</p>

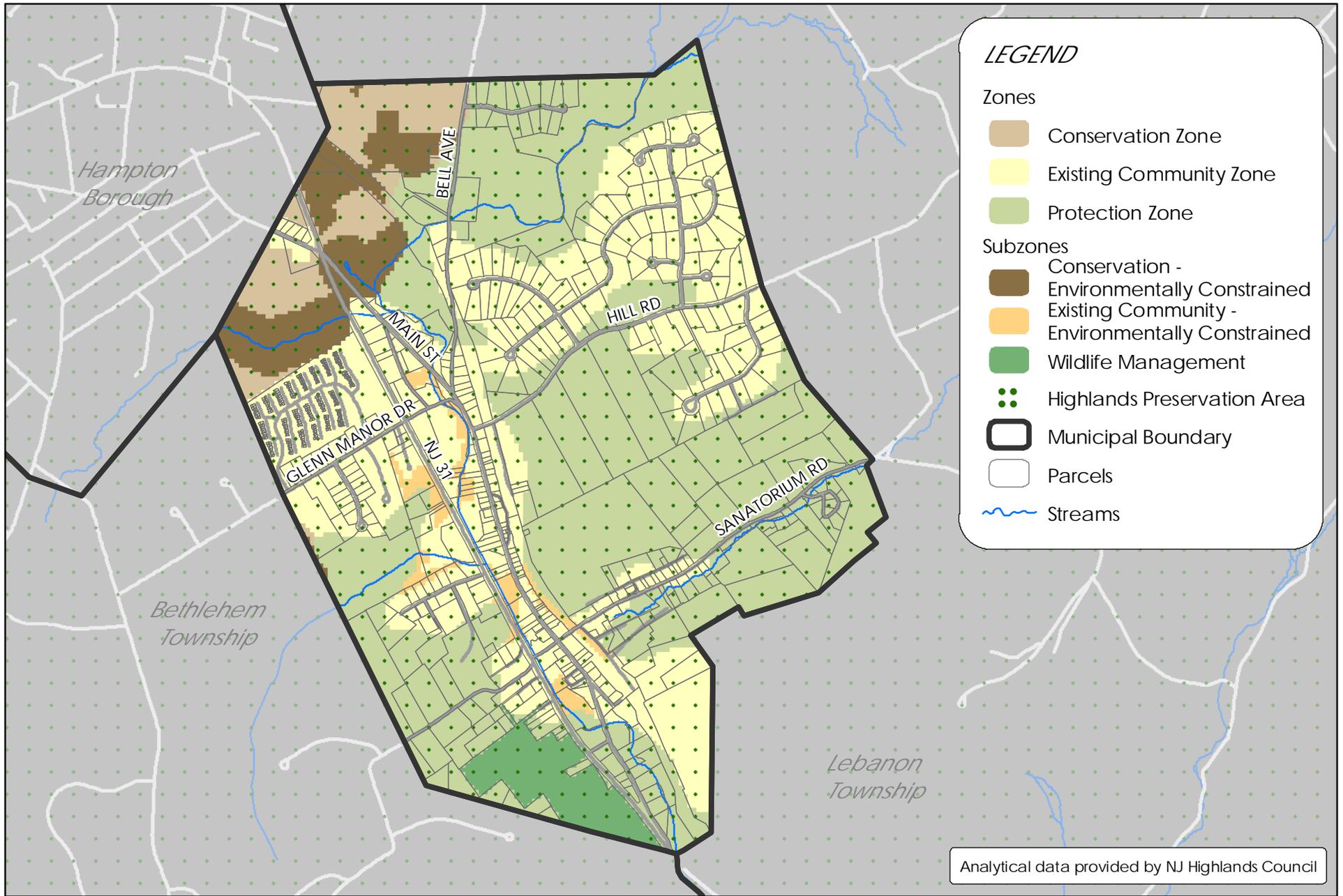
PZ = Protection Zone; CZ = Conservation Zone; ECZ = Existing Community Zone; EC Sub-zones = Environmentally Sensitive Sub-zones; NA = Not Applicable.

APPENDIX B – EXEMPTIONS

The following activities are exempt from the provisions of the Highlands Act, Highlands Regional Master Plan, NJDEP rules or regulations adopted pursuant to the Highlands Act, and any amendments to a master plan, development regulations or other regulations adopted by a municipality specifically to conform them with the RMP.

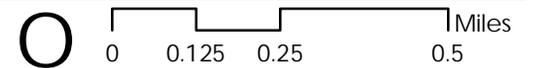
1. Construction of a single family dwelling for one's own use or family use on a lot owned by the individual on August 10, 2004.
2. Construction of a single family dwelling on a lot in existence on August 10, 2004 provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more.
3. Developments that received certain municipal or State permits or approvals on or before March 29, 2004 where construction beyond site preparation started on or before August 10, 2007:
 - (a) one of the following approvals pursuant to the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.):
 - (i) preliminary or final site plan approval;
 - (ii) final municipal building or construction permit;
 - (iii) minor subdivision approval where no subsequent site plan approval is required;
 - (iv) final subdivision approval where no subsequent site plan approval is required; or
 - (v) preliminary subdivision approval where no subsequent site plan approval is required; and
 - (b) at least one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development:
 - (i) a permit or certification pursuant to the "Water Supply Management Act," P.L.1981, c. 262 (C.58:1A-1 et seq.);
 - (ii) a water extension permit or other approval or authorization pursuant to the "Safe Drinking Water Act," P.L.1977, c. 224 (C.58:12A-1 et seq.);
 - (iii) a certification or other approval or authorization issued pursuant to the "The Realty New Improvement Sewerage and Facilities Act (1954)," P.L.1954, c. 199 (C.58:11-23 et seq.); or
 - (iv) a treatment works approval pursuant to the "Water Pollution Control Act," P.L.1977, c. 74 (C.58:10A-1 et seq.); or
 - (c) one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the permits listed in sub-subparagraphs (i) through (iv) of subparagraph (b) of this paragraph:
 - (i) a permit or other approval or authorization issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c. 156 (C.13:9B-1 et seq.); or
 - (ii) a permit or other approval or authorization issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c. 19 C.58:16A-50 et seq.).

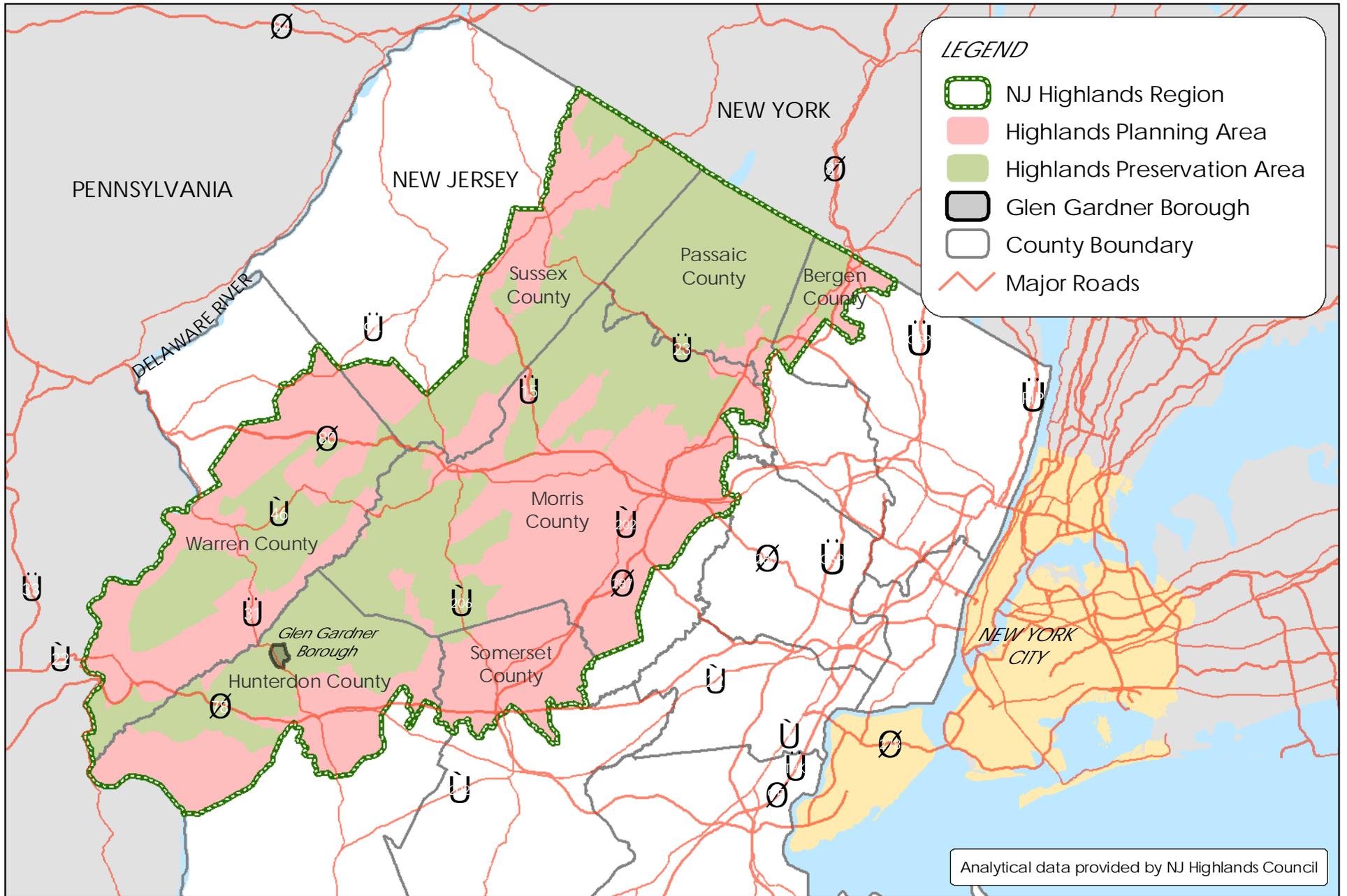
4. Reconstruction of buildings or structures within 125% of the footprint of the lawfully existing impervious surfaces provided there is not an increase in impervious surface by one-quarter acre or more (not applicable to conversion of an agricultural or horticultural building or structure to a non-agricultural 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, or repair, 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 Areas 1 or 2.



