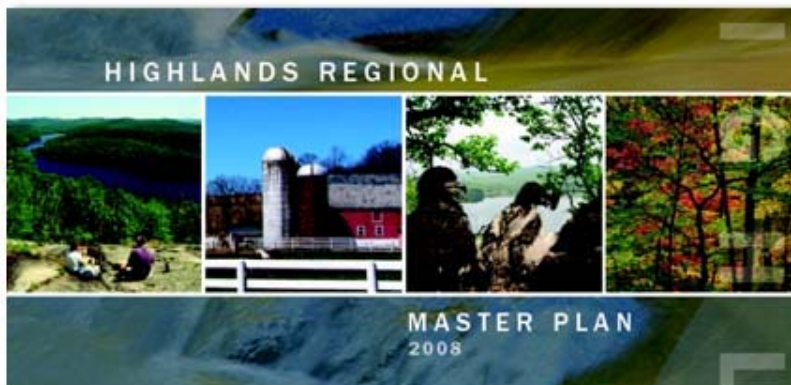
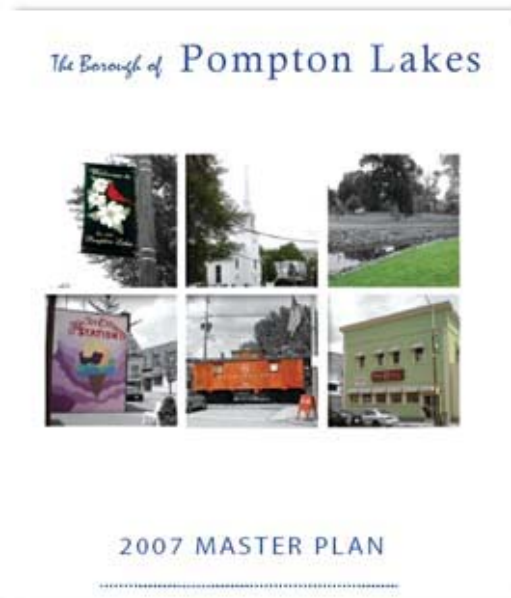


**BOROUGH OF POMPTON LAKES**  
**HIGHLANDS PLAN CONFORMANCE INITIAL ASSESSMENT**  
**GRANT REPORT**



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## EXECUTIVE SUMMARY

The 859,258 acre New Jersey Highlands Region is part of a larger, Federally delineated Highlands protection area. From this point forward, this assessment report focuses on the New Jersey Highlands as delineated in the NJ Highlands Water Protection and Planning Act (Act) (P.L. 2004, C. 120; N.J.S.A 13:20-1 et. seq.) and regulated under N.J.A.C. 7:38.

The Highlands is home to some of the State's greatest stock of natural resources, key to the success of the wider area in both the present and future. The region encompasses 88 municipalities in seven counties in northwestern New Jersey, including all of the Borough of Pompton Lakes. It is the source of much of the drinking water for densely populated northern New Jersey, so it is crucial that the natural mechanisms for accumulating and replenishing this water supply are preserved. The Highlands is also home to most of the unbroken forests, wildlife habitat, and open space in northern New Jersey.

In 2004, the state of New Jersey passed the Highlands Water Protection and Planning Act. This Act established the NJ Highlands Council and provided it with directives and funding to protect the area's critically important water resources through a land use planning and regulation approach. The NJ Legislature also delineated the boundaries of the "preservation" and "planning" areas within the Region.

In 2008, the Highlands Regional Master Plan (RMP) was written to articulate the goals of the Act and provide a framework for RMP conformance by municipalities. The RMP is based on an overall mission of natural resource protection with due regard to the distinctions between the preservation and planning areas. Conformance of local master plans and land use controls to the RMP is mandatory for any area within the preservation area. As a 100% planning area community, the Borough of Pompton Lakes is not required to achieve Highlands RMP conformance, and therefore the related RMP goals, policies and objectives are not binding for the Borough. Even so, Plan conformance is encouraged for all municipalities in the Highlands region whether or not it is binding for them.

The Borough of Pompton Lakes received a grant from the Highlands Council to undertake an Initial Assessment to review local planning and land use regulatory policies and identify the needed steps to achieve Highlands RMP conformance. This document reflects an analysis of the RMP and selects the best-fitting strategies for Pompton Lakes. It looks at the zoning code, Master Plan, and other Borough documents and compares them to the RMP. It identifies inconsistencies between the municipal documents and the RMP and specifies adjustments for the Borough to attain plan conformance. The initial Assessment concludes with an estimated cost to achieve plan conformance.

*The primary purpose of this activity is to inform the Borough's Governing Body of the implications of conformance with the RMP so that a well-considered local decision can be made regarding opting-in to RMP conformance or not. The Borough has the opportunity to continue its consideration of this decision until it reaches the point in the Plan Conformance process when a decision to submit a petition for Plan Conformance is due. Between the publication of this Assessment and the decision on the petition for Plan Conformance question, the Borough will have the opportunity to consider in detail the actual impact on its planning policies, land use regulations, and affordable housing requirements, each of which will be supported by a thorough evaluation of build-out potential and utility capacities. These post-Initial Assessment findings will be*

*presented for consideration through implementation of the Borough's second Highlands planning grant, the Plan Conformance Grant, which involves detailed analysis under the following Modules:*

- *Module 1 – Build-out Analysis and Local Conditions documentation*
- *Module 2 – Utility (water and wastewater only) Capacity Analysis*
- *Module 3 – Housing Plan*
- *Module 4 – Environmental Resources Inventory (ERI)*
- *Module 5 – Master Plan Amendments*
- *Module 6 – Land Use Ordinance Amendments*
- *Module 7 – Petition for Plan Conformance*

The output of each of the above modules must be submitted only in draft form (i.e. no local adoption needed before submission to the Highlands Council). Following the submittal of a petition for Plan Conformance, the Highlands Council is expected to provide a report on the Borough's petition and affirm Basic Plan Conformance with conditions for follow-up actions that will qualify the Borough for Full Plan Conformance, including actual preparation and adoption of local Master Plan and Land Use Ordinance amendments. As a planning area community, at the end of the above process, the Borough may still choose to opt-out of Plan Conformance. If the Borough chooses to opt-in, additional planning grants (funding now in-place) will be provided by the Highlands Council to complete the specific tasks.

The Borough of Pompton Lakes is among the easternmost municipalities located within the Highlands region. Because of its relative proximity to the urban areas of northeastern New Jersey and New York City, Pompton Lakes is relatively built-up relative to most other Highlands communities. Accordingly, a significant number of highlands recommendations are not useful or practical for Pompton Lakes. For example, Pompton Lakes does not contain any farmland, so the recommendations of the RMP for agriculture simply do not apply. Also, many of the recommendations of the Highlands RMP cannot be implemented because the impacted parcels are currently privately owned and already developed. Nonetheless, through re-use or redevelopment of individual sites, incremental movement toward greater RMP conformance can be achieved over time. Therefore, conforming local policies and regulations can still have a meaningful effect on Highlands resource protection, even for developed areas.

In the bigger picture, it is appropriate for each Highlands community to do its part in achieving optimal resource protection. However, this must be carefully balanced with the many other considerations, especially promotion of a sustainable tax base and the related preservation of the quality of life for the *human* resources in the Highlands region. Thus, if pursuit of RMP conformance is chosen, it should be with the understanding that the process will be likely to involve extensive dialogue and negotiation between the Borough of Pompton Lakes and the Highlands Council to achieve Plan Conformance while achieving an acceptable balance among competing interests.

### **Exemptions from Highlands Regulations**

Critically important to the assessment of potential conflicts between Pompton Lakes' policies and objectives and those of the Highlands are the exemptions contained in Appendix B, Highlands Act Exemptions and DEP Waivers and Appendix C, Single-Family Exemptions Abstract. These exemptions provide considerable latitude for ongoing use and enjoyment of single-family dwellings in existence as of the date of the Highlands Act (August 10, 2004). Of particular merit is the exemption for any improvement to an existing single-family dwelling. This valuable exemption will allow

additions, garages, sheds, pools, patio, deck, porch, driveway, etc. to be constructed with no Highlands limitations, if Pompton Lakes chooses to be a conforming municipality.

### Benefits of Plan Conformance

The benefits of Highlands RMP plan conformance include:

- Use of Highlands-affirmed development capacity numbers in the municipal housing element, which must be accepted without challenge by COAH for a conforming community.
- Eligibility for all benefits relative to NJ State Plan Endorsement (access to and priority consideration for grants, priority for State infrastructure funding, etc.)
- Eligibility for future Highlands planning grants
- High level of legal standing (presumption of validity) for local planning/regulatory program, plus legal defense support by the Highlands Council, for challenges to local plans, regulations and land use decisions that are based on Highlands regulations.

Please see Appendix D, Benefits of Plan Conformance, for a complete listing and description of all plan conformance benefits.

Finally, this Initial Assessment does not discuss in detail every one of the RMP's policies and objectives. Instead, it focuses on the goals and policies that are most central to the overall goals of the Highlands Act and most applicable to the issues of the Borough of Pompton Lakes. Some of the general categories covered by the RMP and this Initial Assessment are not directly related to resource protection but instead acknowledge the interdependence of issues in the Highlands Region. Issues such as transportation, economic development, and affordable housing are discussed for this reason.

### Findings

A summary of findings by RMP topic is provided herein in Appendix A, Initial Assessment Grant Report Addendum. The major findings are as follows:

In order to make its plans and regulations consistent with the RMP, the Borough will need to:

- Create an Environmental Resources Inventory
- Supplement the Borough's Master Plan to include the following *new* topics and their respective goals, policies and objectives:
  - Forest resources, Highlands open waters & riparian areas, water resources availability, septic densities, and sustainable economic development
- Revise the Borough's Master Plan and other planning documents under the following *existing* topic areas to make it consistent with the RMP:
  - Steep slopes, critical habitat, lake management, prime groundwater recharge, water quality, wellhead protection, stormwater management, water/wastewater utilities, low impact development, transportation, land preservation/stewardship, cluster development, and historic, cultural, archaeological resources
- Supplement the Borough's development regulations to include RMP-compatible regulations on the following *new* topics not currently regulated:

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- Forest resources, lake management, water resources availability, septic densities, and sustainable economic development
- Revise the following *existing* Borough development regulation topics to the extent needed for RMP conformance:
  - Highlands open waters & riparian areas, steep slopes, critical habitat, prime groundwater recharge, water quality, wellhead protection, stormwater management, water/wastewater utilities, low impact development, transportation, land preservation/stewardship, cluster development, and historic, cultural, archaeological resources

## HIGHLANDS PLAN DESIGNATIONS

The Highlands Regional Master Plan (RMP) divides the region several different ways in order to help lawmakers enact the plan's policies. This section provides some background information on these designations that guide local conformance, and introduces the organization of resource protection categories of the Highlands region and Pompton Lakes.

### ***THE PRESERVATION AND PLANNING AREAS***

The Highlands region is divided into a *Preservation Area* and a *Planning Area*. The Preservation Area encompasses 444,399 acres of the 859,258 acre Highlands region, occupying slightly more than half the area. Its boundary is specifically designated in N.J.S.A. 13:20-7b (Section 3). Municipalities in the Preservation Area are required to prepare and follow through on a comprehensive statement of policies describing how they will conform to the RMP. This involves adding the intent of Highlands RMP policy guidelines into municipal codes, implementing the terms of the RMP locally, and designating areas to permanently protect. The Highlands provisions may be put into the municipality's master plan, zoning code, or other ordinances. The Planning Area is designated simply as "the area not located in the Preservation Area," and encompasses slightly less than half of the Highlands Region. Highlands RMP conformance in the Planning Area is voluntary, but strongly encouraged by the Highlands Council.

The Borough of Pompton Lakes is located completely within the Planning Area, and therefore has the option to conform with the RMP. This Initial Assessment Report is the first step to assessing the obligations of achieving conformance. The Borough's northern boundary forms a border between the Planning Area and the Preservation Area. The adjacent municipalities of Wanaque, Oakland, Bloomingdale, and Pequannock have significant areas within the Preservation Area.

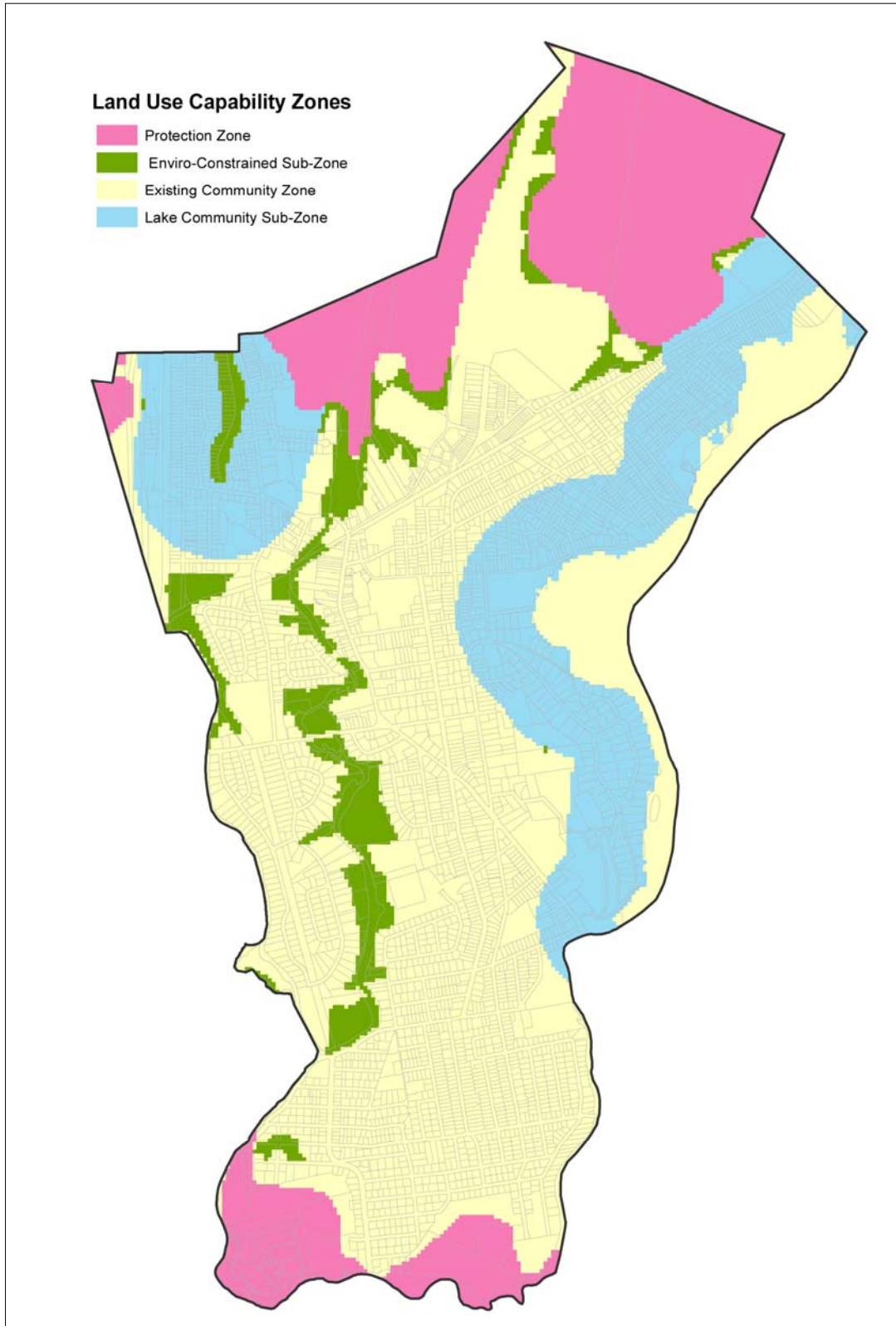
### ***LAND USE CAPABILITY ZONES***

Beyond designation as a Preservation Area or Planning Area, the Highlands RMP sets land designations to guide planning in the Highlands region. Land Use Capability (LUC) Zones are suggestions for land use decisions, which were developed by the Highlands Council. According to Goal 6A of the RMP, governments should "use the [LUC] Map Series as a framework for determining the character, location, and magnitude of new growth and development in the Highlands region." Unlike communities in the Preservation Area, the LUC designations do not require imminent changes to Planning Area municipal codes. Pompton Lakes spans two LUC Zones, and two LUC Subzones. Each zone and subzone offer different suggestions for future land use.

