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DRAFT CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

PETITION FOR PLAN CONFORMANCE
BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY

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

SEPTEMBER 18, 2025

REPORT SUMMARY

Municipality: Borough of Mount Arlington, Morris County

Date of Petition: June 3, 2025

Conformance Area: Planning Area

Staff Recommendation: Approval subject to conditions

A. REVIEW OF ADMINISTRATIVE SUBMITTALS

1. "Resolution of the Borough of Mount Arlington, County of Morris, State of New Jersey, to Petition the Highlands Council for Plan Conformance in the Planning Area" (Resolution 2025-77)

2. Borough of Mount Arlington Initial Highlands Planning Area Conformance Assessment, November 2024 (see Appendix B).

B. SUBSTANTIVE REVIEW

Mount Arlington is a small suburban residential community of 5,979 people per the U.S. Census Bureau 2024 population estimates. The Borough encompasses a total land area of 2.8 square miles and is located along the southeastern shore of Lake Hopatcong. The lake is a natural resource of regional importance and a central focus of the community. Commercial growth has centered around the Village Center, Howard Boulevard, and the Route 80 interchange. The Mount Arlington Train Station just south of Route 80 connects the region by train and bus.

Mount Arlington Borough is in the western section of the Highlands Region in Morris County and is surrounded by Roxbury Township to the east, south, and west. It is also bordered by Jefferson Township to the northwest and Hopatcong Borough and Lake Hopatcong, Sussex County, to the north and northwest.

The Highlands Water Protection and Planning Act delineated two specific boundaries within the Highlands Region: the Planning Area, where conformance with the Highlands Regional Master Plan is voluntary, and the Preservation Area, where conformance with the Regional Master Plan is mandatory. The Borough has approximately 93% of its land (1,663 acres) in the Planning Area with the remaining 7% (132 acres) in the Preservation Area. The Preservation Area is located in the northeastern area of Mount Arlington. Mount Arlington Borough's Petition for Plan Conformance in the Preservation Area was approved by the Highlands Council in December 2011.

The Borough completed a Conformance Assessment Report in November 2024 for the Planning Area and on June 3, 2025 adopted Resolution 2025-77 to petition the Highlands Council for Plan Conformance in the Planning Area. Results of the Conformance Assessment Report indicate that the policies of Mount Arlington and those of the Regional Master Plan (RMP) contain many similarities. Mount Arlington's primary goals of preserving the traditional character of the Borough, encouraging development and redevelopment in existing urban areas such as the Village Center, along with its commitment to cooperating with governmental agencies, are all consistent with the RMP.

Land Use Capability Zones (2024)

- Existing Community Zone: 683 acres (38%)
- Lake Community Subzone: 254.1 acres (14%)
- Protection Zone: 157.8 acres (8.8%)
- Existing Community Environmentally Constrained Subzone: 96.9 acres (5.4%)
- Wildlife Management Area: 7.6 acres (0.4%)

*Note: Rights-of-way and other areas that are not assigned to a LUCZ, such as Lake Hopatcong, account for 33.2% of the municipality's area. The Borough does not have any land in the Conservation Zone.

The Conformance Assessment Report found that the LUCZ map broadly reflects the Borough Zoning Map. Most of the Borough is in the Existing Community Zone and Lake Community Subzone of the LUCZ Map, where the majority of Mount Arlington's urban residential development resides. Much of the Protection Zone is currently preserved as open space or single-family residential. There are some parcels zoned for residential and commercial uses that are currently designated Environmentally Constrained Subzones (ECZ-EC) in the LUCZ Map.

Land Use/Land Cover

Land Use/Land Cover provides comprehensive and detailed mapping of land use/land cover in the natural and built environments. This data is derived from 2020 orthophotography. The land use of Mount Arlington Borough is described as follows:

- Urban: 898.2 acres (50.0%)
- Forest: 441.6 acres (24.6%)
- Water: 411.4 acres (22.9%)
- Wetlands: 39.6 acres (2.2%)
- Agriculture: 2.4 acres (0.1%)
- Barren Land: 1.9 acres (0.1%)

Preserved Lands

Mount Arlington Borough contains 65 preserved areas, which comprise a total of 612 acres. These areas are classified as follows:

- State: 408.4 acres (*Note: this number includes Lake Hopatcong)
- Municipal: 181.1 acres
- County: 12.8 acres
- Private: 9.7 acres

The largest areas of preserved land are located in the northern part of Mount Arlington in the Highlands Preservation Area. In the Planning Area there are public use and open space areas around Lake Rogerene, along Route 80, areas just west of Berkshire Valley State Wildlife Management Area, and near Mount Arlington Community Garden. There are also a variety of public use and open space areas owned by the Borough near the Village Center including Memorial Park, Fireman's Field Park, Lee's County Park Marina, and Mount Arlington Municipal Beach.

Highlands Open Waters

Mount Arlington Borough contains 19 waterbodies, totaling 411.4 acres or 22.9% of the municipality. Among the waterbodies are:

- Lake Hopatcong: 332.6 acres
- Van Every Cove: 39.2 acres
- Great Cove: 25.8 acres
- Lake Rogerene: 8.9 acres

Mount Arlington Borough contains multiple streams totaling 6.2 miles in length. The Borough does not contain any C-1 waterways. Among the streams are:

- Un-coded tributary: 2.9 miles
- Musconetcong River tributary: 2.6 miles
- Musconetcong River: 3,620 feet

*Note: stream lengths run through the lakes to show connectivity of the waterbodies and do not stop at the lakeshore.

Net Water Availability

The Borough is in 4 subwatersheds. Three of the subwatersheds are in a water deficient area. The net water availability values are calculated as follows:

- Lake Hopatcong subwatershed (HUC14 02040105150020), which has a calculated net water availability of -0.226 MGD

- Lamington R (above Rt 10) subwatershed (HUC14 02030105050010), which has a calculated net water availability of 0.04 MGD
- Drakes Brook (above Eyland Ave) subwatershed (HUC14 02030105010010), which has a calculated net water availability of -0.134 MGD
- Rockaway R (Stephens Bk to Longwood Lk) subwatershed (HUC14 02030103030040), which has a calculated net water availability of -0.011 MGD

Steep Slope

A total of 505.4 acres, or 28.2%, of Mount Arlington Borough is located within a Steep Slope Protection Area, as follows:

- Severely Constrained: 454.8 acres (25.3%)
- Moderately Constrained: 50.6 acres (2.8%)

Conclusion

Impacts from conforming with the RMP in the Planning Area of Mount Arlington would be limited. Existing single-family homes in the Planning Area will not be subject to regulations/standards adopted by the Borough as part of plan conformance implementation. Vacant lots that are, according to current municipal zoning, incapable of creating three or more new units, will not be impacted by conformance with the RMP. For non-residential development, the Highlands Conformance Ordinance applies if it results in the ultimate disturbance of one acre or more of land or produces a cumulative increase of impervious surface of one-quarter acre. Development on public water and sewer infrastructure is generally permitted in the Existing Community Zone. Much of the Borough has existing public water and public sewer except for the residential area surrounding Lake Rogerene.

As a largely built out municipality, development in the Borough will likely be redevelopment or infill development of the few remaining vacant parcels. The Conformance Assessment Report analyzed 20 parcels with the greatest potential impact from development or redevelopment. The report finds that under a Plan Conformance scenario, five of the parcels may be potentially impacted by conformance with the RMP. The remaining properties would qualify for an exemption, would not trigger the applicability thresholds of the Highlands Conformance Ordinance, are already environmentally constrained, or have been preserved as open space.

The Borough's Land Use Board adopted a Fourth Round Housing Element and Fair Share Plan (HEFSP) on May 28, 2025. Highlands staff have reviewed the plan and found it to be consistent with the Highlands RMP, including the 2024 Affordable Housing RMP Amendment.

The Conformance Assessment Report identified potential Highlands Center Designations in the Planning Area. Areas where a Highlands Center Designation could be considered include the intersection of Route 80 and Howard Boulevard and the Village Center. However, the Center Designations are not incorporated into the Borough's current Petition for Plan Conformance and will

require further study by the Borough and subsequent approval by the Highlands Council. Any such Center designation will continue to ensure protection of the sensitive Highlands Resources through inclusion of Highlands Environmental Resource Zones (HERZ) and confirmation of available water and wastewater utilities. The Borough is planning to complete the Highlands Center Feasibility Study prior to adopting the Highlands Element, Re-examination Report, and Highlands Conformance Ordinance.

C. STAFF RECOMMENDATION AND CONDITIONS

The approval of Mount Arlington Borough's Petition for Plan Conformance is recommended with the following conditions:

1) **Adherence to the Plan Conformance Implementation Tasks set forth in the Implementation Plan and Schedule (IPS)** (Appendix A). The Highlands Council is available to provide technical assistance and guidance for activities listed in the IPS. The Council's approval of the Borough's Petition specifically includes grant funding for those items listed in Fiscal Year 2026 of the IPS. Funding for items beyond Fiscal Year 2026 are subject to future Highlands Council approval. The approval of the petition includes approval of grant funding in the total amount of $132,500 for FY2026 for the purposes outlined below and in the Implementation Plan and Schedule.

2) **Adoption of Approved Master Plan Highlands Element and Re-examination Report.** The Borough shall prepare the Highlands Master Plan Re-examination Report and the Master Plan Highlands Element and submit it to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the municipal planning board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the documents by the municipal planning board. At the conclusion of the process, certified copies of the adopted documents shall be provided to the Highlands Council.

3) **Adoption of Highlands Conformance Ordinance.** The Borough shall adopt the Highlands Conformance Ordinance, implementing the Land Use Capability Zones of the Highlands Regional Master Plan along with other Highlands resource protections. Adoption of the Conformance Ordinance also meets the requirement for the adoption of a Planning Area Petition Ordinance as required under Section 15 of the Highlands Act. The Highlands Resource Maps are attached (Appendix C).

4) **Approval of Highlands ERI.** The Borough shall review the Highlands Interactive Environmental Resource Inventory (ERI) as it relates to municipal resources and notify the Highlands Council of any necessary updates. Upon conclusion that the ERI is accurate, the municipal environmental commission shall provide for and complete the required process of

formal approval of the ERI. At the conclusion of the process, a copy of the minutes of the meeting(s) or resolution shall be provided to the Highlands Council.

5) **Stormwater Management Plan.** Revise and adopt a municipal Stormwater Management Plan that includes: a) Highlands-specific amendments; b) revisions required by the Stormwater Management Rules at N.J.A.C. 7:8; and c) Stormwater Mitigation Plan. Additional work under the Program to include requirements of the current Municipal Separate Storm Sewer System (MS4) permit. This may include: ordinance revision and adoption; stormwater facilities mapping; new/updated storage and maintenance plans; training activities; and development of a Watershed Improvement Plan.

6) **Lake/Watershed Management Plan**. The Borough shall assess the health, quality and stressors on the subwatershed associated with Lake Rogerene and present measures to address water quality impairments.

7) **Highlands Center Feasibility Study**. The Borough shall prepare a feasibility study analyzing the potential for Center Designation. The feasibility study will include boundaries, purpose and goals, a strategy for public outreach, available infrastructure, and how the municipality intends to undertake implementation of the center.

8) **Water Use and Conservation Management Plan.** Completion and adoption of a municipal wide Water Use and Conservation Management Plan to ensure efficient water use through conservation and Low Impact Development, and to avoid the creation of new deficits in Net Water Availability.

C. INTERAGENCY COORDINATION

In accordance with the Memorandum of Understanding with the Office of Planning Advocacy (OPA), the Highlands Council provided a copy of the Mount Arlington Borough Petition for Plan Conformance to the OPA for comment. OPA had no formal comments and support approval to the Petition.

D. COMMENTS FROM THE PUBLIC

The Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available at the Highlands Council offices in Chester, NJ, for review and comment by the general public between July 24 through August 24, 2025. No Comments were received.

APPENDIX A

IMPLEMENTATION PLAN AND SCHEDULE

Borough of Mount Arlington, Morris County

DRAFT

Mount Arlington Borough, Morris County, New Jersey

Highlands Implementation Plan and Schedule

Amended Grant Agreement Task #	PLAN CONFORMANCE TASK	Proposed Cost Fiscal Year 2026	Future Projects (requires future HC Approval)	Status and Comments
1	**Highlands Interactive Environmental Resource Inventory (ERI)**		$ 3,000.00	Review Highlands Interactive ERI, propose amendments as necessary, and adopt.
2	**Highlands Element of Municipal Master Plan and Reexamination Report**		$ 6,000.00	Adoption of updated Highlands element and reexamination report.
3	**Highlands Center Feasibilty Study**	**$ 22,500.00**	**TBD**	
4	**Municipal Master Plan Elements** (as applicable)			
	a. Land Use Plan Element		**TBD**	Municipal Priority - To include a climate change related hazard vulnerability assessment.
	b. Circulation Plan Element		**TBD**	
	c. Sustainable Economic Plan Element		**TBD**	
	d. Conservation Plan Element		**TBD**	
	e. Utility Services Element		**TBD**	
	f. Open Space and Recreation Plan Element		**TBD**	
	g. Historic Preservation Plan Element		**TBD**	
5	**Adoption of Highlands Plan Conformance Ordinance**		$ 5,000.00	Adoption of Highlands Conformance Ordinance serves to protect municipal resources; future land use ordinance amendments may follow to update existing municipal ordinances.
6	**Zoning Map Update**		**TBD**	Update municipal zoning map as necessary
7	**Resource Management Plans and Programs**			
	a. Water Use and Conservation Management Plan		**TBD**	
	b. Municipal Stormwater Management Plan	**$ 50,000.00**		Preparation of Stormwater Management Plan including MS4 requirements
	c. Lake/Watershed Management Plan	**$ 60,000.00**	**TBD**	Municipal Priority - To assess conditions of Lake Rogerene
8	**Attendance at Highlands Council Training Sessions**			
	a. Municipal Exemption Determinations		**$ 500.00**	
	b. Ordinance Administration: Application Procedures, Implementation, Enforcement			
	Estimated Subtotal	**$ 132,500.00**		

APPENDIX B

BOROUGH OF MOUNT ARLINGTON INITIAL HIGHLANDS PLANNING AREA CONFORMANCE ASSESSMENT

Borough of Mount Arlington, Morris County

BOROUGH OF MOUNT ARLINGTON INITIAL HIGHLANDS PLANNING AREA CONFORMANCE ASSESSMENT

Prepared for:

Mount Arlington Borough

419 Howard Boulevard

Mount Arlington, NJ 07856

Prepared by:

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November 2024

ACKNOWLEDGEMENTS:

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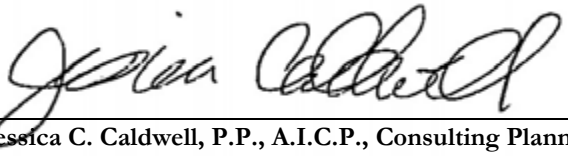
This study was paid for by a grant from New Jersey Highlands Council.

The original of this report was signed and sealed pursuant to N.J.A.C. Section 13:41-1.3.b:



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License No. 5944

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1. Introduction

A. Scope and Purpose

Mount Arlington Borough is in the New Jersey Highlands Region, which covers more than 800,000 acres over 1,250 square miles and 88 municipalities in seven (7) counties (Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren). Mount Arlington is located in the western section of the Highlands Region in Morris County and is mostly surrounded by Roxbury Township to the east, south, and west. It is also bordered by Jefferson Township to the northwest and Hopatcong Borough (and Lake Hopatcong), Sussex County, to the north and northwest. The Highlands Council was created by the Highlands Water Protection and Planning Act, adopted by the New Jersey State Legislature in 2004. In 2008, the Highlands Council adopted a Regional Master Plan with the primary purpose of protecting water resources within the New Jersey Highlands Region.

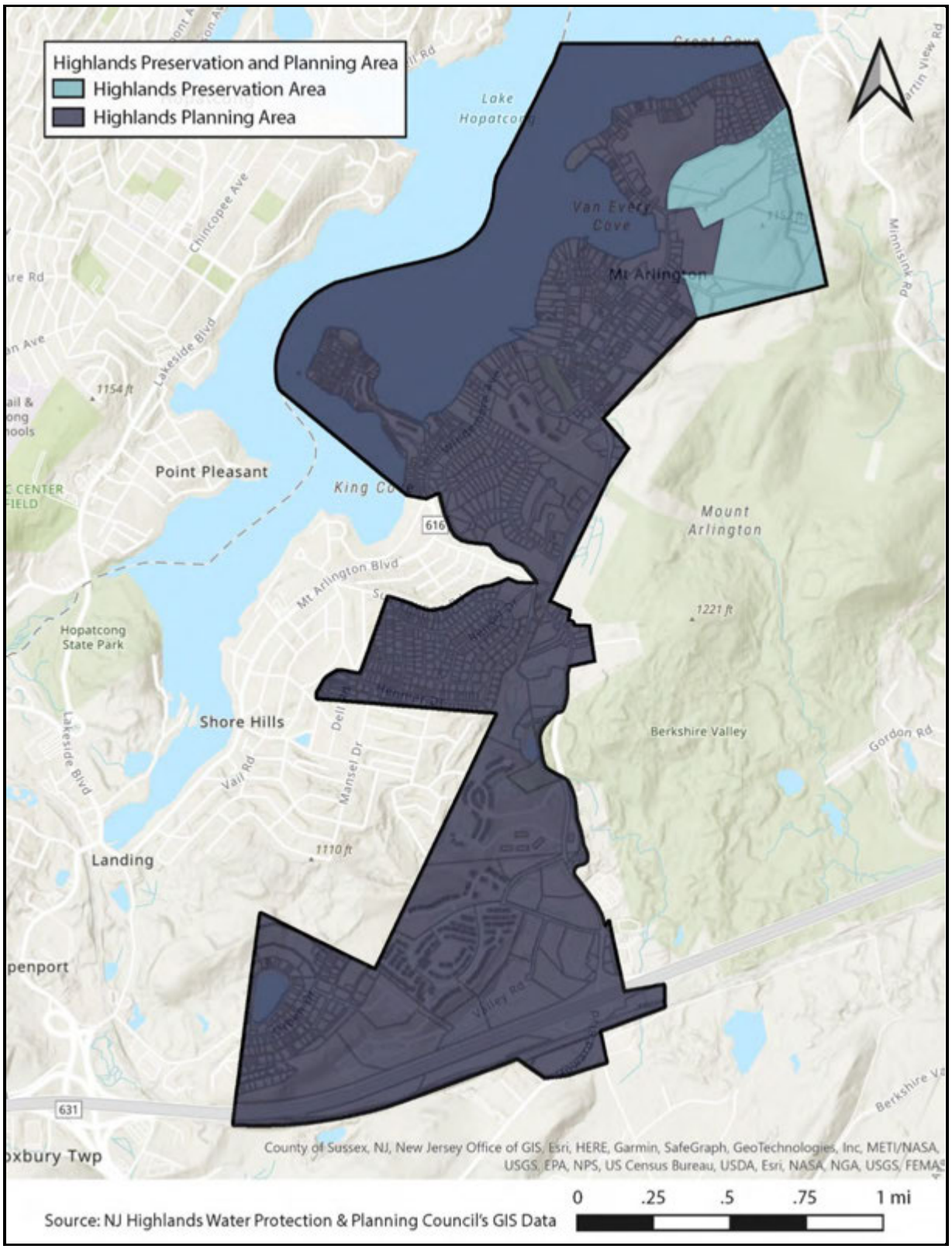
In preparing this report, a number of sources were consulted, including but not limited to, the following:

- The 2008 Highlands Regional Master Plan;
- The 2015 Mount Arlington Borough Master Plan;
- The Highlands Land Use Capability Zones for Mount Arlington Borough;
- Land Development Ordinance of the Borough of Mount Arlington (Chapter 17);
- The Highlands Region Interactive Environmental Resource Inventory; and
- The Highlands Council Interactive Map.

The Highlands Regional Master Plan (RMP) established the parameters for future land use decisions within the 88 municipalities and seven (7) counties in the Highlands. The 2004 legislation divides the region into two parts – the Preservation Area and the Planning Area. Most of Mount Arlington - 1,663 acres (93%) - is located within the Planning Area, while only 132 acres (7%) is located within the Preservation Area (illustrated in **Exhibit 1**). The Preservation Area is located in the northeastern, higher elevation area of Mount Arlington.

Mount Arlington submitted a Petition for Plan Conformance for its Preservation Area, which was approved by the Highlands Council on December 1, 2011. Mount Arlington Borough is considering conforming to the RMP in the Planning Area section of the municipality and would like to understand the impacts of modifying its land use program to align it with the RMP. This Initial Assessment (the Study) is designed to review and analyze the potential changes that may occur to the municipality with Highlands Plan Conformance. The Study also considers the potential Highlands Center designation, Highlands Redevelopment Area designations, and adoption of Highlands land use protocols and resource restrictions, as applicable. The Study will evaluate future development potential under Plan Conformance; determine the applicability and extent of Highlands resource restrictions; and identify changes that may be necessary to municipal zoning regulations to put such protections into place. Finally, the Study will identify the municipality's needs and tasks to fully support and implement Highlands Council conformance goals and policies. Inclusive of maps, charts, and visual aids, this Study will include a Mount Arlington Development Assessment, Highlands Center Designation(s) Boundary/Map(s), Parcels with Development/Redevelopment Potential, Borough Owned Parcels Analysis, Water and Natural Resource Protections, and Draft Implementation Plan.

Exhibit 1 – Highlands Preservation and Planning Area



B. Background Information

Mount Arlington, located on the shores of Lake Hopatcong, has been a desirable summer home destination since the late 1800s. The area became well known during its thriving, upscale resort town era from the 1880's through the 1930's, which welcomed many wealthy residents of nearby New York City and Newark. Mount Arlington became incorporated as a Borough during this time, in 1890. Visitors would arrive by train at Landing Station to soak in the region's natural beauty and water-sport amenities, particularly during the summer months. Though Mount Arlington is predominantly a small suburban residential community today, many of the buildings from this thriving era still exist, leaving a community enriched with history and cultural amenities such as the Lake Hopatcong Yacht Club, originally built in 1910. Today, the Borough has developed as a suburban bedroom community to job centers in Morris County and beyond. Mount Arlington's location along Interstate 80 and the Montclair-Boonton commuter rail line, with its own train station and commuter bus stop, provides easy access to the community.

As a result of its history and connectivity, Mount Arlington seeks to actively direct its Master Planning efforts to preserving both the Borough's character and quality of life, directly linked to Lake Hopatcong and the surrounding Highlands Region, and to promoting economic development for the community and its residents. Its planning efforts are consistent with, and responsive to, the provisions of the New Jersey State Development and Redevelopment Plan, the Morris County Master Plan, and State-mandated affordable housing requirements. Its most recent Master Plan update was adopted in December 2015, which sought to intelligently guide its continued residential and commercial growth. The Master Plan includes the following Vision Statement:

> *Mount Arlington Borough is a recreational residential community that seeks to preserve and enhance the character of its unique neighborhood areas, while also expanding commercial opportunities along Howard Boulevard around the Route 80 interstate area and in the Village Center.*
>
> *Mount Arlington is characterized by its mountainous terrain, lakefront along Lake Hopatcong and unique neighborhoods, like Lake Rogerene. New development should be in keeping with the existing residential and commercial character and scale of the area.*
>
> *Increased access to recreational opportunities, Lake Hopatcong and open space will improve the quality of life for residents of the Borough.*

The Master Plan's Vision Statement provides underlying principals and assumptions that formed the basis for the Master Plan. These underlying principals and assumptions are as follows:

- Mount Arlington's character and quality of life is directly linked to Lake Hopatcong, which is a natural resource of regional importance;
- As Mount Arlington has developed, distinctive neighborhoods have formed, not just around Lake Hopatcong, but in other areas of the Borough, forming the need for more neighborhood-based approaches to planning;
- Lake Hopatcong has always been a central focus of the community; protecting its aesthetic and recreation qualities is a central concern;
- As a lake community, Mount Arlington has throughout its history had a special recreation orientation, a fact that is central to its character and unique sense of place. The recreation areas

provided by the Borough, as well as County parks and recreation facilities, greatly contribute to that unique sense of place;

- Recreation for Borough residents also extends beyond Lake Hopatcong to active and passive recreation parks, such as the Mount Arlington Recreational Fields and Memorial Park. Future recreation opportunities will be focused in existing parks;
- The Borough's existing land use pattern is primarily residential, characterized by a diversity of housing types and styles in a suburban, wooded, and lakeside setting;
- Although Mount Arlington is an almost fully developed community, the municipality recognizes its constitutional obligation to provide its "fair share" of affordable housing;
- The Borough cannot protect the environmental integrity of Lake Hopatcong alone; it must be part of a regional effort; and
- The Village Center designation should be implemented through improved zoning of the area to encourage center-type development.

The Master Plan also identifies a number of general and specific goals and objectives that serve as the basis for planning in the community, which are listed under the Mount Arlington Planning Programs and Policies section of this report. These cover topics including: community development, land use, intergovernmental agency cooperation, economic development, environmental concerns, affordable housing, and community facilities.

Based on the goals and objectives of the municipality, it is evident that the community is committed to protecting and preserving the character and natural resources of the Borough, as well as encouraging redevelopment and rehabilitation predominantly in the Village Center area, the Howard Boulevard/Route 80 Interchange area, and its existing parks and recreation facilities.

C. Mount Arlington Data and Physical Description

The Borough of Mount Arlington spans 2.9 square miles along the southeast shore of Lake Hopatcong, New Jersey's largest freshwater lake. Approximately 360 acres of Mount Arlington lies within Lake Hopatcong. The 2020 Census estimated the current population of the Borough as 5,909. The population has steadily increased from 4,663 in 2000 and 5,050 in 2010, with an estimated 2,281 households.

The Borough is comprised of mainly residential neighborhoods. This includes along Lake Hopatcong's shoreline, to the west of Howard Boulevard and adjacent to Roxbury Township surrounding Lake Rogerene, and near the Route 80/Howard Boulevard Interchange. Parks, recreation, and other open space uses are also scattered throughout the Borough. These include several large parcels in the northern part of Mount Arlington that are in the Highlands Preservation Area, which further limits development on those sites. In the center of the Borough within the Village Center, off Howard Boulevard, lies an area of concentrated commercial development including restaurants intended to serve local residents. Further south along Howard Boulevard are residential clusters consisting primarily of apartments, additional restaurants, and civic amenities such as the Mount Arlington Public Library. In the southern part of Mount Arlington lies the Valley Road Redevelopment Area and other relatively new residential developments near Lake Rogerene. The larger business district for Mount Arlington is along Howard Boulevard in the area around the roadway's Route 80 interchange. The area contains a significant concentration of commercial uses, including shopping centers, mixed-use commercial/office development, and other stand-alone

commercial uses like hotels, banks, and gas stations. Lastly, the Mount Arlington Train Station just south of Route 80 connects the region by train and bus service to the west to Hackettstown and east to Newark, Hoboken, Jersey City and New York City.

The Highlands Region Interactive Environmental Resource Inventory Land Use/Land Cover map from 2015 indicates the following calculations with respect to land uses in the Borough and are identified in **Exhibit 2**:

Land Use / Land Cover (2015)	Acreage	Percent of Total Land Cover
Urban	857.7 ac.	47.8%
Forest	435.7 ac.	24.3%
Water	411.2 ac.	22.9%
Barren Land	48.5 ac.	2.7%
Wetlands	39.6 ac.	2.2%
Agriculture	2.4 ac.	0.1%

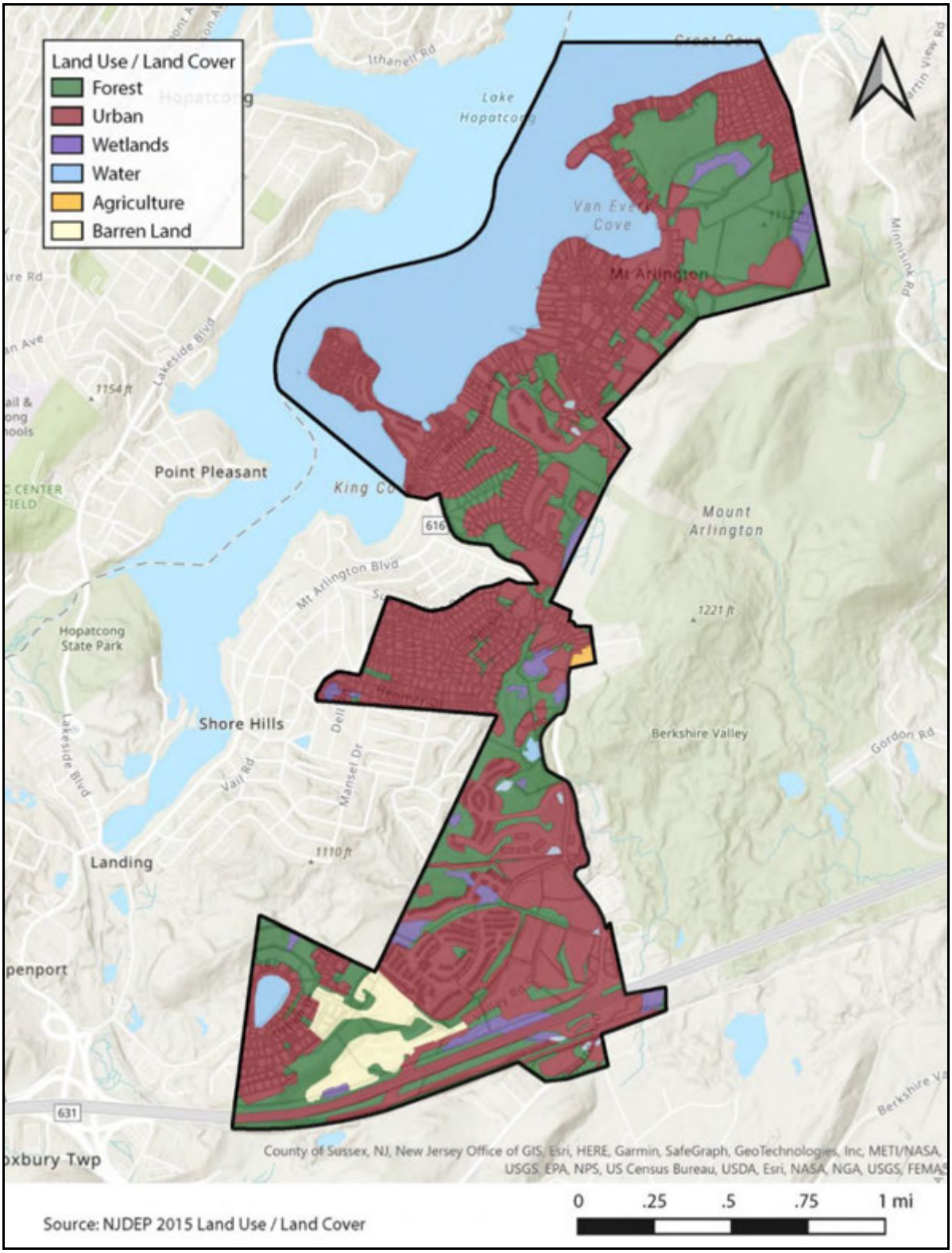
Forested areas are a significant feature of the Borough, particularly in higher elevations away from Lake Hopatcong. These areas are comprised of rolling and sometimes steeply sloping terrain, with many examples of large specimen trees. Mount Arlington currently owns the majority of the undeveloped forested areas in the Borough, most of which have been dedicated as open space.

There is also a significant amount of water throughout the municipality including Lake Hopatcong, Lake Rogerene, and other small water features. Beyond the forest and water land covers, much of the Borough's land (47.8%) is considered developed urban. The area shown as barren land on the map is the Woodmont West at Mount Arlington residential development. At the time the land cover maps were created, the development was in the process of being built and it is now fully built-out. Most large undeveloped properties are either preserved open space or are located within the Preservation Area and are unlikely to be developed due to Highlands regulatory restrictions. As such, Mount Arlington is arguably built-out and is unlikely to accommodate much more large-scale development outside of redevelopment opportunities.

Mount Arlington is also home to a total of 1,082 acres of Critical Wildlife Habitat illustrated in **Exhibit 3**. This habitat includes endangered, threatened, and special concern species including the Bald Eagle, Barred Owl, Bobcat, Great Blue Heron, Red-shouldered Hawk, and many others. This comprises 60.3% of the Borough's total area, which includes the area that is within Lake Hopatcong, much of the area located within the Highlands Preservation Area, and much of the preserved open space near Lake Rogerene. Critical Habitat areas identified in the Highlands Regional Master Plan illustrate a Significant Natural Area where the Nolan's Ridge multi-unit 55+ community is located.