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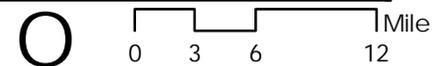
NJ HIGHLANDS LAND USE CAPABILITY ZONES

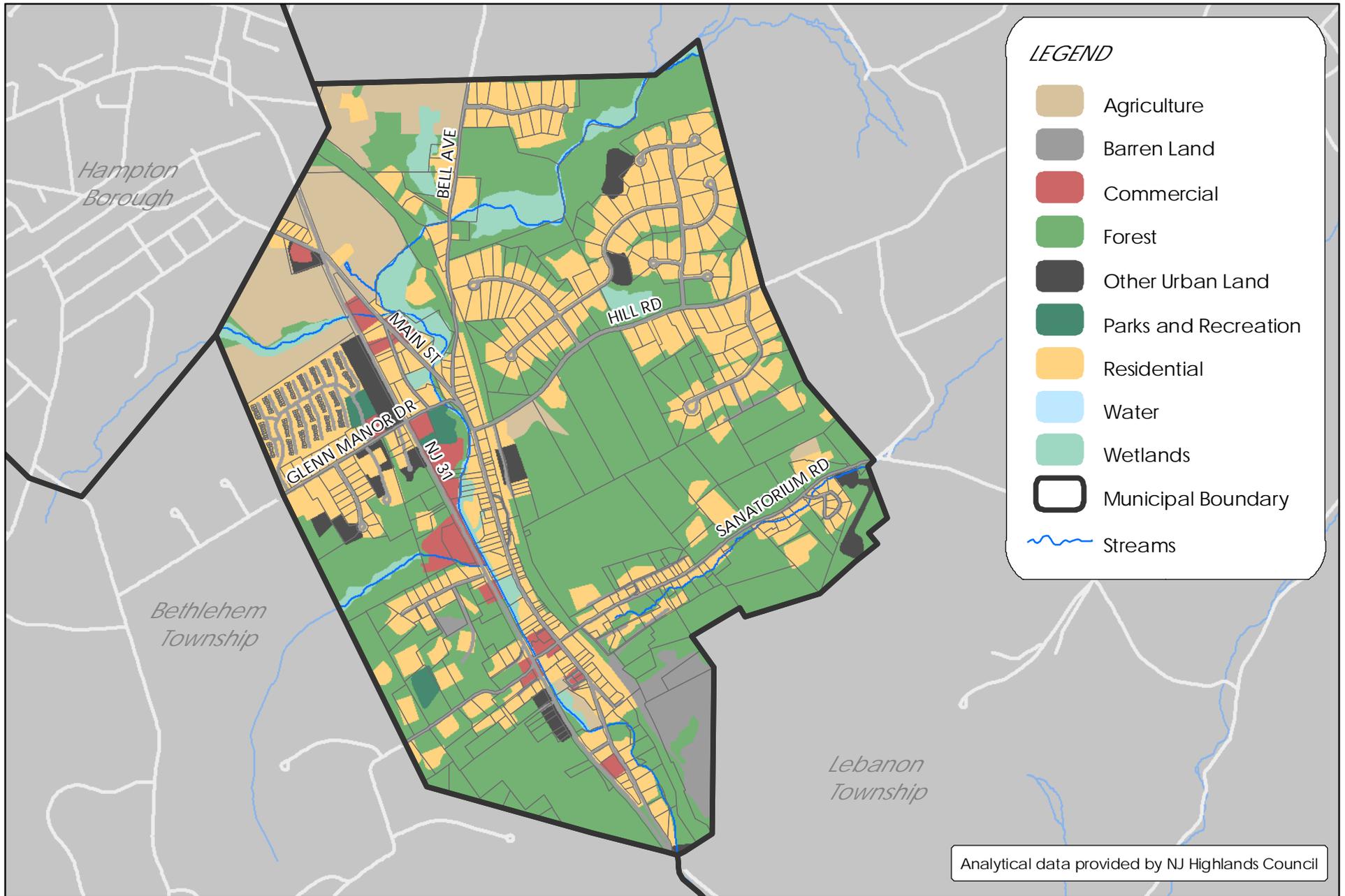




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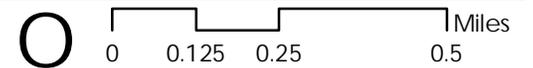
REGIONAL CONTEXT

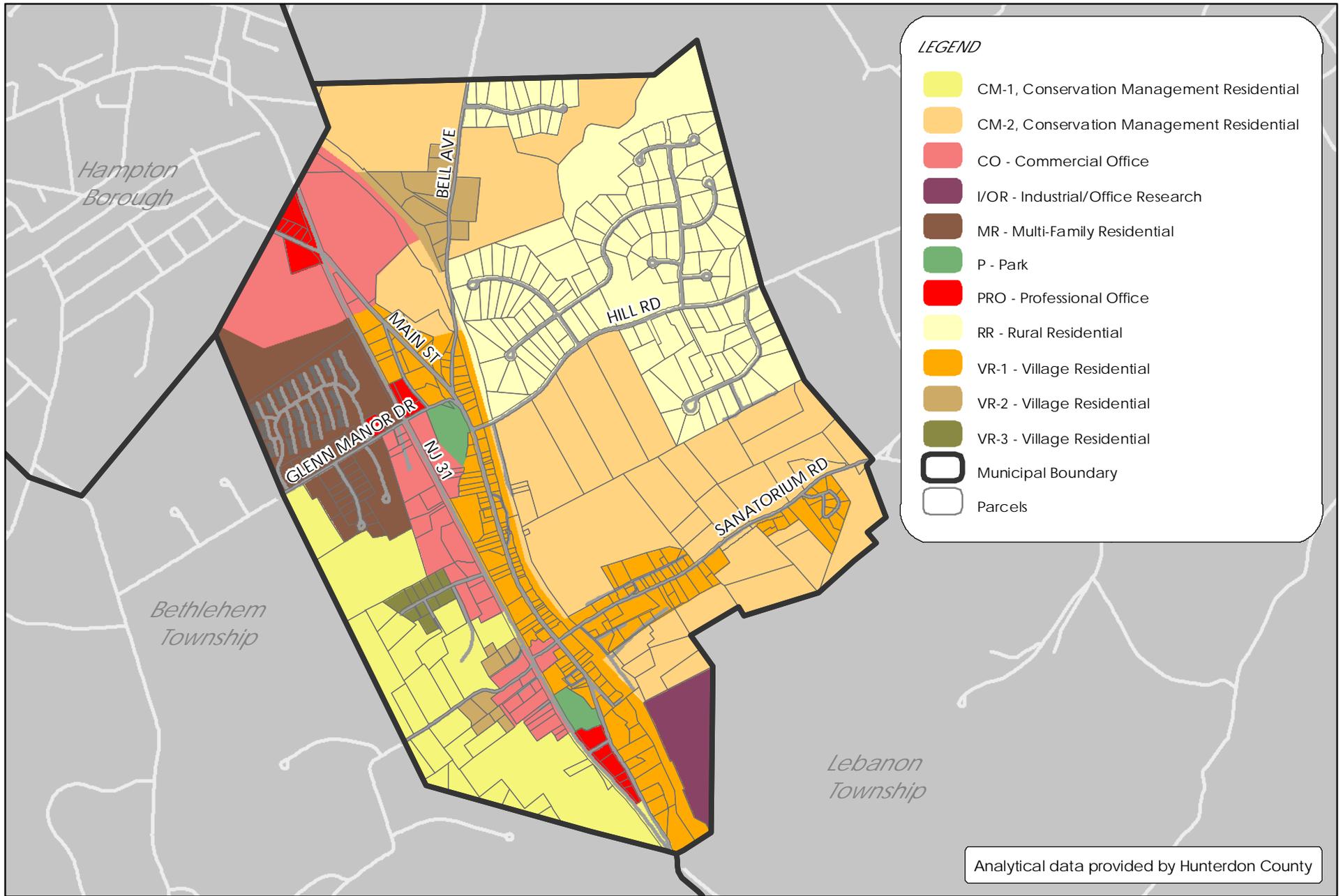




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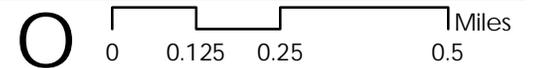
LAND USE/LAND COVER