- The majority of the Borough is contained within the Existing Community LUC Zone, which refers to "previously developed lands of regional significance in size, geography and infrastructure that may include areas of opportunity for future growth and development." Within this zone, there are overlying subzones: the Environmentally Constrained Sub-Zone and the Lake Community Sub-Zone.
- Northern and southern portions of the Borough lie within the Protection LUC Zone. The purpose of the Protection Zone is to "preserve high quality land and water resources and ecological function." Its main goal is "to limit use and development of land in the Protection Zone through appropriate policies regarding resource protection, septic system densities, water supply and wastewater utilities and water availability."



Figure 1  
Land Use Capability (LUC) Map



## HIGHLANDS RMP CONSISTENCY REVIEW

This section evaluates the Goals, Policies and Objectives of the Highlands Regional Master Plan (Chapter 4) with respect to the Borough's existing and intended Planning Programs. The RMP offers the following definitions:

- **Goals** are "broad statements of intent,"
- **Policies** are "a more detailed statement of direction," and
- **Objectives** are "the specific, substantive requirements that will be used to measure implementation progress and plan conformance."

Based on this definition of "Objectives," it is important for communities in the Planning Area to understand the long-term issues and impacts associated with each RMP Objective. Some of the RMP objectives serve to directly impact how land is or is not developed, while others require that implementation programs be developed or that some Borough action be taken. For each RMP issue area, there are a host of goals, policies and objectives that the Borough must understand in order to determine if conformance can be achieved, and if so, what must be accomplished.

Since Pompton Lakes is located fully within the "Planning Area," none of the RMP goals, policies and objectives within each of the below-listed subject areas formally apply to the Borough, until such time that the Borough chooses to opt-in. Those policies that specifically refer to "Preservation Areas," for example, are not reviewed for this Initial Assessment. This review of RMP consistency only focuses on the goals, policies and objectives that are believed to impact Pompton Lakes based on the presence of a specific resource (i.e. forests, water, or habitat) or based on the Borough's land area within a particular Land Use Capability Zone.

RMP subject areas are broken down as follows:

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

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For each of the first 2 RMP applicable subject areas (Natural Resources & Water Resources and Water Utilities), this assessment evaluates:

**The Presence of the Resource in Pompton Lakes**

- A generalized description of the resource and whether it is present in the Borough
- When available, maps using the Highlands GIS data layers have been created to show the extent and location of the resource within the Borough. Most maps show the resource over the LUC Zone Map.

**Applicable RMP Goals, Policies and Objectives**

- All of the RMP goals are stated in full for each topic area.
- The RMP policies and objectives are summarized.

**Existing Relevant Plans, Regulations and Policies**

- A listing and description of the Borough's applicable plans, ordinances, etc. that relate to the topic area
- This list is based on information compiled to-date and may not be inclusive of all relevant materials.

**Steps Needed for Conformance**

- The plans, regulations or policies the Borough must adopt or actions required in order for the Borough to achieve RMP conformance.
- This information is derived largely from RMP objectives.

**Preliminary Assessment of Incompatibility Issues**

- Areas in the Borough's planning program that may be at odds with the Highlands RMP
- This assessment is not meant to be comprehensive, but preliminary.
- The Borough is stating these potential incapability issues in order to obtain feedback from the Highlands Commission

For the remaining subject areas, a more generalized discussion of conformance is offered, due to the nearly fully developed nature of the Borough.

## **PART 1: NATURAL RESOURCES**

One of the primary purposes of the Highlands Act is to protect the Region's expansive natural resources from undesirable development impacts. The quantity and quality of the Region's water supplies depend on the preservation and prevention of degradation of these natural resources, which include forests, waterways, critical habitat, soils, steep slopes, etc. Local consistency with the Highlands RMP helps to further these objectives. For each natural resource discussed below, the RMP typically seeks to:

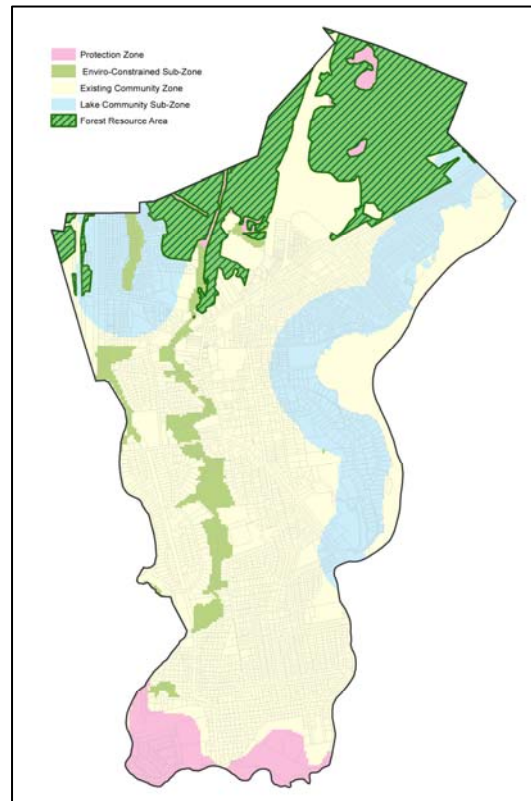
- Identify the natural resource and the integrity of that resource (i.e. in an ERI with extensive maps)
- Develop measures to protect the resource (i.e. Master Plan policies, Zoning Regulations)
- Establish guidance for municipal officials and property owners pertaining to the conservation and management of that resource.

*Figure 2  
Forest Resource Area in Pompton Lakes*

### **FORESTS**

Areas of contiguous forest provide habitat for plants and animals, ensure biodiversity, take in climate-altering carbon dioxide (CO<sub>2</sub>) and are integral components in the water supply process, both filtering surface water and facilitating groundwater recharge.

The Highlands RMP identifies the **Forest Resource Area (FRA)**, which was spatially delineated by the Highlands Council to encompass "high ecological value forest areas, including those forested areas that exhibit least fragmentation and are vital for the maintenance of ecological processes." In addition, the Highlands Council assessed forest cover integrity at the subwatershed level to determine where there is High Integrity, Medium Integrity, and Low Integrity Forest Watershed. Therefore, in addition to protecting the FRA, the Highlands RMP also uses **Forest Integrity Indicators** to achieve protection of forest areas.



#### **Forests in Pompton Lakes**

There are forested areas located in the far northern portions of the Borough, roughly corresponding to the northern areas of the LUC Protection Zone, as shown in Figure 2. The largest forested areas span the entirety of Ramapo State Park and substantial portions of the two large DuPont properties.

### **Applicable RMP Goals**

There are 3 goals related to forest resources in the RMP:

- Goal 1A. Protection of large areas of contiguous forested lands of the Highlands Region to the maximum extent possible.
- Goal 1B. Protection and enhancement of forests in the Highlands Region
- Goal 1C. Conforming municipalities and counties include forest protection programs in their Master Plans and development regulations

Generally, the policies applicable to the Planning Area speak to implementing forest resource management and stewardship practices, limiting the development potential of these areas (through Ordinance/Development Review), prohibiting deforestation and clear-cutting, and encouraging re-forestation and sustainable forestry.

### **Existing Relevant Plans, Regulations and Practices**

Open Space and Recreation Master Plan: A brief summary of forested lands in the Borough is provided, as well as the acknowledgement that forests should be protected.

Community Forestry Management Plan: This Plan mainly addresses shade trees along the Borough's right-of-ways. However, it recommends adoption of a tree protection and removal ordinance.

Zoning Ordinance, Tree Removal: The Tree Removal Ordinance only requires approval by the Board to remove a tree having a diameter in excess of 6 inches, if located further than 25 feet from any construction, and does not address deforestation.

Zoning Ordinance, Development Plat and Plan Details/Checklist: For subdivisions, the Ordinance requires: "When a public sewer system is not available, the subdivider shall comply with the requirements of N.J.A.C. 7:9A for the installation of an on-site disposal system." For such activity in FRA areas of the Borough, this is not consistent with the objectives of the FRA.

Zoning Ordinance, Development Plat and Plan Details/Checklist: Applicants must generally show all "wooded areas." The Highlands methodology for showing these areas (Highlands Council's Method for Identifying Upland Forest Areas) will need further study for integration into the Borough's development regulations.

Zoning Ordinance, Hillside Development Standards: Ordinance Section 190-39.2 provides requirements for site grading, drainage, building siting, landscaping, retaining walls and building and site design on sloping lands which are designed to limit impact to existing vegetation. The standards call for incorporating buildings into existing vegetation to preserve the natural hillside, retaining existing vegetation wherever possible, and replacing it with indigenous vegetation when needed. These standards strive to preserve wooded areas but do not fully prevent Forest Resource Area destruction.

Brownfield Remediation at DuPont: The RMP encourages the restoration of forest resources through forest management and stewardship practices (Policy 1B4). Borough officials have been promoting forest restoration

practices in the remediation process of the DuPont site. However, this appropriate activity has not been codified as a regulation nor included as a specific planning objective in any of the Borough's planning policy documents.

Borough Staff, Arborist & Environmental Officer: The Borough has an Arborist and an Environmental Officer who assist the Borough with tree and forestry issues. These Borough professionals encourage the development of forest management strategies and programs that improve the ecological health, water resource benefits, and scenic quality of Highlands forests (Policy 1B8). Their good work could be enhanced and extended through the adoption of Borough policies and regulations on this topic.

Borough Organization, Shade Tree Commission: The Pompton Lakes Shade Tree Commission is responsible for overseeing the management of the Borough's trees, and setting policy.

**Steps needed for Conformance:**

To achieve RMP consistency, Pompton Lakes will need to:

- Prepare an Environmental Resources Inventory (ERI), with a map showing spatial delineation of the Highlands Forested Resource Area and Forested Integrity by Subwatershed. (The Natural Resource Analysis within the Open Space and Recreation Master Plan should inform the ERI). The Borough's Plan Conformance Grant (Module 4 – Environmental Resources Inventory) will result in an acceptable ERI for Basic Plan conformance.
- Amend the Master Plan to include a Conservation Plan Element, which recommends that forest cover in Pompton Lakes be maintained to the maximum extent possible and addresses the goals, objectives and policies of the RMP.
- Implement a Resource Management Program, such as the NJ Forest Stewardship Program.
- Expand the Borough's Community Forestry Plan to encompass the requirements of a Forest Management Plan, and include: (1) habitat protection and enhancement for rare, threatened and endangered wildlife, and (2) wildlife and invasive species management techniques.
- Amend development checklist/submission standards to require that all plans for development indicate any forest area on and adjacent to a site, in accordance with the Highlands Method for Identifying Upland Forest Areas.
- Adopt regulations that limit tree clearing (for human development) so as not to diminish forest integrity.
- Adopt regulations that establish forest-clearing thresholds and mitigation requirements.
- Adopt regulations that limit permissible uses within High and Moderate Integrity Forest Subwatersheds.
- Adopt Low Impact Development Best Management Practices (LID BMPs).
- Adopt a Municipal Tree Ordinance (using the Highlands Council Model).

The last six items in the above list will be partially addressed through the Borough's preparation of draft land use ordinance amendments under the provisions of Module 6 – Model Development Regulations – of its Plan Conformance Grant.

### **Preliminary Assessment of Incompatibility Issues**

The Borough's planning and regulating documents do not restrict development within the Forest Resource Areas. The FRA spans approximately 320 acres and intersects 50 tax lots across several zoning districts including portions of the R-10, R-8, R-6, R-5, R-4, R-1, OS, CBR, PRC and O-S Districts. Inconsistencies include:

#### DuPont Site (Block 100, Lot 3)

This 230-acre property contains approximately 126 acres of Forested Resource Area. The pre-existing use on the DuPont tract is an explosives manufacturing facility, which was owned and operated by DuPont Manufacturing and closed in 1994. The site is a designated Brownfield and continues to undergo remediation for contamination of surface water, soils, sediments and groundwater under the management of the NJDEP. The remediation is expected to continue for some years to come, both on and off-site, as the plume of contamination migrates. The Highlands Council "Municipal Conditions" GIS layers indicate that this tract is served by Municipal water and sewer services.

- 2007 Master Plan: The Land Use Plan within the Borough's 2007 Master Plan calls for this area to be a Planned Recreational Community (PRC) once fully remediated to residential standards. The Plan recommends a golf course, hotel-conference center and residential townhouse development. The PRC concept impacts some areas of the FRA with recommendations for clustered residential development and resort hotel/conference center. The golf course concept spans the low-lying areas of the site, largely outside of the FRA, although the Master Plan anticipates that the course would overlay a portion of the FRA, in order to take advantage of desirable topography changes.
- Zoning Ordinance: The zoning regulations for the PRC District permit a golf course, resort hotel/conference center, hillside townhouse development, and customary accessory uses. Residential townhouse development (which would be located within a 70-acre tract that includes some FRA) is limited to a maximum building coverage of 20% for the entire 70-acre tract and open space must be deed restricted for active or passive recreation. A tract size of at least 10 acres is required for the development of a hotel/conference center, and central sewer and water systems are required. Development is permitted on the "hillside" areas but not on the "ridge line" areas.
- 2005 Housing Element: The Borough requested a vacant land adjustment for this tract due to environmental constraints. In subsequently updating its Master Plan and Zoning, the Borough concluded the area would be developable after remediation is complete. However, remediation that would accommodate any substantial re-use of the DuPont site is not expected to be complete until well beyond 2018, which is the planning horizon for COAH's Third Round Substantive Rules.

#### DuPont Site (Block 100, Lot 7)

This 44-acre property, also owned by DuPont, is nearly fully within the Forest Resource Protection Area. The planning policies and regulations associated with this property do not fully conform to RMP FRA objectives.

- 2007 Master Plan: The Master Plan recommends this area be preserved as open space or utilized for alternative energy production.
- Zoning Ordinance: The R-1 District regulations (Environmentally Sensitive District) permit low-density residential development (single-family detached) having a density of 1 unit per 2.5 acres, and single-family detached cluster



development, as well as public parks and playgrounds. Conditionally permitted in the R-1 District are public/private schools, houses of worship, municipal uses, BOE uses and public utility facilities.

- 2005 Housing Element: The Borough requested a vacant land adjustment for this tract due to wetlands, steep slopes, bedrock outcrops, and limited access, as well as being within the floodway and wellhead protection zones.

#### Properties along Cannonball Road

The rear yards of at least 5 tax lots (within Block 100) within the Cannonball Road District (CBR) are impacted by the Forest Resource Area. The narrow lots facing upon Cannonball Road contain a mix of industrial and residential uses.

- 2007 Master Plan: The Master Plan calls for a mixed-use village, and recommends the development of a rear access alley. Such an alley would likely impact the Forest Resource Area.
- Zoning Ordinance: The bulk regulations in the CBR do not prohibit development from encroaching within the Forest Resource Area. The maximum impervious coverage permitted is 50%, and the minimum rear yard (where the FRA is located) is 25 feet.

Master Plan and land use regulation amendments will be needed to address these inconsistencies and those pertaining to the other 43 tax lots covered by the FRA.