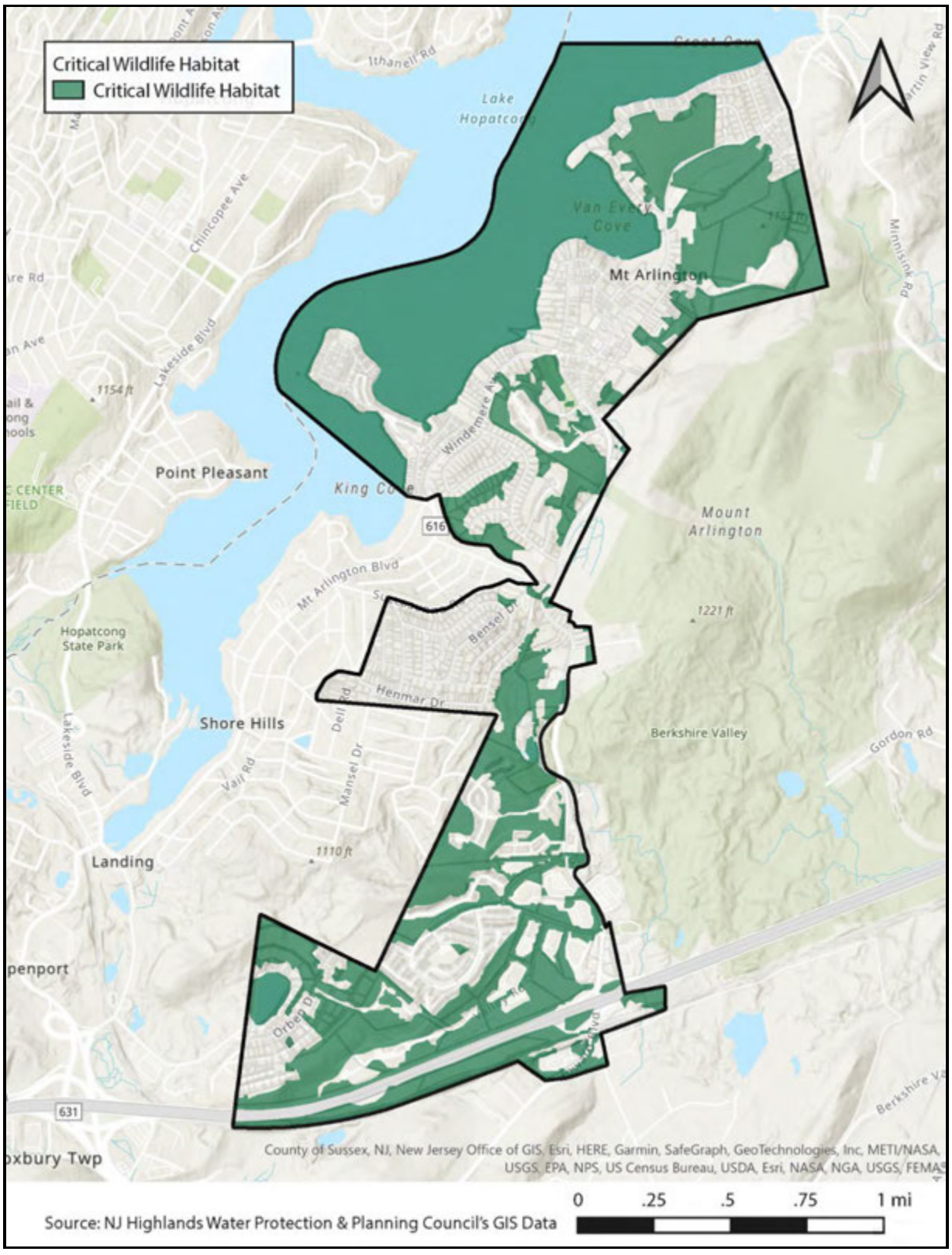
Mount Arlington is an established community in terms of its land use pattern, comprised predominantly of residential housing. The population of the Borough continues to steadily increase. However, that is likely to level off as the majority of the Borough is developed or preserved as open space. Most future development is likely to occur in the form of redevelopment or rehabilitation of existing developed areas.

Exhibit 2 – Land Use / Land Cover (2015)



* Some of the area shown as barren land was part of the Woodmont Homes development, which is now completed and would be considered urban/built land.

Exhibit 3 – Critical Wildlife Habitat



2. The Highlands Regional Master Plan

A. Overview

The Highlands Regional Master Plan (RMP) focuses primarily on protecting the water supply and water quality in the Highlands Region, which are important to the future of many of the urban and suburban communities in northern New Jersey. The RMP is also concerned with protecting and enhancing the ecosystems throughout the Highlands, partly because of the relationship between ecosystem preservation, water supply, and water quality issues; but also because of the need to protect and preserve habitat for threatened and endangered species. The RMP also recognizes the need to allow for sustainable growth in the Highlands and is mindful of the fiscal impacts of the Highlands designation to Highlands communities. The purpose of this Study is to conduct an initial assessment that will determine the impacts of modifying the Borough's land use program to align it with the RMP. The result will identify and prioritize Mount Arlington's needs for Highlands Council planning grant funding to fully support and implement conformance goals and policies.

B. The RMP Overlay Designations in Relation to Existing Land Uses

The Highlands Regional Master Plan (RMP) established land use zones, similar to the land use districts of a municipal master plan. The Land Use Capability Zone Map (the LUCZ map), included in the RMP, created Land Use Capability Zones (LUCZ) that establish the level of land development desired by the RMP. In addition, the RMP also includes a series of goals, policies and objectives, which have a direct correlation to the LUCZ map. According to the RMP, twenty-one indicators were used to determine how the zones and sub-zones were drawn on the LUCZ map. However, in some locations within the Borough, it may be necessary in the future to investigate if, in fact, those indicators were correctly interpreted and if some of the zone and sub-zone designations are correct. If there are questions on the boundaries of the LUCZ, RMP map corrections can be submitted to the Highlands Council as part of the Plan Conformance process.

The LUCZ map is divided into three (3) primary zones and four (4) sub-zones. They are identified as follows:

Primary Zones	Sub Zones
Existing Community Zone	Existing Community – Environmentally Constrained Sub-Zone
Conservation Zone	Lake Community Sub-Zone
Protection Zone	Conservation – Environmentally Constrained Sub-Zone
	Wildlife Management Sub-Zone

The definitions of the LUCZ from the RMP are as follows:

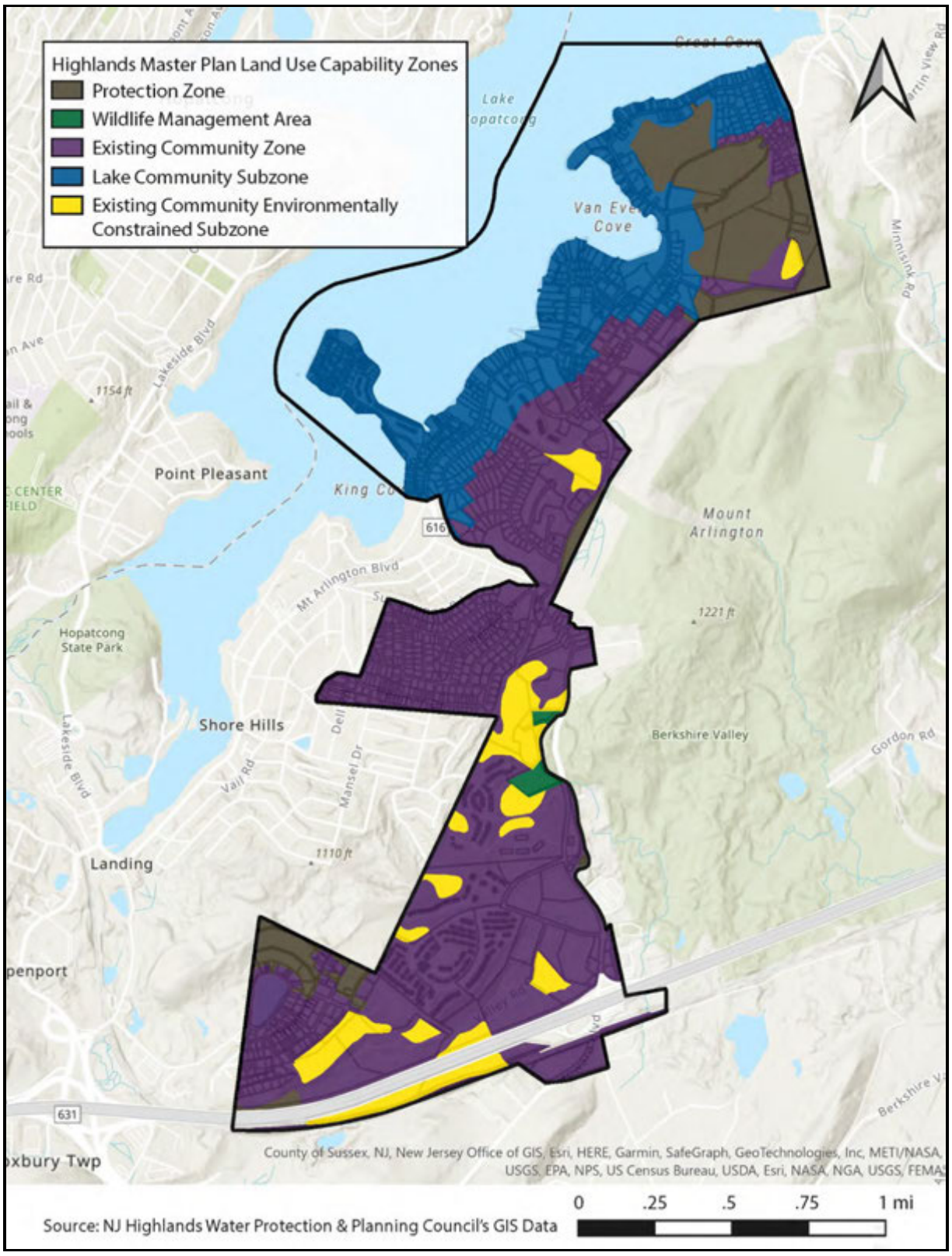
- Existing Community Zone – Areas consisting of extensive and intensive existing development which may have capacity to support additional human development without adversely affecting the ecological value of the Highlands Region.
- Conservation Zone – Areas consisting of significant agricultural lands and limited low-density development interspersed with environmental features that should be preserved whenever possible.
- Protection Zone – Those areas identified on the Land Use Capability Zone Map consisting primarily of high resource value lands in terms of forest resources, Critical Habitat, water quality and quantity, and ecological function, and having limited or no capacity to support human development without adversely affecting overall ecological function of the Highlands Region.
- Existing Community – Environmentally Constrained Sub-Zone – Those areas identified on the Land Use Capability Zone Map within the Existing Community Zone that have high resource value and limited or no capacity for on-site human development without adversely affecting the ecological value of the Highlands Region.
- Lake Community Sub-Zone – Areas that are within 1000 feet of lakes that are 10 acres or greater in size. This sub zone has unique policies to prevent degradation of water quality, harm to lake ecosystems and natural aesthetic values. Lake Community Sub-Zones comprise the Highlands Lake Management Area, which provides a tier system. Each tier requires its own policies. A description of Lake Management Areas and associated policies is located in **Appendix A**.
- Conservation – Environmentally Constrained Sub-Zone – Areas that have significant environmental features that should be preserved and protected from non-agricultural development.
- Wildlife Management Sub-Zone – Areas that are part of a network of lands and waters for conservation, management, and where appropriate, restoration of fish, wildlife and plant resources and their habitats; and that permit compatible wildlife-dependent recreational uses such as hunting, fishing, wildlife observation and photography, and environmental education and interpretation. These areas are managed by appropriate state and federal agencies.

The Existing Community Zone is the location where most development and redevelopment is envisioned to occur by the RMP. The Conservation Zone and Protection Zone are primarily proposed for protection and preservation. There can be exceptions, especially with respect to redevelopment projects and the types of development that fall under a Highlands Exemption. Five (5) of the seven (7) of the above designations are present in Mount Arlington as shown in **Exhibit 4**. The acreage of each LUCZ is listed below:

Zone/Subzone	Acreage	Percentage
Existing Community Zone	683.0	38.1%
Lake Community Subzone	254.1	14.2%
Protection Zone	157.8	8.8%
Existing Community Zone / Env. Constrained Subzone	96.9	5.4%
Wildlife Management Area	7.6	0.4%
Total	**1,199.4***	**66.9%***

* Right-of-way acreage and Lake Hopatcong not included in total.

Exhibit 4 – Highlands Land Use Capability Zones



Ultimately, this report reviews how the LUCZ Map and the Mount Arlington Borough Zoning Map relate to each other (see **Exhibit 7** for reference). Section 4 of this document – Parcels with Development/Redevelopment Potential – will analyze specific parcels for development or redevelopment. Regarding the small Highlands Preservation Area Zone in the northeast corner of Mount Arlington (illustrated as light blue in **Exhibit 1** and mostly as a gray Protection Zone in **Exhibit 4** above), most of the area is zoned OSGU (Open Space Government Use). However, just below is zoned RA-40 as a residential zone. Regarding the Protection Zone in the Planning Area of the LUCZ Map, some of these areas are Single Family Residential Zone RA-40 in the zoning code with the small exception of the OSGU Zone that extends beyond the Highlands Preservation Area into the Planning Area in the northern part of the Borough. The Borough's code does not recognize where many of the Environmentally Constrained Subzones exist in the LUCZ Map. These areas are zoned various residential zones and near the Howard Boulevard/Route 80 Interchange, the area is zoned PUD (Planned Unit Development). The Lake Community Subzone falls within the RA-7.5, RA-15, RA-30, and R-PRD Residential Zones in addition to R-C (Resort-Commercial). The developed portion of the Lake Rogerene area, listed within the Existing Community Zone of the LUCZ Map, is zoned RA-15 and RA-40, while the more undeveloped portion, listed within the Protection Zone, is zoned RA-40.

In terms of available land for development, there are very few parcels, if any, that are within the Existing Community Zone which are available for development. There are very few parcels in the Borough which are both vacant and located completely within the Existing Community Zone, and which do not encroach upon the Environmentally Constrained Subzone or Protection Zone. This further solidifies the conclusion that Mount Arlington is nearly fully built out and the bulk of any new development will be redevelopment. It's also important to note that any existing residential development comprised of three family units or less is exempt from Highland's review in conforming Planning Area communities. This means that most existing residential neighborhoods in the Borough would not be impacted by a decision to undertake Plan Conformance in the Planning Area.

C. Goals Policies and Objectives

The goals, policies and objectives of the RMP are both directly and indirectly related to the zone and subzone categories, as depicted on the LUCZ map. To quote from the RMP, on page 137, they "…provide the substantive standards and direction for implementing the goals and requirements of the Highlands Act." Furthermore, they, "… are used in Chapters 5 and 6 (of the RMP) as the basis for the implementation programs." The goals, objectives and policies are contained in Chapter 4 of the RMP and are divided among ten (10) separate categories or parts as follows:

Part 1 - Natural Resources
Part 2 - Water Resources and Utilities
Part 3 - Agricultural Resources
Part 4 - Historic, Cultural, Archeological and Scenic Resources
Part 5 - Transportation
Part 6 - Future Land Use
Part 7 - Land Owner Equity
Part 8 - Sustainable Economic Development
Part 9 - Air Quality
Part 10 - Local Participation

Some parts are further divided into subparts, such as Part 1 - Natural Resources, which is divided into seven (7) separate sub-parts, which include the following: A) Forest Resources, B) Open Waters/Riparian Areas, C) Steep Slopes, D) Critical Habitat, E) Land Preservation and Stewardship, F) Carbonate Rock, and G) Lake Management.

Each part and subpart are explained via the specific goals, policies and objectives that pertain to each one. The format used involves stating a goal, which is followed by a description of one or more policies. Each policy is further clarified by one or more objectives.

Not surprisingly, the goals, policies and objectives of the RMP are naturally heavily weighted toward environmental protection, including protection of natural resources, cultural resources and water resources. The overarching purpose is essentially to allow development and redevelopment in existing developed areas and to preserve land that is currently undeveloped.

Notwithstanding the focus on environmental protection in the RMP, Part 6 – Future Land Use and Part 8 – Sustainable Economic Development provide important guidance regarding issues related to development and redevelopment in the Highlands Region. The RMP indicates that there are nearly a million people who reside in the Highlands Region and a substantial amount of existing development already exists. The Highlands Region is not a pristine natural area. It is a mixture of the natural environment and human-made features and this is especially true in Mount Arlington Borough. In March 2022, the Highlands Council adopted a Highlands Economic Sustainability Plan which "seeks to provide the framework by which to secure the economic future of the Highlands Region, and to do so by means that are compatible with and complementary to the work of the Highlands Council and its partners in protecting and enhancing the natural resources of the Region."

So, with respect to Mount Arlington and its relationship to the RMP, it is important to focus on portions of Part 6. In Part 6, sub part A – Land Use Capability Zones, goal 6A states – *Use the Highlands Land Use Capability Map Series as a framework for determining the character, location and magnitude of new growth and development in the Highlands Region.*

Another important goal of sub part A is goal 6F which states – *Support of compact development mixed use development and redevelopment and maximization of water, wastewater and transit infrastructure investments for future use of land and development within the Existing Community Zone.*

Finally, in Part 6 sub part D – Redevelopment - goal 6J states – *Accommodation of regional growth and development needs through the reuse and redevelopment of previously developed areas, including brownfields, grayfields and underutilized sites.*

These three goals and others, plus numerous policies and objectives associated with each of them, provide a clear indication that the Borough of Mount Arlington, as a near fully developed community, has limited growth potential outside of redevelopment of existing developed areas where appropriate, subject to environmental constraints that exist.

This last point regarding environmental constraints leads to an important factor, which in the final analysis may be the most controlling in terms of future growth – water availability. The question of water deficits and how those deficits can be mitigated will determine to a large extent how much and where new growth can be accommodated. Much of the Borough has existing public water and public sewer, however, capacity of the water system and the ability to extend the system and increase capacity may impact future redevelopment opportunities.

3. Mount Arlington Planning Programs and Policies

A. Overview

Mount Arlington's planning, programs, and policies have always focused on the preservation of the natural and cultural landscapes, with a special focus on Lake Hopatcong. More recently, the Borough has focused its efforts on providing additional commercial development, even with scarce developable land. As such, future development is largely focused on the redevelopment of existing developed parcels and infill development of remaining vacant parcels. Nonetheless, the Borough has made significant strides in increasing its commercial development in recent decades by focusing business development in the Village Center and identifying other Borough "nodes" such as the Southern Core near Route 80.

The Mount Arlington Master Plan was updated in 1999, reexamined in 2005 and 2015, and most recently, updated in 2015. The 2015 Master Plan identifies a number of general goals and objectives that serve as the bases for planning in the community. These goals and objectives are as follows:

- The Borough is, and should continue to be, a largely residential community;
- Protect and promote the Borough's historical development and strong association with Lake Hopatcong and water-related recreation;
- Protect and promote the Borough's historic roots as a lake and water recreation-oriented community, capitalizing on Lake Hopatcong and the County Marina as resources of regional importance;
    - This goal will also be furthered by promoting an attractive Village Center through the encouragement of the rehabilitation of historic buildings and better integration of newer buildings into the historic character of the area;
    - This should include promoting tourist-oriented businesses, including Bed and Breakfasts (conversion of large older residences) in the Victorian Historic District in between McGregor Avenue and North Glen Avenue off of Howard Avenue;
- Continue to actively cooperate with other communities and governmental agencies to achieve common goals;
- Encourage development and redevelopment in the Village Center in a manner that is generally consistent with policies for village centers in the State Development and Redevelopment Plan;
- Promote non-residential development in the Village Center and along Howard Boulevard near the Route 80 interchange. Any such development should not generate substantial off-tract environmental impacts that would be incompatible with the overwhelmingly residential character of the Borough. In addition, concerns about development on steep slopes and environmental impacts on Lake Hopatcong should be fully addressed; and
- Continue to work with surrounding communities, the County, State Department of Transportation and New Jersey Transit in exploring and developing plans to reduce traffic congestion at the Route 80/Howard Boulevard Interchange, specifically with respect to redevelopment of the Hercules site in Roxbury Township.

B. Specific Objectives, Recommendations, and Planning Documents

In addition to the general goals and objectives, there are a variety of specific goals and objectives related to community development, land use, intergovernmental agency cooperation, economic development, environmental, affordable housing, and community facilities. Below lists these specific goals and objectives from the 2015 Master Plan:

Community Development

- Encourage redevelopment and rehabilitation in the Village Center area;
    - Encourage a diverse mix of uses to expand the Borough's tax base as well as provide more options for residents and visitors;
    - Provide more housing options to encourage a larger population living within walking distance of the Village Center businesses and services;
    - Continue streetscape improvements along Howard Boulevard and around the Village Center to promote a pedestrian-friendly environment;
    - Identify opportunities to utilize density bonuses for Village Center developers that meet streetscape and parking requirements;
    - Identify locations for common/public parking areas to promote increased development opportunities within the Village Center;
- Use information on population trends to better understand the future housing needs of Mount Arlington residents;
- Create plans and policies to support the Borough's traditional commitment to active recreation, with a focus on consolidating recreational opportunities on existing Borough-owned properties; and
- Support policies designed to preserve Mount Arlington's historical heritage.

Land Use

- Ensure compatibility of diverse land uses and developments by enforcing regulations addressing intensity of development and buffers;
- Preserve the residential character of Mount Arlington;
- Support the preservation and renovation of historic buildings and properties in the Borough's North Park Historic District and other historic areas;
- Maintain the spirit of the Village Center designation by promoting development and redevelopment opportunities in the Village Center;
- Concentrate commercial development in the Village Center commercial areas and the Howard Boulevard/Route 80 Interchange area;
- Develop "activity nodes" along Howard Boulevard for civic activities;
- Maintain and update the Land Development Ordinance to meet planning goals while providing clarity to developers and residents; and
- Encourage preservation of historic sites and structures in the Borough.

Intergovernmental Agency Cooperation

- Ensure Highlands Council Plan Conformance for the Highlands Preservation Area within the Borough;
- Continue to participate in the Lake Hopatcong Commission and other regional planning and management efforts; and

- Continue cooperation with surrounding municipalities, NJDOT, NJ Transit and other entities on issues of common concerns around the municipal boundaries, primarily those concerning the Route 80/Howard Boulevard interchange area.

Economic Development

- Preserve and enhance the commercial tax base;
- Encourage commercial development in appropriate areas; and
- Identify opportunities to promote tourism in Mount Arlington by increasing opportunities to view and access Lake Hopatcong, i.e., lakeside restaurants, boat tours, a campground, and Bed and Breakfasts around the Lake.

Environmental

- Continue to protect environmentally sensitive areas including streams, wetlands and steep slopes;
- Continue to protect scenic views and the water quality of Lake Hopatcong;
- Continue to protect the water quality of Lake Rogerene;
- Encourage and promote sewer service to the residential area surrounding Lake Rogerene; and
- Work with the Highlands Council to implement the Highlands Regional Master Plan in the Preservation Area of the Borough.

Affordable Housing

- Comply with current and future COAH[1] requirements, where feasible.

Community Facilities

- Maintain and replace where necessary, existing facilities in a manner that minimizes public expenditures;
- Promote capital budgeting for ongoing maintenance/replacement of facilities/utilities in a manner that will maintain them in good condition and spread-out costs;
- Encourage inter-municipal cooperation for the provision, maintenance and upgrading of municipal services, facilities and utilities, where possible, in order to minimize public expenditures;
- Promote the efficient utilization of all community facilities;
- Support redevelopment of the tennis courts at Sandra Drive into a community facility that serves the residents of the Borough, such as a community garden;
- Maintain and diversify recreational opportunities at existing recreational facilities, such as developing turf fields, providing lighting at the fields, and adding amenities such as walking paths; and
- Encourage the expansion of utilities to cover the remaining areas of the Borough that do not have public water and/or public sewer access. Also encourage expansion of utilities to provide natural gas and fiber optics to more areas in the Borough.

The 2015 Master Plan also addresses its relationship to other plans, agencies, and adjacent municipalities including Roxbury Township, Jefferson Township, Morris County Master Plan, The Highlands Regional Master Plan, Lake Hopatcong Commission, and the New Jersey State

[1] COAH is suspended. Comply with current and future State Affordable Housing Regulations requirements.

Development and Redevelopment Plan. The section in the Borough's Master Plan regarding the Highlands Regional Master Plan contains the following:

> *"The Highlands Act, which passed in 2004, required the creation of a Highlands Regional Master Plan with the following specific goal:*
>
> ***The goal of the regional master plan with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.*** *- Highlands Act of 2004*
>
> *The Highlands Regional Master Plan was adopted by the Highlands Council on July 17, 2008. All municipalities with lands in the Preservation Area of the Highlands Region were required to update their master plans and ordinances to conform to the Highlands Regional Master Plan for those areas. Seven percent (7%) of Mount Arlington's land area (132 acres) is in the Highlands Preservation area, with the remaining 93 percent of the municipality in the Planning Area. Tax lots impacted by the Preservation Area include Block 9, Lots 2 and 3; Block 8, Lots 3, 6, 5 and 17.01; Block 5, Lots 4, 15 and 16; and Block 12, Lot 1. These lots are located in the northeastern portion of the Borough…* [reference **Exhibit 1**]*, and are comprised primarily of sensitive environmental areas and steep slopes.*
>
> *Because Mount Arlington has land located in the Preservation Area, the Borough made a petition for Plan Conformance to the Highlands Council, which was approved on December 1, 2011. In October 2015, the Borough adopted final documents consistent with the Plan Conformance petition, including a Highlands Environmental Resource Inventory, a Highlands Master Plan Element, a Highlands Checklist Ordinance and a Highlands Preservation Area Exemption Ordinance. For these reasons, the Master Plan and planning efforts of the Borough should be considered consistent with the Highlands Regional Master Plan."*

C. Existing Land Development / Land Use Patterns

As noted earlier, the bulk of existing land use in the Borough is residential development. Commercial development is scattered throughout the Borough, but more concentrated along Howard Boulevard near Route 80 and in the Village Center. Lake Hopatcong comprises much of the northwestern part of the Borough. Meanwhile, smaller, more limited areas have been dedicated to other uses, such as industrial and institutional uses.

Parks, recreation, and other open space uses are also scattered throughout the Borough. These include several large parcels in the northern portions of the Borough that are in the Highlands Preservation Area, which further limits the development of those sites. With much of the Valley Road Redevelopment Area now constructed in the southern portion of the Borough along Route 80, there are now very few large vacant areas found throughout Mount Arlington. Nonetheless, there are two vacant areas south of Route 80 and a handful along Howard Boulevard. There are also a few smaller vacant areas scattered throughout the Borough, many of which lie within residential areas.

The MOD IV Tax Data Existing Land Use Map (**Exhibit 5**) illustrates the current development pattern of Mount Arlington. The map was prepared using 2022 New Jersey MOD IV tax assessment records and other sources which was supplemented with some aerial imagery interpretation and verification using publicly available mapping resources. Together, this data provides a comprehensive picture of how the properties within the Borough are currently being used and illustrates the built-out nature of the Borough today. The map is divided into 13 categories (see map legend) and identifies a variety of land use categories based on the tax assessment records with residential and non-residential categories.

In terms of all the categories, the largest number of parcels and acreage is for residential areas (denoted yellow in **Exhibit 5**). This includes the vast majority of smaller parcels along Lake Hopatcong's shoreline, between Bertrand Island and Howard Boulevard, west of Elks Lodge and Pub 199, and near Lake Rogerene. There are also large areas of the Borough where clusters of apartments and townhomes exist including Woodmont West at Mt. Arlington and Seasons Glen Condo Association in southern Mount Arlington, as well as Mt. Arlington Apartment Homes and Shore Hill Apartments in central Mount Arlington.

The second largest land use category in the Borough is public use and open space (denoted dark green in **Exhibit 5**). This includes the open water area of the Borough that is Lake Hopatcong, as well as open space in the Highlands Preservation Area in northern Mount Arlington. There are also public use and open space areas around Lake Rogerene, along Route 80, areas just west of Berkshire Valley State Wildlife Management Area, and near Mount Arlington Community Garden. Finally, there are a variety of public use and open space areas owned by the Borough near the Village Center including Memorial Park, Fireman's Field Park, Lee's County Park Marina, and Mount Arlington Municipal Beach. These publicly owned properties also include structures owned by the Borough including Mount Arlington Public Library, Mount Arlington Police Department, and Mount Arlington Borough Hall.

The commercial land use category (denoted purple in **Exhibit 5**) is primarily located along the Howard Boulevard corridor, as well as Valley Road, Seasons Drive, and some smaller areas along Lake Hopatcong and in the Village Center. The uses in the commercial land use category include hotels, gas and convenience stores, garbage disposal, offices, restaurants, and services. This land use category also includes important waterfront assets to the community including Lake Hopatcong Yacht Club and Knolls Beach.

There are also several other public/quasi-public uses throughout the Borough, including schools (denoted dark blue in **Exhibit 5**) such as Mount Arlington Public School in central Mount Arlington and Edith M. Decker Elementary School in northern Mount Arlington, in addition to churches (denoted magenta in **Exhibit 5**) such as Times Square Church, St. Peter's Episcopal Church, and Our Lady of the Lake Roman Catholic Church. The Mount Arlington Train Station just south of Route 80 off Howard Boulevard is a vastly important transportation asset to the Borough that connects the region to larger employment and recreational centers such as Dover, Morristown, Summit, and Newark, extending to New York City. Finally, there are a few tiny land use categories left including cemetery/graveyard, farm land, industrial, and other exempt properties denoted as turquoise, light green, light blue, and bright red, respectively, in **Exhibit 5**.

Below **Exhibit 5** is the 2015 Land Use Map (**Exhibit 6**), which was created using similar MOD IV Data from 2015 and is also found in Mount Arlington's 2015 Master Plan. This has been included in this report to illustrate the recent changes that have occurred. The largest change has been in the southern part of the Borough, in which much of the land that was previously vacant along Route 80 has now been developed as a residential area. The development that has occurred is part of the Woodmont West at Mt. Arlington multi-family apartment complex. The area specifically developed generally avoided the Critical Wildlife Habitat Area (**Exhibit 3**) and the Environmentally Constrained Subzone of the LUCZ Map (**Exhibit 4**) and is located on Barren Land according to **Exhibit 2**.

Exhibit 5 – MOD IV Tax Data Existing Land Use

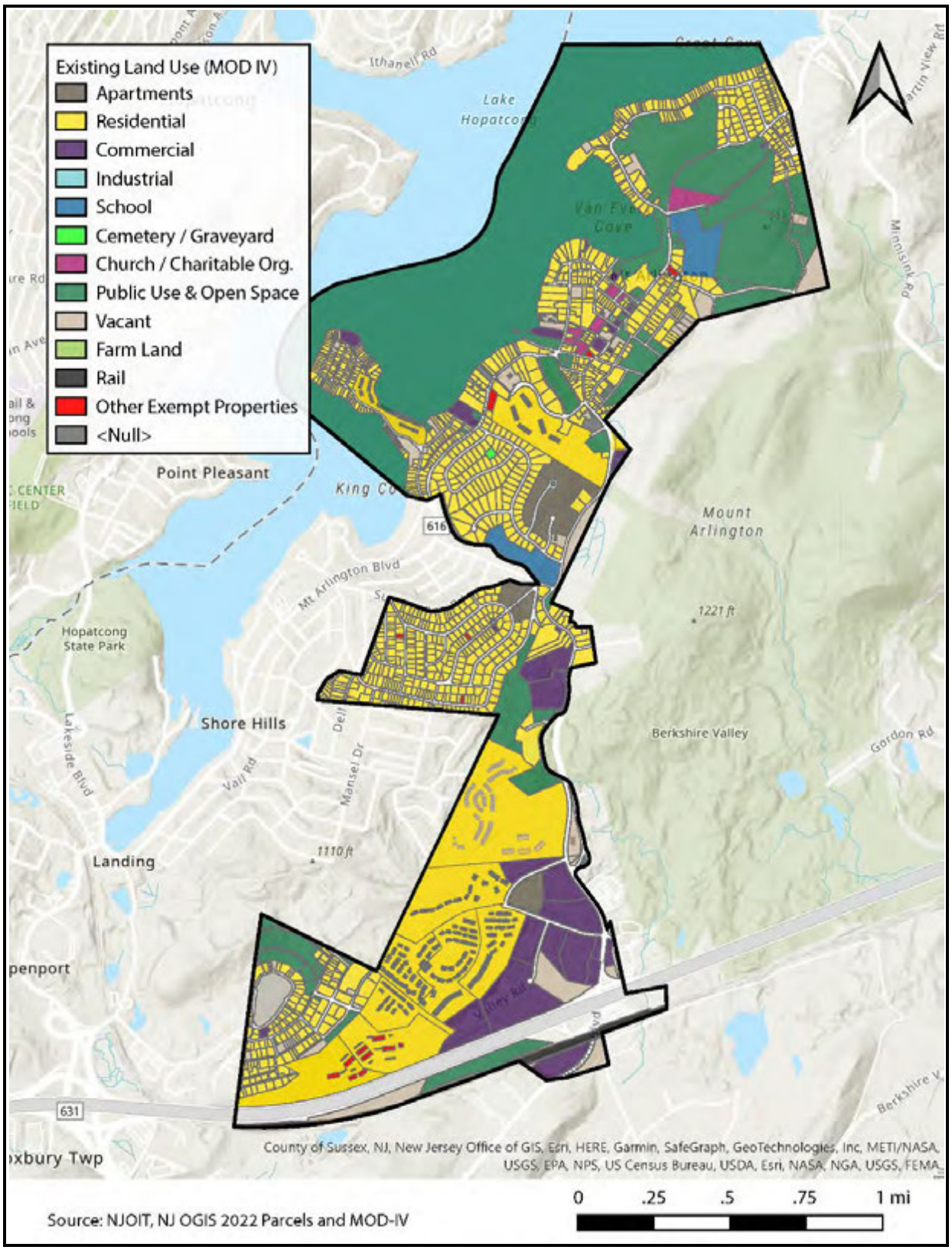
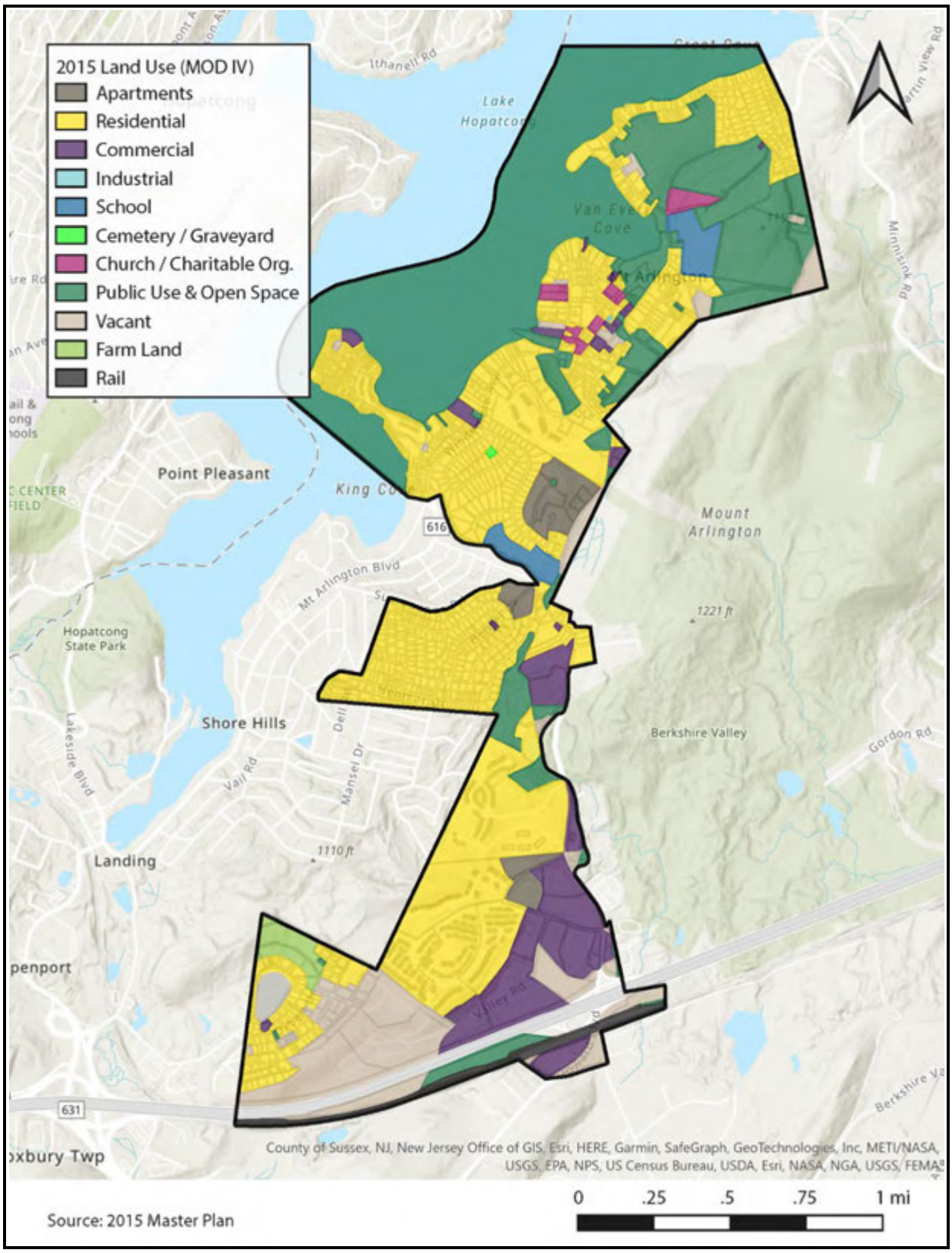


Exhibit 6 – 2015 Land Use (MOD IV)



D. Mount Arlington Development Regulations

The Borough's Land Development Ordinance can be found in Chapter 17 of the Borough Code. Mount Arlington is divided into 15 separate zoning categories as defined by the Land Development Ordinance of the Borough of Mount Arlington and the Official Zoning Map prepared by CP Professional Services, dated August 20, 2015. Below lists the following zoning categories:

RA-40	Residential Zone – Single-Family
RA-30	Residential Zone – Single-Family
RA-15	Residential Zone – Single-Family
RA-7.5	Residential Zone – Single-Family
RG-5	Residential Zone – Multi-Family
OSGU	Open Space Government Use Zone
B-1	Business Zone
R-C	Resort-Commercial Zone
R-PRD	Residential Zone – Planned Residential Development
HMC	Hotel/Motel Conference Center Zone
PUD	Planned Unit Development Zone
OB	Office Building Zone
SRC	Special Residential Cluster Zone
SRC-B	Special Residential Cluster B Zone
CTA	Cellular Telecommunications Antenna Overlay

The zoning categories are graphically depicted on the Borough Zoning Map (**Exhibit 7**). The purpose of each zone is relatively self-evident based on their descriptions. Below the Zoning Map, is a table taken from Chapter 16, Attachment 6 of the Borough's Code, which provides the Area, Yard, and Bulk Zoning Requirements for each corresponding Zone (**Exhibit 8**). Further discussion is warranted regarding the differences between the multiple single-family zones within the Borough.