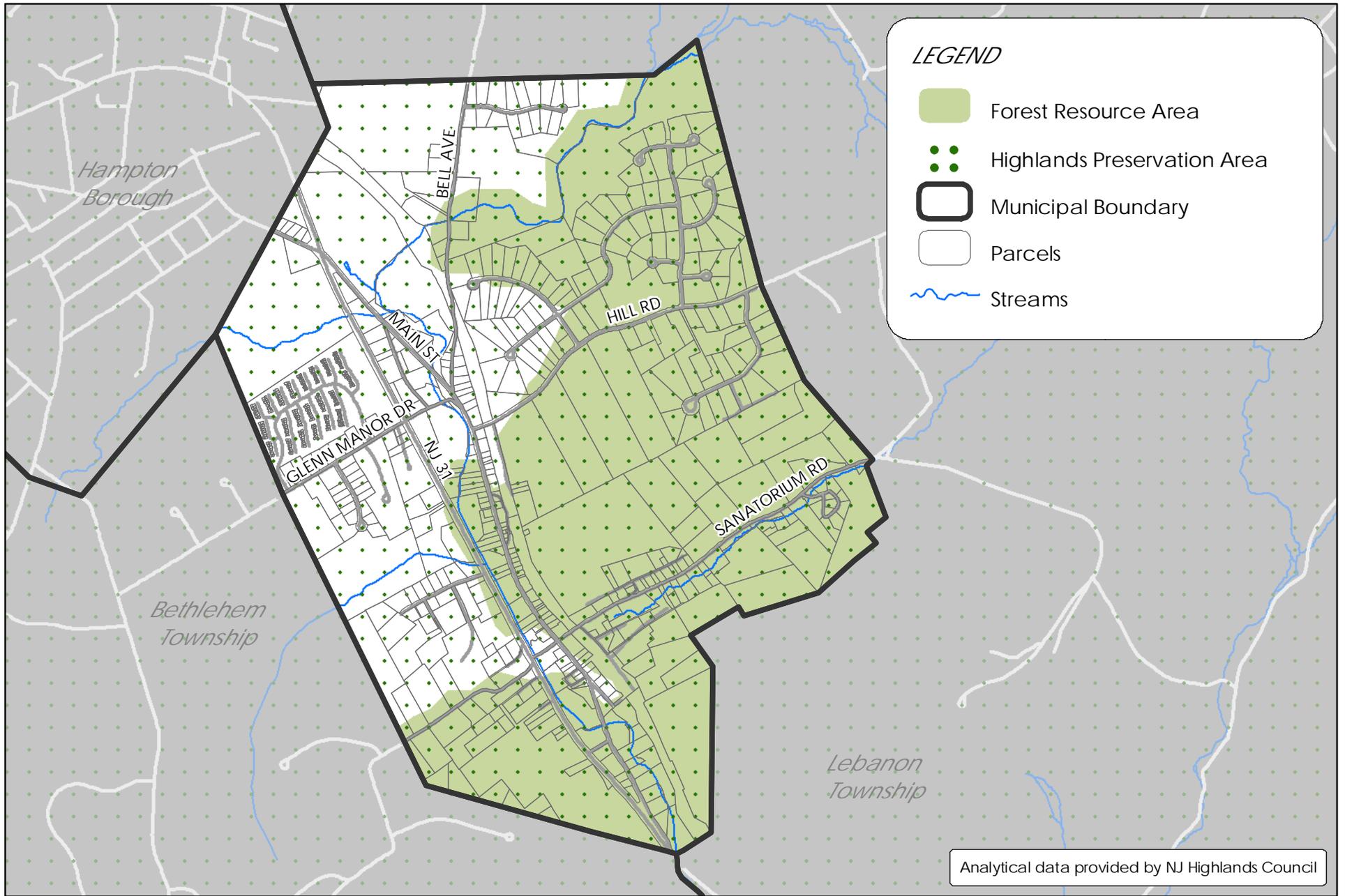




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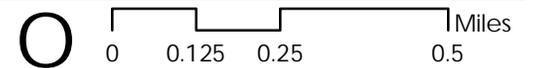
ZONING DISTRICTS

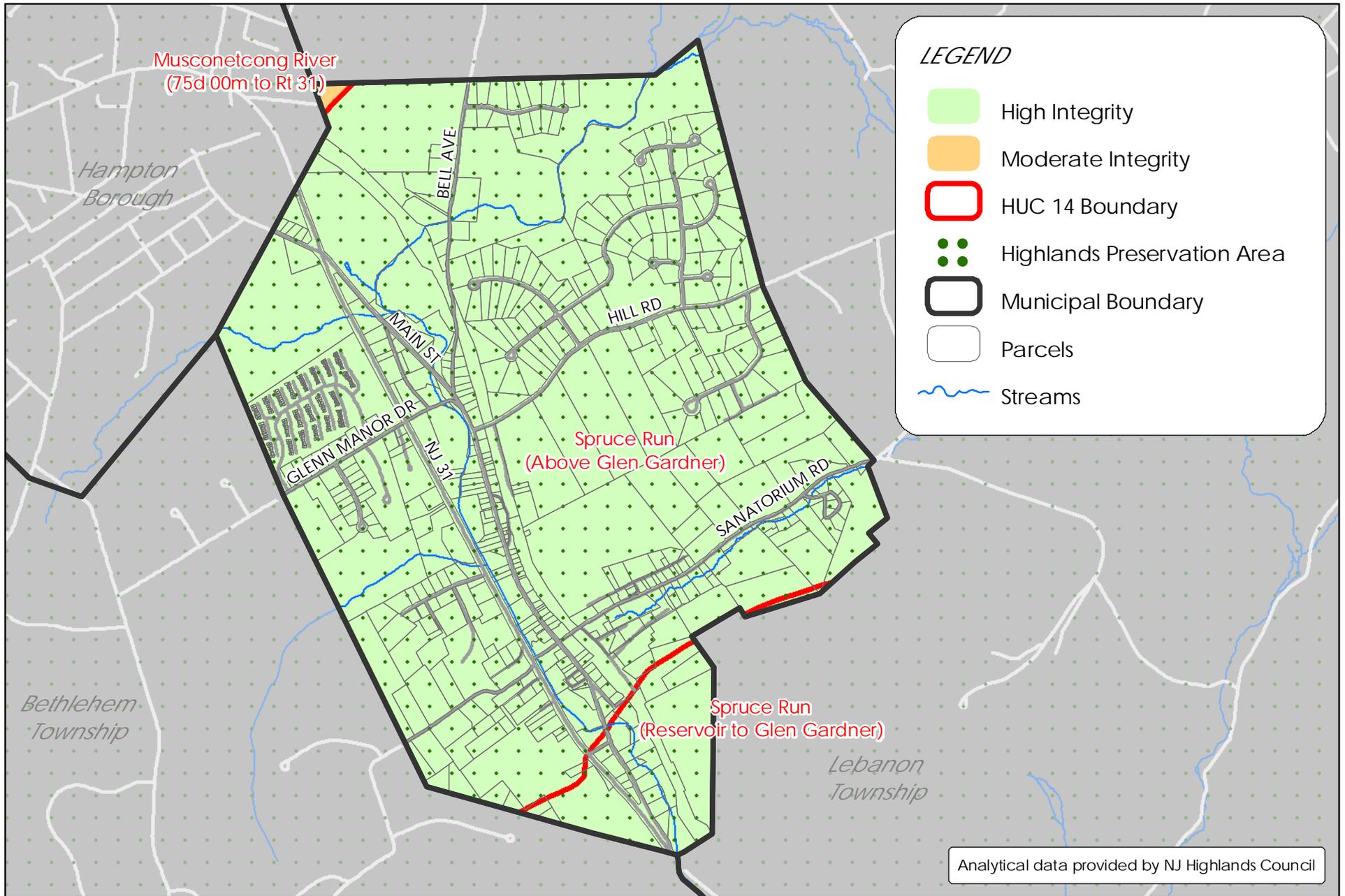




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FOREST RESOURCE AREA

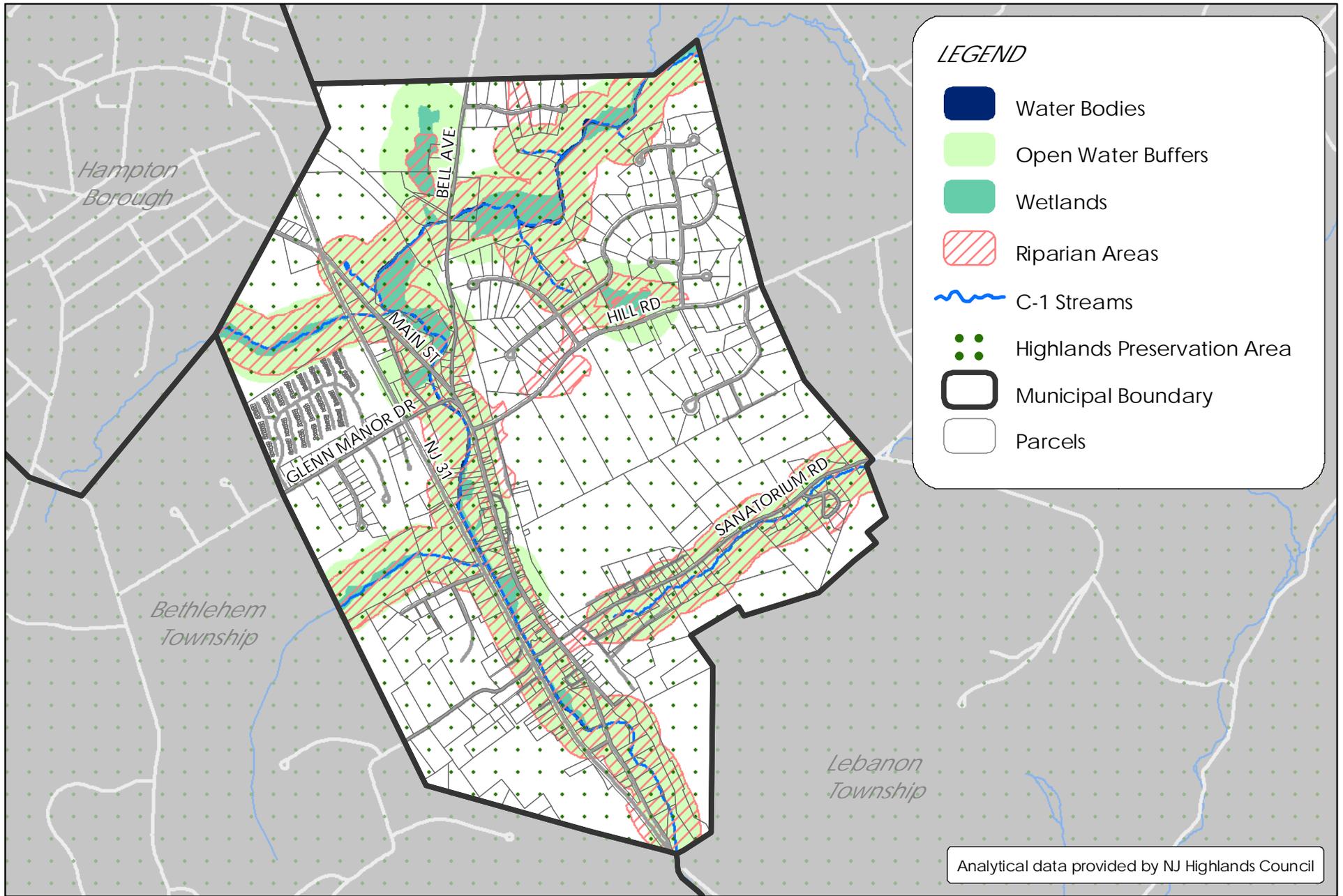




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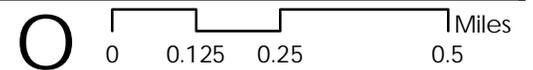
FOREST INTEGRITY