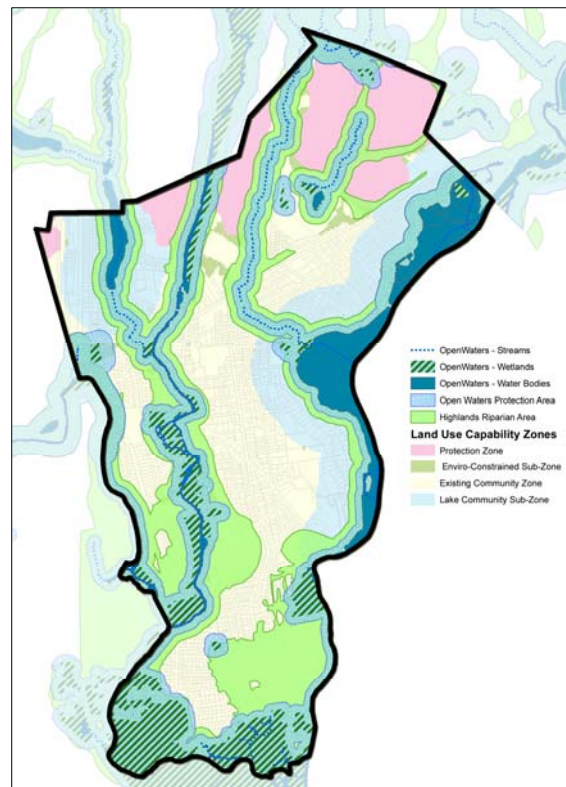
## **OPEN WATERS AND RIPARIAN AREAS**

The RMP goals, policies and objectives strive to protect, enhance and restore water resources within the Highlands. The maintenance of **Open Waters** (surface water bodies) and **Riparian Areas** (lands adjacent to open waters) is essential to ensuring a source of drinking water for New Jersey, to protect against floods, ameliorate droughts, and provide habitat for plant and animal species, as well as other important uses that contribute to the every-day health, welfare and safety of society.

Highlands Open Waters include all rivers, streams, springs, wetlands, and natural and man-made water bodies. Highlands Riparian Areas includes land area adjacent to Open Waters, and land area that is considered important to maintaining the health of Open Waters (i.e. the flood zone).

Figure 3 shows how the **Highlands Open Water Protection Areas** create a buffer around the various streams, wetlands and lake areas. The **Highlands Riparian Area**, spans well beyond the Open Water Protection Area, to closely follow the 100-year flood boundary.

Figure 3  
*Open Waters and Riparian Areas in Pompton Lakes*





- **Open Waters:** The Highlands Council evaluates the condition of watersheds (at the HUC14<sup>11</sup> subwatershed level) to determine the integrity and protection needs of Highlands Open Waters. According to the USEPA, a watershed is “the area of land where all of the water that is *under it or drains off of it* goes into the same place.” Land uses and disturbances within a watershed influence the function and integrity of its streams (i.e., impacts water chemistry, aquatic biota, etc.). The Highlands use a series of watershed indicators to evaluate each of the HUC14 subwatersheds (percent developed lands, habitat quality, percent total forest, percent core forest, and proportion of total forest), and then assign a watershed value class to each HUC14 subwatershed (high, moderate, or low resource value watershed.)
- **Riparian Areas:** The Highlands Council also evaluated the integrity of riparian areas at the subwatershed level. The Council examined existing land uses that are proximate to surface water features using “integrity indicators” (impervious coverage, agricultural land use, number of road crossings per linear stream mile, vegetation condition, water/wetland dependent species habitat), and then assigned a riparian area integrity value class to each subwatershed (high integrity, moderate integrity and low integrity riparian area.)

#### **Open Waters/Riparian Areas in Pompton Lakes**

The Borough lies within three distinct watersheds, which are formed by the Pequannock, Wanaque, and Ramapo Rivers. The Wanaque Watershed contains most of the developed land in Pompton Lakes, including the downtown district. To ensure specific protection measures, much of the Open Water and Riparian Protection Areas lie within the **Environmentally Constrained Subzone**. Similarly, the Borough’s **Lake Community Subzone** surrounds both Pompton Lake and Lower Twin Lake. Specific regulations protecting these areas is important since waterfront living is common in the Borough. Most wetland areas, however, are zoned for conservation and are protected from development.



#### **Applicable RMP Goal**

The RMP specifies one goal related to Highlands Open Waters and Riparian Areas:

**Goal 1D.** Protection, restoration and enhancement of Highlands Open Waters and Riparian Areas.

The policies generally include developing inventories of water resources and their integrity, establishing a 300-foot-wide protection buffer from Highlands Open Water features, implementing Open Water buffer standards and Riparian Area protection standards through local ordinance, and establishing land acquisition priorities for the protection of Riparian Areas.

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<sup>1</sup> The term “HUC14” describes a subwatershed that has an Hydrologic Unit Code containing 14 identification digits, which are derived from larger watershed units. Similarly, a “HUC11” is an 11-digit identifier that describes the watershed that contains multiple HUC14’s. HUC 11’s average about 52 square miles in NJ, while HUC14’s average 8.5 square miles. In NJ, there are 150 HUC 11’s and 921 HUC14’s.

**Existing Relevant Plans, Regulations and Practices**

National Flood Insurance Program: The Borough participates in this program so that any owner of insurable property may purchase flood insurance. Approximately 1/3 of property and structures in the Borough are in the “flood zone,” or the area that the National Flood Insurance Program defines as the Special Flood Hazard Area (100-Year Flood Plain). (Source: Pompton Lakes Flood Information Handbook)

Federal Flood Insurance Study: A Federal Flood Insurance Study has been completed for the town of Pompton Lakes, along with flood control and flood study documents and maps prepared by the NJDEP.

Floodplain Management (Ch. 106 of Borough Code): This section of the Code governs development in the floodplain by means of requirements for development permits, elevation certificates, grading plans, flood proofing, special construction methods and filling restrictions. However, these rules do not prohibit development, expansions or redevelopment in the Flood Hazard Area. Also, they do not fully conform to the RMP’s riparian area protection objectives.

Open Space and Recreation Master Plan: This Plan addresses the need to protect the Borough’s waters and riparian areas, and in the Action Plan, recommends establishing a series of setback requirements from waterways for protection of Riparian Forest Buffer Zones. However, the recommended setbacks are less than those of the RMP.

Municipal Stormwater Management Plan: The MSWMP addresses groundwater recharge, storm water quantity and storm water quality. The Plan recommends that the Borough’s Zoning Ordinance be updated to consider non-structural measures, such as site design and preventive source controls (accomplished through Ordinance 06-02).

Zoning Ordinance, Drainage (§190-30): Requires all on-street and off site drainage facilities be provided with sufficient catch basins, storm sewers, culverts, swales and/or other drainage appurtenances for the proper drainage of the area where necessary. (The MSWMP recommends amending this to encourage natural vegetated swales in lieu of inlet and pipes, and that storm water be discharged into natural and stable vegetated areas.)

Zoning Ordinance, Stormwater Management and Flooding (§190-31): This section regulates the development of real property and establishes standards for the discharge of storm water from such developments. (The MSWMP recommends adopting a new Stormwater Management Ordinance that incorporates the requirements outlined in N.J.A.C. 7:8-5.) Nonstructural management practices are encouraged. The alteration of the natural terrain of stream corridors is discouraged.

Stormwater Control Ordinance (06-02): This Ordinance seeks to comply with State mandated storm water control in order achieve flood control, groundwater recharge, and pollution reduction by considering nonstructural or low impact development techniques before relying on structural BMPs. It is applicable to specific major developments requiring preliminary or final site plan or subdivision review.

### Steps Needed for Conformance

To achieve RMP consistency, Pompton Lakes will need to:

- Prepare an Environmental Resources Inventory (ERI) with maps showing the spatial delineation of watersheds, Highlands Open Waters and Riparian Areas, and respective buffer areas. (The Natural Resource Analysis within the Open Space and Recreation Master Plan should inform the ERI.)
- Prepare a Conservation Plan Element of the Master Plan that adopts the goals, policies and objectives consistent with the Highlands RMP for the protection of Open Waters and Riparian Areas.
- Amend the development checklist/submission requirements to require the identification and mapping of all Highlands Open Waters and Highlands Riparian Areas on submitted Plans.
- Amend Borough Ordinances to require that all development (i.e., in Open Water buffer areas) comply with NJAC 7:8 (Stormwater Management Rules), NJAC 7:13 (Flood Hazard Area Rules), NJAC 7:7 (Freshwater Wetlands Rules) and Regional Stormwater Plans.
- Amend Borough Ordinances to:
  - Restrict any expansion of the area of disturbance for existing improvements within Highlands Open Waters buffer areas, as well as prohibit any new disturbance in these buffer areas.
  - Prohibit disturbance of Riparian Areas in the Protection Zone
  - Restrict modifications to Riparian Areas in the Environmentally constrained Subzone if they would alter water quality or habitat value.
  - Limit disturbance within High and Moderate Integrity Riparian Areas *beyond* the Highlands Open Waters buffer requirements, to the minimum alteration feasible.
  - Require that applicants for development demonstrate no net loss of functional value of habitat, water quality, temperature moderation and channel integrity functions for Highlands Open Water buffers.
- Develop and implement a Stream Corridor Protection/Restoration Plan.
- Adopt Low Impact Development Best Management Practices (LID BMPs) for all development impacting Highlands Open Waters and Riparian Areas.
- Prioritize land acquisitions within High Resource Value Watersheds and High Integrity Riparian Areas.

### **Preliminary Assessment of Incompatibility Issues**

#### Downtown Pompton Lakes

- 2007 Master Plan: The Master Plan provides a concept for Downtown and Riverfront development. The concept provides a riverfront park/green space along the Wanaque River, as well as walking trails. Most of this park development would be in areas that are currently paved for parking, however, a 300-foot buffer is not shown.
- 2005 Downtown Vision Plan: The Master Plan concept follows a public participation and visioning process that resulted in the 2005 Downtown Vision Plan. The Master Plan concept incorporates and builds on this Plan, which as stated above, may be at odds with Highlands Objectives.
- 2009 Downtown Redevelopment Plan Ordinance: The Borough has adopted a Redevelopment Plan and Ordinance (09-01) for the Downtown. The Ordinance does not address the Open Water or Riparian Areas adjacent to the Redevelopment Area.

#### DuPont Site (Block 100, Lot 3)

Much of the *Open Waters Protection Area* and *Highlands Riparian Area buffer* span the low-lying areas of the DuPont site. Since up-lying areas of the DuPont site contain steep slopes, forest habitat, etc., the low-lying areas are considered the most appropriate areas for development. These areas are also where previous development was located, and where there are scattered impervious surfaces and building foundations. (Refer to previous section on DuPont.)

### **STEEP SLOPES**

The Highlands RMP seeks to protect “steep slope” areas within the Highlands Region as these slope areas are vital to many natural processes and the entire ecosystem. The disturbance of steep slopes can cause land slumping, landslides, and soil damage. Silting and sedimentation of waterways can also occur if steep slope areas are disturbed, altering natural drainage systems and harming wildlife habitat. Slopes, ridgelines, and hillsides also provide scenic vistas and contribute to the character of the Highlands region.

The Highlands Council has classified “steep slope protection areas” as the following:

- **Severely Constrained**: Slopes of 20% and greater, and Riparian Areas having slopes of 10% and greater.
- **Moderately Constrained**: Slopes of 15% to 20% which are forested.
- **Constrained**: Slopes of 15% to 20% which are non-forested, and which are highly susceptible to erosion, have shallow depth to bedrock, or Soil Capability Class indicative of wet or stony soils.
- **Limited Constrained**: Slopes of 15% to 20% which are non-forested, and which are not highly susceptible to erosion, and do not have shallow depth to bedrock or a Soil Capability Class indicative of wet or stony soils.

### Steep Slope Areas in Pompton Lakes

As shown in Figure 4, there are several areas of “undeveloped steep slopes” in Pompton Lakes. Undeveloped steep slopes are located in the northern part of the Borough in the Protection Zone (i.e., the DuPont properties and Ramapo State Forest, and west of I-287) and in the eastern part of the Borough in the Existing Community Zone, mostly in the Lake Community Sub-Zone.

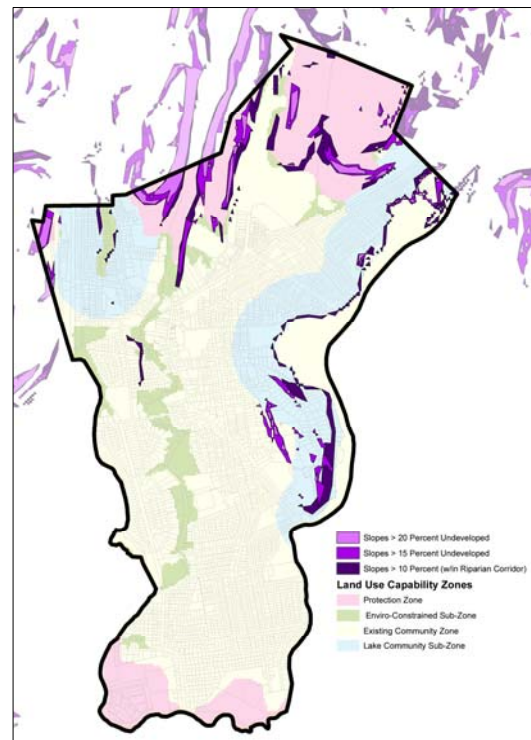
### Applicable RMP Goal

The RMP specifies one goal related to Highlands steep slope areas:

- Goal 1E.** Protection and enhancement of the natural, scenic, and other resources of the Highlands Region by protection of Steep Slopes from inappropriate development and disturbance.

The Steep Slope policies call for an inventory of steep slopes and a standardized classification of steep slopes in the Highlands Region, as well as development requirements and restrictions in areas with steep slopes.

Figure 4  
Undeveloped Steep Slope Areas in Pompton Lakes



### Existing Relevant Plans, Regulations and Practices

Steep Slopes Ordinance, Zoning Ordinance §190-39.1: The ordinance echoes the RMP in emphasizing the importance of protection steeply sloped areas. It provides a slope threshold of 15% above which no buildings, vehicular facilities, sewage disposal facilities, and substantial nonagricultural displacement of soil are prohibited. There are specific provisions for base sites and driveway construction. It does not categorize slopes according to the RMP standards and does not specify the same development restrictions. It also does not consider the slopes of riparian areas separately from other areas. The Highlands RMP suggests more development restrictions on slope in a riparian area than in a non-riparian area.

Hillside Development Standards, Zoning Ordinance §190-41: The zoning ordinance contains a hillside development standards section, which provides drainage, architectural, grading, and other guidelines for developing on slopes. While these standards address many visual impact issues and some environmental issues, they would need updating with the Low Impact Development Best Management Practices (LID BMPs) suggested by the Highlands Council.

Zoning Ordinance, Development Plat and Plan Details/Checklist: Development applications that occur along hillsides, or “Hillside Development” must provide information in addition to all relevant submission checklists including: a cut and fill map, grading plan, hydrology reports, soils and geology report, archeological and paleontological resources, slope analysis utility plan, biological resource map and a watershed study (§190-46E(23)).

### Steps Needed for Conformance

To achieve RMP consistency, Pompton Lakes will need to:

- Prepare an Environmental Resources Inventory and map addressing steep slope protection areas and classifications of steep slopes as defined by the RMP. (The Natural Resource Analysis within the Open Space and Recreation Master Plan should inform the ERI.)
- Prepare a Conservation Plan Element of the Master Plan that adopts the goals, policies and objectives consistent with the Highlands RMP for the protection of steep slope areas.
- Amend the Borough's Steep Slopes Ordinance to adopt the steep slope classifications defined in the RMP, and to prohibit land disturbance within Severely and Moderately Constrained Slopes, except for linear development (utility rights-of-way) that meet the requirements of N.J.A.C 7:38-3.8(c)1-4.
- Adopt Low Impact Development Best Management Practices (LID BMP) for any land disturbance or human development within Constrained or Limited Constrained slopes, or that involves an approved disturbance of Severely or Moderately Constrained Slopes.
- Amend the development checklist/submission requirements to require the identification and mapping of all steep slope areas on submitted plans.

### Preliminary Assessment of Incompatibility Issues

#### DuPont Site (Block 100, Lot 3)

There are areas of steep slopes on the 230-acre DuPont site. The 2007 Master Plan calls for residential cluster or conservation development on sloping areas of this site. The zoning regulations for the Planned Recreational Community (PRC) District also permits residential development within this area, and require the use of Hillside Development Standards. The concept for the golf course and hotel/conference center in the Master Plan also impact areas of the steep slopes. (Refer to previous section on DuPont.)