The RA-40 Zone is the most restrictive single-family residential zone in the Borough with a minimum interior lot size of 40,000 square feet, maximum floor area ratio of 18 percent, and maximum improved impervious coverage of 20 percent. There are three (3) clusters and one (1) standalone parcel in the RA-40 Zone. The northernmost RA-40 cluster includes parcels near Berkshire Ave just below the OSGU (Open Space Government Use) Zone. The next RA-40 cluster surrounds a B-1 Zone in Central Mount Arlington and is around Sandra Dr to the west and adjacent to Howard Boulevard to the east. One of these parcels in this cluster is currently a small forested area just north of the SRC-B (Special Residential Cluster B) Zone. The southernmost and last RA-40 cluster is north and east of Lake Rogerene and just to the west of the Planned Unit Development Zone. Finally, there's also a small RA-40 parcel off Howard Boulevard surrounded by the SRC (Special Residence Cluster) Zone. Permitted principal uses for the RA-40 include agricultural uses and farms, planned cluster residential development, parks, playgrounds, firehouses, libraries, and municipal buildings.

The RA-30 Zone is the second most restrictive single-family residential zone in the Borough with a minimum interior lot size of 30,000 square feet, maximum floor area ratio of 18 percent, and maximum impervious coverage of 25 percent. There are four (4) clusters of the RA-30 Zone. The northernmost is located at Chestnut Point, a small peninsula in Lake Hopatcong. There are two (2) additional clusters on the shore of Lake Hopatcong just northwest of the Village Center and just southwest of Mount Arlington Municipal Beach. Lastly, there's a cluster in central Mount Arlington in the Kadel Dr and Richard Dr area.

The RA-15 Zone is the next most restrictive single-family residential zone in the Borough with a minimum interior lot size of 15,000 square feet, maximum floor area ratio of 28 percent, and maximum impervious coverage of 35 percent. There are seven (7) clusters of the RA-15 Zone and it is the most common residential zoning category in Mount Arlington. These clusters are dispersed throughout the Borough and include areas along the Lake Hopatcong shoreline, around the B-1 Zone in the Village Center, to the west of Howard Boulevard in central Mount Arlington near Roxbury Township, and in the south around Lake Rogerene.

The RA-7.5 Zone is the least restrictive single-family residential zone in the Borough with a minimum interior lot size of 7,500 square feet, maximum floor area ratio of 30 percent, and maximum impervious coverage of 50 percent. There are five (5) clusters of the RA-7.5 Zone. These clusters are also dispersed throughout the Borough and include areas in the far northernmost section of Mount Arlington bordering Jefferson Township, around the Village Center, and in, and just east of, Bertrand Island where Lake Hopatcong Yacht Club is located.

Other residential zone areas from north to south along/near Howard Boulevard include an SRC (Special Residential Cluster) Zone, two (2) RG-5 (Multi-Family) Zone clusters, and an SRC-B (Special Residential Cluster B) Zone. There is also an R-PRD (Planned Residential District) at the neck of Bertrand Island. Within all the residential zones there are very few vacant parcels with the one (1) exception of the forested RA-40 parcel adjacent to the B-1 Zone off Howard Boulevard and north of the SRC-B Zone.

Other notable zones include two (2) OSGU (Open Space Government Use) areas in north Mount Arlington (including a Cellular Telecommunications Antenna Overlay in its southeastern section) and a small parcel off Howard Boulevard in central Mount Arlington, a large PUD (Planned Unit Development) Zone in south Mount Arlington, two (2) R-C (Resort-Commercial) Zones near the Village Center, five (5) B-5 (Business) Zones along Howard Boulevard and in the Village Center, and an HMC (Hotel/Motel Conference) Zone and OB (Office Building) District both at the Howard Boulevard/Route 80 Interchange. Part of the larger and northernmost OSGU Zone is located in the Highlands Regional Preservation Area.

The Borough's vision for the future, its planning documents that clarify that vision, and the Borough Code provisions, which constitute the legal basis for controlling development, are all working to preserve the existing traditional character and unique heritage of the Borough. These regulations provide for protecting and enhancing the Borough's environmental resources and its ability to provide for appropriate development within what is a mostly developed or preserved municipality. At this time, there would be little reason why the Borough could not integrate the goals of the Highlands RMP into its plans.

Exhibit 7 – Zoning

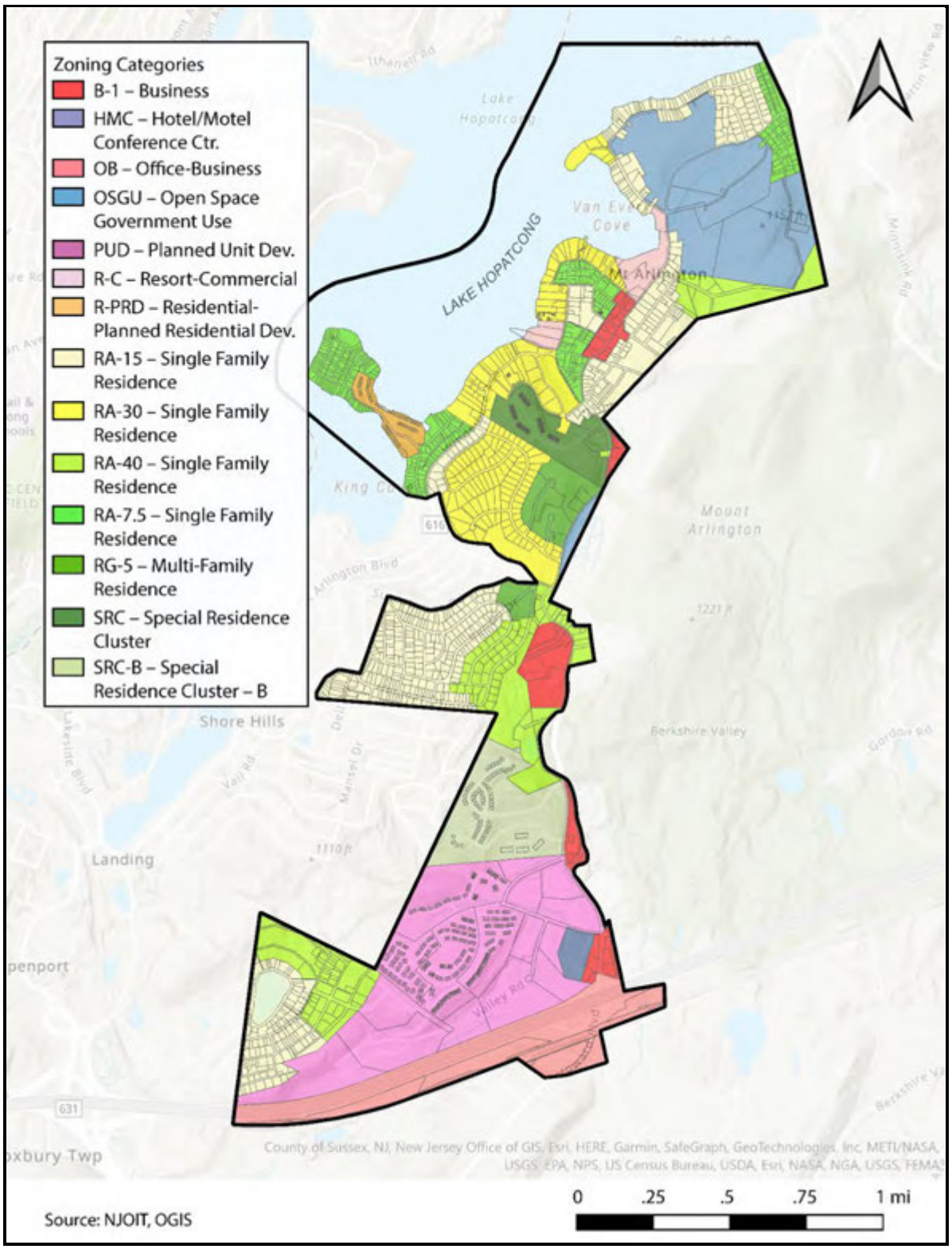


Exhibit 8 – Land Development Area, Yard, and Bulk Zoning Requirements

LAND DEVELOPMENT

17 Attachment 6

SCHEDULE 1 SCHEDULE OF AREA, YARD AND BULK REQUIREMENTS
(Section 17-29)

	Minimum Size of Lot				Minimum Required Yard Areas								Maximum Height		
	Interior Lots		Corner Lots		For Principal Buildings				For Accessory Buildings						
ZONE	Area in Square Feet	Width In Feet	Area in Square Feet	Width In Feet	Front Yard	One Side Yard	Total of Two Side Yards	Rear Yards	Side Yard	Rear Yard	Floor Area Ratio	Maximum Percent Of Impervious Lot Coverage	In Stories	In Feet	Notes
RA-40	40,000	175	46,000	200	50	20	50	50	Same as Principal	20	18	20	2 ½	35	#1
RA-30	30,000	125	36,000	150	40	12	25	25	"	15	18	25	2 ½	35	#2
RA-15	15,000	100	18,750	125	35	12	25	25	"	15	28	35	2 ½	35	
RA-7.5	7,500	50	10,000	75	25	10	20	20	"	15	30	50	2 ½	35	
OSGU	80,000	225	89,000	250	60	30	75	50	"	20		10	2 ½	35	
RG-5	200,000	200	200,000	300	40	50	100	50	"	50		50	2 ½	35	
B-1	20,000	100	25,000	125	40	10	25	25	"	25		60	2 ½	35	#4
R-C	20,000	100	25,000	125	25	10	25	25	"	25		60	2 ½	35	#4
R-PRD	---------- -40,000	------ 175	------- 46,000-	----- 2,000	----	See		Notes----	---------	------		---------- 15	------- 2 1/2	----- 35	See 17-28.10
HMC	10 ac.	200	10 ac.	200	100	100	200	100	25 or 2x Height			50	5	60	See 17-31.6, #4
PUD	217,800 (5 ac.)	200	217,800 (5 ac.)	300	100	50	100	100	"	100		50	2 ½	35	See 17-31.5a #3
OB	40,000	200	45,000	225	50	20	50	50	"	50		60	3	50	#4

1. In R-40 zones, minimum lot area may be reduced to 30,000 square feet and 135 minimum frontage with public water or public sewer.
2. In R-30 zones, minimum lot area may be reduced to 20,000 square feet and 100 minimum frontage with public water or public sewer.
3. Reserved. [Ord. No. 93-19 § 4]
4. In the B-1, OB, R-C and HMC Zones, clothing bins shall be permitted in the rear yard and side yard provided they are behind the rear building line. The placement of clothing bins must comply with a minimum setback of 10 feet from any property line. (See Section 17-32.7) [Ord. No. 06-09 § 3]

Source: Borough of Mount Arlington Code: Chapter 17 Land Development Attachment 6 – Schedule 1

4. Parcel Development Analysis

A. Introduction

Though most of Mount Arlington is fully developed, some parcels should be considered individually as locations for development, redevelopment, and/or for their future significance to the Borough. Seventy-four (74) parcels were identified, including undeveloped parcels, municipal owned open space parcels, and parcels with development potential. All of these types of parcels were analyzed because at first glance, they encapsulate where one may envision the most future change happening, whether or not that may be feasible. As a result, this larger list includes currently undeveloped vacant or open space land (including some in which at least a significant portion is undeveloped); currently developed parcels that show promise for future development or redevelopment; and areas on or near Howard Boulevard where future new commercial services might be most appropriate. Next, the list was thinned to only include parcels with the greatest potential impact from any kind of development for the Borough. These parcels are larger and each has an in-depth paragraph description in this analysis.

B. Largely Undeveloped Parcels

The map below (**Exhibit 9**) shows the location of largely undeveloped parcels, including municipal owned open space within the Highlands Planning Area, and parcels with development or redevelopment potential. Their combined total acreage is 122.5 acres, which accounts for almost 7% of the Borough's area. Though these parcels are scattered throughout the Borough, there are some main clusters around the Village Center, along Howard Boulevard in central Mount Arlington, and around the Lake Rogerene area. The vast majority of the parcels are zoned residential and include all four main residential zones (RA-7.5, RA-15, RA-30, and RA-40). However, there are a handful zoned B-1 near the Village Center and along Howard Boulevard as well. Below the map is a table that identifies the Block, Lot, Current Zoning, Acreage, Address/Location, MOD IV Classification, and Owner for each of these parcels (**Exhibit 10**). They are listed in ascending order of Block number, followed by specific Lot number.

Below the table is **Exhibit 11**, which displays these parcels on top of the MOD IV Tax Data Existing Land Use Map. This provides a reference beyond the current zoning as to the current land use of each of these parcels. The existing tax assessment data reveals that these parcels cover mainly Residential, Commercial, Public Use and Open Space, and Vacant land uses.

Exhibit 9 – Largely Undeveloped Parcels

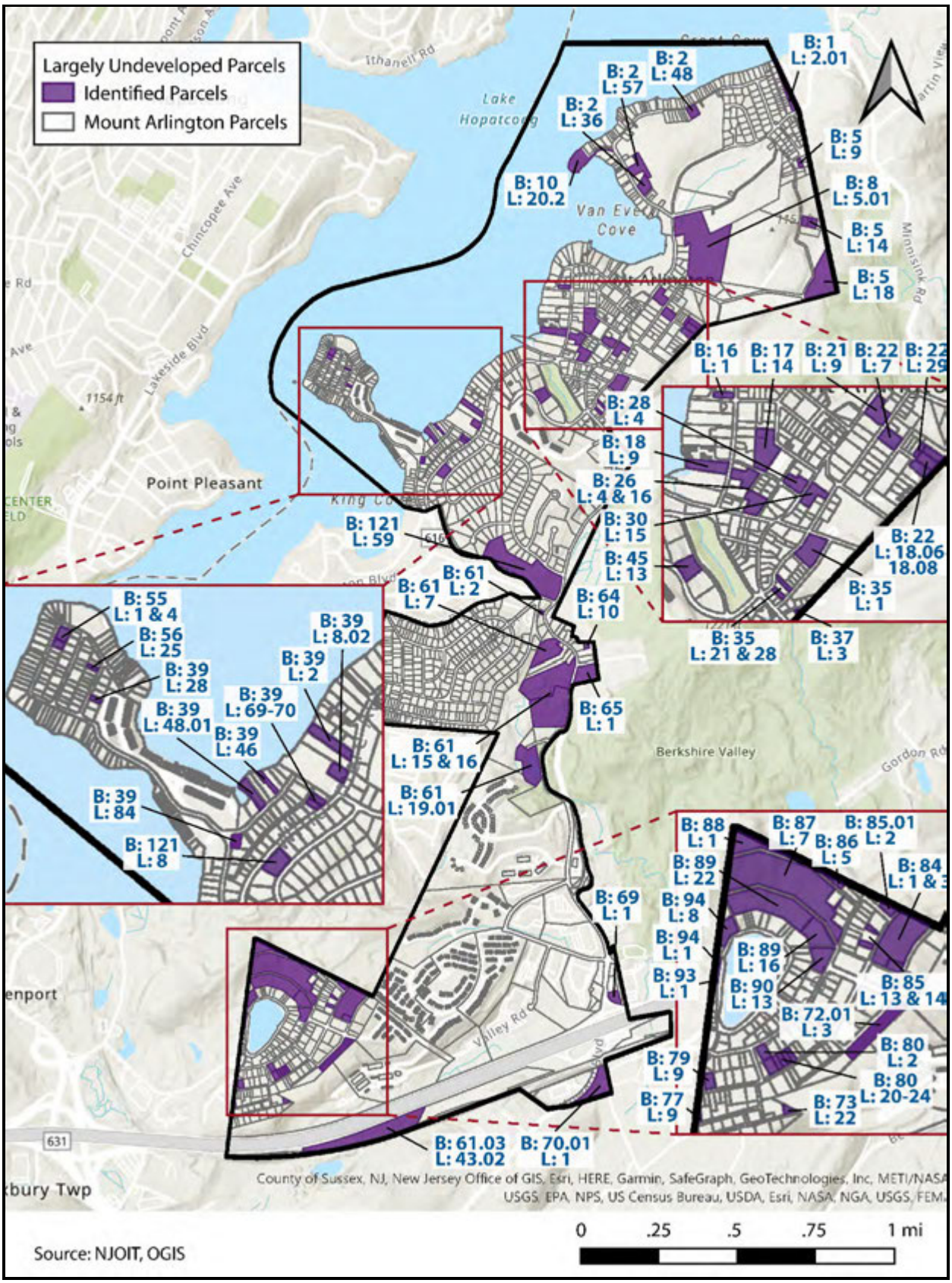
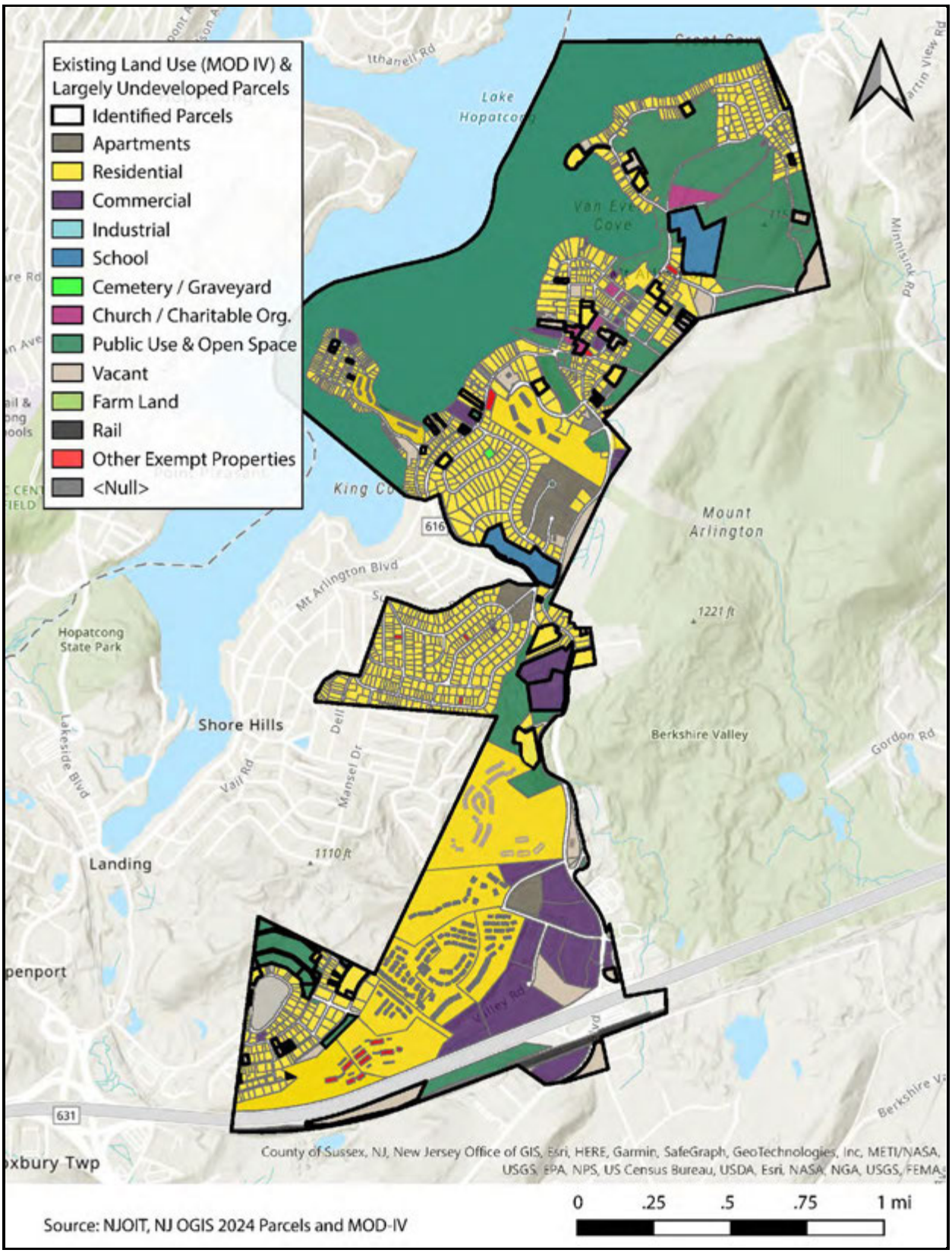


Exhibit 10 – Largely Undeveloped Parcels

Block	Lot	Zone	Acres	Address/Location	Classification	Owner
1	2.01	RA-7.5	1.56	511 Howard Blvd	Residential	Private
2	36	RA-15	1.07	20-22 McGregor Ave	Residential	Private
2	48	RA-15	0.74	118 McGregor Ave	Residential	Private
2	57	RA-15	1.69	McGregor Ave	Vacant Land	Private
5	9	RA-7.5	0.26	Woodside Rd	Vacant Land	Private
5	14	OSGU	0.98	Southard Rd	Vacant Land	Private
5	18	RA-40	5.8	Berkshire Ave	Vacant Land	Private
8	5.01	OSGU	16.23	446 Howard Blvd	Public School Property	Mt Arlington Board of Education
10	20.2	RA-30	2.24	51 McGregor Ave	Residential	Private
16	1	RA-7.5	0.32	Windemere Ave	Vacant Land	Private
17	14	RA-15	2.03	2 Prospect St	Residential	Private
18	9	R-C	1.14	15 Windemere Ave	Vacant Land	Private
21	9	RA-15	1.04	67 Mountainview Ave	Residential	Private
22	7	RA-15	0.74	64 Mountainview Ave	Residential	Private
22	18.06	RA-15	0.48	17 Tuites Ave	Vacant Land	Private
22	18.07	RA-15	0.51	15 Tuites Ave	Vacant Land	Private
22	18.08	RA-15	0.4	13 Tuites Ave	Vacant Land	Private
22	29	RA-15	0.2	7 Tuites Ave	Vacant Land	Private
26	4	RA-7.5	0.9	10 Windemere Ave	Church and Charitable Property	Private
26	16	RA-7.5	0.96	1 Park Ave Cor Altenbrand	Church and Charitable Property	Private
28	4	B-1	0.7	389 Howard Blvd	Vacant Land	Private
30	15	B-1	0.84	Howard Blvd	Vacant Land	Arlington Land Co LLC
35	1	RA-15	1.45	30 Mountainview Ave	Residential	Private
35	21	RA-15	0.2	Summit Ave	Vacant Land	Private
35	28	RA-15	0.18	14 Mountainview Ave	Vacant Land	Private
37	3	RA-15	0.12	4 Chestnut Ave	Vacant Land	Private
39	2	RA-30	0.85	479 Windemere Ave	N/A	N/A
39	8.02	RA-30	0.35	475 Windemere Ave	Public Property	Mt Arlington Borough
39	28	RA-7.5	0.1	10 Oak St	Vacant Land	Private
39	46	RA-7.5	0.28	Hillard Rd	Public Property	Mt Arlington Borough
39	48.01	RA-7.5	0.54	19 Hillard Rd	Vacant Land	Private
39	69	RA-7.5	0.17	Windemere Ave	Public Property	Mt Arlington Borough
39	70	RA-7.5	0.19	Windemere Ave	Vacant Land	Private
39	84	RA-7.5	0.19	Hillard Rd	Public Property	Mt Arlington Borough
45	13	RA-30	0.98	15 S Glen Ave	Residential	Private
55	1	RA-7.5	0.29	62 W Bertrand Rd	Vacant Land	Private
55	4	RA-7.5	0.17	56 W Bertrand Rd	Vacant Land	Private
56	25	RA-7.5	0.09	21 Oak St	N/A	N/A

Block	Lot	Zone	Acres	Address/Location	Classification	Owner
61	2	RA-40	0.12	Howard Blvd	Vacant Land	Private
61	7	B-1	3.18	217 Howard Blvd	Residential	Private
61	15	B-1	7.6	201 Howard Blvd	Commercial	Private
61	16	B-1	7.7	199 Howard Blvd	Commercial	Private
61	19.01	RA-40	4.42	177 Howard Blvd	Residential	Private
61.03	43.02	OB	8.26	Howard Blvd	Vacant Land	Private
64	10	RA-40	0.23	Browns Ln	Vacant Land	Private
65	1	RA-40	2.4	200 Howard Blvd	Residential	Private
69	1	B-1	0.81	10 Howard Blvd	Vacant Land	Private
70.01	1	OB	3.98	Howard Blvd	Vacant Land	Private
72.01	3	RA-40	1.77	15 Dawes Way	Pubic Property	Mt Arlington Borough
73	22	RA-15	0.15	Roosevelt Way	Vacant Land	Private
77	9	RA-15	0.15	Sherwood Way	Vacant Land	Private
79	9	RA-15	0.35	11 Elizabeth Way	Vacant Land	Private
80	2	RA-15	0.33	126 Orben Dr	Residential	Private
80	20	RA-15	0.16	49 Elizabeth Way	Vacant Land	Private
80	21	RA-15	0.17	47 Elizabeth Way	Vacant Land	Private
80	22	RA-15	0.17	45 Elizabeth Way	Vacant Land	Private
80	23	RA-15	0.18	43 Elizabeth Way	Vacant Land	Private
80	24	RA-15	0.34	41 Elizabeth Way	Vacant Land	Private
84	1	RA-40	3.59	3 Maple Path	Residential	Private
84	3	RA-40	0.33	Dawes Way	Vacant Land	Private
85	13	RA-40	0.18	Elizabeth Way	Vacant Land	Private
85	14	RA-40	0.12	Elizabeth Way	Vacant Land	Private
85.01	2	RA-40	0.34	Coolidge Trl	Public Property	Mt Arlington Borough
86	5	RA-40	0.3	Coolidge Trl	Public Property	Mt Arlington Borough
87	7	RA-40	7.78	Coolidge Trl	Public Property	Mt Arlington Borough
88	1	RA-40	1.4	Milford & Rogerene Way	Public Property	Mt Arlington Borough
89	16	RA-40	1.26	Rogerene Way	Public Property	Mt Arlington Borough
89	22	RA-40	3.64	Milford Trl	Public Property	Mt Arlington Borough
90	13	RA-15	1.02	Orben Dr	Public Property	Mt Arlington Borough
93	1	RA-15	0.08	Rogerene Way	Farm (Qualified)	Private
94	1	RA-15	0.19	Rogerene Way	Farm (Qualified)	Private
94	8	RA-15	0.79	90 Rogerene Way	Residential	Private
121	8	RA-15	0.78	16 Richard Dr West	Residential	Private
121	59	RA-30	11.23	44 Kadel Dr	Public School Property	Mt Arlington Board of Education
Total Acres			**122.5**			

Exhibit 11 – Existing Land Use (MOD IV) and Largely Undeveloped Parcels



C. Parcels with the Greatest Potential Impact from Development/Redevelopment

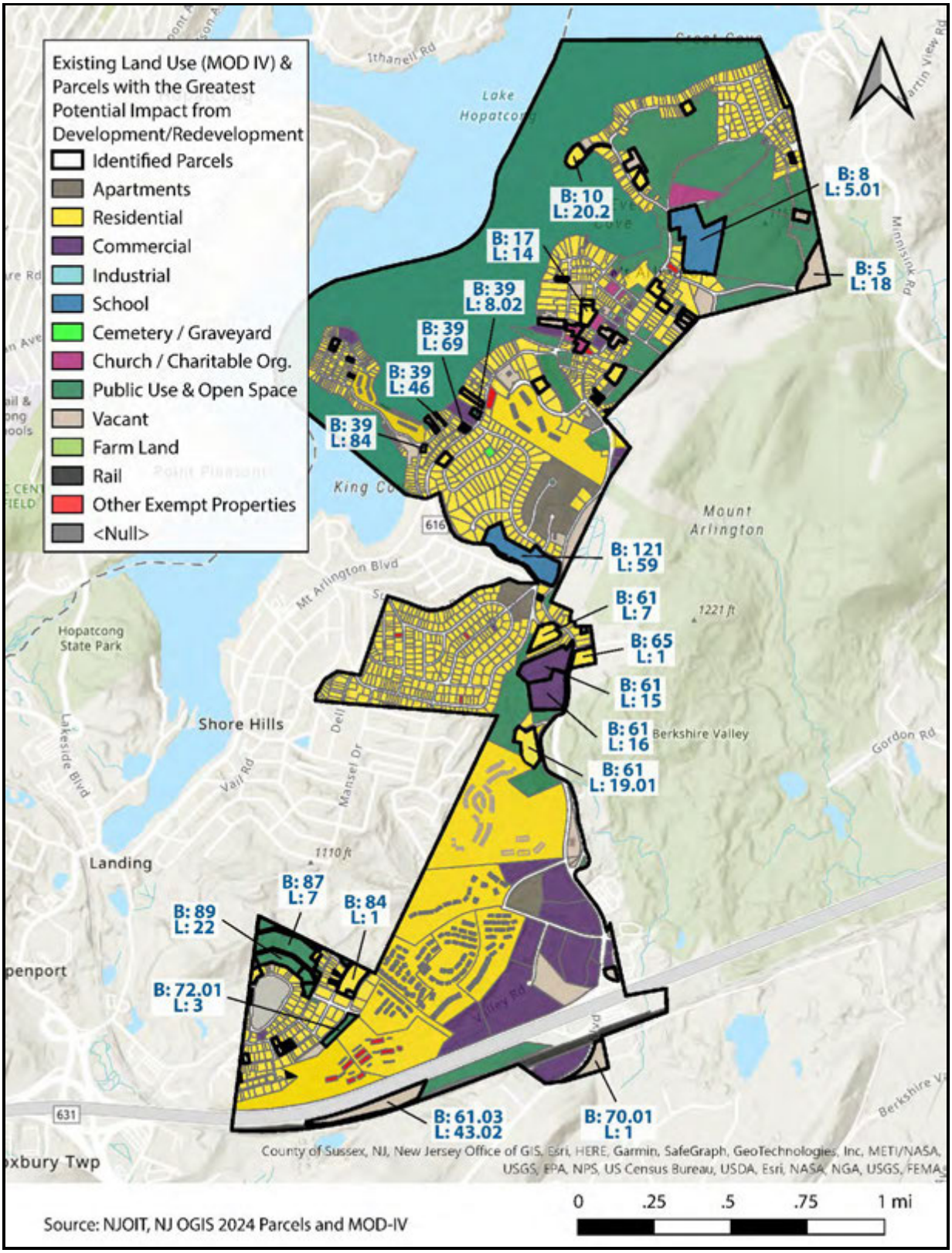
Of these 74 identified parcels, the vast majority are fairly small. Forty-nine (49) parcels are less than one (1) acre in size and another 10 are between one (1) and two (2) acres. However, there are 15 parcels greater than two (2) acres, with seven (7) greater than five (5) acres. Together, these 15 larger parcels account for nearly 75% of the total acreage of all these parcels combined. The following analysis will focus on these larger parcels, where potential development will have a greater impact on Mount Arlington's future. In addition, five (5) small parcels will also be discussed as they are categorized as having developmental potential and owned by the Borough. **Exhibit 12** below lists a table of these 20 parcels in order of size with the greatest potential impact from development/redevelopment. Similar to the larger table above, the Block, Lot, Current Zoning, Acreage, Address/Location, MOD IV Classification, and Owner for each parcel are listed.