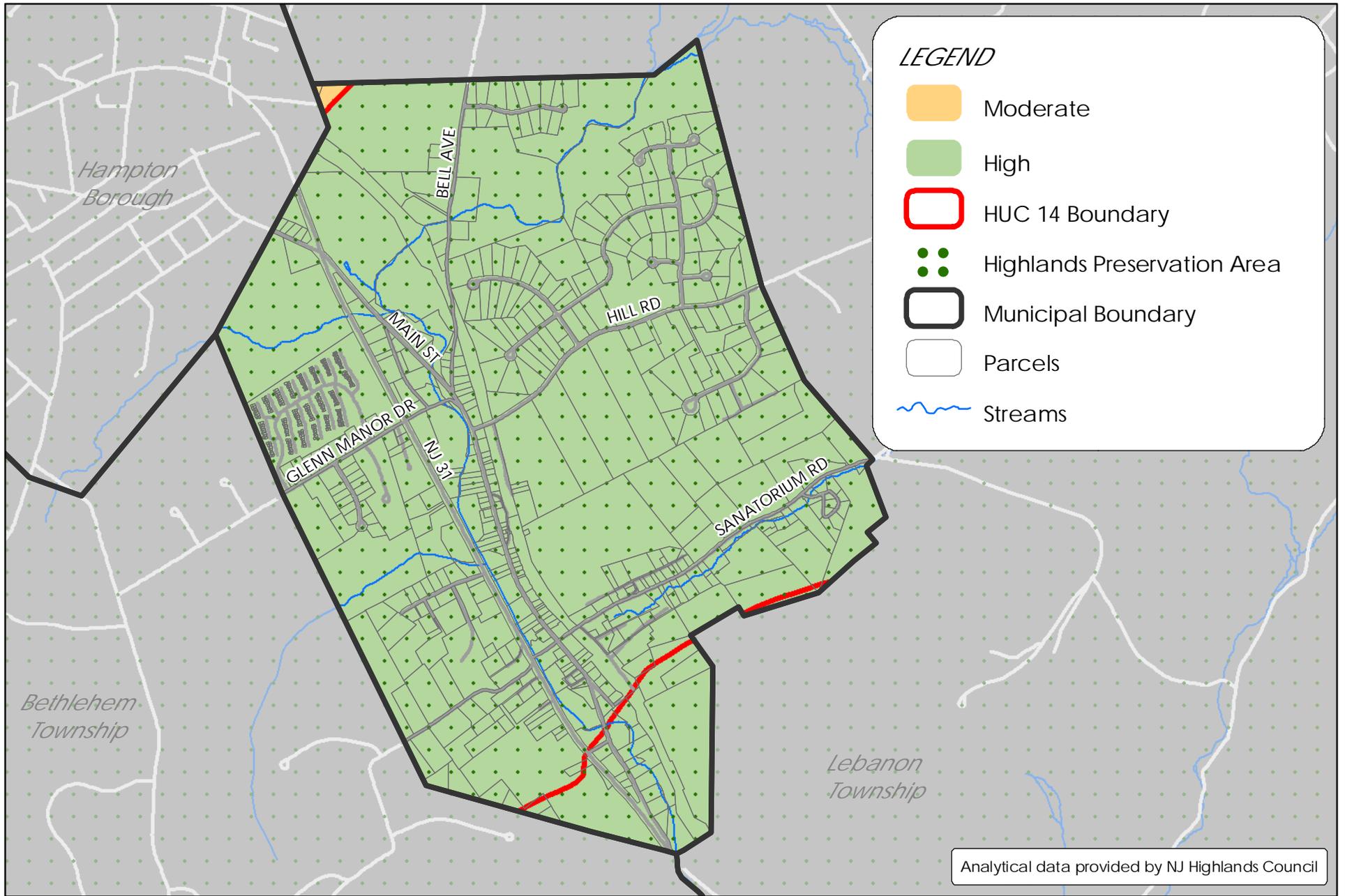




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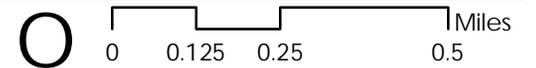
OPEN WATERS

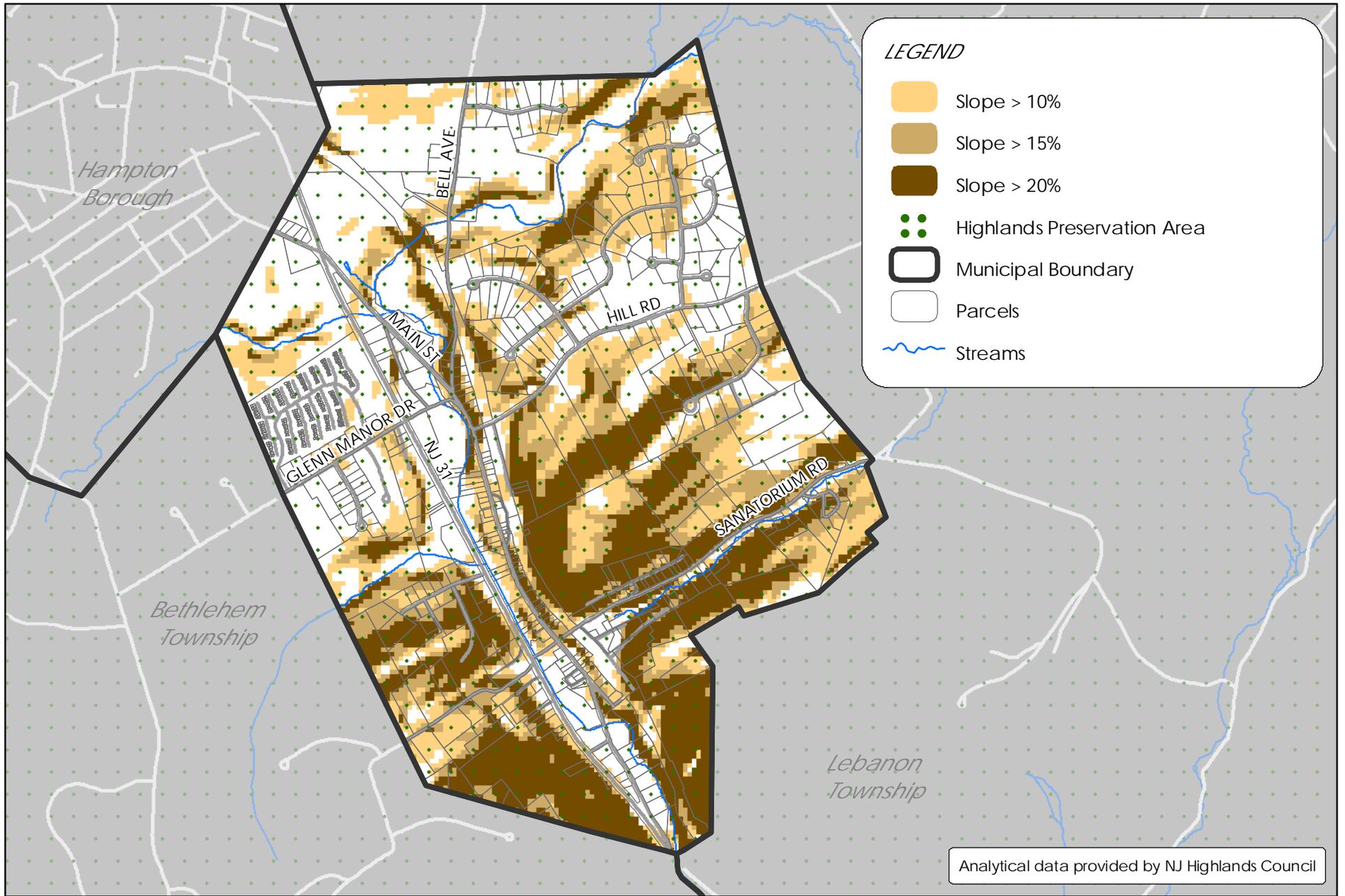




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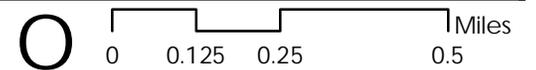
RIPARIAN INTEGRITY

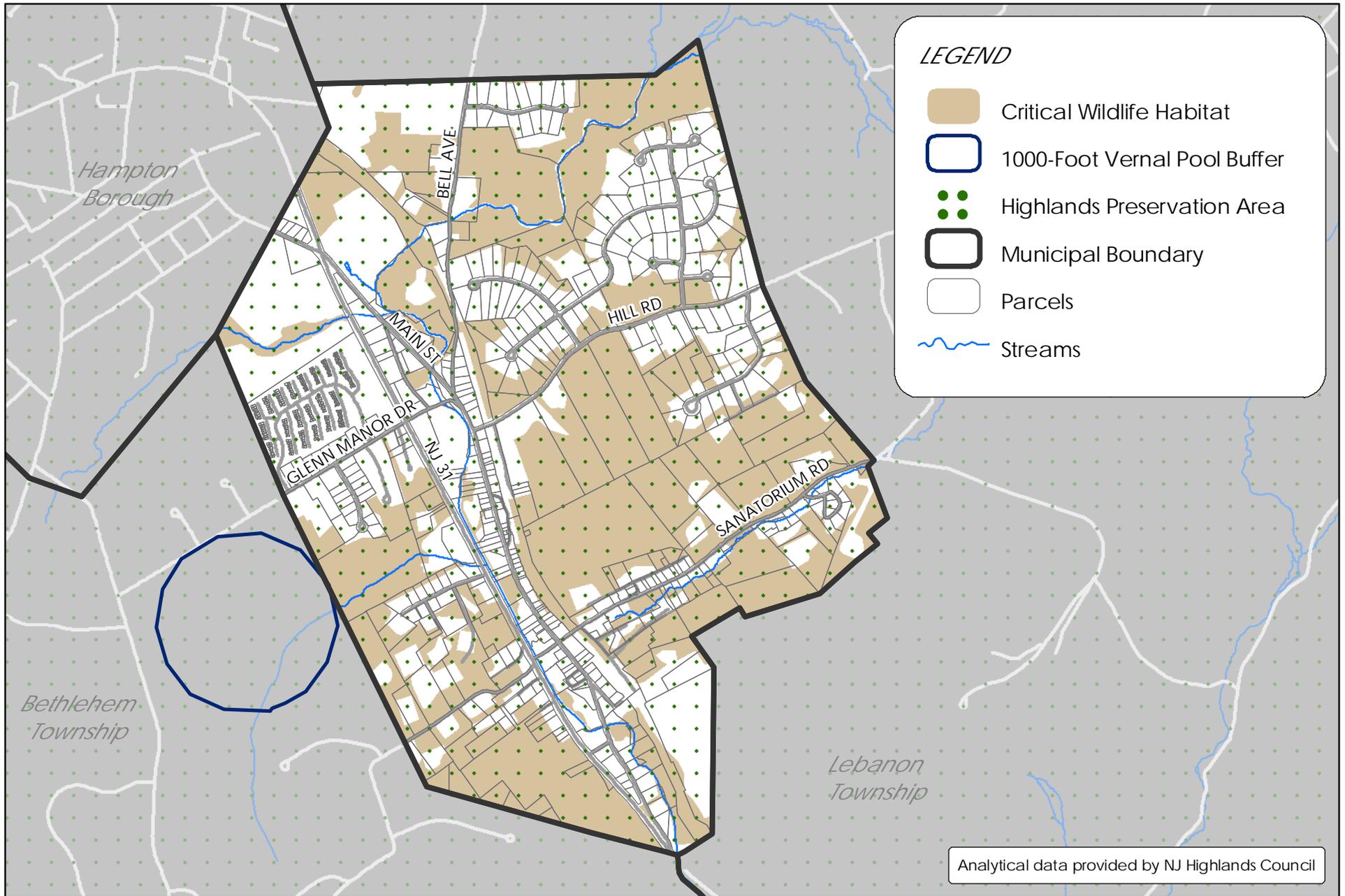




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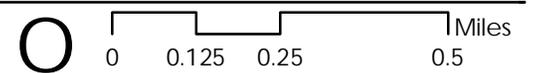
STEEP SLOPES