#### R-6 and R-10 Zones

There are steep slope areas within the R-6 and R-10 zone districts located on the northwesterly border of the Borough. Permitted uses in the R-6 zone include single-family, duplex, and apartment and townhouse units. However, most of this zone is covered by steep slopes, according to the Highlands mapping. The R-10 zone is an Affordable Housing Zone that permits townhouses at a maximum density of 8 units/acre, exclusive of any area containing slopes that exceed a grade of 15%.



## CRITICAL HABITAT

The Highlands Regional Master Plan seeks to protect the region's habitat in order to maintain the biodiversity of plants, animals and all other organisms, which help sustain the area's ecological health. The RMP specifies three categories of Critical Habitat:

- Critical Wildlife Habitat: Habitat for rare, threatened or endangered species
- Significant Natural Areas: Regionally significant ecological communities
- Vernal Pools: Confined, ephemeral wet depressions that support distinctive species

To delineate **Critical Wildlife Habitat** the Highlands used the *NJDEP's Endangered and Nongame Species Program Landscape Project data* (an updated Version 3 developed for the Highlands Region) to identify habitat ranked by documented occurrences, in combination with a *Highlands Conservation Rank index* that ranks how important the Highlands Region is to the continued existence of a particular species in the State.

To delineate **Significant Natural Areas** the Highlands Council worked with NJDEP's Natural Heritage Program to identify Natural Heritage Priority Sites within the Highlands Region.

According to the RMP, the protection of **Vernal Pools** and adjacent habitat is important for maintaining ecological integrity and providing invertebrate and amphibian breeding habitat. The delineation of vernal pools in the Highlands Region is based on a list of vernal pools that have been certified by the NJDEP. The Highlands Council has determined that a 1,000 foot protection buffer around vernal pools will address the habitat requirements of vernal pool wildlife.

### Critical Habitat Areas in Pompton Lakes

The Borough of Pompton Lakes does not contain any part of the Wildlife Management Sub-Zone of the LUC Protection Zone. The Highlands Council has identified areas of Critical Habitat in the Borough (Figure 5).

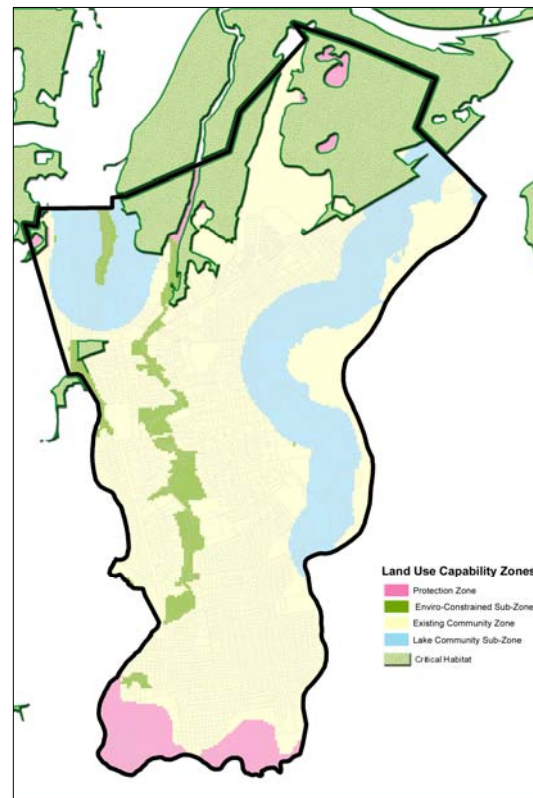
### Applicable RMP Goals

There are two Goals in the RMP related to Critical Habitat:

- Goal 1F. Protection and enhancement of Critical Wildlife Habitats, Significant Natural Areas and Vernal Pools.
- Goal 1G. Inclusion of Critical Habitat Area Management Programs in the Master Plans and Development Regulations of conforming municipalities and Counties.

The RMP policies strive to prohibit human development impact to, as well as promote the restoration and enhancement of impaired lands within areas of Critical Habitat.

Figure 5  
Critical Habitat Area within Pompton Lakes



The RMP suggests municipalities establish a *Habitat Conservation and Management Program*, and implement the Program through a *Critical Habitat Conservation and Management Plan*. The Plan should provide minimum performance standards and criteria for the protection and management of this resource, and should be incorporated into a community's Master Plan.

#### **Existing Relevant Plans, Regulations and Practices**

Open Space and Recreation Master Plan: The Natural Resources Analysis addresses trout as a wildlife resource that needs protection, and maps the Borough's trout maintenance and trout production streams. The Plan states that wood turtle and timber rattlesnake are present in northern, western and southern portions of the Borough, even though not mentioned per NJDEP's Division of Fish & Wildlife Landscape Project. The Plan also indicates that there are vernal ponds in the southern section of the Borough near the MUA on the Ventimiglia Tract.

Zoning Ordinance, Development Plat and Plan Details/Checklist: Development applications that occur along hillsides, or "Hillside Development" must provide information in addition to all relevant submission checklists including a "biological resource map" (§190-46E(23)).

#### **Steps Needed for Conformance**

To achieve RMP consistency, the Borough will need to:

- Prepare an Environmental Resources Inventory and map that specifies type and location of critical habitat as defined by the RMP. (The Natural Resource Analysis within the Open Space and Recreation Master Plan should inform the ERI. This Plan indicates endangered habitat and vernal pools are in the Borough, whereas Highlands data does not.)
- Establish a Habitat Conservation and Management Program
- Prepare and adopt a Critical Habitat Conservation and Management Plan with a map-series showing the Critical Habitat Overlay District, for inclusion in the Borough's Master Plan.
- Establish performance standards so all development shall employ LID BMPs to meet RMP objectives (avoid disturbance of, minimize impacts to, and mitigate all adverse modification to Critical Habitat so that there is no net loss of habitat value; for the enhancement or restoration of historically disturbed Critical Habitat)
- Establish guidelines for a municipal habitat stewardship program
- Amend Zoning Regulations to incorporate the Critical Habitat Conservation and Management Plan minimum standards and criteria.

#### **Preliminary Assessment of Incompatibility Issues**

The Open Space and Recreation Master Plan indicates areas of critical habitat, as well as vernal pools, that are not mapped by the Highlands.



## LAND PRESERVATION AND STEWARDSHIP

The Highlands RMP seeks to preserve open space in the Region. Designating and securing land to be free of development, and maintaining it in its natural state, is a critical step to protecting the region's natural resources. Obtaining and maintaining sources of funding for the protection of open space is a major theme of this section.

### Open Space Areas in Pompton Lakes

Figure 6 shows open space areas in Pompton Lakes, according to the Highlands Council GIS data. The information includes areas of open space, publicly held land, public lands and easements, which were compiled from federal, county, local and non-profit group sources. A more comprehensive mapping of open space is found in the Borough's Open Space and Recreation Master Plan. Pompton Lakes may pursue an RMP Update request to ensure the Highlands Council has the most up-to-date information on preserved lands.

Figure 7 shows how the Highlands rank's Conservation Priority Areas, according to areas of "moderate" priority and "high" priority. These priority areas are largely within the Protection Zone and the Environmentally Constrained Sub-Zone.

Figure 6  
Open Space Areas

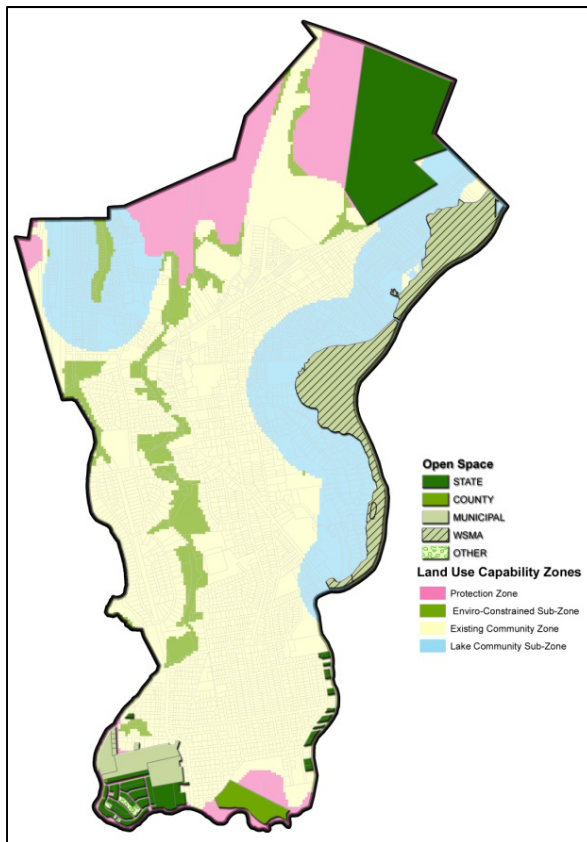
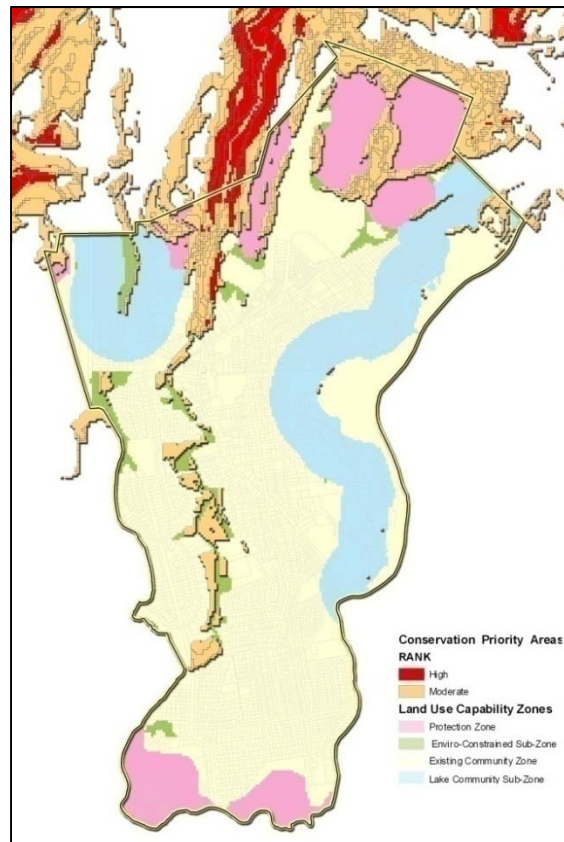


Figure 7  
Conservation Priority Areas



**Applicable RMP Goal**

There are three goals in the RMP related to open space:

- Goal 1H. Protection of critical resources through land preservation and stewardship of open space throughout the Highlands Region.
- Goal 1I. Conforming municipalities and counties include open space preservation and land stewardship programs in their Master Plans and Development Regulations.
- Goal 1J. Preservation of forests in private ownership through creation of a forest preservation easement program.

The RMP policies and objectives indicate that the Highlands Council should maintain a continuously updated database of open space holdings, easements, and stewardship programs; ensure there are dedicated sources of funding for preservation and stewardship; and establish and fund local open space acquisition and stewardship programs. The Highlands Council may also prepare a “confidential inventory” of open space lands within the Borough’s **Conservation Priority Areas** where preservation is recommended.

The policies also require municipalities to include an Open Space and Land Stewardship Element in their Master Plans, and recommend that enforceable conservation or land stewardship easements and stewardship and monitoring programs be established for preserved lands. The establishment of a Forest Protection Easement Program is also recommended.

**Existing Relevant Plans, Regulations and Practices**

Open Space and Recreation Master Plan: This Plan includes tables and mapping of existing open space holdings, and indicates private properties that should be considered for acquisition for conservation, recreation and utility purposes.

Recreation and Open Space Inventory (ROSI): The Borough has a ROSI on file with Green Acres that lists 68 block and lots, including two properties that received Green Acres funding: Willow Field and Ramapo Blue Acres Riverway.

Open Space, Park Land and Recreation Trust Fund: Pompton Lakes’ voters approved a referendum in November 2001 to establish a trust fund, which authorizes the collection of local tax to fund open space acquisition, maintenance or expansion. The tax is equal to one cent (\$0.01) for each one hundred (\$100) dollars of assessed value. The Ordinance establishing the fund was adopted on February 2, 2002.

Passaic County Open Space Plan (prepared by Passaic County with Municipal Briefing Books): This Plan inventories existing open space in Pompton Lakes, listing when each area was publicly acquired. The plan identifies one parcel in Pompton Lakes for proposed open space acquisition.

Open Space Ordinance, Zoning Ordinance (190-38): The ordinance provides basic design criteria for active and passive open space, and permits open space to be deeded to the Borough, where a maintenance agreement can be worked out.

### Steps Needed for Conformance

To achieve Highlands RMP consistency, Pompton Lakes will need to:

- Amend the Borough's Master Plan (Open Space and Recreation Plan Element) to include a land Stewardship component and identify lands subject to stewardship programs.
- Establish a Stewardship and Monitoring Program for preserved lands owned by the Borough or County.
- Amend Zoning Regulations to require conservation or land stewardship easements as a condition of development approval for lands that are identified for preservation on a proposed site plan or subdivision plat.
- Establish a Forest Preservation Easement Program (goal 1J), which intends to preserve forests remaining in private ownership.

### Preliminary Assessment of Incompatibility Issues

#### DuPont Site (Block 100, Lot 3)

The Open Space and Recreation Master Plan recommends portions of the 230-acre DuPont site for potential open space acquisition, whereas residential cluster or conservation is recommended by the 2007 Master Plan and existing PRC zoning regulations with Hillside Development Standards.

#### DuPont Site (Block 100, Lot 7)

This 44-acre property also owned by DuPont is nearly fully within the Forest Resource Protection Area. The Open Space and Recreation Master Plan recommends this site be considered for potential open space acquisition. The existing R-1 zoning regulations permit low density residential development at one unit per 2.5 acres.

### **CARBONATE ROCK (KARST) TOPOGRAPHY**

Over time, surface water and ground water can dissolve underlying carbonate rocks (limestone and dolomite), which can cause surface depressions (i.e. caves, sinkholes, and underground streams). This resulting topography from dissolution of underground bedrock is known as "Karst" topography, or the crevasses and holes carved by slightly acidic water in limestone bedrock. In addition to directing surface water contamination into ground water, karsts pose safety concerns as they can undermine building foundations. The Highlands RMP recognizes this risk and provides strategies for regulations in appropriate areas. Because of the nature of the topography, carbonate rock areas are useful yet fragile parts of the water supply system. They also often provide natural, scenic, and recreational resource values.

There is little evidence of the presence of karst features in the Borough of Pompton Lakes, meaning that the risks of caves, sinkholes, and other issues are small. The bedrock geology shows no formations with limestone as a significant feature. Therefore, this is a small risk for the Borough.

## LAKE MANAGEMENT

The Highlands RMP emphasizes the importance of managing the lands surrounding lakes as being critical to maintaining the water quality of lakes and their downstream streams and rivers. Bacteria and nutrient contamination of public lakes in New Jersey is common, as many existing lake communities predate modern environmental protection requirements. Runoff that travels through these developed areas accumulates pollutants that drain into the Borough's lakes and rivers.



The value of lakes goes beyond a place to store clean water. They provide scenic areas which are an important part in the character of the Highlands Region and Pompton Lakes. The Highlands RMP responds to the need to manage lakes by creating the **Lake Community Sub-Zone** of the Existing Community Zone, which includes all area within 1,000 feet of a significant lake.