Below the table is **Exhibit 13**, which illustrates these parcels on top of the MOD IV Tax Data Existing Land Use Map. Below this map are paragraph descriptions of each of these parcels separated into three sections: Northern, Central, and Southern Mount Arlington Parcels with the Greatest Potential Impact from Development/Redevelopment. The last three (3) parcels described in the Southern Mount Arlington Parcels section are preserved open space and therefore won't be impacted by any decision to conform to the RMP, but have still been included only for greater context since they are so large.

Exhibit 12 – Parcels with the Greatest Potential Impact from Development/Redevelopment

Block	Lot	Zone	Acres	Address/Location	Classification	Owner
8	5.01	OSGU	16.23	446 Howard Blvd	Public School Property	Mt Arlington Board of Education
121	59	RA-30	11.23	44 Kadel Dr	Public School Property	Mt Arlington Board of Education
61.03	43.02	OB	8.26	Howard Blvd	Vacant Land	Private
87	7	RA-40	7.78	Coolidge Trl	Public Property	Mt Arlington Borough
61	16	B-1	7.7	199 Howard Blvd	Commercial	Private
61	15	B-1	7.6	201 Howard Blvd	Commercial	Private
5	18	RA-40	5.8	Berkshire Ave	Vacant Land	Private
61	19.01	RA-40	4.42	177 Howard Blvd	Residential	Private
70.01	1	OB	3.98	Howard Blvd	Vacant Land	Private
89	22	RA-40	3.64	Milford Trl	Public Property	Mt Arlington Borough
84	1	RA-40	3.59	3 Maple Path	Residential	Private
61	7	B-1	3.18	217 Howard Blvd	Residential	Private
65	1	RA-40	2.4	200 Howard Blvd	Residential	Private
10	20.2	RA-30	2.24	51 McGregor Ave	Residential	Private
17	14	RA-15	2.03	2 Prospect St	Residential	Private
72.01	3	RA-40	1.77	15 Dawes Way	Public Property	Mt Arlington Borough
39	8.02	RA-30	0.35	475 Windemere Ave	Public Property	Mt Arlington Borough
39	46	RA-7.5	0.28	Hillard Rd	Public Property	Mt Arlington Borough
39	84	RA-7.5	0.19	Hillard Rd	Public Property	Mt Arlington Borough
39	69	RA-7.5	0.17	Windemere Ave	Public Property	Mt Arlington Borough
Total Acres			**92.84**			

Exhibit 13 – Existing Land Use (MOD IV) and Parcels with the Greatest Potential Impact from Development/Redevelopment



Northern Mount Arlington Parcels with Greatest Potential Impact from Development/Redevelopment

Block 8 Lot 5.01, with an address of 446 Howard Boulevard, is over 16 acres. It is where Edith M. Decker Elementary School is located and thus, is classified as Public-School Property and is owned by Mount Arlington Board of Education. The parcel is in the Highlands Planning Area and the OSGU (Open Space Government Use) Zone. The majority of the parcel is forest with the school residing in the small urban pocket of its northwestern corner. Half of the parcel where the school is located is in the Lake Community Subzone of the Highlands LUCZ Map, while most of the forested area is in the Critical Wildlife Habitat area as well as the Protection Zone of the Highlands LUCZ Map. **Because this parcel is owned by the Board of Education, any future development would be eligible for an exemption from the Highlands Act regulations under Exemption 6 - any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital.**

Block 5 Lot 18, with an address of Berkshire Avenue, is 5.8 acres and is located in the easternmost part of the Borough very close to the Berkshire Valley Management Area Trail. It is classified as Vacant Land and is privately-owned. The parcel is in the Highlands Preservation Area and the RA-40 Residential Zone. The parcel is entirely forested land, in the Critical Wildlife Habitat area, and the Protection Zone of the Highlands LUCZ Map. **This property, while undeveloped, is already subject to the Highlands Preservation Area rules and would therefore not be impacted.**

Block 10 Lot 20.2, with an address of 51 McGregor Avenue, is 2.24 acres and is located at Chestnut Point, a peninsula on Lake Hopatcong. It is classified as Residential and is privately-owned. The parcel is in the Highlands Planning Area and the RA-30 Residential Zone. The parcel is developed with a single-family residence and is located in the Lake Community Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Block 17 Lot 14, with an address of 2 Prospect Street, is 2.03 acres and is located in the Village Center. It is classified as Residential and is privately-owned. The parcel is in the Highlands Planning Area and the RA-15 Residential Zone. The parcel is developed with a single-family residence and is located in the Lake Community Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Block 39 Lot 8.02, with an address of 475 Windemere Avenue, is 0.35 acres and is located near Knolls Beach. It is classified as Public Property, is owned by the Borough, and has developmental potential. The parcel is in the Highlands Planning Area and the RA-30 Residential Zone. Though surrounded by urban land, the parcel is entirely forested land and is located in the Lake Community Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Block 39 Lot 69, with an address of Windemere Avenue, is 0.17 acres and is located just south of Block 39 Lot 8.02. It is classified as Public Property, is owned by the Borough, and has developmental potential. The parcel is in the Highlands Planning Area and the RA-7.5 Residential Zone. The parcel

is urban land and is located in the Lake Community Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Block 39 Lot 46, with an address of Hillard Road, is 0.28 acres and is a narrow sliver of land adjacent to Lake Hopatcong. It is classified as Public Property, is owned by the Borough, and has developmental potential. The parcel is in the Highlands Planning Area and the RA-7.5 Residential Zone. The parcel is urban land and is located in the Lake Community Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Block 39 Lot 84, with an address of Hillard Road, is 0.19 acres and is a small corner lot of vacant land. It is classified as Public Property, is owned by the Borough, and has developmental potential. The parcel is in the Highlands Planning Area and the RA-7.5 Residential Zone. The parcel is urban land and is located in the Lake Community Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Central Mount Arlington Parcels with Greatest Potential Impact from Development/Redevelopment

Block 121 Lot 59, with an address of 44 Kadel Drive, is almost 11.23 acres. It is where Mount Arlington Public School is located and thus, is classified as Public-School Property and is owned by Mount Arlington Board of Education. The parcel is located in the Highlands Planning Area and the RA-30 Residential Zone. The eastern half of the parcel, where the school resides, is urban land, while the western half of the parcel is forested land and located in the Critical Wildlife Habitat Area. The entire parcel is located in the Existing Community Zone of the Highlands LUCZ Map. **Because this parcel is owned by the Board of Education, any future development would be eligible for an exemption from the Highlands Act regulations under Exemption 6 - any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital.**

Block 61 Lot 7, with an address of 217 Howard Boulevard, is 3.18 acres and is located just north of Elks Lodge. It is in the Highlands Planning Area and the B-1 Business Zone. The parcel is developed with a single-family residence, contains a small portion of the Critical Wildlife Habitat area, and is located in the Existing Community Zone of the Highlands LUCZ Map. **Given the size of the property and the commercial nature of the zoning, future expansion of development on the property may be limited by a proposal to conform to the RMP.**

Block 65 Lot 1, with an address of 200 Howard Boulevard, is 2.4 acres and is located on the Borough's eastern border across the street from Elks Lodge. It is classified as Residential and is privately-owned. The parcel is in the Highlands Planning Area and the RA-40 Residential Zone. The parcel is developed with a single-family residence, includes a portion of the Critical Wildlife Habitat area along its eastern border (which is also Mount Arlington's eastern border), and is located in the Existing Community Zone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger**

Highlands review. As a result, it is unlikely that future development of this property would be impacted.

Block 61 Lot 15, with an address of 201 Howard Boulevard, is 7.6 acres and is the location of the 6,865 square foot Elks Lodge. It is classified as Commercial and is owned by Lake Hopatcong Elks Lodge 2109. The parcel is in the Highlands Planning Area and the B-1 Business Zone. The parcel is part urban land (closest to Howard Boulevard), part wetlands (in the central part of the parcel), and part forested land (along its western border). Its western half is part of the Critical Wildlife Habitat area. It is split between two of the Highlands LUCZ Map classifications: the Existing Community Zone (closest to Howard Boulevard) and the Existing Community Environmentally Constrained Subzone (furthest from Howard Boulevard). **Given the size of the property and the commercial nature of the development and zoning, future expansion of development on the property may be limited by a proposal to conform to the RMP.**

Block 61 Lot 16, with an address of 199 Howard Boulevard, is 7.7 acres and is developed with the Pub 199 restaurant and bar. It is classified as Commercial and is privately-owned. The parcel is in the Highlands Planning Area and the B-1 Business Zone. The parcel is part urban land (in the northeastern part and some of the southwestern part of the parcel), part wetlands (along Howard Blvd and includes part of the parking lot), and part forested land (its western half and some of its southern border). More than half of the parcel is in the Critical Wildlife Habitat area. Its northern half is located in the Existing Community Zone, while its southern half is in the Existing Community Environmentally Constrained Subzone of the Highlands LUCZ Map. Much of the undeveloped portion of the property is environmentally constrained with wetlands and transition areas. **Given the existing developed nature of the property and existing environmental constraints, future expansion of development is not likely to be limited by conformance with the RMP.**

Block 61 Lot 19.01, with an address of 177 Howard Boulevard, is 4.42 acres and is where Dunlap Pond is located, which his between Howard Boulevard and the Mount Arlington Community Garden. It is classified as Residential and is privately-owned. The parcel is in the Highlands Planning Area and the RA-40 Residential Zone. The parcel is part water, part forested land, and part urban land. About half of the parcel is part of the Critical Wildlife Habitat area and it is located in the Existing Community Environmentally Constrained Subzone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Southern Mount Arlington Parcels with Greatest Potential Impact from Development/Redevelopment

Block 70.01 Lot 1, with an address of Howard Boulevard, is 3.98 acres and located along the Borough's southern border between Blue Diamond Disposal and Mount Arlington Train Station. It is classified as Vacant Land and is owned by Hercules Incorporated. The parcel is in the Highlands Planning Area and the OB Office-Business Zone. The parcel is half urban land, half forested land, and contains a significant portion of the Critical Wildlife Habitat area. The parcel is in the Existing Community Zone of the Highlands LUCZ Map. **Given the size of the property and the commercial nature of the development and zoning, future expansion of development on the property may be limited by a proposal to conform to the RMP.**

Block 61.03 Lot 43.02, with an address of Howard Boulevard, is 8.26 acres and located adjacent to Route 80 on the Borough's southern border. It is classified as Vacant Land and is owned by Salmon Bros. Inc. The parcel is in the Highlands Planning Area and the OB Office-Business Zone. The parcel is half urban land, half forested land, and the majority of the parcel is in the Critical Wildlife Habitat area. The parcel is located in the Existing Community Environmentally Constrained Subzone of the Highlands LUCZ Map. **Given the size of the property and the commercial nature of the development and zoning, future expansion of development on the property may be limited by a proposal to conform to the RMP.**

Block 84 Lot 1, with an address of 3 Maple Path, is 3.59 acres and is located along the Borough's boundary near the Lake Rogerene Fire Department and Lake Rogerene Trailhead. It's classified as Residential and is privately-owned. The parcel is in the Highlands Planning Area and the RA-40 Residential Zone. The parcel is mostly forested land with an existing single-family residence in its southwestern corner. Its forested land is part of the Critical Wildlife Habitat area. The parcel is located in the Protection Zone of the Highlands LUCZ Map. **Given the residential zoning and the size of the parcel, any proposed development of the property including three-units or less would not trigger Highlands review. As a result, it is unlikely that future development of this property would be impacted.**

Block 87 Lot 7, with an address of Coolidge Trail, is 7.78 acres and is located north of Lake Rogerene along the Borough's boundary. The parcel was purchased by the Borough in 2018 for preservation as open space. The parcel is in the Highlands Planning Area and the RA-40 Residential Zone. The parcel is almost entirely forested land with a small portion of wetlands in the center. The vast majority of its area is in the Critical Wildlife Habitat area and the parcel is located in the Protection Zone of the Highlands LUCZ Map. **This property is preserved open space and therefore won't be impacted by any decision to conform to the RMP.**

Block 89 Lot 22, with an address of Milford Trail, is 3.64 acres and is located north of Lake Rogerene just south of Block 87 Lot 7. The parcel was purchased by the Borough in 2018 for preservation as open space. The parcel is in the Highlands Planning Area and the RA-40 Residential Zone. The parcel is almost entirely forested land with a small portion of wetlands in in center. The vast majority of its area is in the Critical Wildlife Habitat area and the parcel is located in the Protection Zone of the Highlands LUCZ Map. **This property is preserved open space and therefore won't be impacted by any decision to conform to the RMP.**

Block 72.01 Lot 3, with an address of 15 Dawes Way, is 1.77 acres and is located east of Lake Rogerene just north of the Woodmont West development. The parcel was purchased by the Borough in 2017 for preservation as open space. The parcel is in the Highlands Planning Area and the RA-40 Residential Zone. The parcel is almost entirely forested land with a small portion of wetlands in in center. The vast majority of its area is in the Critical Wildlife Habitat area and the parcel is located in the Existing Community Environmentally Constrained Subzone of the Highlands LUCZ Map. **This property is preserved open space and therefore won't be impacted by any decision to conform to the RMP.**

5. Borough Owned Parcels and Mount Arlington Natural Resources

A. Introduction

Mount Arlington has a variety of municipal-owned, county-owned, state-owned, and privately owned preserved land, which each provide important assets for the community, whether it is access to open space, surface water features, and/or preserved areas for critical wildlife species. This section illustrates where these parcels exist and thus, depicts Mount Arlington's Natural Resources overall.

B. Borough Owned Parcels

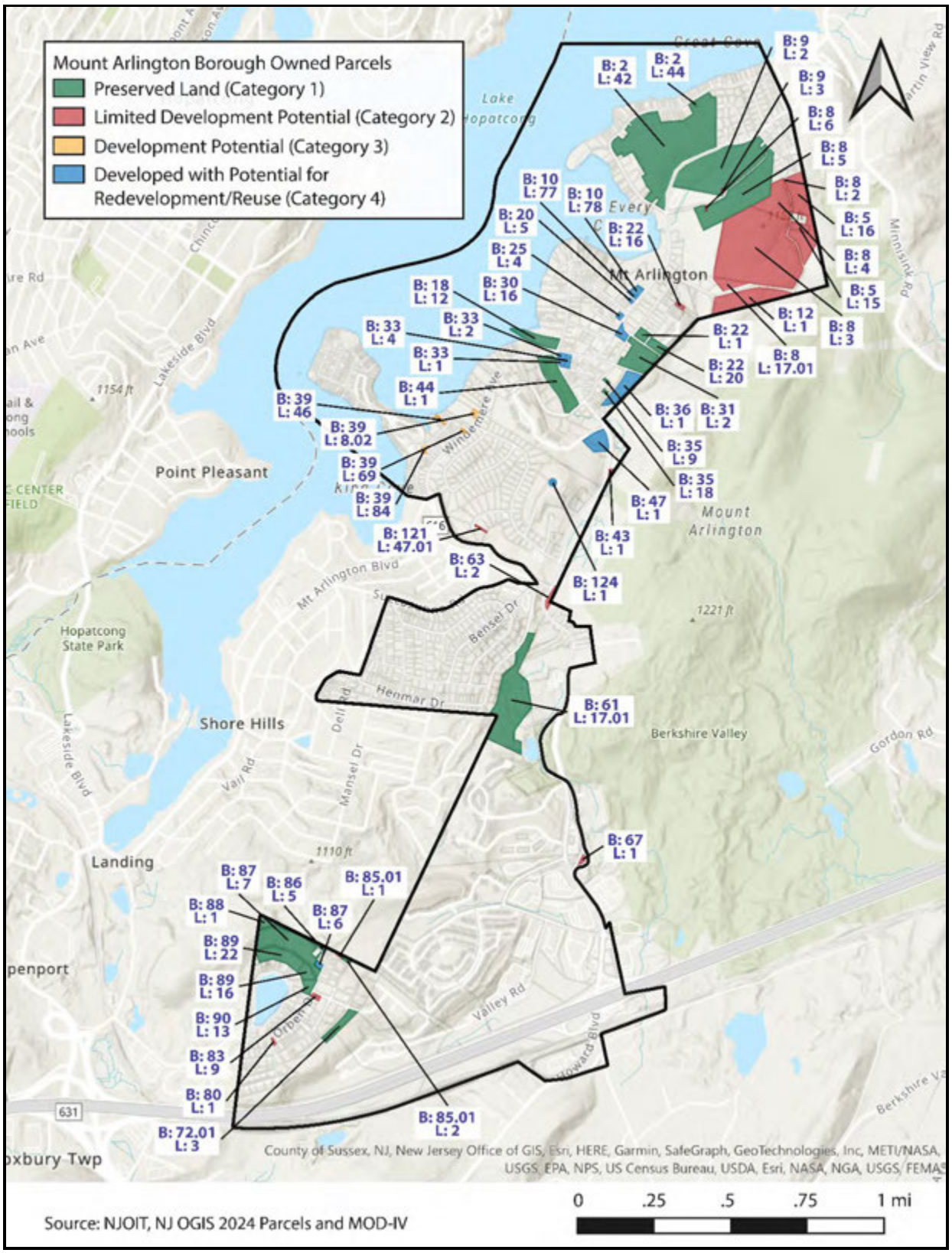
According to tax assessment records, Mount Arlington Borough owns 55 properties, which are classified as Public Property. **Exhibit 14** below lists the block, lot, acreage, address, classification, sale date (if recent), and current building square footage (as limitedly provided in the tax assessment records) of the Borough owned parcels. Together, they account for about 195.37 acres or about 11% of the Borough's land. Most of the Borough owned parcels are located in the northern part of Mount Arlington. There are four (4) categories that have been identified amongst these Borough owned parcels: 1) Preserved Land; 2) Limited Development Potential; 3) Development Potential; and 4) Developed with Potential for Redevelopment/Reuse. Of the 55 Mount Arlington Borough owned parcels, 20 are categorized as Preserved Land (Category 1), 19 as Limited Development Potential (Category 2), four (4) as Development Potential (Category 3), and 12 as Developed with Potential for Redevelopment/Reuse (Category 4). To visualize where these properties are, **Exhibit 15** on the following page illustrates each Borough owned parcel and their respective categorization.

Exhibit 14 – Mount Arlington Borough Owned Parcels

Block	Lot	Acres	Address/Location	Classification	Sale Date	Building SF	Category (see above)
1	1.01	N/A	100 Cove Rd	Public Property			2
2	42	37.22	McGregor Ave	Public Property			1
2	44	0.06	124 McGregor Ave	Public Property			1
5	15	1	Southard Rd	Public Property	10/19/01		2
5	16	9.44	Southard Rd	Public Property			2
8	2	0.16	Zuck Rd	Public Property			2
8	3	35.64	Berkshire Ave	Public Property			2
8	4	5.78	Zuck Rd	Public Property			2
8	5	15.73	Littell Way	Public Property			1
8	6	0.06	Littell Way	Public Property	02/01/12		2
8	17.01	2.04	Berkshire Ave	Public Property	02/01/12		2
9	2	8.02	Howard Blvd	Public Property			1
9	3	0.03	Littell Way	Public Property			2
10	77	0.33	Edgemere Ave	Public Property			4
10	78	0.69	419 Howard Blvd	Public Property	10/05/93	6,307	4
12	1	7.39	Berkshire Ave	Public Property	05/22/07		2
18	12	2.14	Windemere Ave	Public Property			1
20	5	0.13	Howard Blvd	Public Property	08/15/06		4
22	1	0.92	Mountainview Ave	Public Property			1
22	16	0.26	Summit Ave	Public Property			2

Block	Lot	Acres	Address/Location	Classification	Sale Date	Building SF	Category (see above)
22	20	1.03	Summit Ave	Public Property			1
25	4	0.29	407 Howard Blvd	Public Property		4,440	4
30	16	0.56	Mountainview Ave	Public Property		4,865	4
31	2	5.05	Altenbrand & Summit Ave	Public Property			1
33	1	0.55	18 No Glen Ave	Public Property		1,200	4
33	2	0.52	520 Altenbrand Ave	Public Property		4,575	4
33	4	0.55	526 Altenbrand Ave	Public Property		2,514	4
35	9	0.68	Summit & Altenbrand Ave	Public Property			1
35	18	0.34	Summit Ave	Public Property	01/01/90		1
36	1	3.51	1 Altenbrand Ave	Public Property		5,740	4
39	8.02	0.35	475 Windemere Ave	Public Property	10/29/97		3
39	46	0.28	Hillard Rd	Public Property			3
39	69	0.17	Windemere Ave	Public Property	02/01/12		3
39	84	0.19	Hillard Rd	Public Property	06/30/06		3
43	1	0.8	302 Howard Blvd	Public Property			2
44	1	6.66	Memorial Park	Public Property			1
47	1	10.33	333 Howard Blvd	Public Property	09/01/06		4
61	17.01	16.82	621 Sandra Dr	Public Property			1
61	17.02	N/A	585 Sandra Dr	Public Property			2
63	2	1.18	Howard Blvd	Public Property			2
67	1	0.28	Howard Blvd	Public Property			2
72.01	3	1.77	15 Dawes Way	Public Property	10/01/17		1
80	1	0.11	Orben Dr	Public Property			2
83	9	N/A	156 Orben Dr	Public Property			2
85.01	1	0.1	Coolidge Trl	Public Property			2
85.01	2	0.34	Coolidge Trl	Public Property	03/01/18		1
86	5	0.3	Coolidge Trl	Public Property	03/01/18		1
87	6	0.32	171 Orben Trl	Public Property		2,160	4
87	7	7.78	Coolidge Trl	Public Property	03/01/18		1
88	1	1.4	Milford & Rogerene Way	Public Property	03/01/18		1
89	16	1.26	Rogerene Way	Public Property	03/01/18		1
89	22	3.64	Milford Trl	Public Property	03/01/18		1
90	13	1.02	Orben Dr	Public Property	03/01/18		1
124	1	0.15	10 Schmitz Ter	Public Property	10/29/97		4
121	47.01	N/A	Robert Ter	Public Property			2
Total Acres		**195.37**					

Exhibit 15 – Mount Arlington Borough Owned Parcels



C. Mount Arlington Natural Resources

To identify the Borough's Natural Resources, the Municipal, Private, County, and State Preserved Land was identified and analyzed. Preserved lands include open space and recreation areas. **Exhibit 16 below** lists the Borough Owned Preserved Land, which was taken from the list of properties designated as Open Space / Green Acres (similar to the Preserved Land category above) in addition to the properties identified as having Limited Development Potential in the Highlands Preservation Area (**Exhibit 15**). These properties were included because while they are not currently designated as preserved land in the same manner, they contain the physical characteristics of preserved land, such as being almost entirely forested, and are preserved due to the Borough already being in conformance with the Highlands Preservation Area. **Exhibit 17** lists three (3) county-owned and three (3) state-owned properties identified as preserved land, which include county-owned parcels that form the area around Lee's County Park Marina and state-owned properties including the part of Lake Hopatcong overlapping with the Borough and properties along Howard Boulevard, which are the few parcels that are part of the Berkshire Valley Wildlife Management Area within Mount Arlington's borders. Finally, three (3) privately-owned parcels were identified, which are comprised of vacant land, completely forested areas and/or provide publicly available recreation access (**Exhibit 18**). These parcels, together with the Borough's surface water features, form the foundation of the Borough's Natural Resources. This can be visualized in **Exhibit 19** below the following tables.

Exhibit 16 – Mount Arlington Borough Owned Preserved Land and Land with Limited Development Potential

Block	Lot	Zone	Acres	Address/Location	Planning vs. Preservation Area
2	42	OSGU	37.22	McGregor Ave	Planning Area
2	44	OSGU	0.06	124 McGregor Ave	Planning Area
5	15	OSGU	1	Southard Rd	Preservation Area
5	16	OSGU	9.44	Southard Rd	Planning Area
8	2	OSGU	0.16	Zuck Rd	Planning Area
8	3	OSGU	35.64	Berkshire Ave	Preservation Area
8	4	OSGU	5.78	Zuck Rd	Preservation Area
8	5	OSGU	15.73	Littell Way	Preservation Area
8	6	OSGU	0.06	Littell Way	Preservation Area
8	17.01	RA-40	2.04	Berkshire Ave	Preservation Area
9	2	OSGU	8.02	Howard Blvd	Preservation Area
9	3	OSGU	0.03	Littell Way	Preservation Area
12	1	RA-40	7.39	Berkshire Ave	Planning Area
18	12	R-C	2.14	Windemere Ave	Planning Area
22	1	RA-30	0.92	Mountainview Ave	Preservation Area
22	20	RA-40	1.03	Summit Ave	Planning Area
31	2	RA-30	5.05	Altenbrand & Summit Ave	Planning Area
35	9	RA-15	0.68	Summit & Altenbrand Ave	Planning Area
35	18	RA-15	0.34	Summit Ave	Planning Area
44	1	RA-40	6.66	Memorial Park	Planning Area
61	17.01	RA-40	16.82	621 Sandra Dr	Planning Area
72.01	3	RA-40	1.77	15 Dawes Way	Planning Area
85.01	2	RA-40	0.34	Coolidge Trl	Planning Area

Block	Lot	Zone	Acres	Address/Location	Planning vs. Preservation Area
86	5	RA-40	0.3	Coolidge Trl	Planning Area
87	7	RA-40	7.78	Coolidge Trl	Planning Area
88	1	RA-40	1.4	Milford & Rogerene Way	Planning Area
89	16	RA-40	1.26	Rogerene Way	Planning Area
89	22	RA-40	3.64	Milford Trl	Planning Area
90	13	RA-15	1.02	Orben Dr	Planning Area
Total Acres			**173.72**		

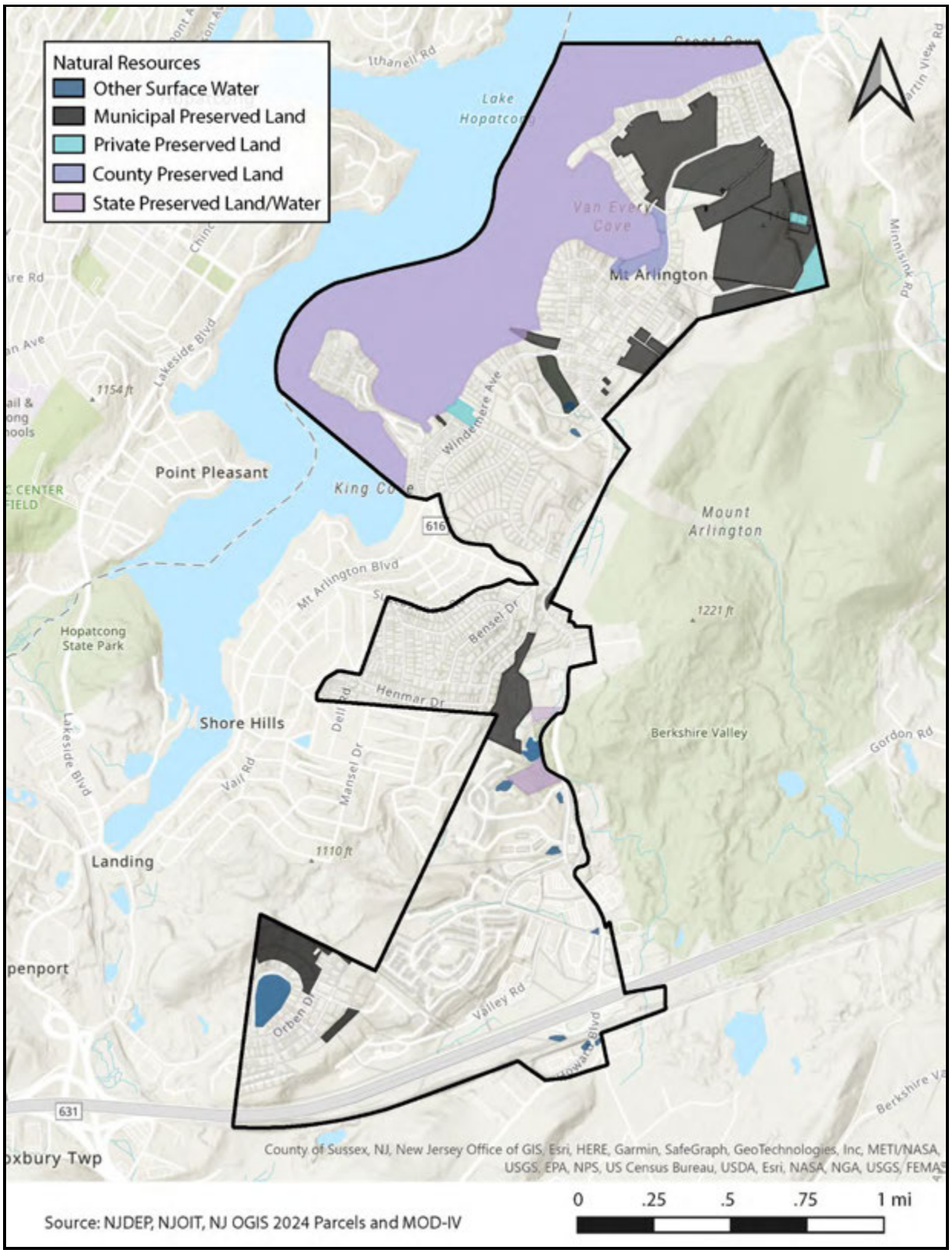
Exhibit 17 – Morris County and State-Owned Preserved Land

Block	Lot	Zone	Acres	Address/Location	Owner	Planning vs. Preservation Area
7	1	N/A	357.27	Lake Hopatcong	State of New Jersey	Planning Area
10	67	R-C	1.57	447-451 Howard Blvd	Morris Co. Park Comm.	Planning Area
10	68	R-C	6.32	Howard Blvd	Morris Co. Park Comm.	Planning Area
10	70	R-C	0.56	Hopatcong Ave	County of Morris	Planning Area
61	18	RA-40	0.42	195 Howard Blvd	State of New Jersey Dep	Planning Area
61	21	RA-40	5.6	165 Howard Blvd	Dept. of Environmental Protection	Planning Area
Total Acres			**371.74**			

Exhibit 18 – Privately Owned Preserved Land

Block	Lot	Zone	Acres	Address/Location	Owner	Planning vs. Preservation Area
5	14	OSGU	0.98	Southard Rd	Private	Preservation Area
5	18	RA-40	5.8	Berkshire Ave	Private	Preservation Area
39	8.01	RA-30	2.89	469 Windemere Ave	Private	Planning Area
Total Acres			**9.67**			

Exhibit 19 – Natural Resources Map



6. Consistencies and Inconsistencies

A. Consistencies

The policies of Mount Arlington and those of the Regional Master Plan (RMP) contain many similarities. Mount Arlington's primary goals of preserving the traditional character of the Borough, encouraging development and redevelopment in existing urban areas such as the Village Center, along with its commitment to cooperating with governmental agencies, are all consistent with the RMP. The second of those items is evidenced by the fact that the core of the Village Center is Zoned B-1, Business Zone, for targeted concentrated development.

Most of the Borough is located in the Existing Community Zone and Lake Community Subzone of the LUCZ Map (**Exhibit 4**), where the bulk of Mount Arlington's urban residential development resides, although with varying residential zone categories. Much of the Borough owned parcels in the northernmost part of Mount Arlington overlap with Highlands Preservation Area and/or the Protection Zone of the LUCZ Map and are currently preserved as open space/green acres or as OSGU, Open Space Government Use Zone. Additionally, there are a handful of larger parcels north of Lake Rogerene which are in the Protection Zone of the LUCZ Map and currently preserved as open space/green acres. Furthermore, there are some parcels in the center of Mount Arlington which are in the Existing Community Environmentally Constrained Subzone and which are preserved land by the Borough. However, some of these areas are zoned for residential development.

While goals and objectives vary between the Highlands RMP and the Borough, there are some objectives, such as managing growth in specific areas and preserving the existing neighborhood feel of Mount Arlington's residential areas, which are consistent with the RMP.

B. Inconsistencies

The primary difference between the Mount Arlington Master Plan and the RMP is that the RMP focuses on the environmental protection of the Highlands Region while the Borough's Master Plan has a much smaller and more specific scope. While both plans encourage appropriate redevelopment within existing communities, the RMP's environmental protection goals cannot account for specific properties within the Borough. Some of the inconsistencies between the Borough's plan and the RMP are minor in nature, considering that any limitations the RMP may impose generally would apply only to large undeveloped areas and properties (i.e. residential development that creates three (3) or more dwelling units and non-residential development that results in the ultimate disturbance or one (1) acre or more of lands or produces a cumulative impervious surface area of one-quarter acre or more). Nonetheless, some areas may need to be addressed (discussed below). However, when properties are already developed, one or more Highlands Exemptions typically apply (see **Appendix B**).

There are a few developed parcels in the Borough that overlap with the Existing Community Environmentally Constrained Subzone in the Planning Area of the LUCZ Map (**Exhibit 4**). This includes the Woodmont West at Mt. Arlington apartment community in the south and Nolan's Ridge apartment community in Central Mount Arlington, in addition to a variety of residential and commercial uses scattered throughout the Borough. However, it should be noted that the higher intensity portions of these developments, and in particular, the ones that have occurred in the past two (2) years, are located in the portions of their respective parcels in the Existing Community Zone of the LUCZ Map. Furthermore, the development has not directly crossed into Critical Wildlife Habitat areas nor any forested areas. Additionally, and as mentioned above, various Highlands Exemptions could apply. Nonetheless, precautions should be taken so that these and future developments do not encroach further into these areas. Other issues may potentially arise if property

owners wish to expand or extend the public water supply to accommodate any additional development.