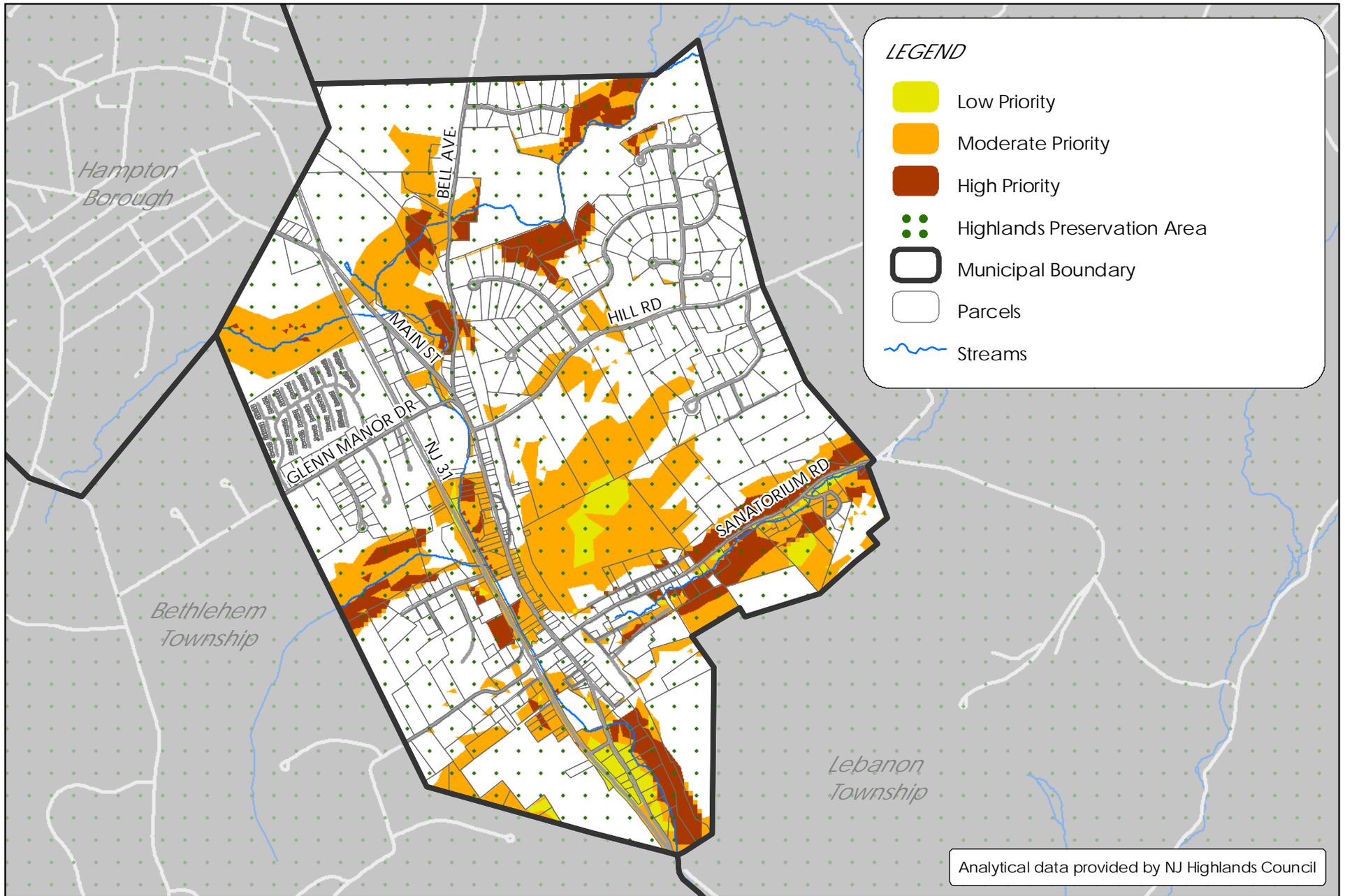




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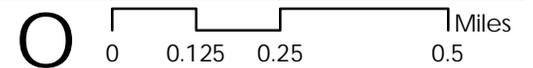
CRITICAL HABITATS