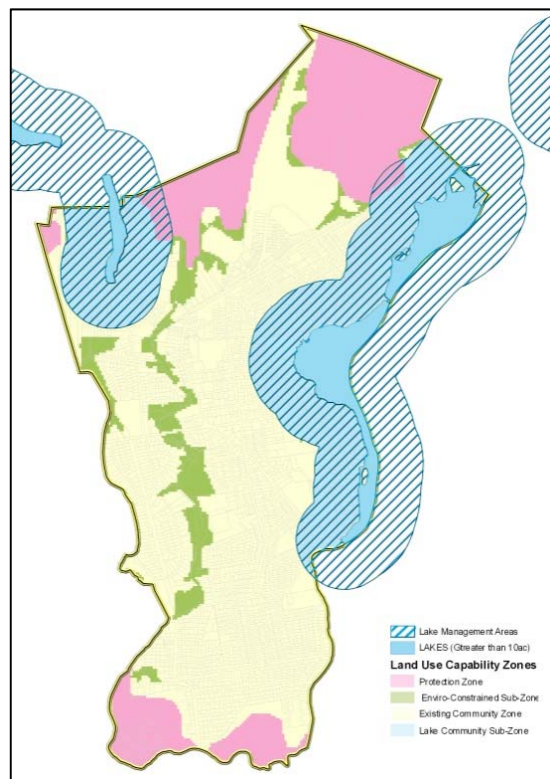
The Highlands establishes Tiers of lake management and strategies/requirements for each tier:

- **Shoreland Protection Tier:** Area measured 300 foot or first property line perpendicular to shoreline of the lake
- **Water Quality Management Tier:** Area measured 1,000 foot perpendicular from the shoreline of the lake.
- **Scenic Resources Tier:** Area measured 300 to 1,000 foot perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, with wider portions having longer view distances.
- **Lake Watershed Tier:** The entire land area draining to the lake.

### Lake Management Areas in Pompton Lakes

There are two manmade lakes in Pompton Lakes: Pompton Lake and Lower Twin Lake. Lake Inez is now considered a segment of the Wanaque River, due to removal of the dam. However, the Lake Inez reference pertains to the geographic area adjacent to that river segment. Pompton Lake is the largest and makes up much of the Borough's eastern border. **Lake Community Sub-Zones** are drawn around Pompton Lake and Lower Twin Lake. Lake Inez does not have a surrounding Lake Community Sub-zone because it is located in the Protection Zone. Within the 1,000 foot buffer, the sub-zone encompasses many residential lots.

Figure 8  
Borough Lakes and Lake Management Areas



### Applicable RMP Goals

There are three goals in the RMP related to Lake Management:

- Goal 1L. Protection of Highlands Region lakes from the impacts of present and future development.
- Goal 1M. Protect the unique character of Highlands lake communities
- Goal 1N. Maintain public and private lakes, or restore lake beds and downstream areas when lakes are drained.

The RMP policies and objectives recommend that Highlands's communities establish **Lake Management Areas** and **Tiers** of lake management around all Highlands lakes to protect them from impacts of present and future development. The RMP policies also require municipalities establish and adopt standards/regulations for development/activities that are specific to each lake Tier. The RMP requires communities to adopt Lake Restoration Plans or TMDLs by the NJDEP (pursuant to Water Quality Management Rules), as well. The policies encourage municipalities to increase public access to lake and regulate activities along shorelines.

### Existing Relevant Plans, Regulations and Practices

(See Relevant Plans, Regulations and Practices for *Open Waters and Riparian Areas*)

### Steps Needed for Conformance

To achieve RMP consistency, Pompton Lakes will need to:

- Develop a Lake Management Program
- Prepare and adopt a Lake Management Plan that establishes Lake Management Areas and Tiers.
- Adopt a Lake Restoration Plan for the Lake Management Tier, including, but not limited to the adoption of TMDL's (Total Maximum Daily Loads), pursuant to State Water Quality Management Rules.
- Adopt development standards that limit uses and activity according to the RMP requirements for each Tier.

### Preliminary Assessment of Incompatibility Issues

The Borough's existing zoning provisions do not establish standards or restrict activity according to the Lake Management Tiers.

## ***PART 2: WATER RESOURCES AND WATER UTILITIES***

The Highlands RMP strives to protect water supplies for human use and consumption and ecological systems, within and beyond the boundaries of the Highlands Region by addressing five fundamental issues:

1. Availability of water resources
2. Protection and restoration of water availability
3. Protection, restoration and enhancement of water quality
4. Management of land development to ensure the carrying capacity of water resources are not exceeded
5. Cost-effective and efficient provision and use of water utility capacity

### **WATER RESOURCES AVAILABILITY**

The continued availability of water is critical for ecological purposes and human use, and is a determining factor in our capacity for future growth and economic development. The Highlands RMP establishes a methodology for identifying areas where water resources *are* or *are not* sufficient to support existing and future human and ecological uses.

Water resources availability for human use is estimated at the subwatershed (HUC14) level.

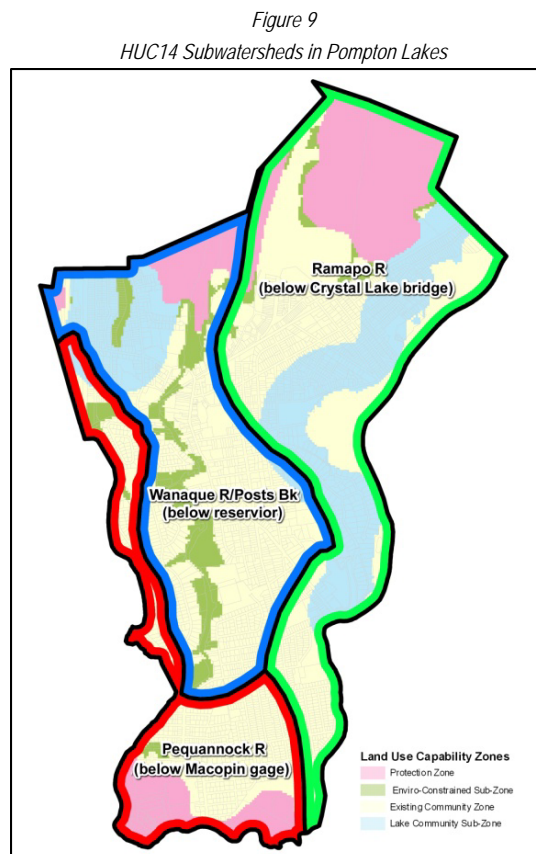
- Surface water availability from existing reservoir systems are addressed through NJDEP regulations
- Ground water availability is determined using stream flow thresholds according to the watershed's LUC Zone
- Net water availability reflects current uses and may show a surplus or deficit

Municipal Plan Conformance requires that all municipalities develop a **Water Use and Conservation Plan** that will set priorities for the use of available water and methods to reduce or eliminate deficits where they exist.

#### **Water Resources in Pompton Lakes**

Three (3) HUC14 subwatersheds are present in the Borough of Pompton Lakes, as shown in Figure 9:

- Pequannock River (below Macopin gage)  
*Fully within Highlands Region*
- Wanaque River / Posts Bk (below reservoir)  
*Fully within Highlands Region*
- Ramapo River (below Crystal Lake bridge)  
*Partially within Highlands Region*





**Applicable RMP Goal**

There are two RMP goals related to water availability:

- Goal 2A. Protection of the value of the Highlands Region as an “essential source of drinking water, providing clean and plentiful drinking water for one-half of the State’s population” (Highlands Act, Section 2), along with the ecological values of clean water, through the protection, enhancement and restoration of water resources quantity, flow characteristics and quality as fundamental to ensuring that there are adequate water supplies to support these needs
- Goal 2B. Protection, restoration and enhancement of water quality and quantity of surface and ground waters (Section 10.B(1) and 10.C(1)), and to determine “the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply...” (Section 11.A.(1)(A)).

The RMP policies and objectives require that the Highlands Council calculate **Net Water Availability**, **Current Deficit Areas**, **Existing Constrained Areas** and **Conditional Water Availability** for each Highlands Municipality, and use this information to prepare and update the **Land Use Capability Water Availability Map**. The policies also ensure that each municipality limit consumptive/depletive water uses to the water availability in each respective HUC14 subwatershed; consider water conservation, recycling and re-use methods, where feasible; and ensure new or expanded utility service areas will not contribute to any water deficit.

**Existing Relevant Plans, Regulations and Practices**

The Borough’s existing planning program does not address available water supply and calculating deficient or constrained areas. The Pompton Lakes Borough Municipal Utilities Authority (PLBMUA) is responsible for providing adequate water to all users within the Borough. The PLBMUA periodically prepares a water supply master plan and encourages customers to conserve water and address leaks promptly. According to the PLBMUA, the water supply master plan needs updating.

**Steps Needed for Conformance**

To achieve RMP consistency, Pompton Lakes will need to:

- Prepare an Environmental Resources Inventory (ERI) that maps Current Deficit Areas, Existing Constrained Areas and Net Water Availability by subwatershed.
- Prepare and continually update the Land Use Capability Water Availability Map.
- Prepare and adopt a Water Use and Conservation Plan that meets the RMP objectives.
- Update the Stormwater Management Plan and Ordinance to require mandatory stormwater re-use for recreational and irrigation and non-potable water purposes, where feasible.
- Update Land Development Regulations to require the use of water conservation, recycling and re-use methods where appropriate for any development, redevelopment or renovation activity.
- Update Regulations to require that proposed or expanded water supply and wastewater service areas, new or increased water allocations, and bulk water purchases will not contribute to a water deficit.
- Establish BMPs for recreational, landscape irrigation and other practices.

**Preliminary Assessment of Incompatibility Issues**

Water availability is not addressed in Borough Planning documents.

**PROTECTION OF WATER RESOURCES QUANTITY**

The RMP seeks to ensure that water resources in the Highlands Region are replenished through groundwater recharge and other means. The protection of **Ground Water Recharge Areas** is emphasized in the RMP as these areas are critical determinants of the quality and quantity of water replenishing streamflow and water supply wells.

**Ground Water Recharge Areas in Pompton Lakes**

According to the Highlands GIS layers and as shown in Figure 10 below, there are small areas of Prime Ground Water Recharge in each of the three HUC14 subwatersheds. Recharge areas can be found in each of the Land Use Capability Zones. The Prime Ground Water Recharge Areas in Pompton Lakes encompass an estimated 174 acres.

**Applicable RMP Goal**

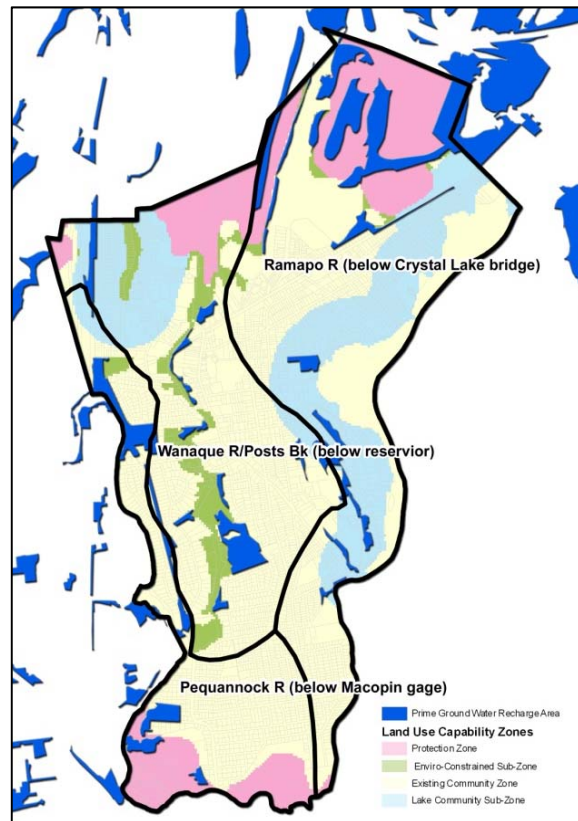
There are three RMP goals related to water resources quantity:

- Goal 2C. Refinement of Water Availability methods and estimates
- Goal 2D. Maintenance of Hydrologic Integrity through the protection of ground water recharge.
- Goal 2E. Improvement of ground water recharge through regional management efforts.

The RMP policies and objectives strive to protect, enhance and restore the quantity and quality of Prime Ground Water Recharge Areas by requiring municipalities to establish Model development regulations, Master Plan Elements, development review ordinances, minimum design guidelines and permissible uses, and LID BMPs that restrict permissible activity in these areas.

The policies also require that the Borough prohibit the expansion or creation of water supply or wastewater collection systems into Prime Ground Water Recharge Areas within the Protection Zone, as well as to strive to achieve a net improvement in groundwater recharge volume and maintenance of water quality.

Figure 10  
Prime Ground Water Recharge Areas





### Existing Relevant Plans, Regulations and Practices

The Borough's existing land use ordinances provide for protection of recharge areas for water supply wells. However, there are no provisions for preserving or enhancing natural recharge specifically within prime groundwater recharge areas.

### Steps Needed for Conformance

To achieve RMP consistency, Pompton Lakes will need to:

- Update Master Plan to address and protect prime ground water recharge areas.
- Amend land use regulations to restrict development and uses of land, minimize disruption to no more than 15%, and establish minimum site design guidelines (LID BMPs) within prime ground water recharge areas.
- Amend stormwater management regulations as needed.
- Amend land use regulations to prohibit the future creation or expansion of public water supply or sewer or community systems in prime ground water recharge areas within the Protection Zone.
- Amend land use regulations to require that site plan applicants conform to the applicable components of regional stormwater management plans.

### Preliminary Assessment of Incompatibility Issues

Existing permitted uses that may discharge organic chemical sources (i.e. industrial or other non-sanitary wastewater effluent) would be subject to potential additional limitations in prime groundwater recharge areas. Areas containing prime ground water recharge areas that would be affected by this policy include portions of the Borough's Manufacturing (M) zone and Planned Recreational Community (PRC) zone. Prime ground water recharge areas are also located in residential zones (R-4) and small areas in other zones.

## WATER QUALITY

The Highlands RMP emphasizes ways to protect, enhance and restore the ground and surface water resources throughout the Highlands Region. The RMP addresses the following three areas:

1. **Surface Water Quality:**
  - NJDEP's Surface Water Quality Standards (SWQSs) establish designated uses & water quality criteria.
  - NJDEP has adopted total maximum daily loads (TMDLs) for many impaired water bodies
2. **Ground Water Quality**
  - A complete assessment of ground water quality is not possible at this time due to lack of available data.
  - There is no equivalent TMDL process for ground water quality
  - NJDEP has identified several categories of ground water contamination areas:
    - *Classification Exception Areas*
    - *Well Restricted Areas*

- *Currently Known Extent Areas*
- *Deed Notice Exhibits*

### 3. Wellhead Protection

- Wellhead Protection Areas (WHPAs) are mapped around public water supply wells
  - *Tier 1: 2-Year time of travel (ground water within this tier takes up to 2-years to flow to the well)*
  - *Tier 2: 5-Year time of travel*
  - *Tier 3: 12-Year time of travel*

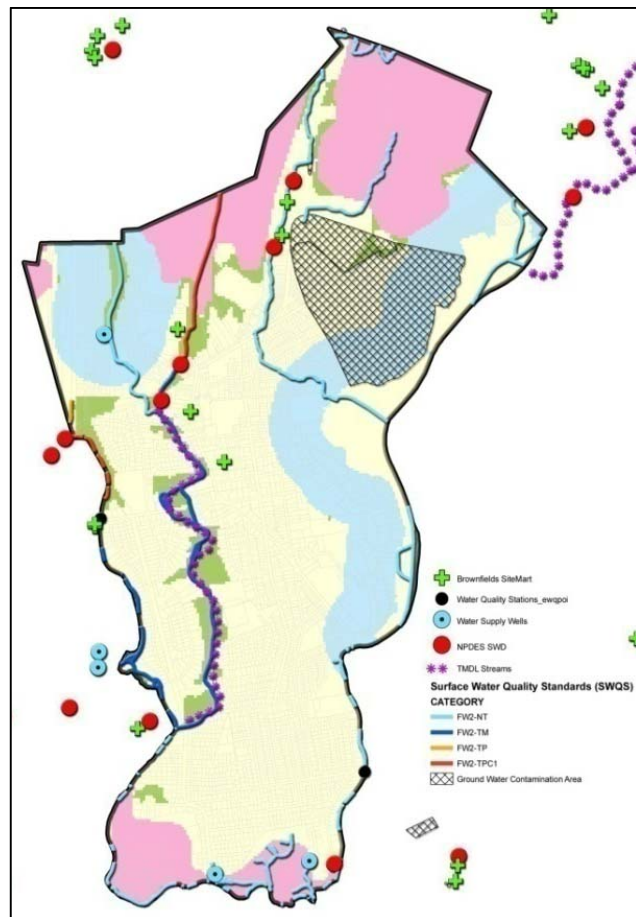
### Water Quality Management in Pompton Lakes

Figure 11 shows some of the water quality management issues and locations in Pompton Lakes. The map shows:

- Existing water quality stations (EWQ), where one is located in the Borough (on the easterly border with Wayne) for monitoring of the Ramapo River; there is also a station on the westerly border with Riverdale to monitor the Pequannock River.
- Several surface water discharge (SWD) points regulated by NPDES.
- Three (3) water supply wells in Pompton Lakes and two wells nearby in Riverdale.
- Multiple brownfield / known contaminated sites (kcs) which may impact water supply wells.
- The southerly portion of the Wanaque River is designated a Total Maximum Daily Load (TMDL) stream and a "Trout Maintenance" stream according to SWQS.
- The northerly portion of the Wanque River is a Category 1 Trout Production (TPC1) waterway.
- TMDLs are established for Pompton Lake.