7. Highlands Center Designation

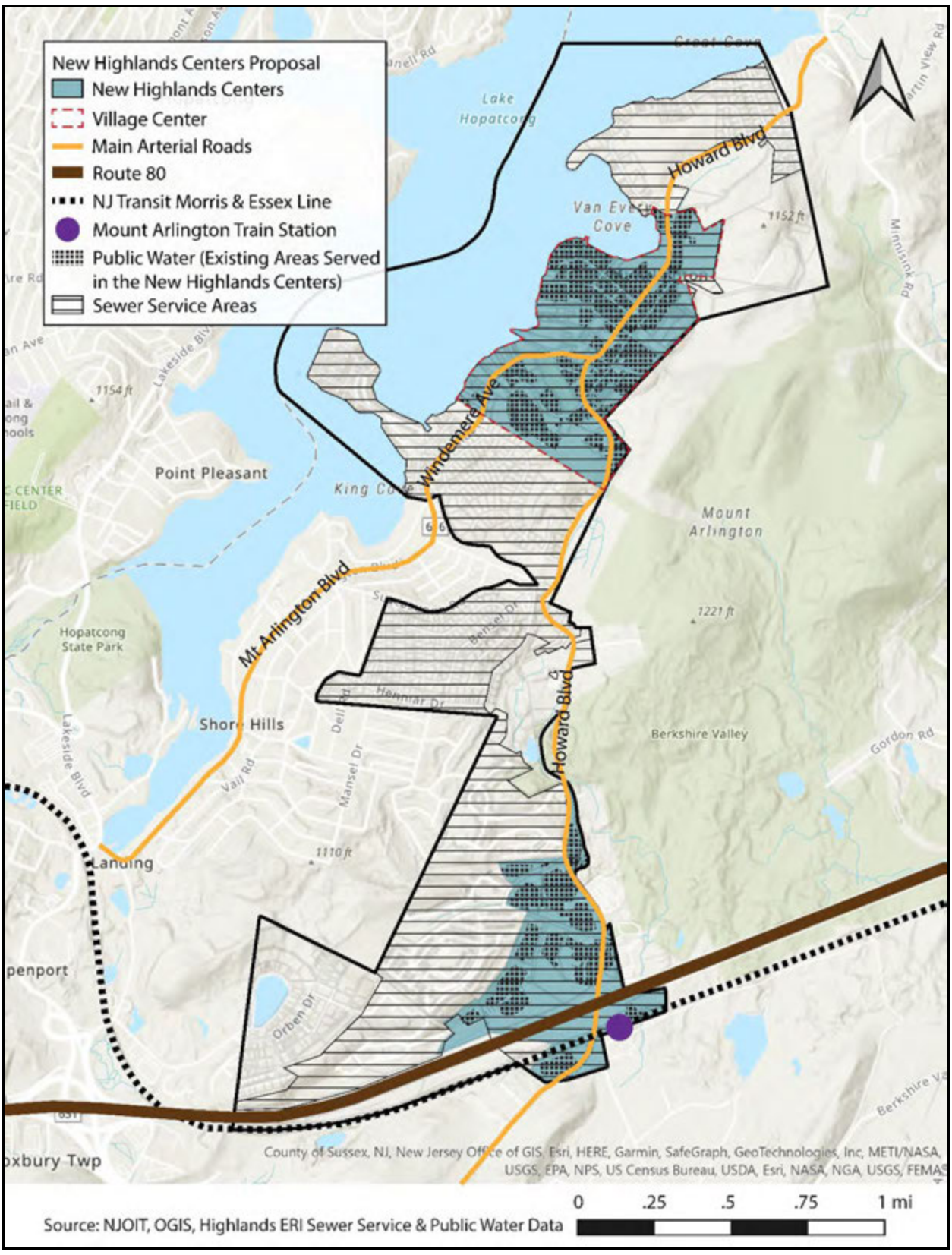
A Highlands Center is an area delineated through a cooperative process with the Highlands Council in coordination with a Petition for Planning Area Conformance. Development and redevelopment are supported and encouraged within a Highlands Center in order to promote economic development and balanced growth within the Highlands Region. The Land Use Capability Zones do not apply within the boundaries of a Highlands Center but resources continue to be protected. The designation of the center boundary is developed through a comprehensive planning process that allows flexibility in creating a tailored development plan for the Center. Highlands Center Designation is incorporated into the Plan Conformance petition process and results in the development of specific regulations for the center to promote appropriate development in the context of community goals and the RMP.

From this Highlands Conformance Assessment, it was determined that the Borough's commercial corridors at the intersection of Route 80 and Howard Boulevard and the Village Center are two (2) areas where a Highlands Center Designation could be considered with a Planning Area Petition in order to minimize concerns over conflicts with development and redevelopment goals in the Borough's non-residential areas. **Exhibit 20** below illustrates these areas along with the existing Village Center, main arterial roads, sewer service areas in the Borough, and existing public water served within the new Highlands Centers. The areas shaded in blue represent our proposal for what parcels could be included in a new Highlands Center. The following paragraphs describe why these areas were chosen. This can be thought of as one Highlands Center centered around the Howard Boulevard corridor or as two (2) separate areas. Either way, the blue areas shown in **Exhibit 20** are where the Borough's development future is most likely to focus.

The entirety of the Village Center is included in the proposal for a new Highlands Center as it has traditionally been the center of development and community life in the Borough. Approximately 45 acres in size, this area includes recreation amenities such as Lee's County Park Marina and Mount Arlington Municipal Beach along Lake Hopatcong's shore, in addition to its central area, which is home to a variety of residential, municipal, and commercial uses. Including the Village Center as part of a new Highlands Center could further encourage redevelopment, rehabilitation, and historic preservation in this area through the adoption of a comprehensive development plan without the restrictions of the Land Use Capability Zones. Existing open spaces and historic districts would be considered. Densification in the commercial center, along with residential preservation and recreation-focused initiatives along the shore, could foster and improve Mount Arlington's existing assets. This area has sufficient sewer service and public water to support further development and redevelopment.

Secondly, the rapidly developing southern part of the Borough situated at the intersection of Route 80 and Howard Boulevard is also included in the proposal for a new Highlands Center. This area includes mostly commercial uses such as gas stations, hotels, restaurants, and offices, but also a few vacant parcels and one apartment lot, which are interwoven in this developed area. Anchored by the Mount Arlington Train Station just south of Route 80, this southern section of the Borough is where further mixed-use development might be most appropriate. Including this area in a new Highlands Center would provide flexibility for the Borough to best utilize the land around the existing office parks and parking lots, as well as the vacant land adjacent to commercial uses for future development or redevelopment. This area also has sufficient sewer service and public water to support further development and redevelopment.

Exhibit 20 – Highlands Center Designation Proposal



8. Benefits of Plan Conformance

The Highlands Council provides for voluntary Plan Conformance in the Highlands Planning Area with the goal of achieving a regional approach to land use planning and to promote coordinated efforts to protect valuable environmental and cultural resources in the Highlands Region. The Highlands Act provides benefits to municipalities that go through Plan Conformance with the RMP. Conforming municipalities are eligible for the following benefits:

(a) Planning Grants and Technical Assistance:

1. The Highlands Council shall make grant funds and other financial and technical assistance available to Highlands municipalities and counties for the reasonable costs of any revision of their master plans, development regulations, or other regulations or plans which are designed to further the Goals, Policies and Objectives of the RMP or for the implementation of a Transfer of Development Rights program pursuant to the Highlands Act.
2. Plan Conformance grants shall be awarded to municipalities and counties through the approval of a resolution by the Highlands Council. The Council shall provide grant funds for all mandatory aspects of Plan Conformance and may also provide grant funds for discretionary aspects of Plan Conformance as determined by the Council.

(b) State Aid and Assistance for Smart Growth:

1. Highlands municipalities and counties approved by the Highlands Council as being in conformance with the RMP shall qualify for all State aid, planning assistance, technical assistance, and other State-provided benefits and incentives that may be awarded or provided to municipalities and counties which have received Plan Endorsement from the State Planning Commission or have otherwise been acknowledged by the State as practicing or implementing smart growth strategies and principles. These benefits apply to any conforming municipality in the Preservation Area, and the State Planning Commission has endorsed the RMP so that municipalities that conform in the Planning Area receive all of the benefits of Plan Endorsement. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.
2. Any municipality or county may include in its Petition for Plan Conformance, a listing of priority projects or other matters that are fundamental to the provision, improvement, enhancement, or restoration of infrastructure, public facilities, or other matters that may require the funding, implementation, or active participation of a State agency. The Highlands Council may act to coordinate such matters with the appropriate State agency, where such action is consistent with the RMP, to gain agreements with the appropriate State agency to facilitate, approve, fund, or take other actions necessary to implement the matter of local priority.

(c) Strong Presumption of Validity, Extraordinary Deference, and Burden of Proof. The master plan and development regulations of any municipality and the county master plan and associated regulations of any county which have been approved by the Highlands Council as in conformance with the RMP shall be entitled to a strong presumption of validity. In any cause of action filed against such a local government unit and contesting an action or decision of the local government unit taken or made under authority granted pursuant to the Municipal Land Use Law, the State Uniform Construction Code Act, or the Highlands Act, the Highlands Act requires that the court shall give

extraordinary deference to the local government unit, provided that the municipal or county master plan and associated regulations have been approved by the Highlands Council as being in conformance with the RMP. The plaintiff shall have the burden of proof to demonstrate by clear and convincing evidence that the act or decision of any such local government unit was arbitrary, capricious, or unreasonable, or in patent abuse of discretion.

(d) Legal Representation. The Highlands Council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an action or decision of the local government unit taken or made under authority granted pursuant to the Municipal Land Use Law, the State Uniform Construction Code Act, or the Highlands Act, provided that:

1. The municipal or county master plan and associated regulations that have been adopted by the municipality or county, approved by the Highlands Council as being in conformance with the RMP and the master plan or associated regulations are the subject of the cause of action filed against the local government unit;
2. The Highlands Council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the RMP;
3. The act or decision of the local government unit that is the subject of the cause of action involves an Application for Development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more; and
4. In the case of a Planning Area municipality, the municipality shall have adopted a Planning Area Petition Ordinance.

(e) Plan Conformance deemed equivalent to State Plan Endorsement. Any municipality or county or portion thereof located in the Preservation Area shall be exempt from the plan endorsement process established in the rules and regulations adopted by the State Planning Commission. The State Planning Commission has endorsed the RMP adopted by the Highlands Council, so that Highlands Council approval of any municipal master plan and development regulations or county master plan and associated regulations through the Plan Conformance process, for lands in the Planning Area, shall be deemed the equivalent of having those plans endorsed by the State Planning Commission and such entities shall be entitled to any applicable plan endorsement benefits.

9. Summary and Draft Implementation Plan

Mount Arlington is a unique community in that it is a small, fully developed community defined by its surface water assets and recreation amenities. Accommodating growth while also keeping its close-knit residential feel is a priority. The Borough has taken steps through its Master Plan, zoning, and other land use controls to concentrate commercial development in places such as the Village Center and at the interchange of Route 80 and Howard Boulevard. Overall, the southern part of the Borough, where the aforementioned interchange is, has seen the most changes in recent years. There are now new residential developments, automobile and convenience store services, hotels, and restaurants, along with the existing Mount Arlington Train Station. All of this development has made this southern area Mount Arlington's dominant commercial hub.

Overall, the LUCZ Map (**Exhibit 4**) broadly reflects the Mount Arlington Borough Zoning Map (**Exhibit 7**) with themes of concentrating development in the RMP's Existing Community Zone and preserving areas in the Protection Zone and Environmentally Constrained Subzone. The 2022 MOD-IV tax assessment records were used to collect and analyze the Borough's current development pattern shown in **Exhibit 5**. However, some prior existing and new development efforts have overlapped with the Environmentally Constrained Subzone. This is because few other available pieces of land were vacant and located completely within the Existing Community Zone. The Parcels with Development/Redevelopment Potential analysis further demonstrate the fully built-out nature of the Borough. After examination of the 74 parcels in **Exhibit 9**, it was determined that the parcels with the greatest potential for development or redevelopment would encroach further upon forested land and Critical Habitat Wildlife areas. Although there are a few scattered in-fill and redevelopment opportunities, the Borough has little room overall for substantial horizontal growth. **Exhibits 14-15** reveal the Borough Owned Parcels and **Exhibits 16-19** serve to highlight the Borough's Natural Resources, using the examined Municipal, Private, County, and State Preserved Lands. These areas, which include any kind of open space (including surface water) and recreation areas, are critical for any kind of joint future land preservation programs with the Highlands Council.

Collaborating with the Highlands Council would help to alleviate some of these inconsistencies between the LUCZ Map and Borough Zoning Map through the identification of exemptions that may apply as well as the land use amendments needed for full compliance with the Highlands RMP. A comprehensive joint planning process would help the Borough continue to protect and preserve valuable resources within the community, which would be consistent with both the Borough's and the RMP's goals and objectives. For example, the potential to designate a Highlands Center within the Borough offers a method for selecting an area to promote development and redevelopment. This would also assist in preserving and protecting the Borough's residential neighborhoods, which is stated as a priority in the Borough's Master Plan. Highlands Centers designations such as the areas illustrated in **Exhibit 20** may assist Mount Arlington in continuing to promote development and redevelopment in these areas, which can, and would almost certainly, be adjusted and updated to meet both the Borough's and RMP's goals and objectives.

Furthermore, Mount Arlington could achieve its objectives of protecting and enhancing its environmental resources including its lakes and few remaining open spaces well into the future using Highlands grants, technical assistance, and state aid. For example, Lake Hopatcong, as the Borough's dominant natural resource and asset, could reap significant benefits from these new funding sources. This, in turn, might attract further commercial development in the Village Center. Finally, a comprehensive planning process with the Highlands Council is also likely to assist Mount Arlington in maintaining its overall community character, natural and historic resources, and continued success.

Exhibit 21 outlines a Highlands Plan Conformance Draft Implementation Plan. It includes various tasks, timelines, and associated descriptions to implement plan conformance for Mount Arlington.

Exhibit 21 – Draft Implementation Plan

Draft Implementation Plan			
Task	**Plan Conformance Task**	**Timeline**	**Status and Comments**
1	Highlands Interactive Environmental Resource Inventory	FY2025 Priority	Review Highlands Interactive ERI, propose amendments to the Borough's 2015 ERI as necessary, and adopt.
2	Reexamination Report and Highlands Element of Municipal Master Plan	FY2025 Priority	Preparation and adoption of Highlands element and reexamination report to ensure the Borough's Master Plan is aligned with the Highlands RMP
3	Adoption of Highlands Conformance Ordinance	FY2025 Priority	Adoption of the Highlands Conformance Ordinance serves to protect municipal resources; future land use ordinance amendments may follow to update existing municipal ordinances.
4	Housing Element and Fair Share Plan	FY2025 Priority	Affordable Housing Round IV Tasks (inclusive of Housing Element and Fair Share Plan); Will also include an updated build-out analysis
5	Highlands Center Feasibility Study	Year 2+	Prepare a study that includes boundaries, purpose and goals, a strategy for public outreach, available infrastructure, and how the municipality intends to undertake implementation of the center.
6	Municipal Master Plan Elements (as applicable)	Ongoing	Update Land Use Plan Element to include a climate change-related hazard vulnerability assessment.
7	Zoning Map Update	Year 2+	Update municipal zoning map to reflect Highlands Land Use Capability Zones (LUCZ)
8	Resource Management Plans and Programs		
	a. Water Use and Conservation Management Plan	Year 2+	To ensure efficient water use through conservation and Low Impact Development, and to avoid the creation of new deficits in Net Water Availability
	b. Municipal Stormwater Management Plan	FY2025 Priority	Preparation of Stormwater Management Plan including MS4 Requirements
9	Attendance at Highlands Council Training Sessions		
	a. Municipal Exemption Determinations	FY2025 Priority	Adopt Municipal Exemption Determination Ordinance
	b. Other Training: GIS, build-out analysis, etc.	Ongoing	

Appendix A: Lake Management Area Standards

Lake Management Areas

Issue Overview:

The RMP provides for the protection and enhancement of Highlands lakes and their environs, including Highlands lake communities. Overbuilt, damaged and poorly managed shoreland areas can result in the degradation of water quality, harm to the lake ecosystem, the decrease of natural aesthetic values, and the overall loss of property values for lake communities. Lakes can be harmed by pollutant sources in the watershed area draining to them. Most existing lake communities were built out prior to modern environmental requirements. Some have sewer systems, but many rely on septic systems (or even cesspools) on inadequately sized lots. Studies indicate that nearly every public lake (privately owned lakes were not evaluated) in the Highlands is experiencing contamination, often including excessive bacteria and nutrients. Many lake communities have been experiencing intensifying land uses as the original buildings are torn down and replaced by larger structures. The Council seeks to identify redevelopment opportunities to improve community character and value, to both protect natural resources and to enhance and restore the quality of lake environments in the Region.

As discussed in Section 3 under the Land Use Capability Zone Map section, the Council has developed a Lake Community Sub-Zone. This sub-zone consists of patterns of community development that are within the ECZ within 1,000 feet of lakes. By definition, lakes within this sub-zone are developed or heavily developed. Developed lakes face particular challenges as compared with undeveloped lake areas. They tend to be shallower in locations that receive sediment loadings; they often feature extensively hardscaped shorelines with limited natural vegetation; and they are frequently more eutrophic than undeveloped lakes. Developed lakes tend to receive higher phosphorous loads due to the fact that urban watersheds produce higher unit area phosphorous loads from stormwater, compared to lesser developed watersheds. In addition, most urban watersheds produce significant secondary phosphorous loads from a diverse range of sources including municipal wastewater discharges, failing septic systems, and sewage overflows.

Program Summary:

This program seeks to protect, restore and enhance the water quality of Highlands lakes and to protect the unique character of Highlands lake communities. It facilitates land use and water resource planning on the basis of lake management tiers:

- A *Shoreland Protection Tier* consisting of an area measured 300 feet or the first public road perpendicular to the shoreline of the lake;
- A *Scenic Resources Tier* consisting of an area measured 300 to 1,000 feet perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake and the topography of the land area, with wider portions of lakes and greater topographic relief having longer view distances;
- A *Water Quality Management Tier* consisting of an area measured 1,000 feet perpendicular from the shoreline of the lake, including the shoreland protection tier; and
- A *Lake Watershed Tier* consisting of the entire land area draining to the lake.

In this Lakes Management program, the Council seeks to stringently protect lakes in the Protection and Conservation Zone from future development and to maintain those lakes in their natural condition. In the already developed lake areas of the Lake Community Sub-Zone, the underlying goal is to protect lake water quality and habitat from impacts resulting from the built environment and to ensure that any redevelopment maintains the character of existing Highlands lake communities. Thus, while the majority of the standards presented herein are stringent standards geared to new development in undeveloped lake areas, there are also standards that are common to both undeveloped and developed lakes (primarily in the Water Quality

Management tier), and there are standards that are unique to the Lake Community Sub-Zone that solely address developed lake areas. With respect to these standards and ongoing management issues related to lakes in the Lake Community Sub-Zone, the Highlands Council will coordinate with individual lake commissions and with lake associations where they exist.

The program also includes a lake and dam protection and enhancement component and a homeowner's educational brochure and awards program component.

GOAL 1L: protection of highlands region lakes from the impacts of present and future development.

The management of lands surrounding lakes is an important issue for the Highlands Region. Overdeveloped, damaged, and poorly managed shoreland areas can result in the degradation of water quality, harm the lake ecosystem, decrease natural aesthetic values, and cause an overall loss of property values for lake communities. Lakes can be harmed by pollutant sources in the watershed area draining to them. Polluted lakes can, in turn, damage downstream streams and rivers. Most existing lake communities are fully built out, predate modern environmental protection requirements, and have limited potential for major land use changes. Some have sewer systems, but many rely on septic systems (or even cesspools) on inadequately sized lots, where direct contamination of the lakes is possible. Past NJDEP studies indicate that nearly every public lake (privately-owned lakes were not evaluated) is experiencing unacceptable contamination, often including excessive bacteria and nutrients. In addition, many lake communities have been evolving from summer communities to year-round communities, and many are experiencing greatly intensified land uses as the original buildings are torn down and replaced by much larger structures. Addressing land uses within lake communities allows for potential opportunities to improve community value, to protect the cultural and historic resources often associated with lake communities, to protect natural resources and enhance and restore the quality of lake environments in the Region, and in some cases, to allow for in-fill development where appropriate.

Policy 1L1: To establish a Lake Management Area around all Highlands Region lakes of greater than ten acres in size.

Policy 1L2: To establish tiers of lake management appropriate to management strategies that help protect lake water quality and community value from the impacts of present and future development.

Objective 1L2a: Lake management programs shall use the following management tiers around all Highlands Region lakes of greater than ten acres in size:

- A *Shoreland Protection Tier* consisting of an area measured 300 foot or the first property line perpendicular from the shoreline of the lake;
- A *Scenic Resources Tier* consisting of an area measured 300 to 1,000 foot perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake, with wider portions of lakes having longer view distances; and
- A *Water Quality Management Tier* consisting of an area measured 1,000 foot perpendicular from the shoreline of the lake, including the Shoreland Protection Tier; and
- A *Lake Watershed Tier* consisting of the entire land area draining to the lake, through the evaluation of drainage areas using LiDAR topographic analyses or other topographic data where LiDAR data are not available.

Policy 1L3: To establish unique standards (as compared to lakes within the Protection and Conservation Zones) for the Lake Community Sub-Zone within the ECZ within 1,000 feet of lakes, particularly with respect to the Shoreline Protection Tier, to prevent degradation of water quality, harm to lake ecosystems, and promote aesthetic values within the ECZ.

Policy 1L4: To establish and implement management strategies to help protect lake water quality and ecosystem values from the impacts of present and future development for all lakes.

Objective 1L4a: Implementation of standards through Plan Conformance regarding lake ecosystem and water quality in the Shoreland Protection Tier to address direct and proximate impacts upon the lake, including but not limited to shoreline modification and development (including limits to the hardscaping of shorelines using bulkheads, rip-rap, and walls), docks, piers, boathouses, dredging, vegetation removal, and increased impervious cover. Pollutant discharges shall also be addressed, including the potential for contamination from septic systems, cesspools and other wastewater management systems within the tier that are failing or are inadequately designed and constructed. As such systems fail, landowners should be required to provide upgraded treatment (whether on-site or through public or community systems) to minimize pollutant movement to the lake. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.

Objective 1L4b: Implementation of standards through Plan Conformance regarding land use compatibility and water quality in the Water Quality Management Tier, to prevent or minimize continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the Shoreland Protection Tier.

Objective 1L4c: Implementation of standards through Plan Conformance regarding the protection of visual and scenic resources in the Scenic Resources Tier, including but not limited to requirements for vegetative screening of buildings, building height limitations, and limits on tree and understory removal for reasons other than public health and safety or as the minimum necessary to make reasonable use of the designated building envelope for the parcel proposed for development. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.

Objective 1L4d: Implementation of lake restoration plans to restore, protect and, where possible, enhance lake water quality through management of pollutant sources in the Lake Watershed Tier, including but not limited to the development, adoption and implementation of TMDLs by the NJDEP pursuant to the Water Quality Management Planning Rules, N.J.A.C. 7:15. Ongoing coordination will be undertaken with the Greenwood Lake and Lake Hopatcong Commissions as well as individual lake associations, as appropriate, regarding lake management issues.

Policy 1L5: To require that conforming municipalities adopt and implement for all lakes the standards applicable to the Shoreland Protection and Water Quality Management Tiers; the standards applicable to the scenic resources tier shall be adopted and implemented for all public lakes (e.g., with shorelines that are not entirely privately-held and managed through a lake association), and for privately-held lakes to the extent feasible under law, recognizing the existence of previously approved lake community development plans.

Objective 1L5a: Shoreland Protection and Water Quality Management Tier requirements shall apply to all new development, regardless of lake ownership.

Objective 1L5b: Scenic Resource Tier requirements shall apply to all lakes with public access and to lakes with no public access that are not entirely managed by a single homeowner or lake community association. For lakes that are privately-held and managed by a single

homeowner or lake community association, the scenic resource tier requirements shall be voluntary.

Policy 1L6: To require that conforming municipalities develop and adopt lake restoration plans, with sufficient input from lake community residents and landowners, for each of the municipality's developed lakes that has been identified as water quality impaired, to include watershed delineation, description of point and nonpoint sources of pollution in the watershed, lake monitoring schedules, existing and proposed in-lake management techniques, and recommended watershed best management practices. TMDLs adopted by the NJDEP to address known pollution problems may be used as lake restoration plans. For lakes that are privately held and managed by a single homeowners or lake community association, the municipality may require that the association share in or assume the costs of developing such plans.

Objective **1L6a:** Provide Lake Management Plan guidance to municipalities that includes watershed delineation mapping methodology, point and nonpoint source pollution references, example lake monitoring schedule with monitoring goals and methods, existing successful in-lake management techniques, and best management practices.

Objective 1L6b: Septic systems and cesspools on small lots in close proximity to lakes shall be replaced with upgraded individual treatment systems, communal septic systems or community-based wastewater systems wherever feasible and cost-effective, with the selection of replacement technology to ensure minimal secondary impacts, including potential reductions in net water availability, maximum environmental benefit, and financial viability. Community-based systems should not provide for additional land development capacity except for exempt lots within that existing lake community that are not environmentally constrained, or for areas that are otherwise permitted to have wastewater service under the Goals, Policies, and Objectives in Part 2, Subpart D, Sustainable Development, and Water Resources.

GOAL 1M: Protect the unique character of highlands lake communities.

Policy 1M1: To provide guidance regarding evaluation of, and standards for, lake character and aesthetics that shall be adopted by municipal ordinance for application to public lakes, or that may be voluntarily adopted by privately-owned lake communities within their by-laws and regulations.

Policy 1M2: To encourage increased public access to publicly owned lakes, within the lake's carrying capacity and while maintaining the lake character.

Policy 1M3: To discourage or control teardowns that result in altered lake community character, and the potential loss of historic and cultural values, and to encourage community-supported limitations in lot coverage and building height for new construction.

Policy 1M4: To establish and implement performance and development standards through local development review and Highlands Project Review for shoreline uses which achieve compatibility among shoreline activities and nearby neighborhoods.

Policy 1M5: To encourage municipalities to utilize recreational sites as opportunities to educate the public regarding the ecological value of lake environs.

Policy 1M6: To encourage municipalities to explore appropriate means to provide public recreation at the shoreline and on the water while ensuring retention of opportunities for passive recreation (e.g., natural areas, open space).

GOAL 1N: Maintain public and private lakes, or restore lake beds and down-stream areas when lakes are drained.

Policy 1N1: To develop innovative financing and administrative mechanisms for the maintenance and operation of public and private dams and lakes, where those dams and lakes provide a continuing public or private purpose.

Policy 1N2: To restore appropriate habitats in the lake beds and to prevent, mitigate, or restore downstream habitats from damages due to lake drainage, when dams are allowed to fail or are deliberately breached or removed.

Standards for Lake Management Tiers

Shoreland Protection Tier

The Highlands Council will establish standards regarding lake ecosystem and water quality in the shoreland protection tier to address direct and proximate impacts upon the lake. Such standards include, but are not limited to, the following:

1. Alteration of the shorelines shall be limited to the minimum disturbance necessary to provide for water dependent recreational uses such as beaches, docks and boat houses, generally limited to 10% or 25 feet of the shoreline of any parcel proposed for development, but subject to modification in the Lake Community Sub-Zone, to limitations more appropriate to specific lakes.
2. Where shorelines have already been hardscaped with bulkheads, rip-rap, or walls in the Lake Community Sub-Zone, encourage the creation of a vegetated filter strip along the shoreline to attenuate stormwater flow and minimize the potential for shoreline erosion.
3. Where there is little or no wave action, reeds and other wetland species that are below the high-water mark shall be preserved or restored. In the Lake Community Sub-Zone, permit and encourage the control and where necessary removal of algae and non-native invasive aquatic weeds that cause nuisance conditions for lake users.
4. Existing shoreland vegetation within 50 feet of the shoreline shall be protected and preserved except for a minimum area permitted, established through municipal development regulations, for water dependent recreational facilities. Limitations should be more stringent for the first 25 feet. Restoration of native vegetation shall be required where development is proposed on property with existing disturbed areas within 25 feet of the shoreline.
5. No new structure other than water dependent recreational facilities shall be constructed within 50 feet of the shoreline.
6. In all zones, the width and length of piers and docks shall be controlled in municipal development regulations to achieve the minimum disturbance of shoreline, shoreline vegetation and wetlands vegetation possible with due consideration to safety, including provisions for piers and docks held in common to reduce the total number of new docks and piers.
7. Boat lifts, where used in any zone, shall be encouraged as a means of providing more light to the waters below and shall elevate boats a minimum of one (1) foot above high water.

Development adjacent to Highlands lakes, which are Highlands Open Waters, shall include a protection buffer of 300 feet from the edge of Highlands Open Waters feature, or a lesser buffer if allowed based on RMP policies (see GOAL 1D), and all development shall comply with buffer standards which provide for the protection of Highlands Open Waters. Structures or other land improvements existing within a protection buffer before August 10, 2004 may remain, provided that the area of disturbance is not increased other than through Highlands Act exemptions or waivers.

Water Quality Management Tier

The Highlands Council will establish standards regarding land use compatibility and water quality in the water quality management tier to prevent or reduce continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the shoreland protection tier. Such standards include, but are not limited to, the following:

1. All parcels of land proposed for development shall be improved with landscape or garden elements which retain stormwater.
2. Require for all new development (and encourage for existing development in the Lake Community Sub-Zone), that runoff from roofs, driveways and patios shall be directed into landscape or garden elements which retain and filter stormwater, or to infiltration practices.
3. Green roofs are strongly encouraged in all zones to clean and slow the release of stormwater.
4. To the extent possible, impervious surfaces in all zones should drain away from the shoreline.
5. Stormwater should be directed to a stormwater management train that cleans and reduces the rate of runoff to the maximum extent possible in all zones.
6. To the maximum extent practicable in all zones the stormwater management train should maximize the use of swales with natural vegetation or constructed wetlands and discharge through a constructed wetland or other channel that maximizes aeration and cleaning of the water.
7. Stormwater improvements shall be designed in accordance with the NJDEP regulations at N.J.A.C. 7:8 or the municipal stormwater management ordinance or regional stormwater management plan adopted as part of an Areawide Water Quality Management Plan (WQMP) where more stringent.
8. Where sufficient land is available in all zones, natural swales, constructed wetlands, and other stormwater facilities shall be used.
9. To the extent possible in all zones, landscape or garden elements which retain stormwater shall be designed so that during larger storms, the water is released primarily through overland sheet flow across a vegetated, naturally landscaped area.
10. The discharge of stormwater shall, wherever feasible in all zones, be through sheet flow which may require the construction of an outlet that disperses the water over a substantial distance at a constant elevation so that water sheet flows over the top.
11. Septic systems for new development within the Lake Management Area must comply with the septic system density requirements, for the particular Land Use Capability Zone, with septic systems no closer to the lake than the Highlands Open Waters Buffer or 150 feet, whichever is greater; clustering shall be permitted where it results in a greater buffer between the lake and the septic systems than would be feasible without clustering.
12. In the Lake Community Sub-Zone, require that septic systems and cesspools on small lots in close proximity to lakes, be replaced with upgraded individual treatment systems, communal septic systems, or community-based wastewater systems wherever feasible and cost-effective, with the selection of replacement technology to ensure minimal secondary environmental impacts, maximum environmental benefit, and financial viability.

14. Where the existing density of septic systems within a Lake Community Sub-Zone is known or strongly suspected to be a significant contributor of lake pollutants, community wastewater treatments shall service parcels of lands within the Lake Community Sub-Zone wherever feasible in order to eliminate pollution of lakes by discharges from septic systems. Community-based systems should not provide for additional land development capacity except for exempt lots within that existing lake community that are not environmentally constrained, or for areas that are otherwise permitted to have wastewater service. The systems must be designed to minimize secondary environmental impacts, including potential reductions in net water availability.

Scenic Resources Tier

The Highlands Council will establish standards regarding the protection of visual and scenic resources in the Scenic Resources Tier from development or redevelopment (including redevelopment within the Lake Community Sub-Zone) that include, but are not limited to, the following:

1. Building heights should be limited so that the top of a building does not exceed 35 feet except in Designated Centers where a greater height is in keeping with existing community design.
2. All buildings shall be screened from view from a lake by trees and other natural plant material, to the extent practicable.
3. The exteriors of all new or redeveloped buildings shall be finished with materials which are compatible with a natural or historical character of the Highlands Region.
4. New buildings shall be prohibited within areas which are Severely Constrained Slopes and Moderately Constrained Slopes.
5. Clearing of trees should be limited to the minimum area needed for the development of a site.
6. Outdoor lighting should be provided by cut-off fixtures directed away from the shoreline.

Appendix B: Highlands Model Exemption Ordinance

MODEL HIGHLANDS AREA EXEMPTION ORDINANCE

A Supplement to the Land Use Ordinances of

BOROUGH/TOWNSHIP/TOWN OF

COUNTY, NEW JERSEY

DRAFT for submission to the New Jersey Highlands Water Protection and Planning Council

DATE:_____, 2024

This document is based on a model Highlands Area Exemption Ordinance prepared and provided to Highlands municipalities by the New Jersey Highlands Water Protection and Planning Council.

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ARTICLE 1. TITLE, PURPOSE, SCOPE

§ 1.1 TITLE

This Ordinance shall be known and cited as the "Borough/Township/Town of Highlands Area Exemption Ordinance."

§ 1.2 PURPOSE

The purpose of this Ordinance is to set forth the procedural and substantive requirements by which the municipality will issue Highlands Act Exemption Determinations. Such determinations pertain only to Highlands Act Exemptions 1, 2, 4, 5, 6, 7, and 8. Highlands Act Exemption Determinations indicate whether proposed activities, improvements or development projects affecting lands located within the Borough/Township/Town Highlands Area are exempt from the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.), and are therefore exempt from the Highlands Water Protection and Planning Council's ("Highlands Council") Regional Master Plan, the New Jersey Department of Environmental Protection's (NJDEP) Highlands Water Protection and Planning Act Rules ("Preservation Area Rules," N.J.A.C. 7:38-1 et seq.), and from any amendments to the Borough/Township/Town's master plan, development regulations, or other regulations adopted pursuant to the approval of the Borough/Township/Town's Petition for Plan Conformance by the Highlands Council.

§ 1.3 SCOPE/APPLICABILITY

The provisions of this Ordinance pertain to activities, improvements and development projects involving lands located within the Borough/Township/Town Highlands Area. The Highlands Area comprises that portion of the municipality for which the applicable provisions of the Borough/Township/Town Master Plan, land use ordinances and other pertinent regulations have been deemed by the Highlands Council to be in conformance with the Highlands Regional Master Plan (RMP) (see § 3.1.1). The provisions of this Ordinance shall not be construed to alleviate any person or entity from the provisions and requirements of any other applicable ordinances, rules, or regulations of the municipality, or from any other applicable law, regulation, or requirement of any county, state, or federal authority having jurisdiction. Nor shall the provisions of this Ordinance deprive any person or entity from seeking a Highlands exemption determination from the NJDEP or the Highlands Council.