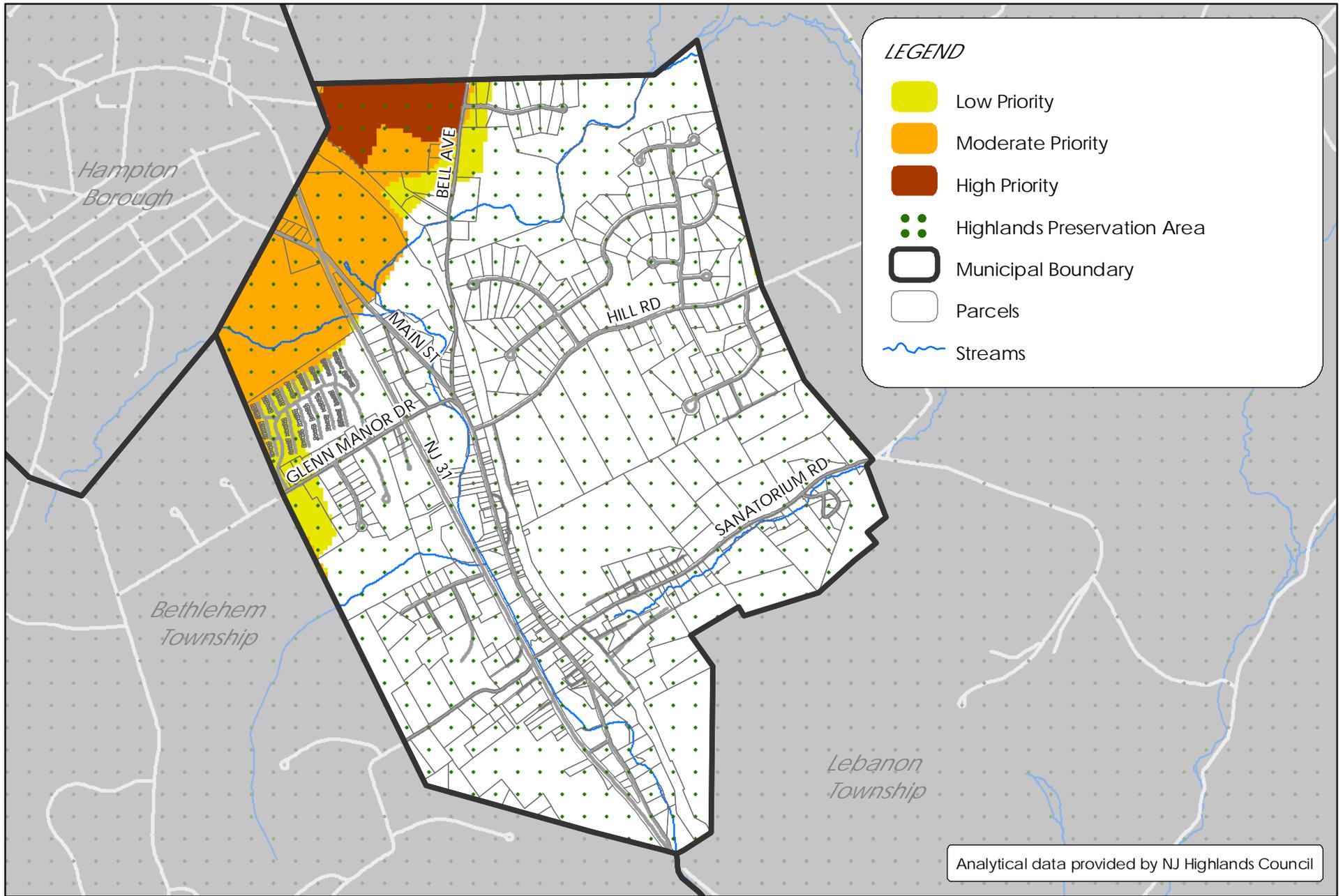




Glen Gardner Borough
 Hunterdon County, New Jersey

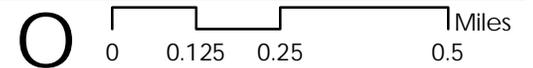
CONSERVATION PRIORITY AREAS

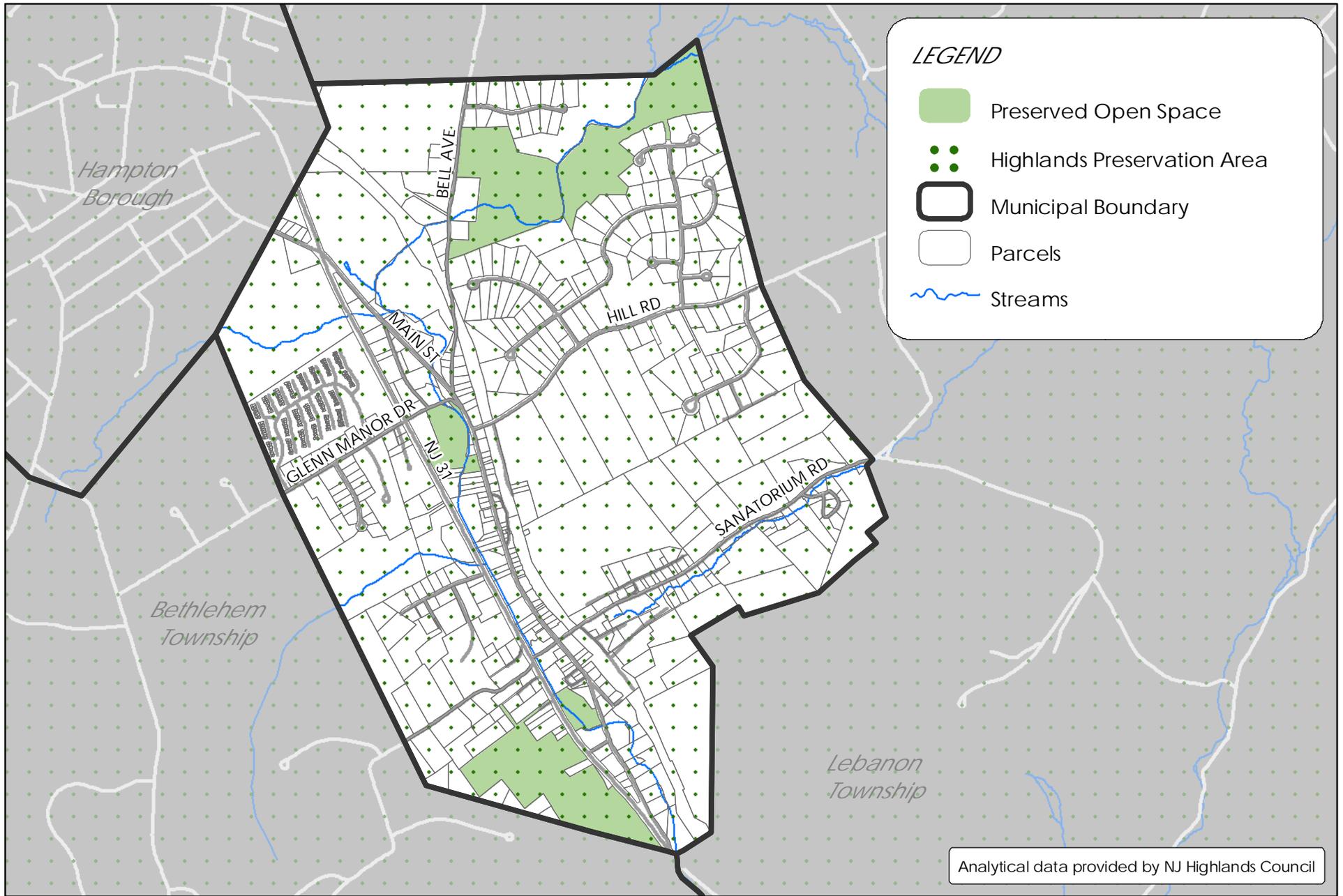




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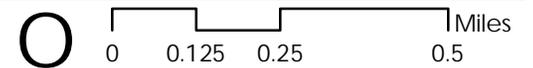
AGRICULTURAL PRIORITY AREAS

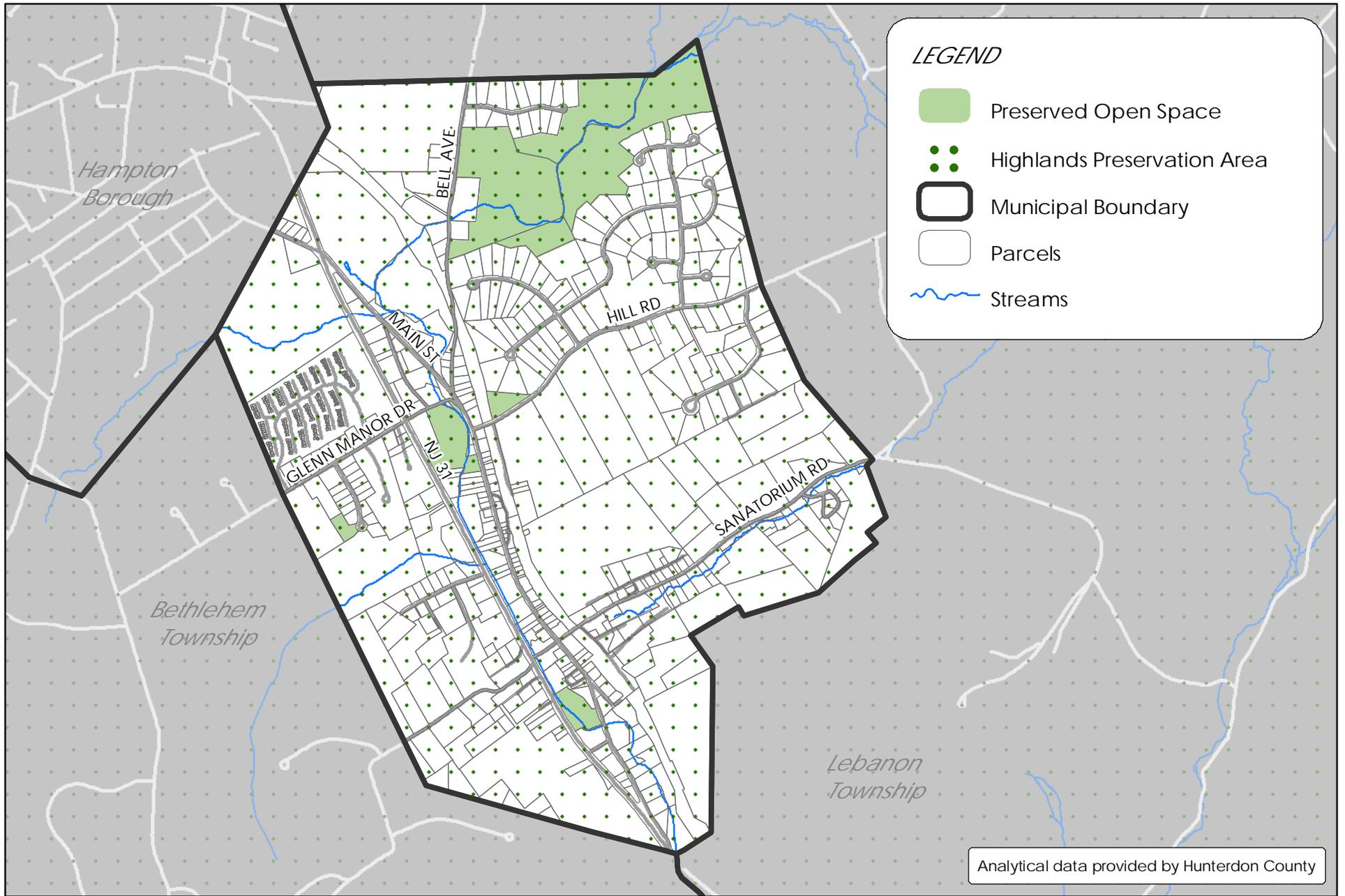




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 Hunterdon County, New Jersey

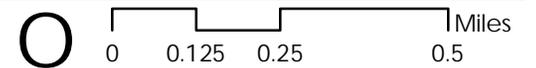
OPEN SPACE PRESERVATION

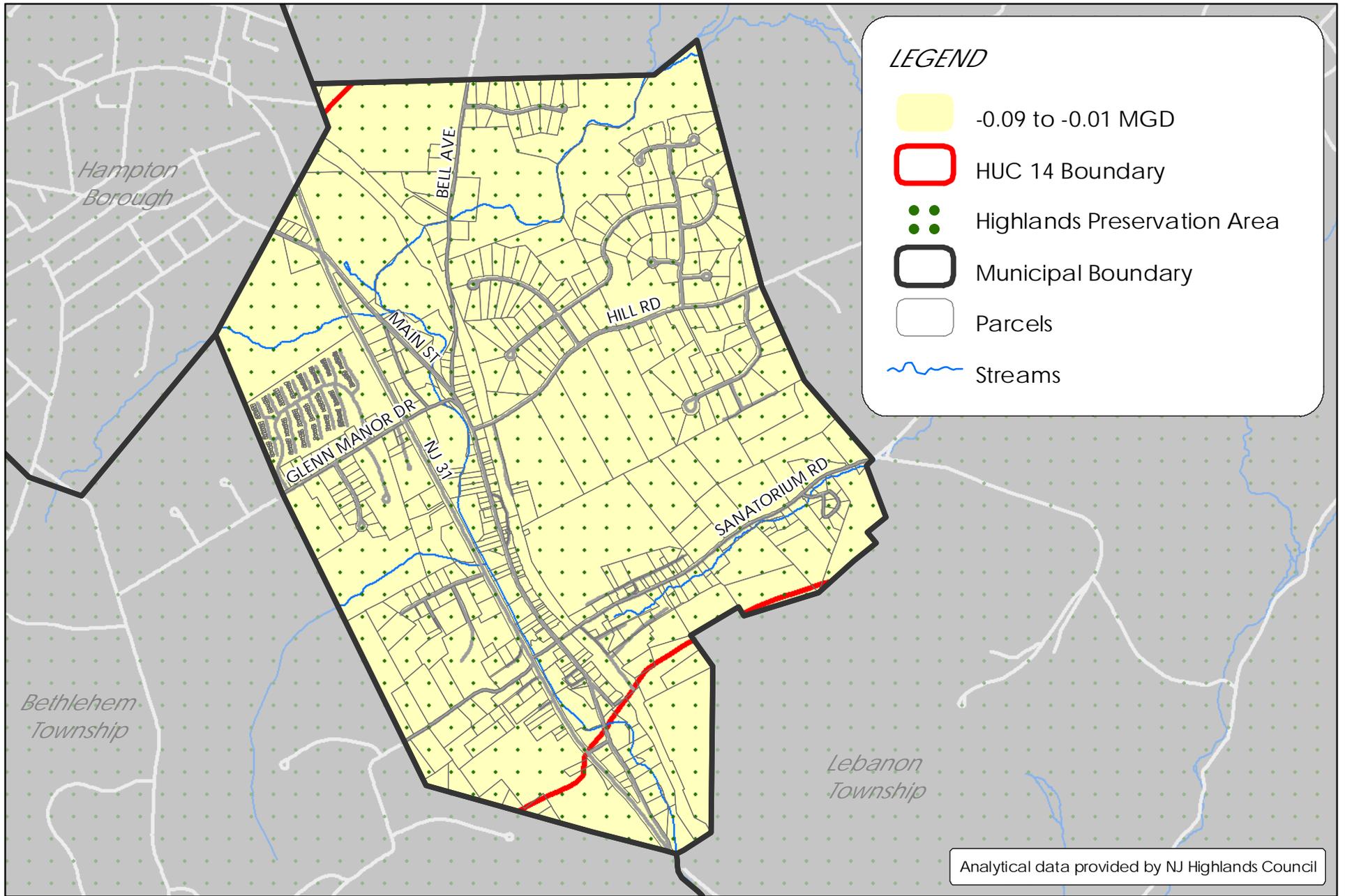




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 Hunterdon County, New Jersey