A plume of ground water contamination is moving southwest of the DuPont site.

Figure 11  
 Water Quality Issues in Pompton Lakes



### Applicable RMP Goal

There are three RMP Goals related to water resources quality:

- Goal 2F. Assessment and restoration of surface and ground water quality of the Highlands Region
- Goal 2G. Protection, restoration and enhancement of the water quality of the Highlands Region
- Goal 2H. Limitation of the type and amount of human development in the well-head protection areas of public water supply wells.

The RMP policies and objectives strive to identify surface/ground water resources at risk of impairment, reduce or avoid water quality impacts through the process of development review, and adopt and implement water quality protections. The RMP also requires municipalities to implement LID BMPs, and revise their master plans and development regulations to address water quality and wellhead protection requirements.

### Existing Relevant Plans, Regulations and Practices

Attention to TMDLs at the State level is triggered by certain actions that invoke NJDEP review and approval, including filling the floodplain, new direct discharges, building footprint expansion in the floodplain, and stream encroachment. No local regulations reference the TMDL limits.

Wellhead Protection Ordinance: The Borough's Wellhead Protection Ordinance, known as Article X in Chapter 190 (Zoning and Land Use) of the Borough's Code was adopted April 10, 2004. The Ordinance recommends a technical report be adopted as part of the Master Plan that sets for the need for a wellhead protection program and references the "tiered" level of protection. The Ordinance prohibits any change in land use that introduces a major or minor potential pollution source (PPS) within a Tier 1 WHPA, and prohibits any change in land use that introduces a major PPS within a Tier 2 WHPA. The Ordinance also contains best management practice (BMP) performance standards. (The contaminant plume from the DuPont site has impacted homes that lie between the site and Pompton Lake. The clean-up effort includes installation of vapor intrusion remediation facilities under affected homes. The impact of the plume on Pompton Lake is being monitored by the Borough and DEP.)

### Steps Needed for Conformance

To achieve RMP consistency, Pompton Lakes will need to:

- Establish a Municipal Water Quality Management Program (WQMP).
- Amend the Borough's Master Plan to incorporate relevant TMDLs.
- Amend the land use regulations to incorporate relevant TMDLs.
- Amend land use regulations to prohibit land uses that would increase pollutant loadings to waters for which TMDLs have been adopted, or to impaired streams with the same standards, if no TMDL has been designated.
- Amend land use regulations to require recharge of clean stormwater, whenever feasible, and pretreat contaminated stormwater wherever its recharge is required.
- Require LID BMPs for stormwater management.
- Conduct an inventory of land uses within Wellhead Protection Areas that have potential for contributing pollutants to ground water.
- Amend the Borough's Wellhead Protection Ordinance as needed to address RMP requirements.

### **Preliminary Assessment of Incompatibility Issues**

The Borough's planning and regulatory program for protecting water quality is generally consistent with the intent of the RMP but will need to be revised and supplemented to include provisions required by the RMP. Such revisions may impose additional land use limitations over wide areas of the Borough, which will apply to multiple-unit residential, commercial, industrial and certain institutional properties within the resource protection areas, thereby creating potential zoning nonconformities on such parcels. However, such result will not apply to single-family residential uses in existence as of 8/10/2004, due to the blanket exemptions such uses are afforded by the Highlands Act. New ordinances will prohibit new PCS's in certain wellhead protection areas and will require operation and contingency plans for those existing in Protection Areas. (Specific requirements are in the Highlands Model Land Use Ordinance.)

### **SUSTAINABLE DEVELOPMENT AND WATER RESOURCES**

The Highlands RMP strives to ensure that future development within the Highlands Region occurs in a way that is sustainable. Water quantity and quality must be protected for ecological purposes, and for future adequate utility capacity (water and wastewater) availability. This section of the RMP addresses use, expansion and capacity of:

- Public Water Supply Utilities
- Public / Community Wastewater Utilities
- Individual On-site Septic System

#### **Utility Areas in Pompton Lakes**

Today, most of the Borough is served by public water and sewer infrastructure. The Municipal Utility Authority (MUA) oversees water and sewer connections in the Borough. The MUA considers these utilities "available" if an existing main is adjacent to the property. According to feedback from the MUA, there is a short list of parcels in the Borough that do not have water or sewer connections. Most are not developable because the property is a utility right-of-way, is too small in size or is constrained (in a floodway, floodplain, protected wetland, etc.). Local utility data is not consistent with the Highlands data, and Pompton Lakes may submit an RMP Update request to address discrepancies.

#### **Applicable RMP Goals**

There are five RMP Goals related to Sustainable Development and Water Resources:

- Goal 2I. Limitation of the expansion of water and wastewater infrastructure in the Preservation Area
- Goal 2J. All existing and future development in the Highlands Region that use public water supply systems are served by adequate and appropriate infrastructure
- Goal 2K. All existing and future development in the Highlands Region that use public wastewater treatment systems are served by adequate and appropriate infrastructure.
- Goal 2L. Ensure that on-site capacity wastewater system discharges do not exceed the natural capacity of ground water to attenuate loadings, exacerbate existing nitrate impairment, or contribute to potential nitrate impairment for subwatersheds of the Highlands Region.
- Goal 2M. Refinement and improvement of the Ground Water Resource Management Element.

The RMP policies and objectives speak to limiting future utility demand and reducing existing demand, especially in areas dependent on Current Deficit Areas or Existing Constrained Areas; minimizing the creation or expansion of utilities within the Protection Zone or Environmentally Constrained Sub-Zones; requiring water resource management for development in the Highlands and encouraging water recycling/reuse measures.

The policies and objectives also encourage Highlands communities in the Existing Community Zone to develop in a compact manner: in areas of the ECZ served by public water and wastewater systems, new residential development should have a minimum density of ½ acre per dwelling unit and new commercial development should have a target floor area ratio (FAR) of 0.84 to ensure cost-effective utility service.

#### **Existing Relevant Plans, Regulations and Practices**

The Borough's existing regulations do not limit utility expansion, nor regulate utility usage based upon net utility capacity, as determined by the Highlands.

#### **Steps Needed for Conformance**

- Amend the Land Development regulations to prohibit new or expanded public water and sewer systems or on-site systems within the Protection Zone and Environmentally-Constrained Sub-Zone unless:
  1. A waiver is granted from the Highlands Council to address a documented health and safety threat, avoid taking of private property without just compensation or serve a Highlands Redevelopment area.
  2. It is to serve a "cluster development" that satisfies the applicable cluster requirements in the RMP (Objectives 2J4b and 2K3d).
- Amend the Land Development regulations to require new residential development in the ECZ that is served by public community water and public sewer systems to develop at a minimum density of 0.5 acres per dwelling unit.
- Amend the Land Development regulations to require new non-residential development in the ECZ that is served by public community water and public sewer systems to have a target floor area ratio (FAR) of 0.84 for the developed portion of the site.
- Prepare a Wastewater Management Plan. The PLBMUA is now developing a wastewater management plan.
- Prepare a Utility Services Plan addressing the results of the build-out analysis

#### **Preliminary Assessment of Incompatibility Issues**

An initial review of the Highlands public water supply and sewer service area GIS data show inconsistencies with the information provided by the local MUA. There are existing utility service areas that are not shown on the Highlands mapping. This will need to be reconciled.

The Borough will need to undertake the RMP build-out analysis / septic system yield analysis to determine if the total development yield is consistent with the water/wastewater requirements of the RMP at full development under current zoning.

### ***PART 3: AGRICULTURE***

Preservation of agricultural lands and the continued health of the agricultural industry are priorities of the Highlands RMP. The main purpose of the Highlands' Conservation Zone is to preserve farmland and related resources. The Borough of Pompton Lakes does not have any farmland or land within the Conservation Zone. Historically the Borough has developed from an industrial area to a compact suburb. Thus, there are no apparent conflicts with the RMP on this topic.

### ***PART 4: HISTORICAL, CULTURAL, ARCHEOLOGICAL, AND SCENIC RESOURCES***

#### **Historical, Cultural, Archaeological, and Scenic Areas in Pompton Lakes**

- Historic Resources – The Borough contains a significant collection of sites that feature locally designated historic landmarks. However, no formal plans or regulations protect these resources.
- Cultural Resources – There are a number of religious and nonprofit organizations with facilities in the Borough. These organizations provide services largely to the local population.
- Archaeological Areas – No archaeological areas have been formally recognized in Pompton Lakes.
- Scenic Resources – The Borough has abundant scenic resources within its boundaries. The most prominent of these include the hills and ridgelines in the northern portions of the Borough, Pompton Lake, Twin Lake, and the Pequannock, Wanaque, and Ramapo Rivers.

#### **Applicable RMP Goals**

The Highlands Historic and Cultural Resources Inventory includes two cultural sites in Pompton Lakes – The Pompton Furnace Iron Works and Dam, Pompton Lake and Pompton Station, corner of Wanaque and Lakeside Avenues. The referenced RMP goals and policies would currently pertain to these two resources.

There are three relevant RMP goals related to Highlands cultural resources:

- Goal 4A. Protection and preservation of the historic, cultural and Archaeological resources of the Highlands region
- Goal 4B. Protection and enhancement of the scenic resources within the Highlands region
- Goal 4C. Conforming municipalities and counties include minimum standards for historic, cultural, archaeological, and scenic protection in municipal and county master plans and land development regulations.

**Existing Relevant Plans, Regulations and Practices**

The Borough has two principal guidance documents relating to historic, cultural, and archaeological resources: the 2003 Open Space and Recreation Master Plan and the Borough's 2007 Municipal Master Plan. Both have goals, policies and recommendations for extensive protection of the Borough's scenic, historic, archaeological and cultural resources. The Borough's land use regulations only address scenic features, (i.e., protection of ridgelines through hillside development controls).

**Steps Needed for Conformance**

The Borough will need to supplement and amend its Master Plan and land use ordinances to conform to the RMP. New standards for resource protection to be applied during development plan review should be considered for application to the additional cultural resources that are noted in the Borough's planning documents but not currently on the Highlands list of such resources.

***PART 5: TRANSPORTATION***

**Transportation in Pompton Lakes**

As an established suburban community, the Borough's transportation network is well-developed. It includes roads for movement of automobiles and freight, rail lines for movement of goods (potentially for commuter use in the future), and a bus transit system operated by NJTransit. In addition, sidewalks exist along many streets to facilitate pedestrian travel to key destinations in the Borough.

**Applicable RMP Goals**

The Highlands RMP advocates a transportation system based on smart growth principles that emphasize compact development, multi-modal circulation facilities, minimal new roadway extensions or expansion of road capacity, and extensive use of transit. There are five RMP goals related to Transportation in the Highlands:

- Goal 5A. Provision of safe and efficient mobility within the Highlands, and between the Highlands and destinations outside of the region
- Goal 5B. Maintenance of a safe and effective level of service on the existing Highlands road system without the use of capacity improvements that could trigger additional development in areas that are not appropriate for "growth inducing" land uses
- Goal 5C. Transportation improvements within the Highlands region that are consistent with the Highlands Regional Master Plan
- Goal 5D. A multi-modal transportation system which facilitates the movement of people and goods within and through the Highlands Region without adversely affecting ecosystem integrity and community character
- Goal 5E. Minimization of travel demand and vehicle miles of travel

**Existing Relevant Plans, Regulations and Practices**

Recommendations in the Circulation Element of the Borough's 2007 Master Plan include enhanced circulation and minor connectivity improvements to provide better access to the DuPont property, in support of its redevelopment and prevention of traffic congestion. In addition, the existing road and bus facilities/services in the downtown are in place to



support the planned redevelopment of this area of the Borough in a manner consistent with smart growth principles. Potential commuter rail service, if realized, would also complement the Borough's downtown redevelopment initiative.

#### **Steps Needed for Conformance**

Transportation policy in the Borough is generally consistent with the policies of the RMP. However, the Borough will need to make relatively minor adjustments to supplement and amend its Master Plan and land use ordinances to fully conform to the RMP.

### ***PART 6: FUTURE LAND USE***

#### **Land Use in Pompton Lakes**

In terms of land use, Pompton Lakes is a nearly fully developed, mature suburb with low and moderate density residential uses occupying most of its developed land area. Industrial and commercial uses exist as well but in much smaller proportions than the residential component. The industrial base is aging and shrinking from its earlier days. The Borough has a downtown that is poised for revitalization through an adopted downtown redevelopment Plan Ordinance (Ord. #09-01). The largest undeveloped tract is owned by the DuPont Company and lies in the northern portion of the Borough, generally between Route 287 and the Ramapo State Forest. This site is contaminated and currently undergoing remediation, which is expected to span roughly two decades. This property has forest and sloped areas.

#### **Applicable RMP Goals**

The Highlands Land Use Plan seeks to provide for adequate facilities and services for Highlands populations while taking particular care to protect the natural resources important to the Highlands Act. Since the availability of and potential for wastewater infrastructure is very limited in the largely rural Highlands Region and the Region is predominantly outside of the area designated for growth on the State Development and Redevelopment Plan, the emphasis on protecting ecosystems from overburdening by unsewered human settlement is the keystone of the Highlands Act and the RMP. Consequently, the RMP relies on a carrying capacity approach to land use throughout the region. In Pompton Lakes, nearly the entire community is served by public water supply and sewage collection and treatment, through the PLBMUA. However, even developed areas with public water and sewer service are limited due to the capacities of the respective systems that serve them. For this reason, the Highlands land use scheme looks at the remaining capacity of areas with such infrastructure but does so on the subwatershed (HUC14) basis so that within each subwatershed, future growth will not exceed the capacities of the related infrastructure.

In short, the RMP seeks to match growth potential with capacity for growth for both areas that rely on subsurface, on-site septic disposal systems and those served by public water and or sewer services. For most conforming Highlands communities, this scenario means limited growth potential because unsewered areas will support only extremely low densities of septic systems and sewer areas are typically nearly fully developed with little capacity for additional growth from a land supply perspective.

Due to the extensive number of land use issues and sub-topics, the RMP Land Use goals, policies and objectives are organized into the following six categories. Following each goal, an assessment of applicability / impact is provided for Pompton Lakes, indicated by an (PL).

- Land Use Capability Zones
- RMP Updates, Map Adjustments, and local build out analyses
- Regional guidance for development and redevelopment
- Redevelopment
- Smart Growth
- Housing and Community Facilities

***Subpart A - Land Use Capability Zones***

Goal 6A. Use the Highlands land use capability map series as a framework for determining character, location, and magnitude of new growth and development in the Highlands region.

- (PL) The Borough is largely developed with its land use pattern firmly established. Use changes planned for the DuPont property will need to be reconciled with the resource protection policies of the RMP. This land is served by PLBMUA water and sewer service but will require a revised development concept to protect the forest and slope resources on the property. The Borough's Master Plan also contemplates a renewable energy facility on the smaller of the two DuPont tracts. This intention represents a potential conflict with the open water, forest and slope resource protection objectives of the RMP.

Redevelopment of the Borough's Downtown area overlaps a portion of the open water buffer and riparian areas identified for protection in the RMP.