§ 1.4 STATUTORY AUTHORITY

This Ordinance is adopted under the authority of the Highlands Act and the New Jersey Municipal Land Use Law ("MLUL", N.J.S.A. 40:55D-1 et seq.). In the Highlands Act, the Legislature identified numerous categories of activities that are exempt from the Act, the RMP, the Preservation Area Rules, and any amendments to a master plan, development regulations, or other regulations adopted by a local government to conform them with the RMP. See N.J.S.A. 13:20-28. The Legislature granted the Highlands Council the authority to administer the plan conformance process and to approve, reject, or approve with conditions municipal plan conformance petitions. See N.J.S.A. 13:20-14, -15. The Legislature, through the MLUL, granted authority to New Jersey municipalities to govern land use and development within their borders and, through the Highlands Act, established requirements for Highlands municipalities to conform their land use and development regulations with the RMP. In a July 19, 2012 Memorandum of Understanding (MOU) between the Highlands Council and the NJDEP, the Council and the NJDEP recognized the circumstances in which it would be appropriate for conforming, Highlands Council-certified municipalities to make determinations
regarding specified Highlands Act exemptions.

§ 1.5 SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no way affect the validity of the ordinance as a whole, or of any other portion thereof.

§ 1.6 EFFECTIVE DATE

This Ordinance shall take effect after final passage and publication in the manner required by law.

ARTICLE 2. DEFINITIONS

§ 2.1 WORD USAGE

Terms used in the body of this Ordinance which are defined by the Highlands Act (N.J.S.A. 13:20-3) are intended to have the same definitions as provided in the Highlands Act. Unless expressly stated to the contrary or alternately defined herein, terms which are defined by the MLUL are intended to have the same meaning as set forth in the MLUL. For purposes of this Ordinance, the terms "shall" and "must" are indicative of a mandatory action or requirement while the word "may" is permissive.

§ 2.2 DEFINITIONS

For purposes of this Ordinance the following definitions shall apply:

Agricultural or Horticultural Development – Construction for the purposes of supporting common farm site activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing. (N.J.S.A. 13:20-3.)

Agricultural or Horticultural Use – The use of land for common farm site activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing. (N.J.S.A. 13:20-3.)

Agricultural Impervious Cover – Agricultural or horticultural buildings, structures or facilities with or without flooring, residential buildings and paved areas, but not meaning temporary coverings. (N.J.S.A. 13:20-3.)

Applicant – Any entity applying to the Board of Health, Planning Board, Zoning Board of Adjustment, Zoning Officer, Construction Official or other applicable authority of the municipality for permission or approval to engage in an activity that is regulated by the provisions of this Ordinance.

Application for Development – The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

Building Permit – Used interchangeably with the term "Construction Permit;" see definition below.

Construction Permit – A permit issued pursuant to the New Jersey Uniform Construction Code, Chapter 23 of Title 5 of the New Jersey Administrative Code (N.J.A.C. 5:23-1 et seq.), providing authorization to begin work subject to the conditions and requirements established under the provisions therein.

Development – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the MLUL. (N.J.S.A. 13:20-3; N.J.S.A. 40:55D-4.)

Disturbance – The placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation. (N.J.S.A. 13:20-3.)

Disturbance, Ultimate – The total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Environmental Land Use or Water Permit – A permit, approval, or other authorization issued by the Department of Environmental Protection pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.). (N.J.S.A. 13:20-3.)

Farm Management Unit – A parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise. (N.J.S.A. 13:20-3.)

Forest Management Plan – A written guidance document describing the forest resources present on a property, the landowner's management goals and objectives, and the recommended practices or activities to be carried out over time on the land. This tool is used to evaluate a forest land's current state and provide a management process which, over time, meets the landowner's objectives, while maintaining health and vigor of the resource. Forest Management Plans are typically written for a ten-year period. (RMP, Glossary.)

Farm site – A Farm Management Unit as defined above.

Highlands Applicability Determination – A determination made by the NJDEP (pursuant to N.J.A.C. 7:38-2.4) indicating whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – That portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands RMP.

Highlands Preservation Area Approval (HPAA) – An approval issued by the NJDEP pursuant to 7:38-6 pertinent to a regulated activity in the Highlands Preservation Area, and including an HPAA that contains a waiver pursuant to N.J.S.A. 13:20-33b.

Immediate Family Member – A spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, whether the individual is related by blood, marriage, or adoption. (N.J.S.A. 13:20-3.)

Impervious Surface – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements. **(**N.J.S.A. 13:20-3.)

Impervious Surfaces, Cumulative – The total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Major Highlands Development – Except as otherwise provided pursuant to subsection a. of section 30 of the Highlands Act ("Exemptions"): (1) any non-residential development in the Preservation Area; (2) any residential development in the Preservation Area that requires an environmental land use or water permit [from the NJDEP, *see definition above*], or that results 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) any activity undertaken or engaged in the Preservation Area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the Preservation Area that requires an environmental land use or water permit [from the NJDEP, *see definition above*],or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. Major Highlands Development shall not include any agricultural or horticultural development or agricultural or horticultural use. Solar panels shall not be included in any calculation of impervious surface. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq., as amended.)

Master Plan – For purposes of this Ordinance, all references to the "Borough/Township/Town Master Plan," "master plan," or "Master Plan," refer to the municipal master plan, as defined in the MLUL (N.J.S.A. 40:55D-5), as adopted by the Borough/Township/Town Planning Board.

Master Plan, Highlands Regional (RMP) – For purposes of this Ordinance, all references to the Highlands Regional Master Plan (RMP), shall be by use of the words "Highlands Regional Master Plan," "Highlands RMP," "Regional Master Plan," or "RMP."

Municipal Land Use Law (MLUL) – The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

NJDEP – New Jersey Department of Environmental Protection

NJDEP Preservation Area Rules – The regulations established by the NJDEP to implement requirements of the Highlands Act, titled "Highlands Water Protection and Planning Act Rules," and codified at N.J.A.C. 7:38-1 et seq.

Planning Area – Lands within the Highlands Region that are not located in that portion designated by the Highlands Act as the "Preservation Area" (see metes and bounds description at N.J.S.A. 13:20-7b).

Preservation Area – Lands within the Highlands Region that are located in that portion designated by the Highlands Act as the "Preservation Area" (see metes and bounds description at N.J.S.A. 13:20-7b).

Solar Panel – An elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array. (N.J.S.A. 13:20-3.)

Structure – A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

ARTICLE 3. GEOGRAPHIC AREA OF APPLICABILITY

§ 3.1 HIGHLANDS PLANNING AREA AND PRESERVATION AREA

The Highlands Act establishes the Preservation Area and Planning Area of the Highlands Region. It describes the varied attributes of each and sets forth the major land use planning goals that pertain to the lands located within each. The Act defines the geographic extent of the Highlands Region to include the aggregated land area making up its constituent municipalities (N.J.S.A. 13:20-7a). It provides a physical delineation of the Preservation Area by use of a specific metes and bounds description (N.J.S.A. 13:20-7b), designating all remaining lands within the Highlands Region as the Planning Area.

§ 3.1.1 Highlands Area

The Borough/Township/Town Master Plan incorporates the Highlands Preservation Area and/or Planning Area, inclusive of the goals applicable to each/it, as an integral component of the planning and land use policies of the municipality. For purposes of this Ordinance, this/these Area/s is/are designated as the Borough/Township/Town Highlands Area. A map of the Borough/Township/Town Highlands Area appears in Exhibit 1.

§ 3.1.2 Applicability Specified

This Ordinance applies specifically and solely to lands designated as the Borough/Township/Town Highlands Area, as delineated in Exhibit 1.

ARTICLE 4. HIGHLANDS ACT EXEMPTION DETERMINATIONS

§ 4.1 HIGHLANDS ACT EXEMPTIONS

Section 30 of the Highlands Act identifies as exempt, specific activities, improvements and development projects affecting lands within the Highlands Region. Such activities, improvements and projects may be proposed as a component of any type of land use application submitted to the municipality for approval, including but not limited to zoning permit applications, building permit applications, and Applications for Development (as defined at § 2.2). Any such qualifying activity, improvement or development project is exempt, with regard specifically to that activity, improvement or development project, from the requirements of the Highlands Act, the Highlands RMP, the NJDEP Preservation Area Rules, and any amendments to the Borough/Township/Town's master plan, development regulations, or other regulations adopted pursuant to the approval of Borough/Township/Town's Petition for Plan Conformance by the Highlands Council. Such an exemption specifically applies to any Highlands Area land use ordinance adopted by the Borough/Township/Town pursuant to the Highlands Council's approval of Borough/Township/Town's Petition for Plan Conformance.

Where any application submitted to the municipality for approval proposes to rely upon a Highlands Act Exemption, the applicant must, as a condition of application completeness, and prior to review or approval of the application by the applicable municipal authority, provide sufficient evidence that the proposed activity, improvement, or development project in fact qualifies as a Highlands Act Exemption. Such evidence shall consist of either a State Agency Exemption Determination or a Municipal Exemption Determination (see § 4.1.1 or § 4.1.2 below) indicating that the proposed activity, improvement, or development project qualifies for a Highlands Act Exemption.

§ 4.1.1 State Agency Exemption Determination

State Agency Exemption Determinations shall consist of either, a Highlands Applicability Determination issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal. State Agency Determinations may be requested with regard to any Highlands Act Exemption, however for applications involving any exemption not identified at § 4.2 below, a State Agency Exemption Determination is required. Any applicant seeking a formal exemption determination for a capital or other project of any State entity or local government unit, or for any other publicly-owned or controlled land or facility, also must request a State Agency Exemption Determination.

§ 4.1.2 Municipal Exemption Determination

For an application involving any of the specific exemptions listed in Section 4.2 below, the applicant may request a Municipal Exemption Determination. The applicant may rely upon the findings of a Municipal Exemption Determination to the same extent as would apply to an exemption determination issued by the Highlands Council or the NJDEP.

§ 4.2 HIGHLANDS ACT EXEMPTIONS ELIGIBLE FOR MUNICIPAL DETERMINATION

Effective as of the date on which the municipality receives written authorization from the Highlands Council to proceed, an applicant may seek a Municipal Exemption Determination for the Highlands Act Exemptions listed hereunder. [*This listing will be finalized in consultation with the municipality. The Highlands Council encourages municipalities to incorporate all exemptions authorized for municipal determination, as listed below. While municipalities may consider shortening this list, the Council encourages municipalities to assume responsibility for exemption determinations to the maximum extent feasible, to provide ease and efficiency in processing of municipal applications and to reduce costs to applicants. Training will be provided for municipal officials prior to adoption and effectuation of these provisions and on-going assistance will be available to all officials designated with review authority.*]

1. *Exemption 1.* The construction of a single-family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of the Highlands Act (August 10, 2004) or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004.

2. *Exemption 2.* The construction of a single-family dwelling on a lot in existence on the date of enactment of the Highlands Act (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.

    a) A Municipal Exemption Determination indicating that an applicant qualifies under Highlands Act Exemption 2 shall require approval and filing of a Deed Notice along with a site plan delineating the total exempt area and the extent of the disturbance recognized in the Municipal Exemption Determination (see 4.4 below). Municipal Exemption Determinations in such instances shall not take effect until the applicant has provided proof of filing of the approved Deed Notice.

3. *Exemption 4*. The reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use.

    a) For purposes of this Ordinance, this exemption shall not be construed to permit multiple 125% footprint expansions, but rather, to permit one or more reconstruction activities cumulatively resulting in a maximum 125% increase in the footprint of the impervious surfaces lawfully existing on the site, provided they do not cumulatively exceed the one-quarter acre limitation. Any determination of whether the expansion of impervious cover meets the statutory criteria for the exemption must account for the preexisting impervious cover, and such expansion must be contiguous to the location of the existing impervious cover. See In re August 16, 2007 Determination of NJDEP ex rel. Christ Church, 414 N.J. Super. 592 (App. Div. 2010), certif. denied, 205 N.J. 16 (2010).

    b) For Preservation Area determinations, the applicable date of lawful existence shall be August 10, 2004, the date of enactment of the Highlands Act. For Planning Area determinations, the date of lawful existence shall coincide with the effective date of the municipally-adopted Highlands Area Checklist Ordinance or Highlands Area Land Use Ordinance, whichever is earlier.

4. *Exemption 5*. Any improvement to a single-family dwelling in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system.

5. *Exemption 6*. Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.

6. *Exemption 7*. An activity conducted in accordance with an approved woodland management plan pursuant to section 3 of the "Farmland Assessment Act," P.L.1964, c.48 (C.54:4-23.3) or a forest stewardship plan approved pursuant to section 3 of P.L.2009, c. 256 (C.13:1L-31), or the normal harvesting of forest products in accordance with a forest management plan or forest stewardship plan approved by the State Forester.

7. *Exemption 8*. The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.

§ 4.3 EXEMPTION DESIGNEE(S)

Municipal Exemption Determinations regarding Highlands Act Exemptions shall be issued by the Borough/Township/Town [*insert as applicable:* e.g., Planner, Engineer, and/or Zoning Officer]. The Exemption Designee(s) shall be authorized to issue Municipal Exemption Determinations on behalf of the municipality, and shall only begin to do so, after satisfactory completion of a Highlands Council training class for which the individual(s) has/have received formal certification from the Highlands Council.

§ 4.3.1

Updates to Training Certification

In the event of programmatic changes, updated information, or modifications to procedures, updated training certification may be required of Exemption Designees in order to maintain qualifications for providing Municipal Exemption Determinations. The Highlands Council will provide training modules on an as-needed basis, to provide base training to new employees, and/or to further the expertise of already-certified individuals. Exemption Designees and the municipalities they serve will be advised of any need for upgraded training, which will be provided and funded by the Highlands Council.

§ 4.3.2 Interim Determinations

For the duration of any period during which the municipality is without a qualified Exemption Designee(s) due to changes in personnel or other extenuating circumstances, applicants seeking Highlands Act Exemption Determinations shall be referred to the NJDEP or the Highlands Council, for a State Agency Determination pursuant to § 4.1.1, above.

§ 4.4 APPLICATION PROCEDURES

§ 4.4.1 Municipal Exemption Applications

Requests for Municipal Exemption Determination shall be submitted on forms provided by the [*insert as appropriate:* e.g., Planning/Engineering/Community Development Department – *note, model forms will be provided by the Highlands Council for this purpose, which the municipality may modify as necessary to incorporate municipal headings, contact information, application fee requirements, and submission details*] and shall be accompanied by sufficient information and documentary evidence to demonstrate whether the proposed activity, improvement or development project qualifies for the applicable exemption. Required submission materials applicable to each exemption, appear at § 4.7, below.

§ 4.4.2 Completeness Determination

The Exemption Designee shall review the application and all accompanying materials to determine whether sufficient information has been submitted to make a determination on the application. In the event of a finding that the application is incomplete, the Exemption Designee shall, within _____ calendar days of receipt [*municipality to insert timing as appropriate*], issue such findings in writing to the applicant, indicating what information is required to properly consider the application.

§ 4.4.3 Time for Determination

The Exemption Designee shall issue Municipal Exemption Determinations within _____ calendar days of receipt [*municipality to insert timing as appropriate*] of a complete application. The Exemption Designee may consult with the Executive Director (or applicable designee) of the Highlands Council as needed in making any exemption determination, however. In such circumstance, the Exemption Designee shall seek such assistance within the_-period [*same timing as previous*] and shall issue the determination within at least 10 calendar days of receiving the requested guidance. In no case shall failure to meet this date constitute approval of the exemption.

§ 4.4.4 Determinations

All Municipal Exemption Determinations shall be provided in writing, shall certify to the applicability or inapplicability of the exemption, and shall include a statement of the rationale for the decision. Any Municipal Exemption Determination certifying to the applicability of Highlands Act Exemptions #2 shall be contingent upon submission of proof of filing of the required Deed Notice, as set forth at § 4.4.5, below.

§ 4.4.5 Notice of Determination Required

The Exemption Designee shall provide copies of all Municipal Exemption Determinations including a copy of the full application, to the Highlands Council and for decisions regarding lands in the Highlands Preservation Area, to the NJDEP, in either case, within ten (10) business days of issuance.

§ 4.4.6 Deed Notice for Exemption #2

Any Municipal Exemption Determination that certifies to the applicability of Highlands Act Exemption #2 (§ 4.2 above), shall be issued conditionally, pending fulfillment of the requirement that a deed notice be recorded in the office of the County Clerk or Register, as applicable, indicating the extent of the exemption that has been consumed. The deed notice shall incorporate each of the components listed below and the applicant shall provide a copy of the filed Deed Notice to the Highlands Council within five (5) business days of filing.

A. Clear identification of the name(s) and address(es) of the owner(s) in fee of the property;

B. Designated tax block and lot number(s), street address(es), municipality and county of location of the property;

C. Reference to the Municipal Exemption Determination (by date, numbering if applicable) issued and under which the deed notice is being filed;

D. Description of the approved area of ultimate disturbance and the impervious surface area, with verification that these remain below the statutory limits;

E. For properties of one acre or more in area, metes and bounds delineation indicating the portion of the property for which the ultimate disturbance has been authorized;

F. Agreement to abide by the ultimate disturbance and impervious surface limits imposed, any furtherance thereof rendering the Municipal Exemption Determination null and void; and

G. Notice that the owner(s) and subsequent owner(s) and lessees shall cause all leases, grants, and other written transfers of interest in the property to contain provisions expressly requiring all holders thereof to take the property subject to the limitations therein set forth.

§ 4.5 APPEAL OF MUNICIPAL EXEMPTION DETERMINATION

A Municipal Exemption Determination may be appealed by any affected person/entity by filing a notice of appeal within twenty (20) calendar days of issuance or receipt of said determination, whichever is later, specifying the grounds therefor. Appeals must be filed with the NJDEP in the case of any Preservation Area Exemption, and with the Highlands Council, in the case of any Planning Area Exemption. All appeals shall be copied to the Exemption Designee, who shall immediately transmit to the NJDEP or the Highlands Council, as applicable, copies of the notice of appeal, the Municipal Exemption Determination Application, and all supplemental materials constituting the record that the Exemption Designee relied upon in issuing the Municipal Exemption Determination. Where the Municipal Exemption Determination deems an activity, improvement or development project exempt, the filing of an appeal to the NJDEP or the Highlands Council shall stay all proceedings in furtherance of its approval by the municipality.

§ 4.6 EFFECT OF CERTIFIED EXEMPTION

Issuance of a Municipal Exemption Determination that certifies to the applicability of a Highlands Act exemption shall recognize the applicant's exemption from the provisions of the RMP, NJDEP Preservation Area Rules, and any municipal ordinances and requirements adopted under the authority of the Highlands Act to achieve Highlands Plan Conformance. The exemption is restricted solely to the extent of the specified activity, improvement, or development project as described in the language of the Highlands Act exemption, or to any lesser activity, improvement, or development project as proposed and certified through a Municipal Exemption Determination Application. Any activity, improvement, or development project, or any part thereof, that is not specifically listed as an exemption or exceeds the limits of an exemption, remains subject to all of the above regulatory programs to the full extent of the respective applicability of each. Issuance of a Highlands Exemption Determination shall not relieve the applicant from securing all other required federal, state, or local approvals.

§ 4.7 APPLICATION FEES (OPTIONAL)

[*Municipalities may in their discretion determine whether to charge application fees for Municipal Exemption Determinations, consistent with applicable State and local requirements.*]

§ 4.8 SUBMISSION REQUIREMENTS

All applications shall be accompanied by the Municipal Exemption Determination Application Form, the applicable fees, and the information listed below, as applicable to the particular exemption or exemption(s) being sought by the applicant. All references to professional preparers indicated herein shall be construed to include any and all qualified individuals licensed, certified, or otherwise eligible and authorized to complete such work, in accordance with the applicable laws and legal requirements of the State of New Jersey including but not limited to the MLUL (N.J.S.A. 40:55D-1 et seq.) and Title 13 of the New Jersey Administrative Code, Law and Public Safety. Where the Exemption Designee finds that any submission item is not necessary to address the evidentiary requirements that must be satisfied for issuance of an Exemption Determination, either because alternate items have been provided by the applicant, or the relevant information is readily available through records, maps, or any other documents on file in the offices of the municipality, the Exemption Designee may waive the applicant's obligation to submit such information.

A. Exemption 1.

1. A copy of a deed, closing or settlement statement, title policy, tax record, mortgage statement or any other official document showing that the lot was legally owned by the applicant on or before August 10, 2004 and indicating the lot and block as designated by the municipal tax mapping, the municipality and county in which the lot is located, and the street address;

2. If the applicant did not own the lot, a copy of the binding contract of sale executed by the seller and the applicant on or before May 17, 2004 for the lot on which the house is to be constructed; and

3. A certification by the applicant stating that the single-family dwelling proposed for construction on the lot specified and described therein by tax lot and block, municipality and county of location, and street address, is intended for the applicant's own use or the use of an immediate family member as identified therein by name and relationship to the applicant.

B. Exemption 2.

1. A copy of the recorded deed or plat showing that the lot was created on or before August 10,

2004 or proof of subdivision approval on or before August 10, 2004;

2. A property survey certified by a licensed New Jersey Professional Land Surveyor indicating the property boundary lines and overall lot size, and showing what structures currently exist on the lot, if any;

3. A parcel plan certified by a licensed New Jersey Professional Engineer showing all existing and proposed development, including all structures, grading, clearing, impervious surface and disturbance, and including the calculations supporting the claim that impervious surfaces and areas of disturbance are within the limits necessary for Exemption 2; and

4. A metes and bounds description of the area of the lot to be disturbed, limited to less than one acre and a draft conservation restriction or deed notice (pursuant to § 4.4.5, above) to cover the balance of the lot.

C. *Exemption 4*.

1. A parcel plan certified by a licensed New Jersey Professional Engineer depicting:

   a) All existing property improvements, including all structures, grading, clearing, impervious surfaces and limits of disturbance, lawfully existing on the site as of August 10, 2004 for Preservation Area projects and as of the effective date of the municipal Highlands Area Checklist Ordinance or Highlands Area Land Use Ordinance, whichever is earlier; and

   b) All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading; and

2. A copy of any official documentation of the original date of construction of the building or otherwise establishing the lawfulness of existing impervious surfaces.

D. *Exemption 5*.

1. A copy of any official documentation proving the single-family dwelling was in existence on August 10, 2004;

2. A description of the proposed improvement; and

3. A certification from the applicant that the property and all improvements will continue to be used for single family dwelling purposes.

E. *Exemption 6*.

1. A copy of any official documentation indicating that the place of worship, public or private school or hospital was in existence on August 10, 2004;

2. For improvements to a place of worship, documentation showing that the entity, society or association, or association organized primarily for religious purposes has non-profit status;

3. A site plan certified by a licensed New Jersey Professional Engineer depicting:

   a) All existing property improvements including all structures, grading, clearing, impervious surfaces and limits of disturbance, existing on the site on August 10, 2004; and

b) All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading.

F. Exemption 7.

1. For a private landowner with an approved woodland management plan or forest stewardship plan:

   a) A copy of the applicant's tax bill showing that the site has farmland assessment tax status under the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq., if applicable;

   b) A brief description of the total area of woodlands that is the subject of the approved woodland management plan or forest stewardship plan;

   c) A brief description of the length of time that the area to be managed has been in use for woodland management or forest stewardship plan; and

   d) A copy of the approved woodland management plan or forest stewardship plan.

2. For the normal harvesting of forest products in accordance with a forest management plan or forest stewardship plan approved by the State Forester:

   a) A brief description of the total area where the normal harvesting of forest products occurs;

   b) A brief description of the length of time that the area to be managed has been in use for normal harvesting of forest products; and

   c) A copy of a forest management plan or forest stewardship plan approved by the State Forester.

G. Exemption 8.

1. A site plan certified by a licensed New Jersey Professional Engineer showing the proposed trail construction with details including the location, and width of existing and proposed trails and those off-site trails to which they connect, if any;

2. A written description of the non-impervious materials to be used; and

3. For privately owned property, a copy of a deed for the property and the conservation or recreational use easement on the property.

Appendix C: Plan Conformance Process

Petition for Plan Conformance – Planning Area

Submittal documents required for Petitions for Plan Conformance will vary depending upon the results of the Highlands Council review of this Initial Assessment. Mount Arlington will receive an information packet following the submission of this Initial Assessment containing specific requirements. Generally, the following is the process of Plan Conformance.

1. **Planning Area Ordinance (or Resolution adopted in lieu).** For municipal Petitions involving Planning Area lands, the Highlands Council will accept a resolution adopted by the Governing Body in lieu of an adopted Planning Area Ordinance for purposes of review and consideration of Petition materials. Adoption of the Planning Area Petition Ordinance is required for conformance by Planning Area municipalities pursuant to the Highlands Act.

2. **Planning Program Documents.** Proposed revisions, updates and/or supplements to the master plan, land use regulations, management plans, redevelopment plans, and various other planning documents required to achieve Plan Conformance will be submitted as part of the Plan Conformance agreements over time and will be determined through the process of Plan Conformance with Highlands Staff. Municipal planning documents and ordinances that may be required to be revised overt time may include:

    a. Environmental Resource Inventory

    b. Environmental/Infrastructure Capacity Analysis

    c. Municipal Master Plan and associated Elements

    d. Master Plan Reexamination Report

    e. Zoning/Land Use Ordinances and Development Regulations

    i. Highlands Referral Ordinance

    ii. Implementation of Land Use Capability Zones

    iii. Water Use and Wastewater Treatment Regulations

    iv. Cluster Development Ordinance Provisions

    v. Open Water Protection Areas

    vi. Critical Habitat Protection

    vii. Steep Slopes

    viii. Carbonate Rock

    ix. Water Use

    x. Prime Groundwater Recharge Areas

    xi. Lake Management Areas

xii. Agricultural Resources

xiii. Forest Resources

xiv. Wellhead Protection

xv. Historic, Cultural, Archaeological and Scenic Resource Protection

xvi. Zoning Map Amendments

f. Resource Management Plans (groundwater recharge, wastewater management, stormwater management, etc.)

g. Resource Protection and Supporting Regulations/Plans

h. Regional Master Plan Coordination

Where municipal planning documents and ordinances are consistent with the RMP, new documents will not need to be adopted. The timeline of adoption is flexible and the Highlands Council pays for any required changes to municipal planning documents, studies or ordinances.

3. **Map Adjustments and RMP Updates, if applicable.** An RMP Update is a factual update to Highlands Council data. This may result in changes to the configuration and boundary lines of Highlands Land Use Capability Zones. These can be submitted to the Highlands Council for review during the Plan Conformance process.

4. **Review of Plan Conformance Petitions by Executive Director.**

5. **Public Meeting for Review of Plan Conformance Petitions.**

Appendix D: Model Highlands Conformance Ordinance

ORDINANCE FOR HIGHLANDS COUNCIL REGIONAL MASTER PLAN CONFORMANCE

WHEREAS, the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.) was enacted by the State Legislature on August 10, 2004 for the purpose of protecting, enhancing, and restoring the natural resources of the New Jersey Highlands Region, in particular the water resources, which provide drinking water to over 5 million New Jersey residents; and

WHEREAS, the Highlands Act created the Highlands Water Protection and Planning Council (the "Highlands Council") and charged it with crafting a comprehensive master plan for the New Jersey Highlands Region; and

WHEREAS, the Highlands Regional Master Plan was adopted by the Highlands Council through the adoption of Resolution 2008-27 on July 17, 2008, and became effective on September 8, 2008 as the product of a long-term, participatory, and region-wide planning effort; and

WHEREAS, Section 14 of the Highlands Act expressly requires that municipalities must revise and conform their local master plan and development regulations for that portion of their lands within the Preservation Area, as related to development and use of said lands, with the goals, requirements and provisions of the Regional Master Plan within 15 months of the effective date of adoption thereof, or December 8, 2009; and

[WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and]

WHEREAS, the TOWN is located in the Highlands Region with lands lying within [both] the Preservation Area [and the Planning Area], as defined by section 7 of the Highlands Act; and

WHEREAS, the Governing Body of TOWN has, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to TOWN lands located within [both the Planning Area portion and] the Preservation Area portion of the Highlands Region; and

WHEREAS, the Petition filed with the Highlands Council contains proposed amendments to the municipal planning program, including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources located within the TOWN; and

WHEREAS, the Governing Body finds that the proposed changes to the municipal planning program are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community;

NOW THEREFORE, BE IT ORDAINED by the Governing Body of TOWN that the following is hereby adopted as an amendment to the TOWN land use ordinances:

[Planning Area Conformance Only] Section 1 Petition for Plan Conformance

TOWN is located [fully/partially] within that portion of the New Jersey Highlands Region defined by the Highlands Act, as the "Planning Area" (see definitions). This Ordinance is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1 et seq.), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to lands located within the Planning Area, and by Ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.

By adoption of this Ordinance, the Governing Body of the TOWN establishes that the municipality shall conform its master plan, development regulations, and all other regulations applicable to the use and development of land within the [Preservation Area and] Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan. Said conformance shall be in accordance with the provisions of Highlands Council approval of the municipality's Petition for Plan Conformance, which was approved by Highlands Council Resolution No. XXX, adopted on ____. Further, this Ordinance specifically reserves the rights of the municipality as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

Section 2 - Highlands Council Review of Land Development Ordinance Amendments

Any amendment to the TOWN Land Development Regulations [that falls within the Highlands Area] shall not be effective until deemed consistent with the Regional Master Plan or deemed not subject to review by the Highlands Council.

Section 3 - Amendment to Land Development Regulations

I. Establishment of Highlands Districts

1. **Highlands Preservation Area and Planning Area**
    1. In accordance with the delineation as set forth in the Highlands Act (C.13:30-7) the TOWN hereby establishes the [Preservation Area and Planning Area] of the Highlands Region.
    2. For purposes of this Ordinance, this/these Area/s shall henceforth be known and designated as the TOWN Highlands Area.
2. **Highlands Land Use Capability Zones:** In accordance with the Highlands RMP there are hereby established three primary Land Use Capability Zones (LUCZ) (the Protection Zone, Conservation Zone and Existing Community Zone) and four LUCZ sub-zones (Wildlife Management Sub-Zone, Conservation Zone–Environmentally Constrained Sub-Zone, Existing Community Zone–Environmentally Constrained Sub-Zone and Lake Community Sub-Zone).
3. **Exhibits:** The following exhibits are hereby adopted.
    1. Exhibit 1 entitled Highlands Area and Highlands Land Use Capability Zones depicting the municipality along with delineation of the Highlands Area and Highlands Land Use Capability Zones,
    2. Exhibit 2 entitled Wellhead Protection Areas,
    3. Exhibit 3 entitled Highlands Open Water Buffers,
    4. Exhibit 4 entitled Highlands Riparian Areas,
    5. Exhibit 5 entitled Net Water Availability,
    6. Exhibit 6 entitled Forest Area,
    7. Exhibit 7 Prime Groundwater Recharge Areas, and
    8. [as necessary] Exhibit 8 entitled Special Environmental Zone.

II. Applicability

The following Applications for Development involving lands located within (or partially within) the TOWN Highlands Area (as illustrated in Exhibit 1, "TOWN Highlands Area") shall comply with the provisions of this ordinance:

A. In the Preservation Area:
   1. any non-residential development in the Preservation Area;
   2. any residential development in the Preservation Area that requires an environmental land use or water permit or that results 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. any activity undertaken or engaged in the Preservation Area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or
   4. any capital or other project of a State entity or local government unit in the Preservation Area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more.

B. In the Planning Area:
   1. For residential development, creates three (3) or more new dwelling units.
   2. For non-residential development:
      a) Results in the ultimate disturbance of one (1) acre or more of land; or
      b) Produces a cumulative impervious surface area of one-quarter (¼) acre, or more.

C. In either the Preservation or the Planning Area:
   1. Introduces or expands on any of the following land uses/facilities:
      a) Landfills;
      b) Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
      c) Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;
      d) Industrial treatment facility lagoons; or
      e) Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of this Ordinance, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined herein.

All thresholds in A. and B., above, shall be interpreted to apply cumulatively over time, beginning as of the effective date of this Ordinance. If or when any one of the thresholds is reached, the Ordinance shall apply to any and all development in excess of that threshold. Where an application proposes a mixed use, the thresholds in B., for non-residential development shall apply to the whole of the project, while that in A., shall apply to the residential component. For purposes of this Ordinance, the phrases "Application for Development," "Highlands Area," "residential development," "ultimate disturbance," and "cumulative impervious surface area" shall be defined as provided herein.

III. HIGHLANDS COUNCIL CALL-UP

The municipality shall, within fifteen (15) calendar days of issuance of any decision under this ordinance, provide a copy of the decision to the Highlands Council. The Highlands Council call-up review period shall expire 15 calendar days following the Highlands Council's receipt of same. Any decision issued under this ordinance shall not be effective until the expiration of the call-up period, or upon notification that the Highlands Council is exercising its review authority and an approval issued by the Highlands Council. Absent any notification from the Highlands Council within the 15-day timeframe, the decision shall be considered effective.

IV. EXCLUSIONS AND EXEMPTIONS

The following applications shall not be subject to the standards of this ordinance:

A. Exclusions: Any application for development as follows below shall not be subject to any provisions of this ordinance.
   1. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
   2. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.
   3. Any Agricultural or Horticultural Use or Development that would not result in either:
      a) An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 4, below); or
      b) Construction of three (3) or more residential dwelling units (including accessory dwelling units) served by individual on-site septic system(s).

B. Highlands Act Exemptions: Any application for development exempt from the provision of the Highlands Act (C.13:20-28) shall be exempt from all provisions of this ordinance (with the exception of Section XVI Affordable Housing). Demonstration of a Highlands Act exemption for an Application for Development involving lands located (or partially located) in the Highlands Area shall consist of one of the following:
   1. State Agency Determination. State Agency Determinations shall include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal [, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal, in either case,] indicating that the proposal qualifies as a Highlands Act Exemption.
   2. Municipal Determination. Pursuant to TOWN Ordinance #_____, entitled "TOWN of _____ Highlands Area Exemption Ordinance," effective as of [insert date] _____, for any application involving Highlands Act Exemptions #1, #2, #4, #6, #7, or #8 indicating that the proposal qualifies as a Highlands Act Exemption.