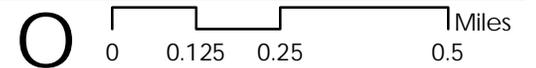
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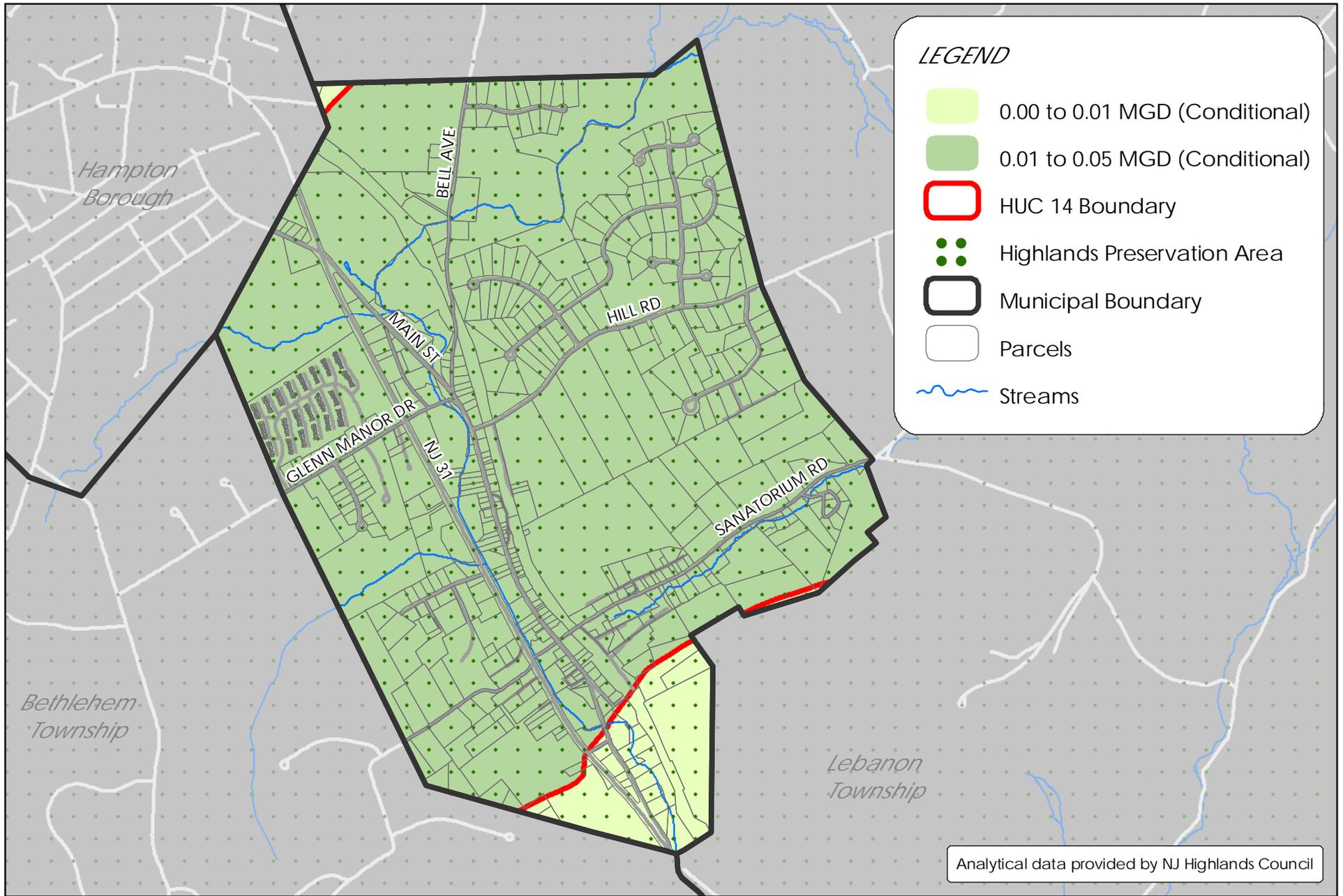




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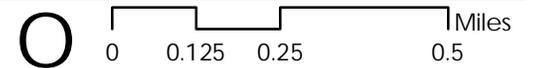
NET WATER AVAILABILITY

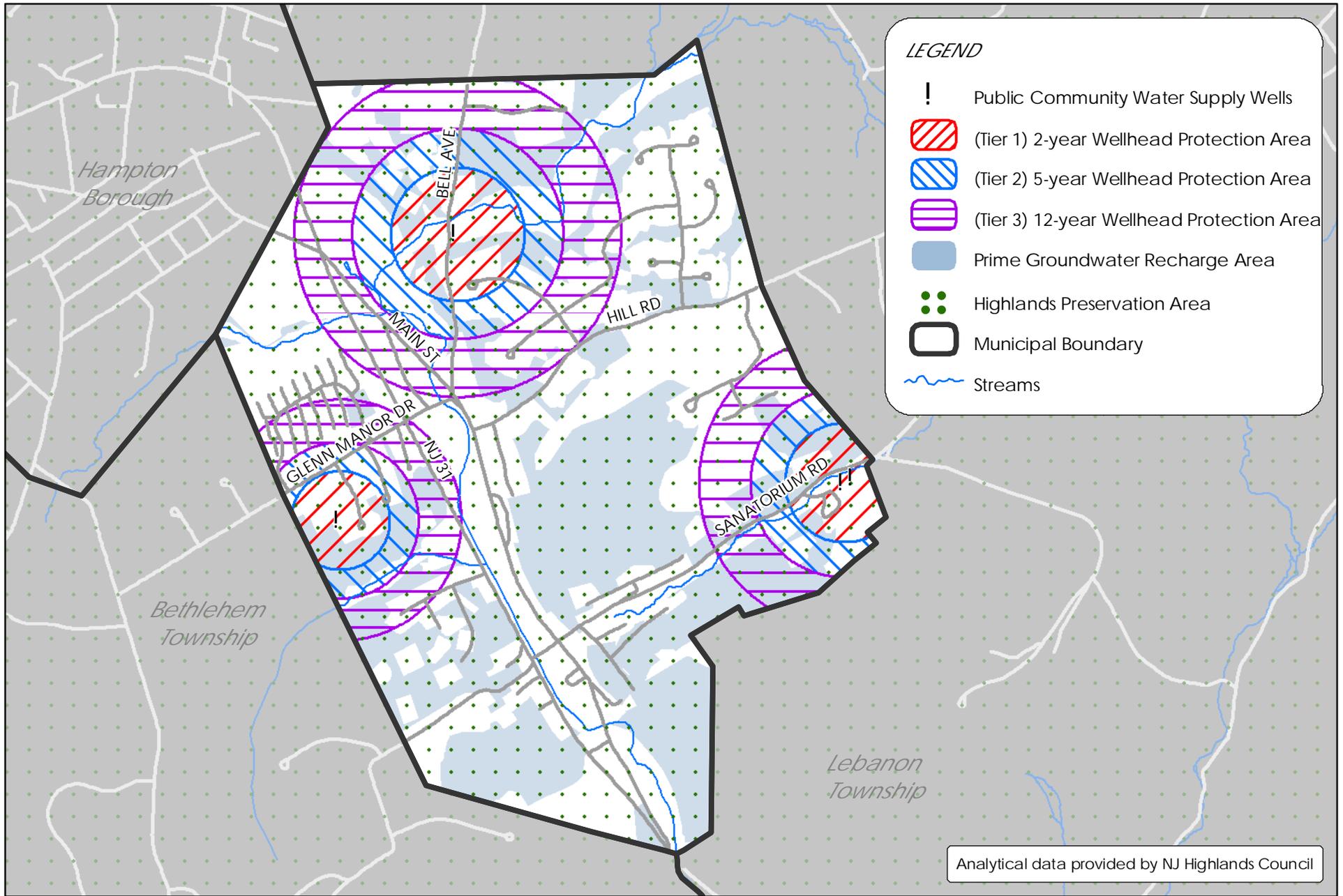




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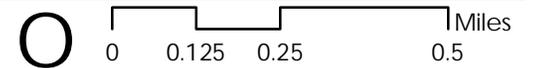
LAND USE CAPABILITY - NET WATER AVAILABILITY