Goal 6B. Preservation of the land and water resources and ecological function of highlands area in the protection zone

- (PL) The wooded portions of the DuPont site lie within the Protection Zone. The Borough's Master Plan proposes use of the wooded areas for planned recreational development. This conflict will need to be resolved.

Goal 6C. Limitation of development in the protection zone to development and redevelopment which does not adversely affect the natural resources of the Highlands region ecosystem.

- (PL) A revised land use concept for the DuPont site will be needed to protect the Highlands Forest Resource Area.

Goal 6D. Protection and enhancement of agricultural uses and preservation of associated land and water resources in Highlands areas in the conservation zone.

- (PL) Not applicable. There is no commercial agriculture in Pompton Lakes.

Goal 6E. Incorporation of regional development patterns and related environmentally sensitive areas within existing community zones

- (PL) This goal will require retro-fitting the Existing Community Zone (the existing developed areas) with additional standards for resource protection. The primary affected areas in Pompton Lakes include the downtown redevelopment area, the DuPont property, and nonexempt uses within the environmental resource protection areas (Lake Community Sub-Zone, steep slope areas, Forest Resource Areas, riparian areas, etc.). The full extent of the impact will be more clearly revealed during the Module 6 consideration of the Highlands Model Land Use Ordinance. While the intended protections will help avoid further water quality degradation, it is likely that a number of nonexempt properties may become nonconforming from a zoning perspective and thus make upgrades and maintenance potentially more difficult and expensive.

Goal 6F. Support of compact development, mixed use development and redevelopment and maximization of water, wastewater and transit infrastructure investments for future use of land and development within the existing community zone.

- (PL) Pompton Lakes' Land Use Plan is consistent with this goal.

***Subpart B - RMP Updates, Map Adjustments, and local build out analyses***

- Goal 6G. Continually update and improve the Highlands land use capability map series.
- (PL) This report has highlighted some of the preliminary inconsistencies between the Highlands RMP data and information available to Pompton Lakes. The Borough may therefore pursue an RMP update request for these areas.

***Subpart C - Regional guidance for development and redevelopment***

- Goal 6H. Guide development away from environmentally sensitive and agricultural lands and promote development and redevelopment in or adjacent to existing developed lands.

- (PL) See response to Goal 6A.

Conforming municipalities and counties incorporate regional and local and water resource planning and management programs in their master plans and development regulations. This includes requiring regulations to allow cluster development and require appropriate facilities for water and sewer service and transportation facilities.

- (PL) The Borough's policies are generally consistent. Cluster development is only required within Agricultural Resource Area lands, which is not applicable to Pompton Lakes. The only realistic location for a potential major subdivision in the Borough is on the 2 DuPont properties, which are currently governed by regulations that allow/require clustering. The smaller DuPont tract allows both detached clustered dwellings and non-clustered dwellings. Clustered hillside townhouse development is permitted on the larger DuPont tract. Aside from the need for a revised land use concept as discussed above, minor revisions may be needed to fully match the Highlands standards for cluster development and provision of adequate facilities. Clustered development in Pompton Lakes, however, is optional in these areas.

***Subpart D - Redevelopment***

- Goal 6I. Accommodation of regional growth and development needs through the reuse and redevelopment of previously developed areas, including Brownfields, Grayfields, and underutilized sites.

- (PL) Pompton Lakes' policies are generally consistent with this goal. The Borough has planned to remediate and redevelop the DuPont property and revitalize/redevelop its downtown. However, resource protection policy conflicts will need to be resolved, as noted previously.

- Goal 6J. Concentrate residential, commercial and industrial development, redevelopment, and economic growth in existing developed areas in locations with limited environmental constraints, access to existing utility, and transportation infrastructure.

- (PL) See response to Goal 6J.

- Goal 6K. Conforming municipalities and counties consider development, redevelopment and Brownfields opportunities in their master plans.

- (PL) See response to Goal 6J. In addition, the Borough will need to adopt modifications to its process for reviewing projects within redevelopment areas to assure consistency with RMP smart growth and Low Impact Development policies and objectives. This goal also requires adequate planning for community facilities, which the Borough has done through its 2007 Master Plan.

- Goal 6L. Protection and enhancement of Highlands resources through the remediation of contaminated sites in region.

Initial Assessment for Highlands Regional Master Plan Conformance  
Borough of Pompton Lakes, NJ

This goal includes an objective that encourages evaluation of mechanisms for remedial activities that apply resource protection, enhancement and restoration approaches that allow for a minimal redevelopment footprint, encourage "brownfields to greenfields" approaches, and include green energy and building concepts.

- (PL) In addition to the above Sub-Part D responses, the Borough seeks to encourage utilization of a portion of the remediated DuPont site for production of renewable energy. Nonetheless, revisions to master plan provisions and land use regulations will be needed to achieve full conformance with RMP policies.

***Subpart E - Smart Growth***

Goal 6M. Use of smart growth principles, including low impact development, to guide development and redevelopment in the Highlands region.

- P.L. See response to 6L above.

***Subpart F - Housing and Community Facilities***

Goal 6N. Market-rate and affordable housing sufficient to meet the needs of the Highlands region within the context of economic, social, and environmental considerations and constraints.

- P.L. While the Borough has policies and regulations to facilitate the construction of affordable housing, the Borough will need to revise its Master Plan and development regulations to achieve consistency with the RMP policies and objectives, chiefly to incorporate the resource protection policies and objectives of the RMP.

**Existing Relevant Plans, Regulations and Practices**

The Borough's primary land use guidance references are its 2007 Master Plan and current land use regulations. These were developed in the absence of a final Highlands RMP and no requirement/incentive to adopt policies and regulations that are compatible with those of the RMP. Nonetheless, much of the recently updated master Plan and Zoning Ordinance assign careful attention to protection of environmental resources. Slope protections, clustering, scenic resource preservation are among the features currently included.

**Steps Needed for Conformance**

Despite the environmentally progressive nature of the Borough's Master Plan and development regulations, the Borough will need to compile certain supplements and amendments to its Master Plan and land use ordinances to fully conform to the RMP. This is expected to require revisions, due to the current conflicts between the RMP and the Borough's development policies, especially concerning redevelopment of the downtown area and the DuPont sites.

## ***PART 7: LANDOWNER EQUITY***

### **Equity Issues in Pompton Lakes**

Landowner equity is of utmost concern in Pompton Lakes. It is imperative that adequate consideration be given to equity concerns if land use regulations are to be made consistent with the RMP. Thus, consideration to the cost of land development and reasonable returns on investment will need to be part of the discussions moving forward.

### **Applicable RMP Goals**

- Goal 7A.** Protection of lands that have limited or no capacity to support human development without compromising the ecological integrity of the Highlands region, through mechanisms including but not limited to a region-wide transfer of development rights program.
- Goal 7B.** Provision for compensation through a region-wide program of transferable development rights to landowners whose properties have limited or no capacity to support additional development based upon analyses conducted by the Highlands Council and who are disproportionately burdened by the provisions of the Highlands Act.
- Goal 7C.** Creation of a Highlands development credit bank.
- Goal 7D.** Establishment of sufficient Highlands receiving zones to create a positive market for TDR credits.
- Goal 7E.** Maximization of the transfer and use of HDCS.
- Goal 7F.** Ensure that Highlands Act exemptions are properly issued and monitored.
- Goal 7G.** Ensure that Highlands Act permits and waivers are properly issued, tracked, and monitored.
- Goal 7H.** Mitigation to the maximum extent possible of the impacts of exempt development on the ecosystem integrity of the Highlands region through use of innovative land use programs.

### **Existing Relevant Plans, Regulations and Practices**

Policies and objectives under this category were never previously needed by the Borough, due to its use of reasonable zoning practices, consistent with the provisions of the NJ Municipal Land Use law. With Highlands plan conformance, the potential for equity issues exist.

There is also opportunity in this topic to the extent that Pompton Lakes can and desires to accommodate additional residential units in connection with implementation of its downtown redevelopment plan (Ordinance #09-01). If the Borough attains plan conformance, it will be eligible to receive development rights and the related transfer fees. This is a significant opportunity that should be carefully explored and considered before the Borough makes its choice concerning pursuit of plan conformance.

### **Steps Needed for Conformance**

The new development transfer opportunities and potential equity issues that will be raised by plan conformance will need to be examined more closely during the Module 5, Highlands Master Plan Element and Module 6, Model Highlands Regulations components of the Borough's Plan Conformance grant project.

## ***PART 8: SUSTAINABLE ECONOMIC DEVELOPMENT***

### **Economic Development in Pompton Lakes**

Economic development in the Borough is expected chiefly through revitalization of the downtown and re-use and redevelopment of the 230-acre DuPont site. The Borough's development regulations and downtown redevelopment plan ordinance provide for the implementation of the Plan's economic development recommendations.

#### **Applicable RMP Goal**

- Goal 8A. Sustainable economic development in the Highland region.
- Goal 8B. Protection and enhancement of the agriculture industry in the Highlands region.
- Goal 8C. Expansion of compatible and sustainable tourism and recreation within the Highlands region.
- Goal 8D. Expansion of innovative technology and entrepreneurial businesses including home office, energy efficiency, and resource conservation enterprises in the Highlands region.
- Goal 8E. Estimate and track over time the costs and benefits associated with plan implementation and the protection of critical resources of the Highlands region.

These goals require that the Borough develop an economic plan element that provides strategies for achieving sustainable and appropriate economic development consistent with local desire and identifies any development, redevelopment, and brownfield opportunities. They also seek to ensure (through local development regulations) opportunities for small business activities, by permitting home occupations, participation in small business incubator programs, and use of innovative technologies that promote compact design, native species landscaping, Low Impact Development, energy efficiency and resource conservation in support of comprehensive RMP goals.

The RMP also promotes recreation and tourism based economic initiatives, which derive economic benefit from sustainable use of the natural resources of the Highlands Region.

The RMP policies seek to establish a framework for land development and non-land development approaches to economic development so that expansion of the local economy is not continually dependent upon more new development. It also suggests that coordination and delivery of economic assistance programs for Highlands communities will be key to sustaining local economies.

#### **Existing Relevant Plans, Regulations and Practices**

The Borough's development regulations and downtown redevelopment plan ordinance provide for the implementation of the Master Plan's economic development recommendations, which focus on the revitalization of the downtown and redevelopment of the DuPont tract. Pompton Lakes' Master Plan and Zoning Ordinance also promote recreational tourism through the Planned Recreation Community District on the DuPont site now undergoing remediation. The Borough's policies call for a hotel and golf course, in a location that provides direct access to enjoyment of Highlands natural areas with considerable potential for sustainable economic activity. The Borough's Master Plan also recommends the development of a trail system along the Wanaque River, behind the existing and future shops in this portion of the downtown. However, sustainable economic development relative to Highlands resource protection is not directly addressed in the Borough's planning policies or development regulations.

#### **Steps Needed for Conformance**

The Borough will need to develop and adopt a sustainable economic plan element for its Master Plan and amend its development regulations to conform local sustainable economic development policies to the RMP. These modifications would be relatively minor in their scope.

## ***PART 9: AIR QUALITY***

### **Applicable RMP Goal**

Goal 9A. Reduction of air pollution through use of alternative and efficient modes of transportation and the use of renewable energy sources.

This section of the RMP emphasizes reducing the sources of air pollution through reduction of travel, which is largely accomplished by providing for center-based growth and mixed-use development and provision of travel alternatives. It also encourages energy efficient design and green building practices as means to minimize carbon output

### **Existing Relevant Plans, Regulations and Practices**

The Borough's Master Plan and development regulations currently provide for smart growth within its downtown and smart growth through redevelopment of the downtown and DuPont sites. The Master Plan Circulation element also recommends reduction of travel by automobile through enhanced pedestrian and bicycle connections. The Plan also recommends reactivation of commuter rail service, which would serve and support smart growth in the downtown. It further recommends exploration of a possible Transit Village. However, other than a green roof development incentive bonus in the downtown area, green building and energy efficient design have not yet been comprehensively incorporated in the Borough's planning policies or development regulations.

### **Steps Needed for Conformance**

The Borough will need to supplement and amend its Master Plan and development regulations to include energy efficient design and green building provisions. This would be most appropriately done through a sustainability plan element, which should also address economic sustainability per Section 8 above.

## ***PART 10: LOCAL PARTICIPATION***

### **Applicable RMP Goal**

Goal 10A. Maximize municipal participation to ensure the regional master plan achieves its long term goals of protecting, enhancing and restoring Highlands resources and maintaining a sustainable economy in the Highlands region.

The emphasis of this goal is on optimizing the extent of municipal conformance to and implementation of the Highlands RMP.

### **Existing Relevant Plans, Regulations and Practices**

The Borough is currently exploring its role in this process through this Initial Assessment and participation in the Plan Conformance Grant program.

## ***COST CONSIDERATIONS***

It is expected that the Borough's total available Plan Conformance grant budget of \$100,000 will be sufficient to address all needed modifications in draft form, for the purpose of achieving Basic Plan Conformance.



## **GLOSSARY**

**Conservation Zone** – Areas identified on the Land Use Capability Zone Map consisting of significant agricultural lands and limited low-density development interspersed with environmental features that should be preserved whenever possible.

**Critical Wildlife Habitats** – Habitats for rare, threatened or endangered wildlife species as identified through the Landscape Project of the New Jersey Department of Environmental Protection (NJDEP).

**Current Deficit Areas** – A HUC14 sub-watershed where Net Water Availability is less than zero.

**Development** – Refers to 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 (Section 3 and MLUL (C.40:55D-4)).

**Existing Community Zone** – Those areas identified on the Land Use Capability Zone Map 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.

**Existing Community Zone– 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.

**Existing Constrained Areas** – HUC14 subwatersheds which contribute water flows to a Current Deficit Area.

**Highlands Scenic Resource Inventory** – The inventory of regionally significant lands within the Highlands Region that encompasses elements of high scenic quality worthy of protection, which is developed in coordination with local governments and maintained by the Highlands Council.

**Impervious surface** – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements (Section 3). To be considered an impervious surface, the structure, surface or improvement must have the effect of reducing or preventing stormwater absorption.

**Lake Community Sub-Zone** – Means those areas identified on the Land Use Capability Zone Map within the Existing Community Zone that are within 1,000 feet of lakes that are ten 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.

**Land Use Capability Map Series** – The series of official maps of the Highlands RMP, which divides the Region into three primary overlay zones and three Sub-Zones based upon natural resource protection, preservation of agricultural landscapes, existing development patterns, and economic growth opportunities. The series includes the Land Use Capability Zone Map, the Land Use Capability Water Availability Map, the Land Use Capability Public Community

Water Systems Map, the Land Use Capability Domestic Sewerage Facilities Map, and the Land Use Capability Septic System Yield Map, and serves as the land use capability map as provided for in the Highlands Act.

**Net Water Availability** – The value resulting from subtracting the impacts of consumptive and depletive surface and ground water uses from ground water availability.

**Planning Area** – Lands within the Highlands Region which are not within the Preservation Area.

**Preservation Area** – Those lands within the Highlands Region which are designated as the Preservation Area by N.J.S.A. 13:20-7b (Section 3).