V. Prohibited Uses

Any of the following uses are prohibited uses within the Highlands Area [*municipal edit*: unless a prior consistency determination is received from the Highlands Council]:

A. Landfills;
B. Facilities for the permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
C. Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials; and
D. Industrial treatment facility lagoons.
E. Any principal or accessory use, or structure related or devoted to such use, which is designated by the Highlands Council as a Major or Minor Potential Contaminant Source (PCS) (see Appendix A and Appendix B is expressly prohibited from that portion of any Tier 1 Wellhead Protection Area lying within 200 feet of the wellhead as shown on Exhibit 2.

VI: Highlands Open Waters

A. Highlands Open Waters and Buffers: All Highlands Open Waters shall include a minimum 300-foot-wide protection buffer, as measured from the edge of the Highlands Open Waters feature indicated in Exhibit 3.
   1. No disturbances of Highlands Open Waters are permitted except where previously approved by the Highlands Council.
   2. Highlands Open Waters buffers shall be maintained in their undisturbed or pre-existing condition, unless a disturbance is approved in accordance with following:
      a) Where a NJDEP a Letter of Interpretation (LOI) or Highlands Resource Area Determination (HRAD) has been issued delineating the location a wetland, the boundaries of said wetland as identified shall govern. However, the buffer shall be 300 feet irrespective of the buffer identified in the LOI.
      b) With respect to any wetlands and other Highlands Open Waters features not mapped in Exhibit 3, each shall include a 300-foot-wide protection buffer measured from a delineated wetlands line described in a LOI, from a field-delineated boundary line for other features, or as indicated by a Highlands Resource Areas Determination (HRAD) issued by the NJDEP.
      c) Any lawful pre-existing structure or improvement located within a Highlands Open Waters protection buffer area may remain and be maintained or rehabilitated, provided that the existing area of disturbance attributed to or associated with such structure or improvement shall not be increased.
      d) Disturbances of Highlands Open Waters buffers located in the Existing Community Zone are permitted in previously disturbed areas as follows.
         (i) Agricultural & Horticultural Land Uses. For purposes of Highlands Open Water buffer disturbances in the Existing Community Zone, existing agricultural and horticultural uses, whether or not under active management or operation, shall not be considered "previously disturbed" buffer areas with regard to uses for non-agricultural development.
         (ii) Any disturbance in a previously disturbed buffer must be accompanied by the finding that there will be no net loss of functional value of the buffer. This may include the use of mitigation and restoration of the Highlands Open Water Buffer.
            (a) If existing land uses create a natural or developed barrier to the buffer, then the buffer may be considered to be developable.
      e) Protection and Conservation Zone Standards: Disturbances of Highlands Open Waters buffers located in the Protection and Conservation Zone are permitted in previously disturbed areas but in no case shall the remaining buffer be reduced to less than 150 feet from the edge of Highlands Open Waters.
         (i) Agricultural & Horticultural Land Uses. For purposes of Highlands Open Water buffer disturbances in the Protection and Conservation Zone, existing agricultural and horticultural uses, whether or not under active management or operation, shall not be considered "previously disturbed" buffer areas with regard to uses for non-agricultural development.
         (ii) Any proposed disturbances must demonstrate full utilization of the following performance standards in the listed order, to demonstrate the necessity of an encroachment into Highlands Open Waters buffers:
            (a) avoid the disturbance of Highlands Open Waters buffers;
            (b) minimize impacts to Highlands Open Waters buffers; and
            (c) mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer.

B. Riparian Area Standards: Disturbance of any portion of a Highlands Riparian Area, as shown in Exhibit 4, in the Protection Zone is prohibited except for linear development, which shall be permitted only where it has been shown that there is no feasible alternative for the linear development outside of the Riparian Area.

1. To address the "no feasible alternative for linear development" standard, the applicant shall demonstrate that there is no other location, design or configuration for the proposed linear development that would reduce or eliminate the disturbance of Riparian Area
2. For proposed linear development that would provide access to an otherwise developable lot, the applicant shall in addition, show that:
   a) The proposed linear development is the only point of access for roadways or utilities to an otherwise developable lot; and
   b) Shared driveways are used to the maximum extent possible to access multiple lots.
   c) An alternative shall not be excluded from consideration under this subsection merely because it includes or requires an area not owned by the applicant that could reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed linear development.

VII: Critical Habitat

A. The location, extent and type of Critical Wildlife Habitat, Certified Vernal Pools and Natural Heritage Priority Sites are those areas defined in Section VXII and identified by the NJDEP. Details on the areas may be found on the Highlands Council's interactive map or through the NJDEP.
B. Critical Wildlife Habitat
   1. No disturbance is permitted in any Critical Wildlife Habitat as defined in Section XVII accept in accordance with the following:
   2. A Critical Wildlife Habitat area may be disturbed where a Habitat Suitability Analysis conducted by a qualified professional has been submitted to the Land Use Board, which shall review and confirm findings that:
      a) The nature of the site is such that it does not provide habitat for species of concern;
      b) The species of concern are not present on the site during any critical part of their life cycle, do not depend upon the site for food, shelter or breeding, and the habitat or the site is either unsuitable or not critical to species' recovery in the Region; or
      c) Existing land uses present a human, natural or development barrier to the use of the site by species of concern.
      d) Avoidance of disturbance to species of concern can be achieved through adherence to commonly accepted, species-specific timing restrictions including but not limited limitations on the timing of tree clearing, site disturbance and project development.
   3. Where disturbance of any Critical Wildlife Habitat has not been confirmed to be in accordance with the above standards, no disturbance shall be authorized without prior written approval of the Highlands Council.
C. Certified Vernal Pools
   1. No disturbance is permitted in any 300-meter buffer of a certified vernal pool.
   2. A Critical Wildlife Habitat area may be disturbed where a Habitat Suitability Analysis conducted by a qualified professional has been submitted to the Land Use Board, which shall review and confirm findings that:
      a) The nature of the buffer is such that it does not provide habitat for species of concern;
      b) The species of concern are not present within the buffer during any critical part of their life cycle, do not depend upon the site for food, shelter or breeding, and the habitat or the site is either unsuitable or not critical to species' recovery in the Region; or
      c) Existing land uses create a natural or developed barrier to the use of the buffer by species of concern.
      d) Avoidance of disturbance to species of concern can be achieved through adherence to commonly accepted, species-specific timing restrictions including but not limited limitations on the timing of tree clearing, site disturbance and project development.
D. No disturbance is permitted in any New Jersey Department of Environmental Protection Natural Heritage Priority Site.

VIII: Steep Slopes

A. Severely Constrained and Moderately Constrained Slopes as defined herein shall be calculated at the time of application submission and are hereby made a mandatory submission item for any application that falls under the applicability thresholds of this ordinance.
B. Disturbance of Severely Constrained and Moderately Constrained Slopes is prohibited, with the exception of that required in connection with a linear development. Such linear development, however, shall be permitted only in the event that there is no feasible alternative for such development outside of the Severely Constrained or Moderately Constrained Slopes.
C. To address the "no feasible alternative for linear development" standard, the applicant shall demonstrate that there is no other location, design or configuration for the proposed linear development that would reduce or eliminate the disturbance of Severely Constrained or Moderately Constrained Slopes. For proposed linear development that would provide access to an otherwise developable lot, the applicant shall in addition, show that:
    1. The proposed linear development is the only point of access for roadways or utilities to an otherwise developable lot; and
    2. Shared driveways are used to the maximum extent possible to access multiple lots.
    3. An alternative shall not be excluded from consideration under this subsection merely because it includes or requires an area not owned by the applicant that could reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed linear development.
D. The reviewing municipal authority shall not approve any application pursuant to this subsection if, after review of the information submitted to support an approval, it finds that there is a reasonable alternative to the proposed linear development.

IX: Prime Groundwater Recharge Areas

A. Disturbance of Prime Ground Water Recharge Area (PGWRA), as shown in Exhibit 7, [or Municipally Important Groundwater Recharge Area (MIGWRA)] by any regulated development is prohibited and shall be permitted only upon a finding by the reviewing board that the proposal complies with the provisions of this subsection.
B. Development shall not occur in PGWRA [MIGWRA] unless either, the entirety of the subject property is located within a Prime Ground Water Recharge Area and thus cannot be avoided, or the disturbance represents the only viable alternate means to avoid Critical Habitat, Highlands Open Waters buffers, Vernal Pool Buffers, Moderately Constrained Steep Slopes, or Severely Constrained Steep Slopes, to the extent that these resources are also present upon the subject property.
C. Where total avoidance is not feasible, total recharge area disruption (i.e., alteration of natural recharge patterns or volumes) shall not exceed 15% of the PGWRA [MIGWRA] located within the affected parcels, placed where feasible on those parts of the PGWRA [MIGWRA] having the lowest relative recharge rates and the least potential for aquifer recharge based upon site analysis.
D. Low Impact Development practices shall be used in the design of the development proposal to reduce total recharge disruption to the minimum feasible, within the 15% cap.
E. Any development application involving disturbance of a PGWRA [MIGWRA] shall be accompanied by a mitigation plan, providing for an equivalent of 125% of pre-construction recharge volumes for that portion of the PGWRA [MIGWRA] that will be disturbed. The recharge mitigation shall occur within the following areas, in order of priority: (1) the same development site to the maximum extent feasible; (2) the same HUC14 subwatershed; or (3) where no feasible option exists in the same HUC14 subwatershed, an interrelated HUC14 subwatershed approved by the Highlands Council.

X: Highlands Special Environmental Zone [review for applicability]

A. Development in Highlands Special Environmental Zone as shown in Exhibit 8 is prohibited unless prior approval from the Highlands Council has been received.

XI: Septic Density

A. Nothing herein shall be deemed to apply to the replacement or repair of an existing septic system.
B. Preservation Area. Development proposals involving new or increased demand for septic system capacity in the Preservation Area shall be regulated in accordance with NJDEP Highlands Area Rules (N.J.A.C. 7:38).
C. Planning Area. All development proposing new or increased demand for septic system capacity in the Planning Area shall be regulated in accordance with this subsection. The following are gross septic density requirements and shall not modify any minimum lot size requirements contained in the TOWN land development ordinance. Every development shall provide for a minimum acreage for each dwelling unit (or equivalent) as noted below.
    1. Septic System Density Allowances. Septic system density (gross acres per septic system) shall not exceed the following allowances, for each Highlands Zone:
        a) Existing Community Zone: X acres/septic system
        b) Conservation Zone: X acres/septic system
        c) Protection Zone: X acres/septic system
    2. These allowances indicate the minimum acreage required per septic system, where that system is designed for a one-family household generating a maximum flow of 300 gallons of wastewater per day. The resulting acreage shall be applied as the minimum average acreage necessary to support every 300 gallons of daily wastewater flow generated by any proposed use where the unit/square footage figures below shall be applied as 300 gallon-per-day equivalents.
    3. Equivalent Yields. The following unit/square footage figures shall be applied as 300 gallon-per-day equivalents:
        a) Residential Uses (All Types, except as provided below) – 1 dwelling unit
        b) Deed-Restricted Senior Citizen Residential Units, or Mobile Home Parks with dwelling units less than 500 square feet in size – 1.5 dwelling units
        c) Office and Commercial Uses – 2,400 square feet of floor area
        d) Industrial (Including Warehousing/Distribution) Uses – 18,182 square feet of floor area (Excluding Process Wastewater Flow)
        e) Specific Non-Residential Uses by Facility Type – In lieu of iii., or iv., above, 300 gallon-per-day equivalents may be computed based on the average sewage volumes provided in N.J.A.C. 7:9A-7.4.]

XII: New or Extended Water and Wastewater Infrastructure

A. **Preservation Area.** New, expanded or extended public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater treatment facilities are prohibited unless approved by the NJDEP in accordance with the issuance of either a Highlands Applicability Determination or a municipally issued exemption indicating that a project is exempt from the Highlands Act, or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.
B. ***Planning Area – Protection Zone, Conservation Zone, and Environmentally-Constrained Sub-Zones.*** New, expanded or extended public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater treatment facilities are prohibited unless approved through a waiver to address a documented threat to public health and safety, for a Highlands Redevelopment Area or Takings Waiver (RMP Policies 7G1 and 7G2) or to serve a cluster development that meets the requirements of RMP Objective 2J4b.

C. ***Planning Area – Existing Community Zone*** *(excluding Environmentally-Constrained Sub-Zone)* ***and Lake Community Sub-Zone.*** Expansion or creation of public water supply systems, public wastewater collection and treatment systems, and community on-site wastewater treatment facilities are permitted: to serve lands which are appropriate for designated TDR Receiving Zones, infill development, or redevelopment; to address public health and safety; or to serve new areas for development.

XIII: Net Water Availability

A. Water Conservation Requirements. All development proposals shall incorporate, as applicable, the following water conservation measures to promote sound resource use, reduce supply deficits, and reduce the need for additional utility infrastructure:
   1. No irrigation systems should be utilized. Where required, they must provide automatic controls based on rain sensors (or soil moisture) for all new and replacement lawn irrigation systems, as required by the electrical subcode at N.J.A.C. 5:23-3.16;
   2. Design all non-potable irrigation water uses to ensure that only the necessary amounts of water are used to achieve optimum plant growth, to the maximum extent practicable;
   3. Provide for internal recycling or beneficial reuse of reclaimed water in new commercial development projects, to the maximum extent practicable;
   4. Rely on stormwater for irrigation purposes to the maximum extent practicable, including but not limited to methods recommended by the U.S. Green Building Council through its Leadership in Energy and Environmental Design (LEED) program;
   5. Reduce water losses to the maximum extent practicable, in the rehabilitation of on-site water supply utility infrastructure, through such means as application of American Water Works Association/International Water Association water loss analysis methods (AWWA Manual M-36 or most recent version).

B. The following shall apply for any development application proposing a new or increased use of potable or non-potable water averaging 6,000 gallons per day or more, derived from: a) any groundwater source in a Highlands Area HUC14 subwatershed, whether through a public community or non-community water supply system well, a non-public well, or an individual private well; or b) any surface water source in a Highlands Area HUC14 subwatershed that is not associated with a safe yield determined by the NJDEP through a water allocation permit.
   1. Where a Highlands Council-approved Water Use and Conservation Management Plan has been adopted, any development application involving the use of water derived from a subwatershed(s) with a deficit net water availability as shown in the Exhibit 4 shall be regulated fully in accordance with the requirements of such Plan.
   2. Absence of Water Use and Conservation Management Plan: No application shall be deemed complete or considered for review by the applicable Board until or unless the Highlands Council has determined that the proposed water use will not exceed the remaining Net Water Availability for the source HUC14 subwatershed(s).

XIV. Forest Resources

A. All portions of the Highlands Area identified as Forest Area are found in Exhibit 5.
B. Any disturbance of more than ¼ acre within the Total Forest Area shall be permitted only upon a finding by the reviewing board that the following requirements have been satisfactorily addressed:
   1. Demonstration that the proposed disturbance can neither be avoided nor reduced in extent, while adequately providing for a proposed use that otherwise addresses the requirements of this Ordinance;
   2. Incorporation of Low Impact Development techniques appropriate to the activity or development project proposed;
   3. For any proposed disturbance of one half (½) acre or more, other than that associated with the maintenance of a legally pre-existing use or structure (expressly excluding the expansion of any such

use or structure), submission, approval and implementation of a Forest Mitigation Plan designed to minimize the extent of such disturbance, protect forest areas adjacent or proximate to the disturbance area, and mitigate for loss of trees or other forest vegetation removed during the course of such disturbance; and

4. Notwithstanding the preceding provisions, in the case of any proposed disturbance that by definition constitutes deforestation; submission, approval and implementation of a Forest Mitigation Plan designed to minimize the extent of deforestation, protect forest areas to remain, and restore or mitigate for forest area loss.

C. Forest Impact Report Required. Where disturbance of 1 acre or more of Forest Area as shown on Exhibit 5 is proposed, a Forest Impact Report shall be prepared including the following:
   a) A map of Forest Area located on or within 500 feet of the subject property, as provided in Exhibit 5.
   b) A map indicating any Forest Area to be disturbed.
   c) A determination of whether the disturbance area qualifies as a Forest under the NJDEP Highlands Area Rules, at N.J.A.C. 7:38-3.9(c). This shall be the Confirmed Forest area.
   d) An analysis of the effects (direct and indirect) of the disturbance upon the Confirmed Forest Area.
   e) All Forest Impact Reports must be prepared by a State of New Jersey Approved Forester or other qualified professional.

D. Forest Mitigation Plan. Where the Forest Impact Report confirms that disturbance of 1 acre or more of Confirmed Forest Area will occur, a Forest Mitigation Plan shall be prepared in accordance with the following.
   a) All Forest Mitigation Plans must be prepared by a State of New Jersey Approved Forester or other qualified professional. A Forest Mitigation Plan must include each of the components listed herein.
   b) Mitigation Priority Area Map. Priority Areas are forested locations within the site having the highest ecological value to be targeted for conservation, restoration, or mitigation, including such areas as:
      (i) Highlands Open Waters and Buffers
      (ii) Riparian Areas, including Floodplains and Flood prone Areas
      (iii) Critical Habitat
      (iv) Steep Slopes and Ridgelines
      (v) Core Forests and Contiguous Forest Patches
   c) Forest Protection Plan. A plan incorporating pre-construction and construction best management practices to ensure the well-being of forest areas adjacent or proximate to the disturbance area.
   d) Mitigation Description.
      (i) A description of the proposed forest restoration, tree planting plan or other mitigation initiative proposed to provide equivalent or enhanced forest ecosystem benefit in consideration of the extent and type of disturbance or deforestation that would result if the use or activity is approved.
      (ii) Planting Plan indicating the specific plantings proposed, including size, species, quantity, location, separation distances, planting details, deer and pest management protections, and maintenance plans.
      (iii) Maintenance Agreement. A minimum 5-year maintenance agreement that outlines care-taking responsibilities of the applicant once the proposed planting has been completed. The maintenance agreement must include monitoring of newly planted stands, provide for protection devices in working order for 5 years, and ensure a survival rate of 70% in year 1, 75% in year 2, 80% in year 3, and 85% in years 4 & 5, plus each year <10% invasive or noxious species.

XVI. Affordable Housing

A. In accordance with the requirements of the Fair Housing Act, any development consisting of newly constructed residential units shall reserve for occupancy at least 20 percent (20%) of the residential units constructed for low-or moderate-income households.
B. Development exempt from the Highlands Act is not exempt from the 20% reservation requirement.
C. [*for partially conforming towns only* Development outside of the designated Highlands Area must also comply with the provisions of this section.]
D. A minimum of 13% of the total units residential units reserved for low- or moderate-income households should be designated for very low-income households pursuant to section 7 of P.L.2008, c.46 (C.52:27D-329.1).
E. No density bonus or presumptive density increase over existing zoning shall be required to be granted by the municipality for the construction of the affordable housing units on site. Density bonuses or presumptive density increases may be provided through Fair Share Plans and associated implementing ordinances to address affordable housing needs of the municipality where inclusionary housing projects are selected as a compliance mechanism by the municipality.
F. Municipalities shall provide for the local review of any proposed affordable units provided by requiring the submission of an Affordable Housing Production Plan in accordance with the following:
    1. An Affordable Housing Production Plan detailing all issues related to the affordable units shall be submitted to the municipality's Development Review Board at the time application is made for any development requiring affordable housing pursuant to this ordinance.
    2. The Affordable Housing Production Plan shall be a condition of the completeness determination and is hereby added to the submission requirements checklist for any new residential development or major residential subdivision.
    3. The Affordable Housing Production Plan shall include at a minimum the anticipated bedroom distribution, income split, anticipated administrative entity, tenure, estimated rent or sales prices, maintenance obligations and any other information pertinent to the creation and long-term support of the affordable housing units.
    4. The Affordable Housing Production Plan shall include a phasing plan detailing the proposed time frames for the construction and occupation of the affordable housing units.
    5. All Affordable Housing Production Plans shall be the subject of review by the municipality's Planning or Land Use Board for consistency with these guidelines, the RMP, and the municipalities certified Housing Element and Fair Share Plan.
    6. Compliance with the RMP, the Fair Housing Act and the Affordable Housing Production Plan shall be a condition of any local approval.
G. Any approval shall be accompanied by a development agreement between the applicant, the municipality, and any other party principal to the provision and/or the administration of the affordable housing units.
    1. The development agreement shall detail the responsibilities of all parties and shall include the phasing plan for the construction and occupancy of the affordable housing units.
    2. The cost of the construction of the units may be required to be covered by appropriate performance and/or maintenance guarantees to ensure the construction of the units.
H. Optional: *Where it has been determined that the provision of some or all affordable housing units on-site would not be consistent with the RMP (i.e., regarding septic system density or resource protection), the units may be provided off-site within the municipality wherever feasible.*

XVI. Waivers and Exceptions

In addition to any variance relief required under the Municipal Land Use Law, relief from sections V. (Prohibited Uses), XI. (Septic Density) and XII. (New or Extended Water and Wastewater Infrastructure) of this Ordinance shall require issuance of a Highlands Act waiver. Highlands Act waivers may be issued only by the NJDEP or the Highlands Council in accordance with the respective rules and criteria established by each agency in accordance with the provisions of the NJDEP Highlands Area Rules, the Highlands Act and the

Highlands Regional Master Plan. The issuance of a Highlands Act Waiver shall in no case be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

[PRESERATION AREA ONLY] Where the Highlands Council and the NJDEP have approved a waiver for a development project in the Preservation Area, the standards of any such approved waiver may be utilized by the municipality in the review of the project, in lieu of the standards found herein.

XVII. Definitions

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Application for Development – means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

Critical Wildlife Habitat - means within the Planning Area, Critical Wildlife Habitat consists of those areas within NJDEP's Landscape Project Version 3.3 (or more recent version as amended) that are Landscape Rank 3 through 5. In addition, it includes areas that are designated Landscape Rank 2 and have a Highlands Conservation Rank of Critically Significant or Significant. Within the Preservation Area, Critical Wildlife Habitat consists of those areas within Landscape Rank 2 through 5, including all Highlands Conservation Ranks. Parcel level mapping may be found on the Highlands Council's interactive map available through the Highlands Council website.

Development – means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the MLUL.

Disturbance – means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Disturbance, Ultimate – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

Forest – means a biological community as determined by the method set forth under the NJDEP Highlands Rules, at N.J.A.C. 7:38-3.9.

Highlands Council – means the New Jersey Highlands Water Protection and Planning Council**.**

Highlands Act – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 *et seq.*

Highlands Applicability Determination (HAD) – means the determination made by the NJDEP of whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan.

Highlands Area – means that portion of the municipality for which the land use planning and regulation are, or are intended or proposed to be, in conformance with the Highlands Regional Master Plan.

Highlands Open Waters – means all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but not including swimming pools. Highlands Open Waters include seeps, lakes, ponds, and vernal pools; all categories (including springs, streams, and wetlands) as described and identified in Figure XX or subsequently identified or modified by a Letter of Interpretation issued by the New Jersey Department of Environmental Protection.

Highlands Region – means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

Highlands Resource Area Determination (HRAD) – means a formal determination issued by the NJDEP that confirms the presence or absence of a Highlands Resource Area on a site, and if present, its location and applicable boundary lines. A person may apply for an HRAD only, or in connection with an application for an HPAA.

Highlands Special Environmental Zone - means those areas as designated as Special Environmental Zone in the Regional Master Plan. Special Environmental Zones are only located in the Preservation Area.

Impervious Surface – means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Impervious Surfaces, Cumulative – means the total area of all existing or proposed impervious surfaces situated or proposed to be situated within the boundary lines of a lot, parcel, or other legally recognized subdivision of land, expressed either as a measure of land area such as acreage, or square feet, or as a percentage of the total lot or parcel area.

Major Potential Contaminant Sources (PCS) – means **l**and uses and activities determined by the Highlands Council to pose a major risk of ground water contamination (see Appendix A).

Minor Potential Contaminant Sources (PCS) – means land uses and activities determined by the Highlands Council to pose a minor risk of ground water contamination (see APPENDIX B).

Municipal Land Use Law (MLUL) – means the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Natural Heritage Priority Site - means any of the 95 NJDEP Natural Heritage Priority Sites, including habitat for documented threatened and endangered plant species, and lands that include unique or regionally significant ecological communities and other significant natural sites and features.

NJDEP – means the New Jersey Department of Environmental Protection

NJDEP Highlands Area Rules – means the regulations established by the NJDEP to implement requirements of the Highlands Act, titled "Highlands Water Protection and Planning Act Rules," and codified at N.J.A.C. 7:38-1 et seq.

Planning Area – means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

Plan Conformance – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Procedures.

Preservation Area – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

Prime Ground Water Recharge - means those lands designated in the Regional Master Plan as being within a HUC14 subwatershed that most efficiently provide, in the aggregate, 40 percent of total drought recharge volume for the HUC14 subwatershed.

Qualified Environmental Professional - means someone who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions.

Regional Master Plan (RMP) – means the Highlands Regional Master Plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

Residential Development – means development dedicated to the creation of new dwelling units or the improvement or expansion of existing dwelling units, whether by new construction or conversion of existing building areas or portions thereof, to dwelling use, including any type of residential structure whether a single-family home (including group home), duplex, townhouse, apartment or any other form of multi-family housing construction. For purposes of this ordinance, residential development shall include property improvements associated with and either, required in support of or customarily accessory to, the residential use, including but not limited to porches, patios, decks, driveways, garages, storage sheds, swimming pools, tennis courts, drywells, utility facilities, septic systems, yard grading and retaining walls.

Riparian Area - means areas adjacent to and hydrologically interconnected with Highlands Open Waters rivers and streams consisting of flood prone areas, wetlands, soils that are hydric, alluvial, or have a shallow depth to ground water, and including wildlife passage corridors within 300 feet of surface Highlands Open Waters features.

Slopes, Moderately Constrained – means all forested non-Riparian Area lands having a slope of 15% to less than 20%.

Slopes, Severely Constrained – means all lands having slopes of 20% or greater and all lands within Riparian Areas having slopes of 10% and greater.

Structure – means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

Vernal Pool - means a NJDEP-certified vernal pool plus a 300-meter-wide protection buffer surrounding the perimeter of each such pool. Vernal Pools consist of confined, ephemeral wet depressions that support distinctive, and often endangered, species that are specially adapted to periodic extremes in water pool levels.

Appendix A: MAJOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Major Potential Contaminant Sources include those listed below.

1. Underground fuel and chemical storage and oil tanks regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.).
2. Above-ground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
3. Automotive service center (repair & maintenance).
4. Dry cleaning processing facility.
5. Road salt storage facility.
6. Cemetery.
7. Highway maintenance yard.
8. Truck, bus, locomotive maintenance yard.
9. Site for storage and maintenance of heavy construction equipment and materials.
10. Site for storage and maintenance of equipment and materials for landscaping, excluding household storage and maintenance of such equipment.
11. Livestock operation containing 300 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] as defined by the NJ Department of Agriculture in its Criteria and Standards for Animal Waste Management, at NJAC 2:91.
12. Quarrying and/or mining facility.
13. Asphalt and/or concrete manufacturing facility.
14. Junkyard/auto recycling and scrap metal facility.
15. Residential or agricultural motor fuel in NJDEP exempted underground storage tanks (i.e., under 1,000 gallons).

Appendix B: MINOR POTENTIAL CONTAMINANT SOURCES

Land uses and activities determined by the Highlands Council (based on New Jersey Safe Drinking Water Act regulations at N.J.A.C. 7:10 and NJDEP regulations) to be Minor Potential Contaminant Sources include the following:

1. Underground storage of hazardous substances or waste of less than 50 gallons.
2. Underground heating oil storage tank with a capacity of less than 2,000 gallons.
3. Sewage treatment facility regulated by a NJPDES permit granted under NJAC 7:14A.
4. Industrial waste line.
5. Septic system disposal field.
6. Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C 7:14A et seq.
7. Stormwater retention-recharge basin on an industrial property receiving runoff from surfaces other than roof areas.
8. Dry well on an industrial property receiving runoff from surfaces other than roof areas.
9. Waste oil collection, storage and recycling facility.
10. Agricultural chemical bulk storage and mixing or loading facility including crop dusting facilities.
11. Above-ground storage of hazardous substances or waste in quantities of less than 2,000 gallons.
12. Livestock operation containing 8 or more Animal Units (AU) [1 AU= 1000 pounds of live animal weight] or those receiving 142 or more tons of animal waste per year as defined by the NJ Department of Agriculture pursuant to its Criteria and Standards for Animal Waste Management, at NJAC 2:91.

APPENDIX C

HIGHLANDS RESOURCE MAPS

Borough of Mount Arlington, Morris County

Exhibit 1: Highlands Area and Highlands Land Use Capability Zones

Mount Arlington Borough

Land Use Capability Zones
- Protection Zone
- Existing Community Zone

Land Use Capability Sub-Zones
- Wildlife Management Sub-Zone
- Existing Community - Environmentally Constrained Sub-Zone
- Lake Community Sub-Zone

- Highlands Preservation Area
- Municipal Boundary
- Parcel Boundaries

Roads
- Interstates
- US Highways
- State Highways
- County Highways
- Interstate Ramps

N

0 0.25 0.5 1 Miles

Map Created: 5/21/2025

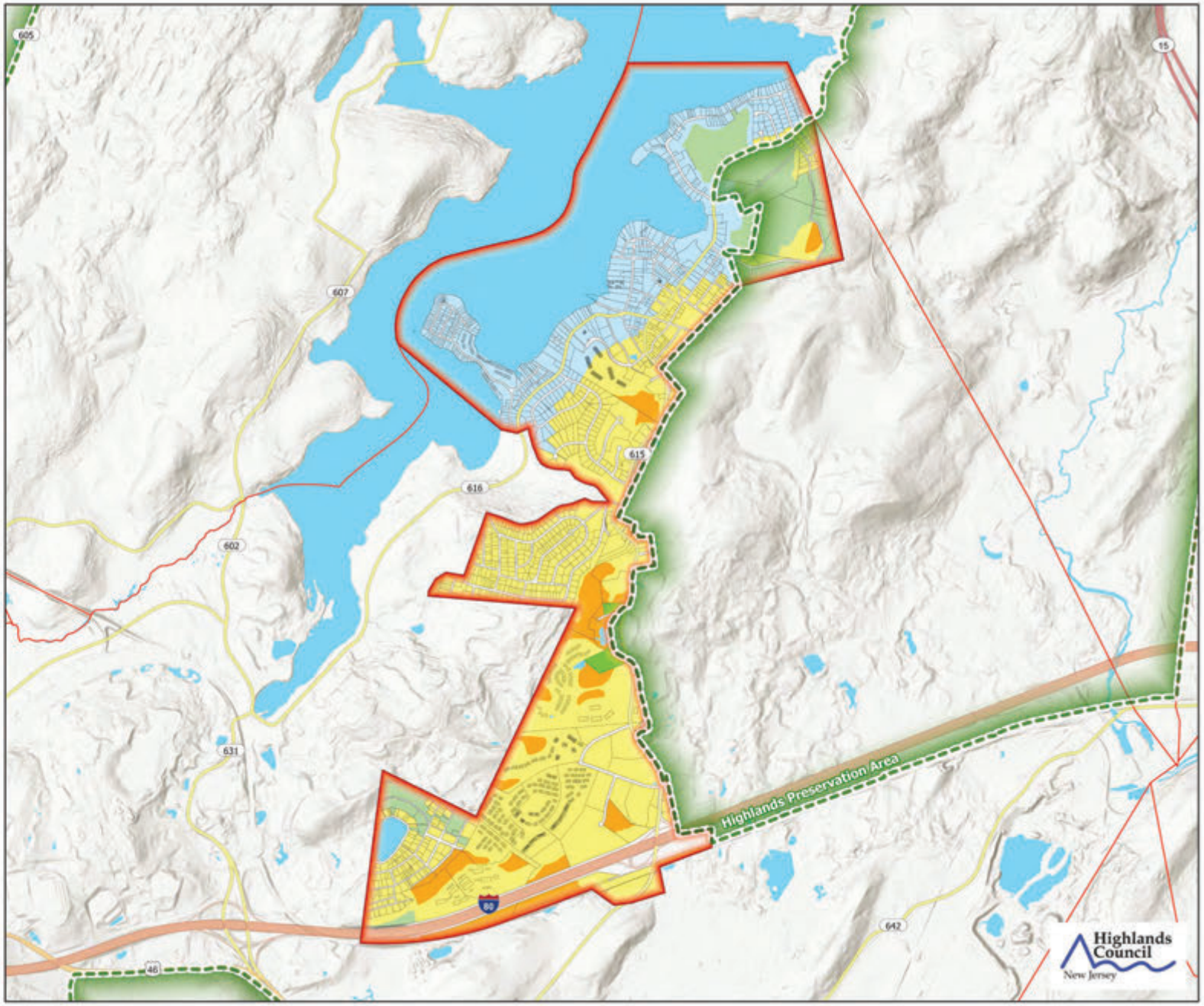

Exhibit 2:
Wellhead Protection Areas

Mount Arlington Borough

Wellhead Protection Areas
- Tier 1 (2 - Year)
- Tier 2 (5 - Year)
- Tier 3 (12 - Year)

Municipal Boundary

Highlands Preservation Area

Parcel Boundaries

Roads
- Interstates
- US Highways
- State Highways
- County Highways
- Interstate Ramps