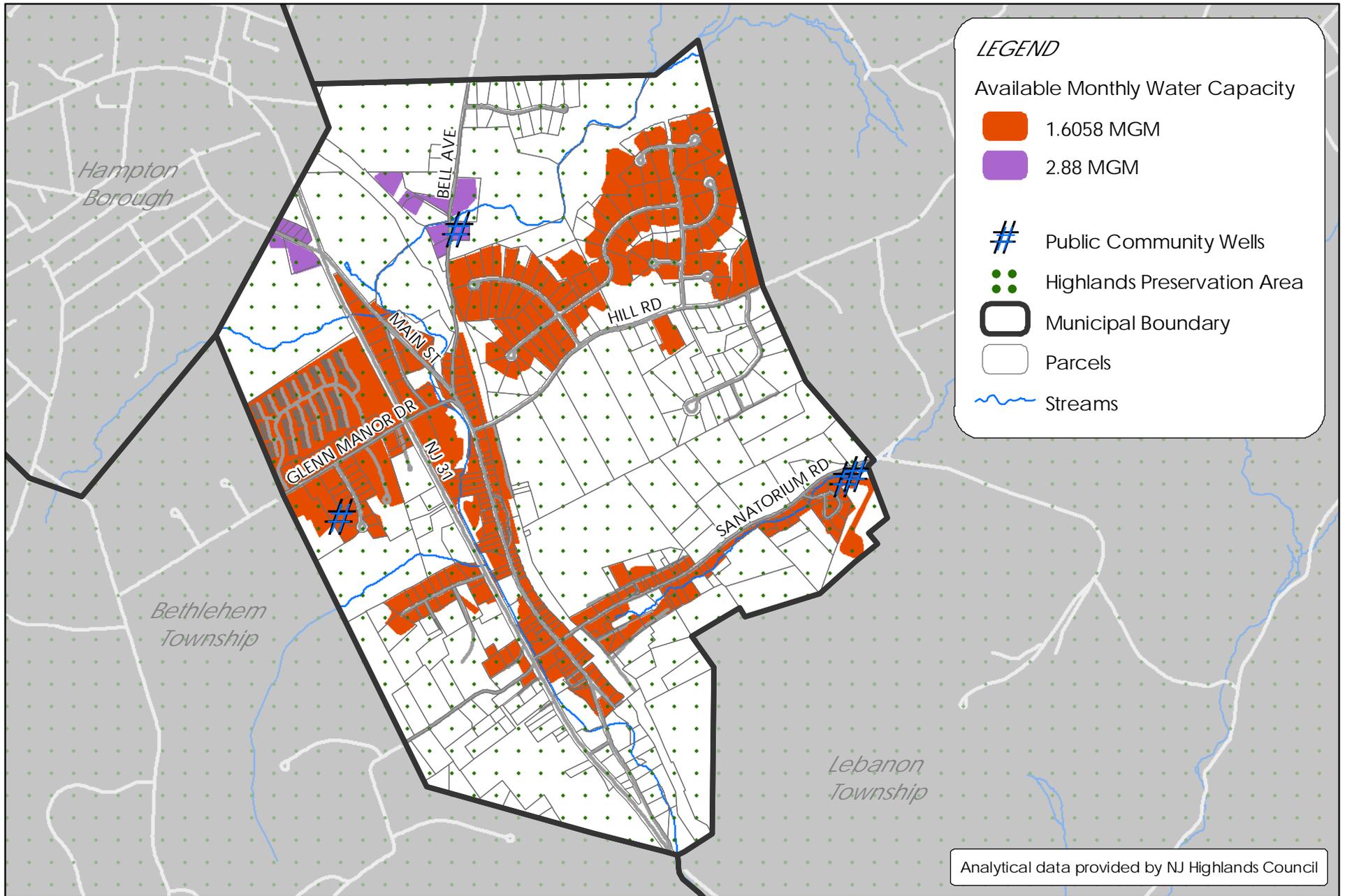




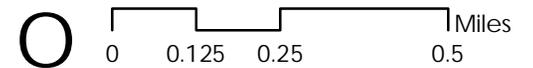
Glen Gardner Borough
 Hunterdon County, New Jersey

WELLHEAD PROTECTION

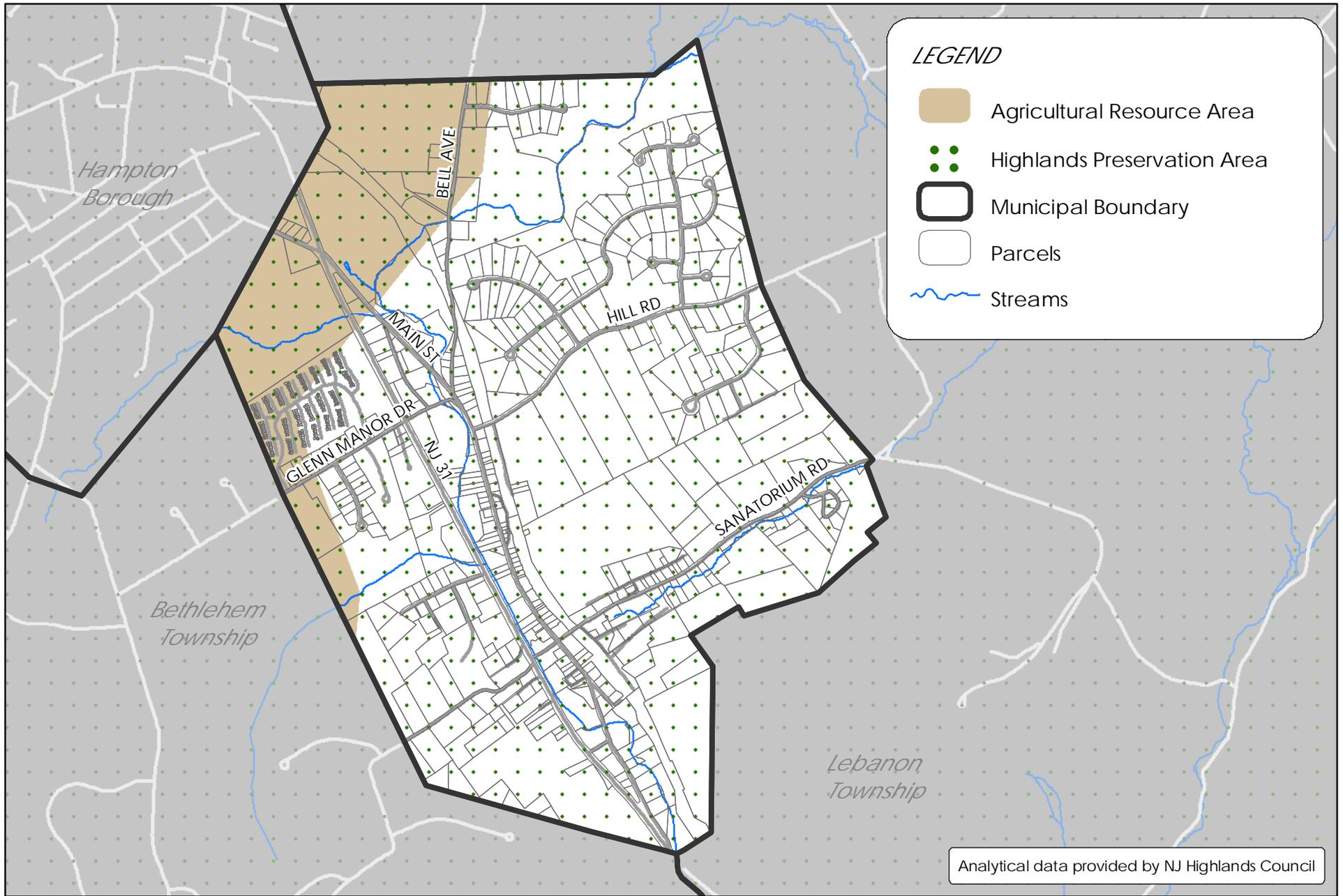




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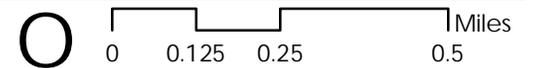


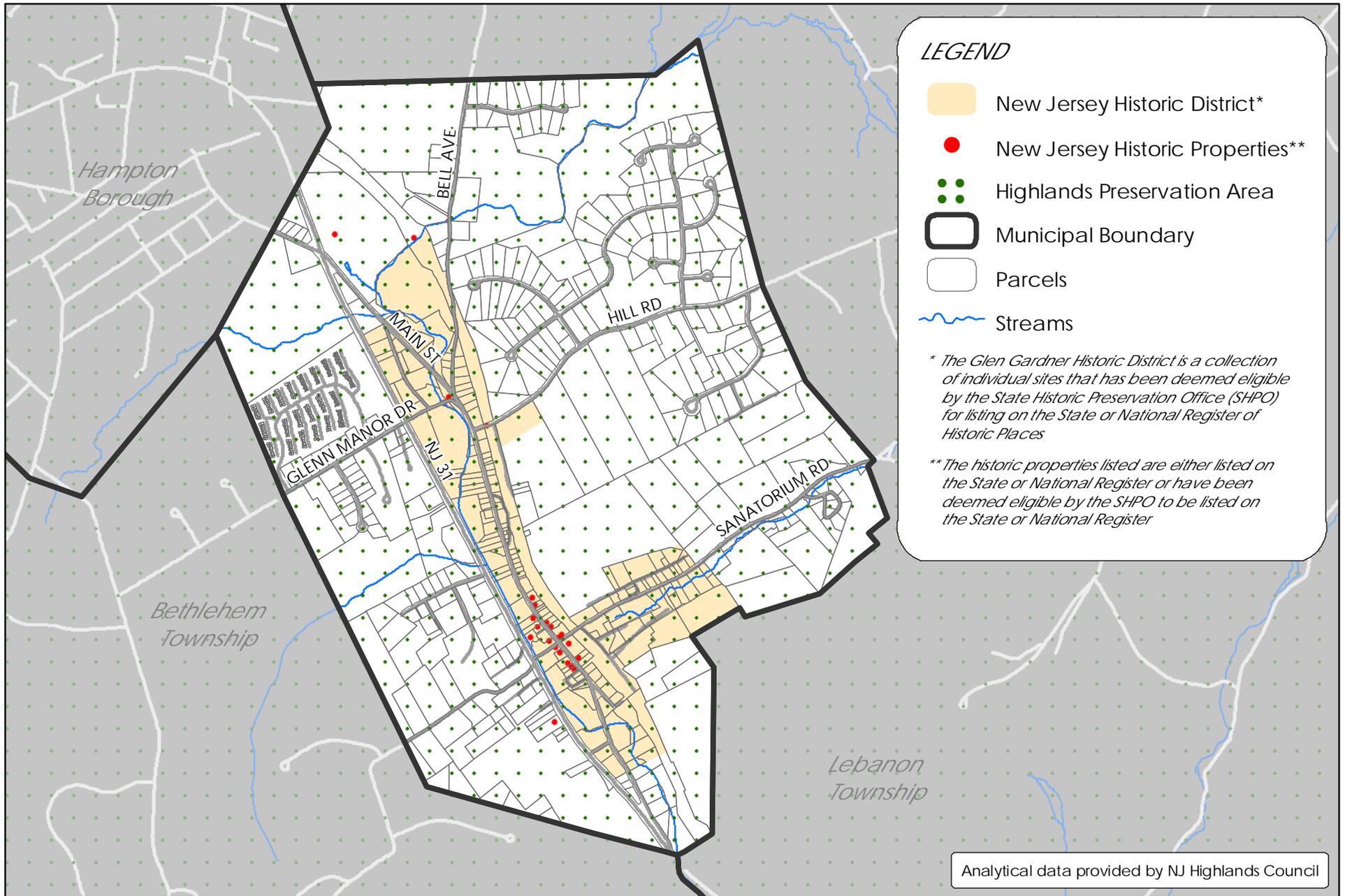
LAND USE CAPABILITY - PUBLIC COMMUNITY WATER SYSTEMS



Glen Gardner Borough
 Hunterdon County, New Jersey

AGRICULTURAL RESOURCE AREA





LEGEND

- New Jersey Historic District*
- New Jersey Historic Properties**
- Highlands Preservation Area
- Municipal Boundary
- Parcels
- Streams

* The Glen Gardner Historic District is a collection of individual sites that has been deemed eligible by the State Historic Preservation Office (SHPO) for listing on the State or National Register of Historic Places

** The historic properties listed are either listed on the State or National Register or have been deemed eligible by the SHPO to be listed on the State or National Register

Analytical data provided by NJ Highlands Council

Glen Gardner Borough
Hunterdon County, New Jersey

HISTORIC\CULTURAL RESOURCES