**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.

***APPENDIX A: INITIAL ASSESSMENT GRANT REPORT ADDENDUM***

## INITIAL ASSESSMENT GRANT REPORT ADDENDUM

*Instructions: Complete chart below, indicating for each subject area, whether current municipal planning documents include language concerning the applicable topic (insert “yes,” “no,” or “N/A,” for not applicable), whether or not existing language covers and includes all RMP provisions (insert “yes,” “no,” or “N/A,” for not applicable), and what actions are needed for Plan Conformance (i.e., “revise applicable ordinance to include RMP provisions,” “develop new ordinance to address topic,” “supplement ERI, Master Plan and Ordinances to include topic and RMP provisions,” or “none”).*

	EXISTING ERI/NRI		EXISTING MASTER PLAN		EXISTING LAND USE ORDINANCES		Action(s) Required
	Includes Topic?	Addresses RMP?	Includes Topic?	Addresses RMP?	Include Topic?	Address RMP?	
<b>Forest Resources</b>	No ERI	No ERI	No	No	No	No	Create an ERI; supplement MP and LUO to include topic and incorporate RMP provisions. LUO has Tree Removal Ordinance only. Minor revisions necessary.
<b>Highlands Open Waters &amp; Riparian Areas</b>	No ERI	No ERI	No	No	Yes	No	Create an ERI; supplement MP and LUO to include topic and incorporate RMP provisions. Minor revisions necessary.
<b>Steep Slopes</b>	No ERI	No ERI	Yes	No	Yes	No	Create an ERI; revise Master Plan & applicable ordinance to include RMP provisions. Minor revisions necessary.
<b>Critical Habitat</b>	No ERI	No ERI	Yes	No	Yes	No	Create an ERI; supplement Master Plan and Ordinances to include topic and RMP provisions.
<b>Carbonate Rock</b>	No ERI	No ERI	N/A	N/A	N/A	N/A	None
<b>Lake Management</b>	No ERI	No ERI	Yes	No	No	No	Create an ERI; supplement Master Plan and Ordinances to include topic and RMP provisions. Minor revisions necessary.
<b>Water Resources Availability</b>	No ERI	No ERI	No	No	No	No	Create an ERI; supplement, Master Plan and Ordinances to include topic and RMP provisions.
<b>Prime Groundwater Recharge</b>	No ERI	No ERI	Yes	No	Yes	No	Create an ERI; supplement Master Plan and Ordinances to include RMP provisions. Minor revisions necessary.
<b>Water Quality</b>	No ERI	No ERI	Yes	No	Yes	No	Create an ERI; supplement Master Plan and Ordinances to include RMP provisions. Minor

	EXISTING ERI/NRI		EXISTING MASTER PLAN		EXISTING LAND USE ORDINANCES		Action(s) Required
	Includes Topic?	Addresses RMP?	Includes Topic?	Addresses RMP?	Include Topic?	Address RMP?	
							<i>revisions necessary.</i>
<b>Wellhead Protection</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Create an ERI; supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Stormwater Management</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Major revisions needed</i>
<b>Water/Wastewater Utilities</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Major revisions needed.</i>
<b>Septic Densities</b>	<i>No ERI</i>	<i>No ERI</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Low Impact Development</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Transportation</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Land Pres/Stewardship</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Create an ERI; supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Agricultural Resources</b>	<i>No ERI</i>	<i>No ERI</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>None</i>
<b>Cluster Development</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Community Facilities</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>None</i>
<b>Sustainable Economic Development</b>	<i>No ERI</i>	<i>No ERI</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>
<b>Historic, Cultural, Archaeological Resources</b>	<i>No ERI</i>	<i>No ERI</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Supplement Master Plan and Ordinances to include RMP provisions. Minor revisions needed.</i>

***APPENDIX B: HIGHLANDS ACT EXEMPTIONS AND DEP WAIVERS***

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## Highlands Water Protection and Planning Act

### Exemptions and Waivers

The Highlands Act creates seventeen exemptions which allow property owners to develop their properties without applying the enhanced environmental standards adopted by the New Jersey Department of Environmental Protection in the Preservation Area. In addition, the rules to be adopted by DEP will include provisions for three waivers that allow some degree of deviation from the enhanced environmental standards.

#### Exemptions

1. **Construction of a single family dwelling for own use or family use:** 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 this act or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase that lot;
2. **Construction of a single family dwelling on existing lot:** The construction of a single family dwelling on a lot in existence on the date of enactment of this act, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;
3. **Developments with prior Municipal and DEP Approvals:** A major Highlands development that received on or before March 29, 2004:
  - (a) one of the following approvals pursuant to the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.):
    - (i) preliminary or final site plan approval;
    - (ii) final municipal building or construction permit;
    - (iii) minor subdivision approval where no subsequent site plan approval is required;
    - (iv) final subdivision approval where no subsequent site plan approval is required; or
    - (v) preliminary subdivision approval where no subsequent site plan approval is required;and
  - (b) at least one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development:
    - (i) a permit or certification pursuant to the "Water Supply Management Act," P.L.1981, c. 262 (C.58:1A-1 et seq.);
    - (ii) a water extension permit or other approval or authorization pursuant to the "Safe Drinking Water Act," P.L.1977, c. 224 (C.58:12A-1 et seq.);
    - (iii) a certification or other approval or authorization issued pursuant to the "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c. 199 (C.58:11-23 et seq.); or
    - (iv) a treatment works approval pursuant to the "Water Pollution Control Act," P.L.1977, c. 74 (C.58:10A-1 et seq.); or



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(c) one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the permits listed in subparagraphs (i) through (iv) of subparagraph (b) of this paragraph:

(i) a permit or other approval or authorization issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c. 156 (C.13:9B-1 et seq.); or

(ii) a permit or other approval or authorization issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c. 19 (C.58:16A-50 et seq.).

The exemption provided in this paragraph shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph, shall expire if any of those qualifying approvals expire, and shall expire if construction beyond site preparation does not commence within three years after the date of enactment of this act;

4. **Reconstruction of buildings or structures within 125% of the footprint:** 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;

5. **Improvement to a single family dwelling:** Any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

6. **Places of worship, schools, or a hospitals:** 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 this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

7. **Woodland and Forest management plans:** An activity conducted in accordance with an approved woodland management plan pursuant to section 3 of P.L.1964, c. 48 (C.54:4-23.3) or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;

8. **Trails on public or private lands:** 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;

9. **Repair of transportation or infrastructure systems:** The routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes;

10. **Transportation safety projects:** The construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;

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11. **Public utility lines, rights of way, or systems:** The routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act;
12. **Reactivation of rail lines/rail beds:** The reactivation of rail lines and rail beds existing on the date of enactment of this act;
13. **Public Infrastructure:** The construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;
14. **Mining or Quarrying:** The mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;
15. **Site Remediation:** The remediation of any contaminated site pursuant to P.L.1993, c. 139 (C.58:10B-1 et seq.);
16. **Military lands:** Any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region;
17. **Affordable Housing:** A major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to P.L.1985, c. 398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. The exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law," P.L.1975, c. 291 (C.40:55D-1 et seq.).

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### Waivers

The DEP may grant waivers from its Highlands rules for major Highlands developments in the Preservation Area on a case-by-case basis conditioned upon the DEP's determination that the statutory standards are met meets to the maximum extent possible. A major Highlands Development may obtain one of the following three waivers:

1. **Public Health and Safety**

A waiver of any provision of a Highlands permitting review on a case-by-case basis if determined to be necessary by DEP in order to protect public health and safety.

2. **Redevelopment in previously developed areas as identified by the Highlands Council**

A waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the Preservation area identified by the Highlands Council. Any areas identified for possible redevelopment by the Highlands Council shall be either a brownfield site designated by DEP or a site at which at least 70% of the area thereof is covered with impervious surface.

3. **To avoid a Taking of Property without Just Compensation**

A waiver of any provision of the Highlands permitting review on a case-by-case basis in order to avoid the taking of property without just compensation.

### Definitions

"**Major Highlands development**" means, except as otherwise provided pursuant to subsection a. of section 30 of this act, (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. Major Highlands development shall not mean an agricultural or horticultural development or agricultural or horticultural use in the preservation area.

***APPENDIX C: SINGLE-FAMILY EXEMPTIONS ABSTRACT***



## State of New Jersey

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RICHARD J. CODEY  
*Acting Governor*

JOHN R. WEINGART  
*Chairman*

ADAM J. ZELLNER  
*Executive Director*

June 2005

### **HIGHLANDS ACT EXEMPTIONS TO SINGLE FAMILY DWELLINGS**

One of the most frequently asked questions regarding the Highlands Water Protection and Planning Act ("Highlands Act") is whether the enhanced environmental standards apply to single family homeowners. While the Highlands Act limits certain development activities, the Act provides four broad exemptions that are applicable to the construction or expansion of single family dwellings.

#### EXEMPT FROM THE HIGHLANDS ACT:

- 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 August 10, 2004 or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase;
- The construction of a single family dwelling on a lot in existence on August 10, 2004, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;
- Any improvement to a single family dwelling in existence on August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system; and
- 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.

Activities that fall within any of the four exemptions outlined above are fully exempt from any of the restrictions of the Highlands Act and the enhanced environmental standards ("Highlands regulations") adopted by the Department of Environmental Protection ("NJDEP") pursuant to the Highlands Act. However, it must be kept in mind that such activities are still subject to federal, state, and local law (for

example, the applicant must comply with local development regulations and with non-Highlands environmental laws such as the fresh water wetlands, stormwater and stream encroachment regulations).

The following scenarios illustrate how the Highlands Act exemptions apply \*:

***Construction of Single family Dwelling – Exemption #1 under the Act***

A property owner owns a vacant, 1.5-acre lot in the Preservation Area that is zoned for residential development. The lot was in existence on the day the Highlands Act was enacted (August 10, 2004). The property owner wants to construct a single family dwelling for the owner’s use or that of an immediate family member. Such development would be exempt from the Highlands Act and the NJDEP Highlands regulations.

A property owner owns a vacant, 10-acre parcel in the Preservation Area upon which the owner wants to build a single family home. Local zoning only authorizes industrial uses. Although construction of the single family home would be exempt from the Highlands Act, the proposal would still be subject to the underlying zoning, and as such, could not be constructed absent a change in zoning.

***Construction of a Second Single family Dwelling***

A property owner owns a 10-acre lot in the Preservation Area, zoned for residential development, which is already developed with an existing single family dwelling. The lot and home were in existence on the day the Highlands Act was enacted. The property owner wants to construct a second single family dwelling on the lot, which is permitted under the local development regulations. Construction of this second single family dwelling will not qualify for an exemption. Depending upon the size of the project, it may be subject to the Highlands Act and NJDEP Highlands regulations because it does not fall within any of the exemptions discussed above.

***Sale of Existing Lot – Exemption #2 under the Act***

A property owner owns a vacant, 1.5-acre lot in the Preservation Area that is zoned for residential development and was in existence on the day the Highlands Act was enacted (August 10, 2004). The property owner sells that lot to a third-party in September 2004. The new property owner wants to construct a single family home, under exemption number two above. The proposed development is exempt from the Highlands Act and NJDEP Highlands regulations provided that the development does not disturb one acre or more of land nor result in a cumulative increase in impervious surface by one-quarter acre or more.

***Expansion of Existing Single family Dwelling – Exemption #5 under the Act***

A property owner owns a single family home in the Preservation Area that was in existence on the day the Highlands Act was enacted (August 10, 2004). The property owner would like to construct a 1,500 square foot addition onto the existing home. The development is exempt from the Highlands Act and NJDEP Highlands regulations

***Construction of Shed or Pool – Exemption #5 under the Act***

A property owner owns a 1.5-acre lot in the Preservation Area, zoned for residential development, which is already developed with an existing single family dwelling. The lot and home were in existence on the day the Highlands Act was enacted. The property owner would like to construct a shed and install an in-ground pool. Both of these activities would be exempt from the Highlands Act and NJDEP Highlands regulations.

***Reconstruction of Single Family Dwelling – Exemption #4 under the Act***

A property owner owns a 10-acre lot in the Preservation Area, zoned for residential development, which is already developed with an existing, but dilapidated and abandoned house. The lot and house were in existence on the day the Highlands Act was enacted (August 10, 2004). The property owner wishes to raze the old house and construct a new single family dwelling. The property owner may raze the house and construct a new home provided the construction is within 125% of the footprint of the lawfully existing impervious surfaces on the site, and the reconstruction does not increase the impervious surface by one-quarter acre or more.

***Purchase of Existing Single Family Dwelling and Construction of Addition – Exemption #5 under the Act***

A property owner owns a 1.5-acre lot in the Preservation Area, zoned for residential development, which is already developed with an existing single family dwelling. That home is sold to a third-party who would like to build an addition onto the existing home. The proposed development would be exempt from the Highlands Act and NJDEP Highlands regulations.

*\*Please note that applicability of these exemptions may be subject to NJDEP interpretation on a case-by-case basis.*



***APPENDIX D: BENEFITS OF HIGHLANDS PLAN CONFORMANCE***



## State of New Jersey

RICHARD J. CODEY  
*Acting Governor*

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JOHN R. WEINGART  
*Chairman*

ADAM J. ZELLNER  
*Executive Director*

### **THE HIGHLANDS REGIONAL MASTER PLAN AND THE BENEFITS AND INCENTIVES TO MUNICIPAL AND COUNTY CONFORMANCE**

The Highlands Council is in the initial phase of outreach to local officials in order to begin to shape the vision for the Highlands Regional Master Plan. The Highlands Act requires the development of a Regional Master Plan by June of 2006 for both the Preservation Area and the Planning Area. In order to achieve a regional approach to land use planning and a coordinated method for the protection of the Region's important natural resources, the Act provides benefits and incentives which are available to counties and municipalities that conform to the Regional Master Plan. Of the 88 municipalities in the Highlands region, 5 are entirely in the Preservation Area; 36 are entirely in the Planning Area, and the remaining 47 communities are in both areas. Planning Area municipalities and counties that voluntarily conform to the Regional Master Plan are eligible for the benefits and incentives created for the Preservation Area. A summary of the benefits and incentives for conformance to the Regional Master Plan follows:

#### ***The Legal Shield and Legal Representation***

The Highlands Act provides a "strong presumption of validity" to master plans, land use ordinances and local decisions of municipalities and counties made in conformance with the Regional Master Plan to be adopted by the Highlands Council. This enhanced presumption of validity is one of the strongest levels of legal protection available in the State. The Act also provides an opportunity for direct legal representation where needed.

#### ***Highlands Council Planning Grants, Smart Growth Grants and Technical Aid***

The Highlands Council is authorized to provide grants for the reasonable expenses associated with preparing conforming master plans and land use ordinances. Additionally, the Act provides automatic qualification for the State aid, planning assistance and technical assistance for smart growth projects offered by the Office of Smart Growth.

#### ***Council on Affordable Housing Obligations***

The Highlands Act requires COAH to consider the Regional Master Plan prior to making COAH determinations under the third round for all of the 88 municipalities in the Highlands Region. The Act also preserves the protections to municipalities where COAH has granted substantive certification. The Highlands Council and COAH have agreed to work together to examine prior round obligations that have been impacted by the Preservation Area standards in the Act.

### ***Tax Stabilization Funding***

The Act also creates a Tax Stabilization Board which will determine the compensation amount due to qualified municipalities for the decline in the aggregate true value of vacant land caused by the Highlands Act.

### ***Transfer of Development Rights, Impact Fees and Enhanced Planning Grants***

The Act also requires the Council to establish a voluntary TDR program and offers financial incentives to municipalities for creating receiving zones. These incentives include enhanced planning grants up to \$250,000, reimbursement for costs of amending local ordinances, authority for the use of impact fees up to \$15,000 per unit, and priority status for state infrastructure spending.

### ***Priority for Green Acres and Farmland Funding***

The Highlands Act provides priority funding opportunities under Green Acres and State Farmland Preservation for land within the Preservation Area and for those municipalities in the Planning Area that have adopted transfer of development rights ordinances.

### ***Enforcement of the Regional Master Plan***

The Act authorizes the Highlands Council to take enforcement action for any violation of the Regional Master Plan in the Preservation Area or in the Planning Area where municipalities or counties have come into conformance with the Regional Master Plan.

### ***Stricter Land Use Provisions***

Preservation Area municipalities and counties or those Planning Area municipalities and counties which opt-in to conformance with the Regional Master Plan may adopt master plans and land use regulations that are stricter than needed to come into conformance.

### ***State Plan Endorsement***

When the State Planning Commission endorses the Regional Master Plan adopted by the Highlands Council, any municipal master plan and development regulations approved by the Council are deemed the equivalent of having those plans endorsed by the State Planning Commission.

### ***Model Land Use Ordinances and Technical Guidance***

The Highlands Council is developing model land use ordinances and development regulations. In addition, the Council will provide technical assistance in environmental science, planning, and GIS services to assist with municipal and county conformance.