N

0 0.25 0.5 1 Miles

Map Created: 5/21/2025

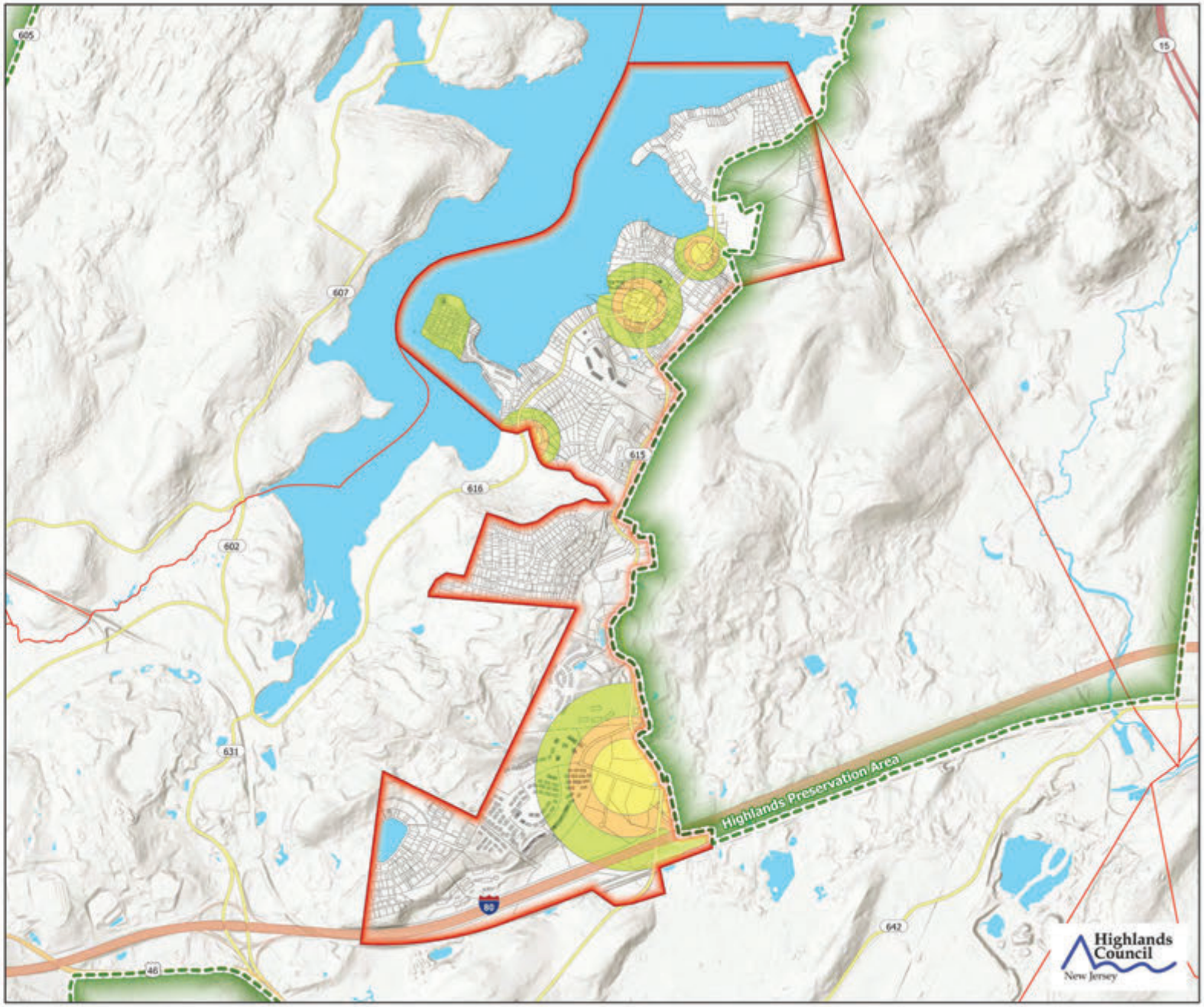

Exhibit 3:
Highlands Open Waters and Buffers

Mount Arlington Borough

- Streams
- Wetlands
- Hydrology
- Highlands Open Water Buffers (300ft)
- Municipal Boundary
- Highlands Preservation Area
- Parcel Boundaries

Roads

- Interstates
- US Highways
- State Highways
- County Highways
- Interstate Ramps

N

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Map Created: 5/22/2025

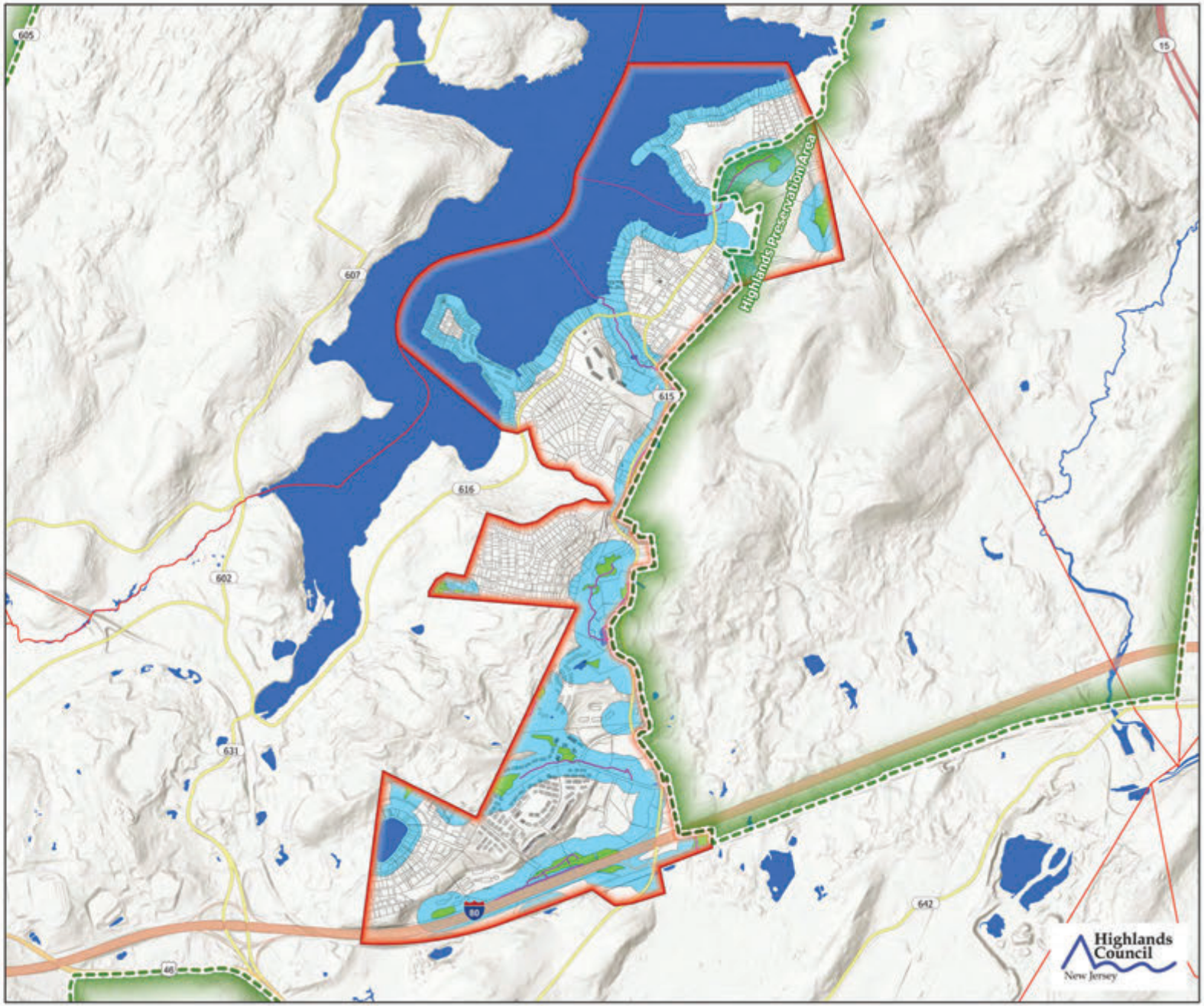

Exhibit 4:
Highlands Riparian Areas

Mount Arlington Borough

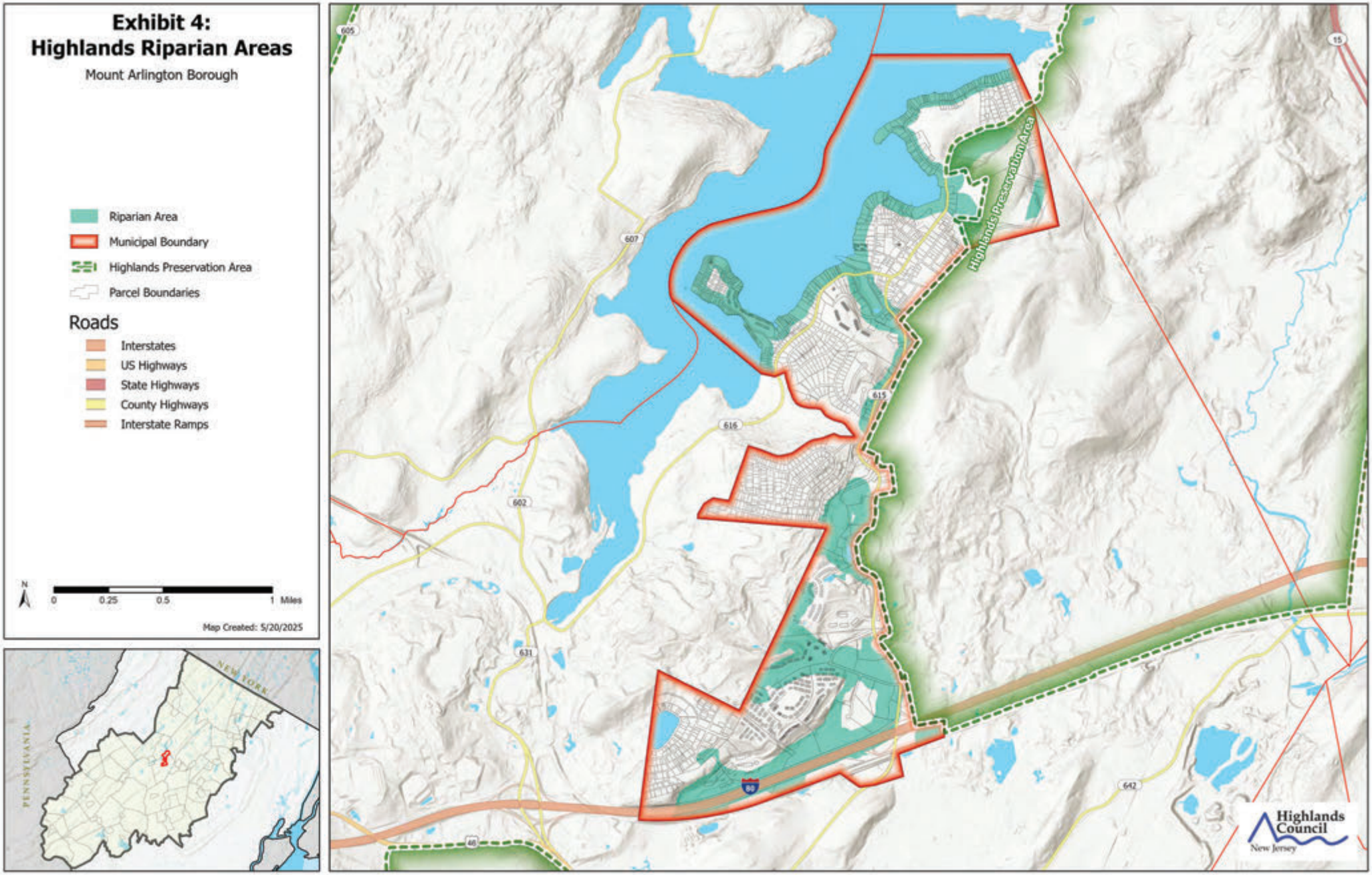

Exhibit 5:
Net Water Availability

Mount Arlington Borough

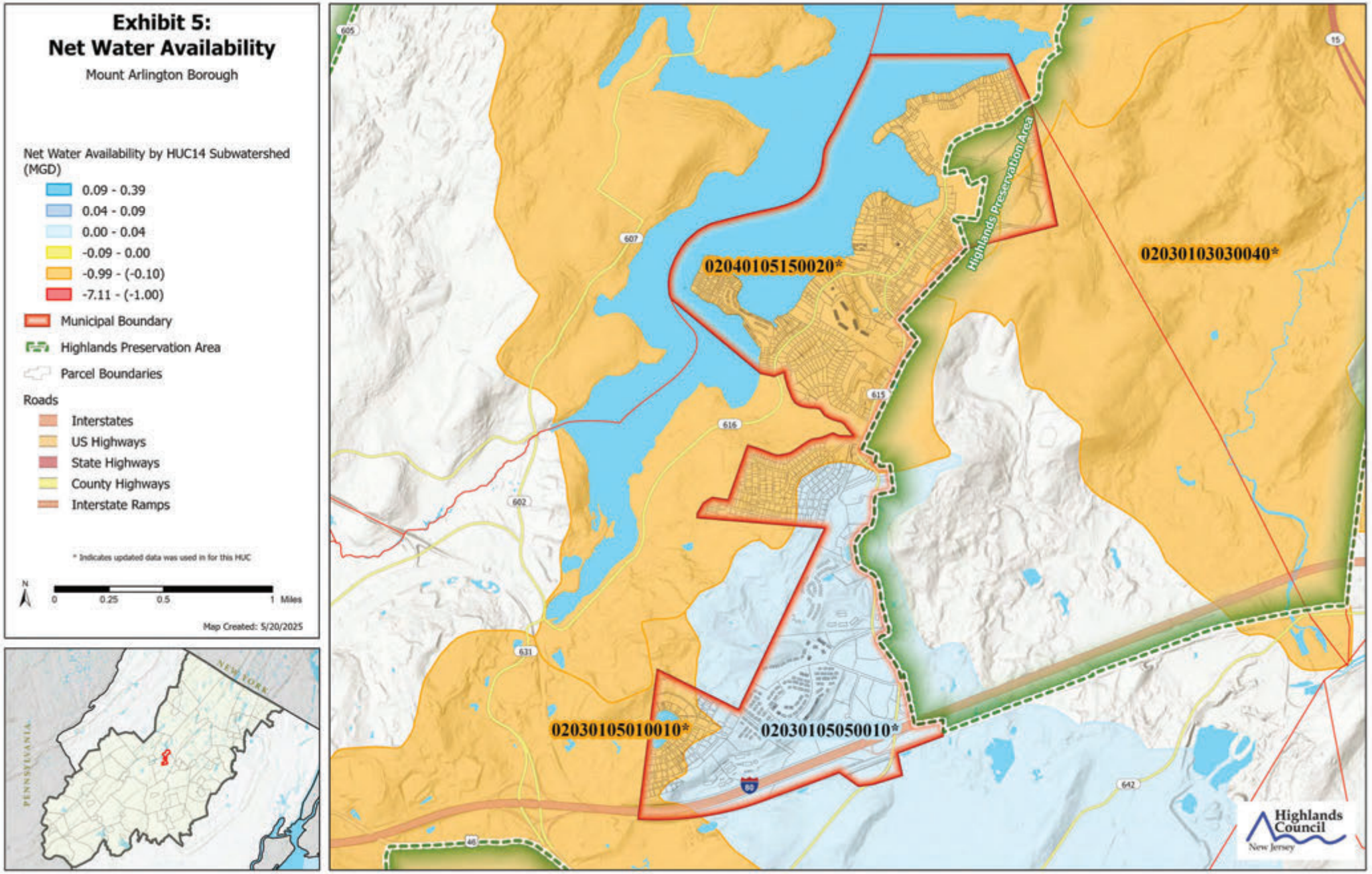

Exhibit 6:
Forest Area

Mount Arlington Borough

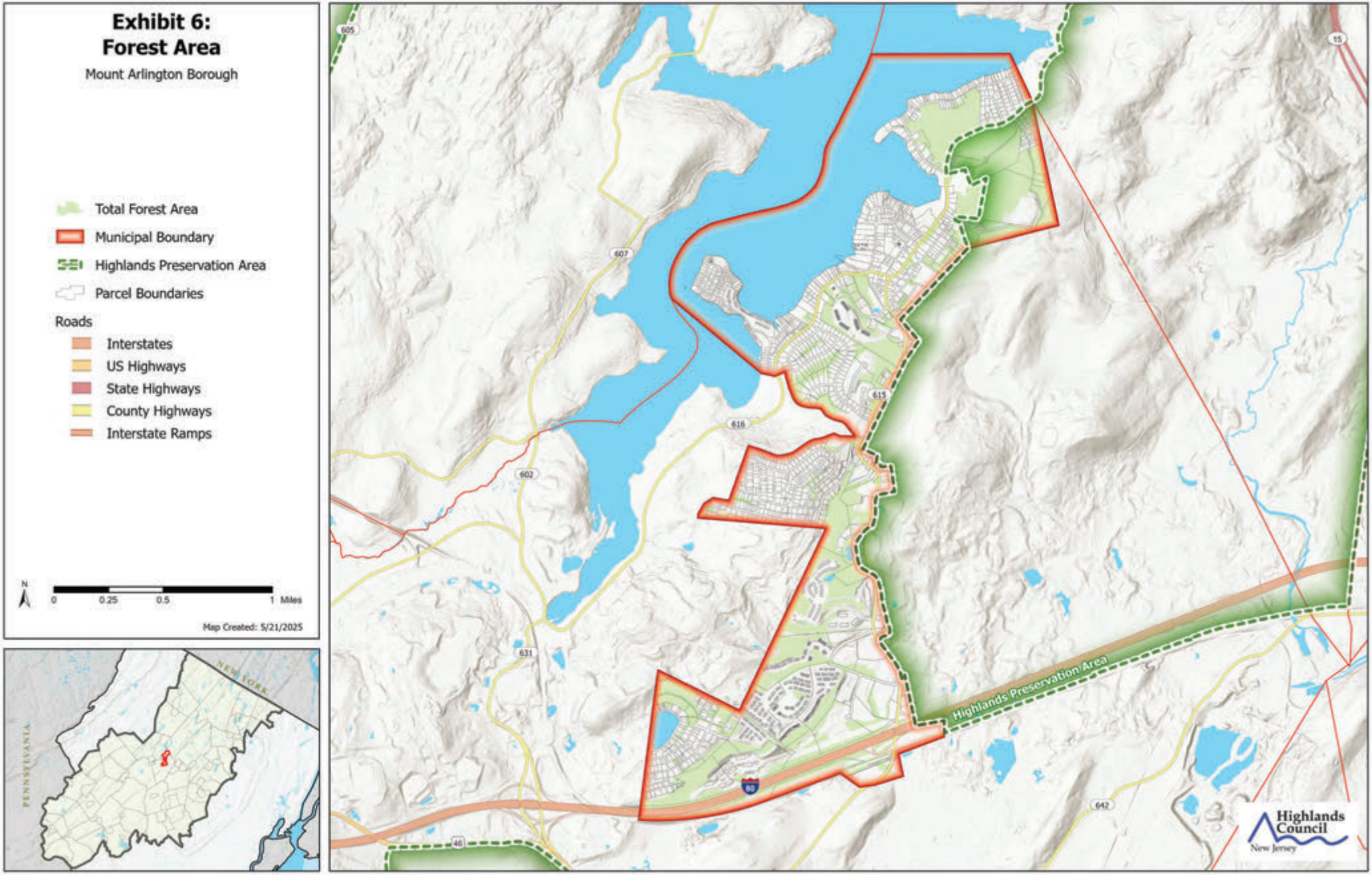

Exhibit 7:
Prime Groundwater Recharge Areas

Mount Arlington Borough

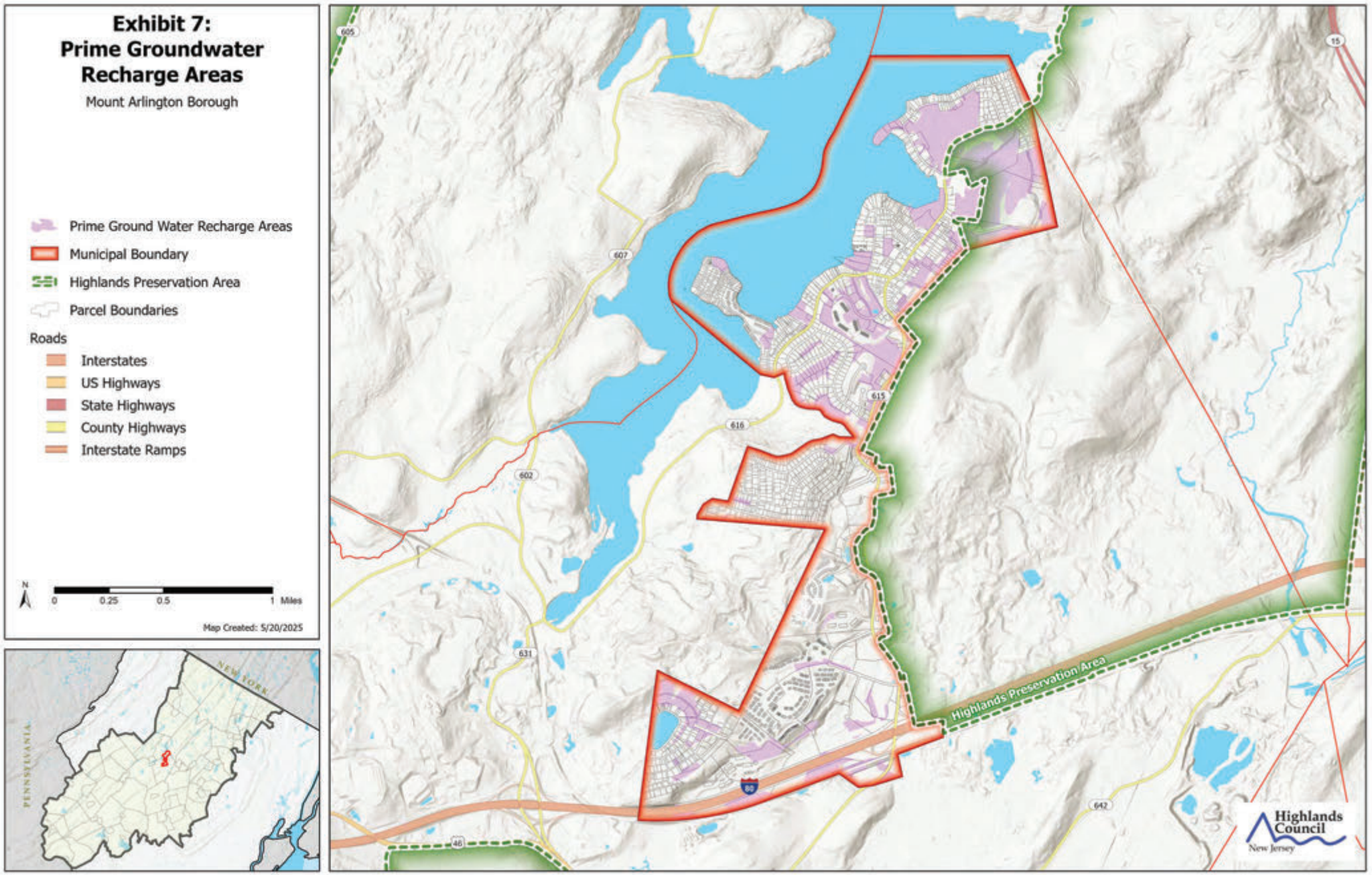

Exhibit 8:
Special Environmental Zone

Mount Arlington Borough

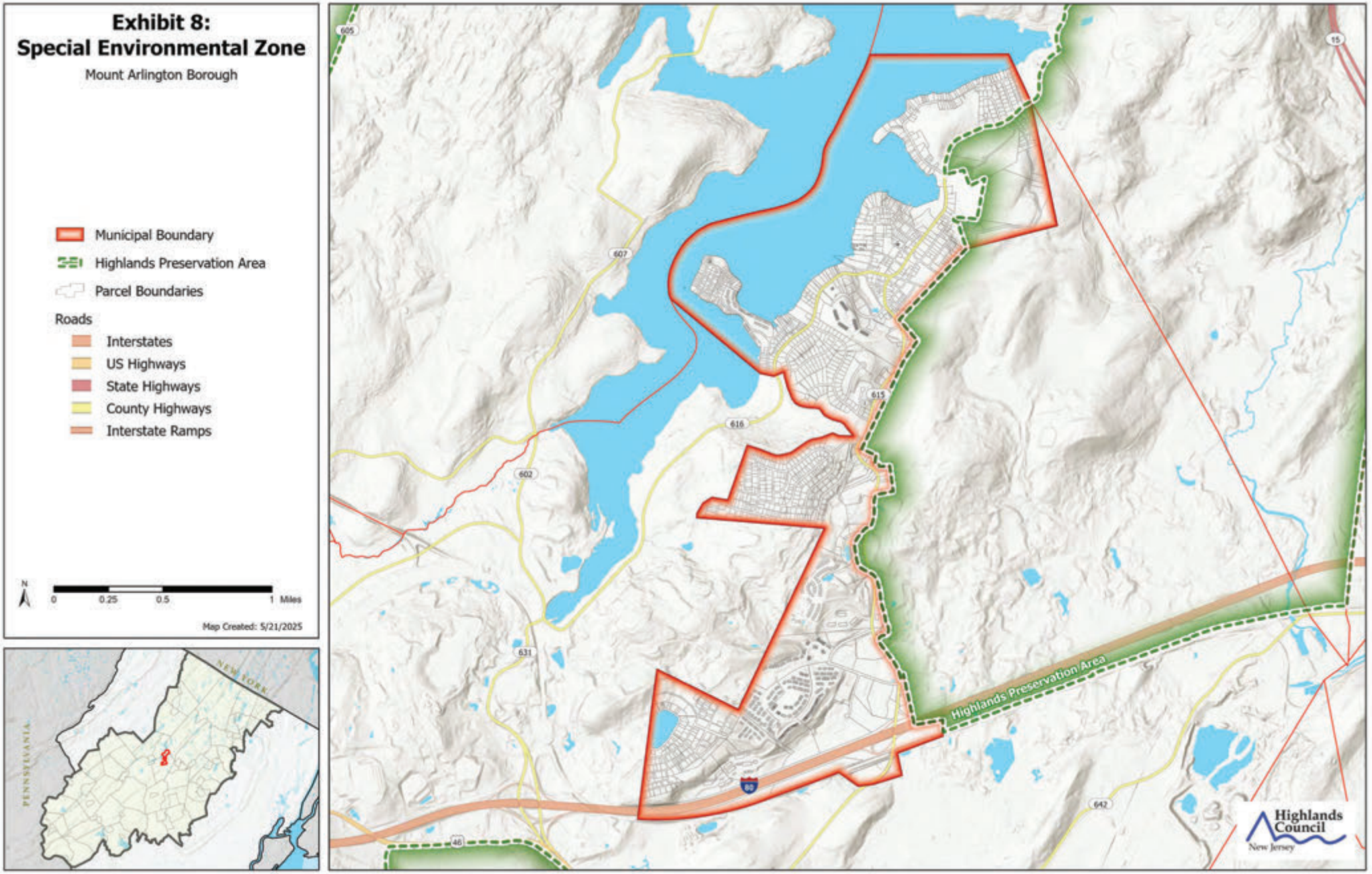

Exhibit 9:
Steep Slope Protection Areas

Mount Arlington Borough

Steep Slope Protection Area
- Moderate
- Severe

Municipal Boundary

Highlands Preservation Area

Parcel Boundaries

Roads
- Interstates
- US Highways
- State Highways
- County Highways
- Interstate Ramps

N

0 0.25 0.5 1 Miles

Map Created: 5/19/2025

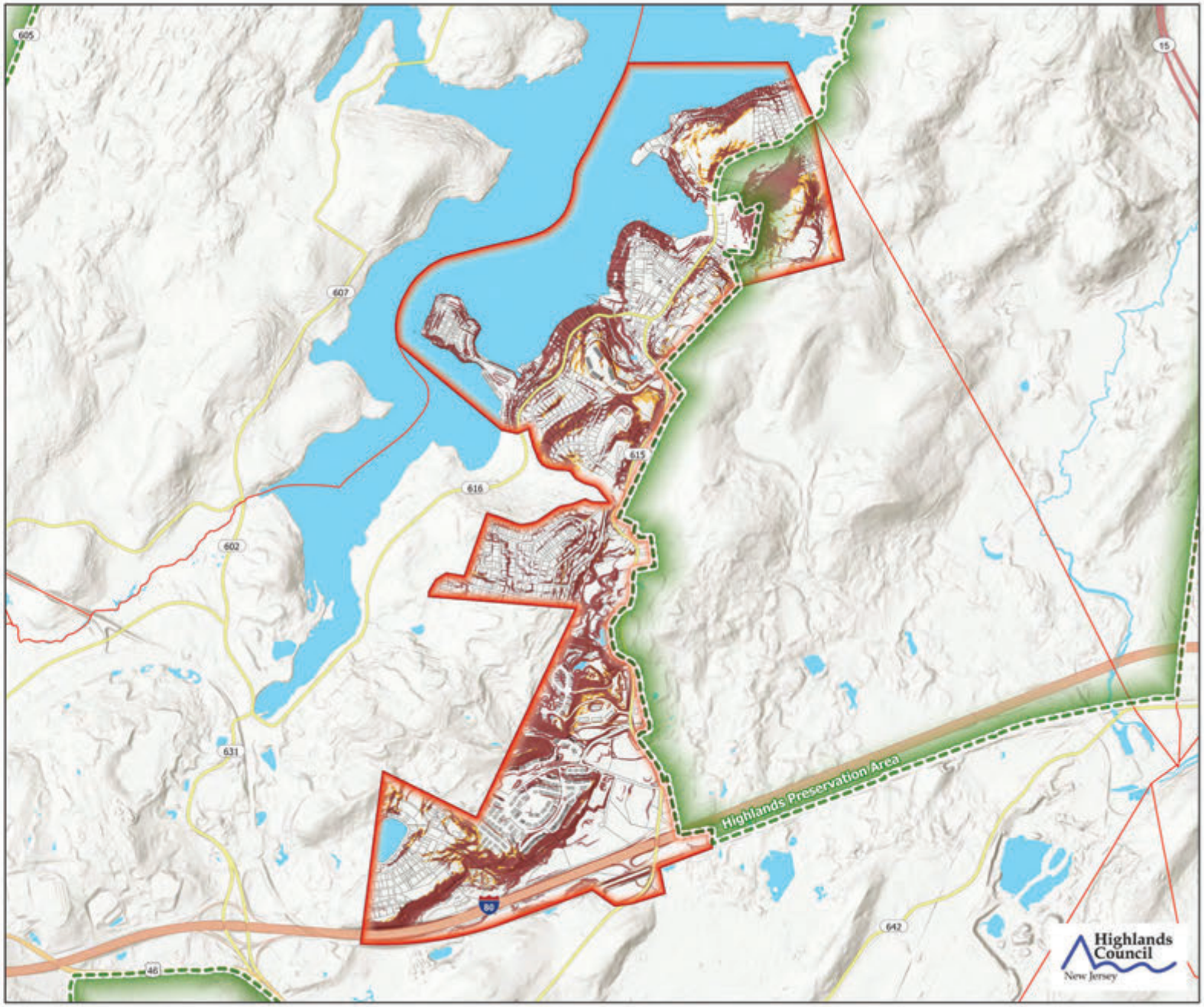

Exhibit 10: Critical Wildlife Habitat, Vernal Pools and NJDEP Natural Heritage Priority Sites

Mount Arlington Borough

- Confirmed Vernal Pool Buffer (1,000 ft)
- Critical Wildlife Habitat
- Municipal Boundary
- Highlands Preservation Area
- Parcel Boundaries

Roads

- Interstates
- US Highways
- State Highways
- County Highways
- Interstate Ramps

N

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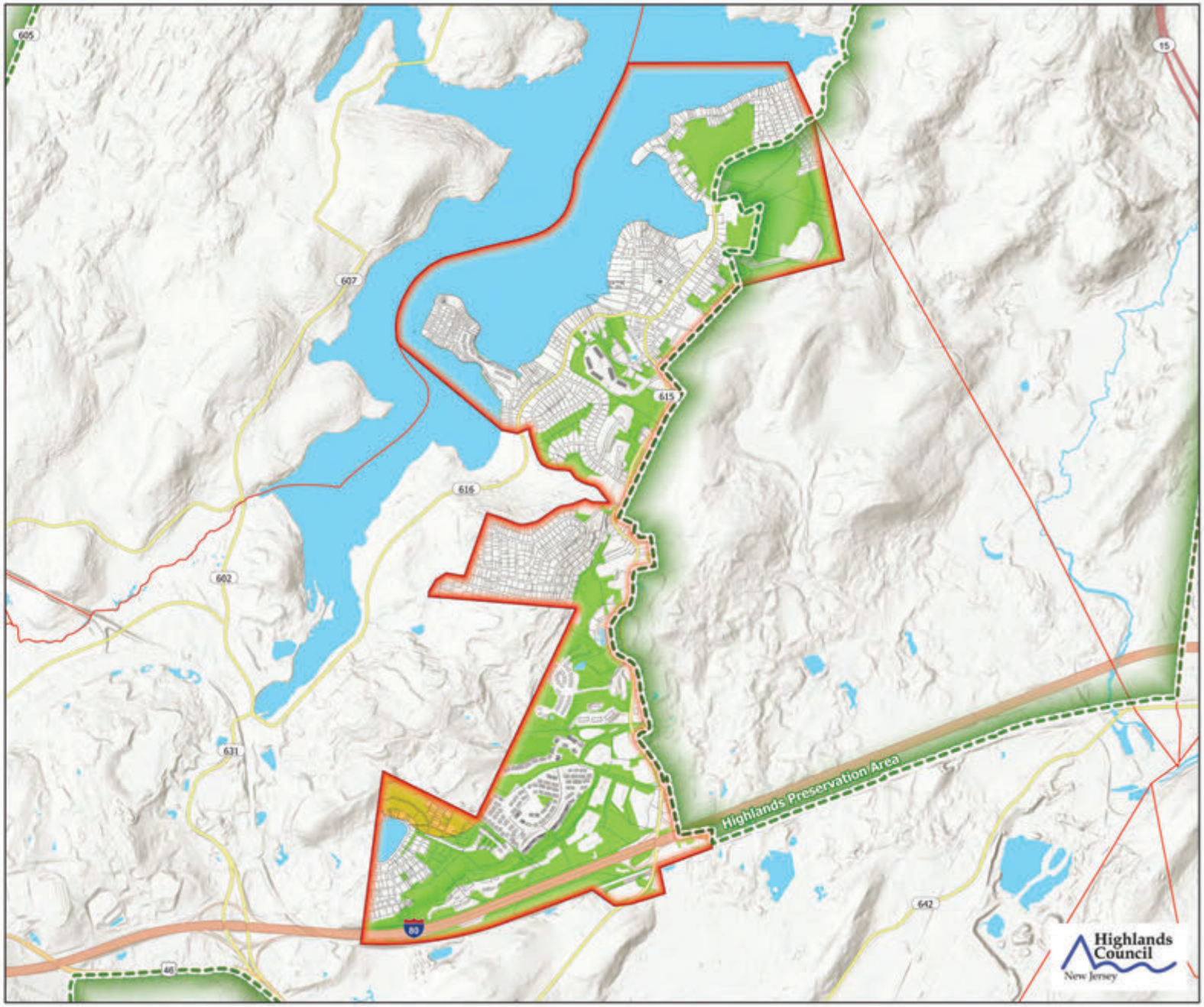
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