

# PERIODIC REEXAMINATION REPORT OF THE MASTER PLAN

**BOROUGH OF KINNELON  
MORRIS COUNTY, NEW JERSEY**

June 3, 2015





COMMUNITY PLANNING  
LAND DEVELOPMENT AND DESIGN  
LANDSCAPE ARCHITECTURE

**B U R G I S**  
A S S O C I A T E S , I N C .

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**Borough of Kinnelon**  
**Morris County, New Jersey**

**This report was prepared on behalf of:**  
**Borough of Kinnelon Planning Board**  
**BA# 2934.01**

The original document was appropriately signed and sealed on June 3, 2015 in accordance with Chapter 41-1.2 and 41-1.3 of the State Board of Professional Planners.

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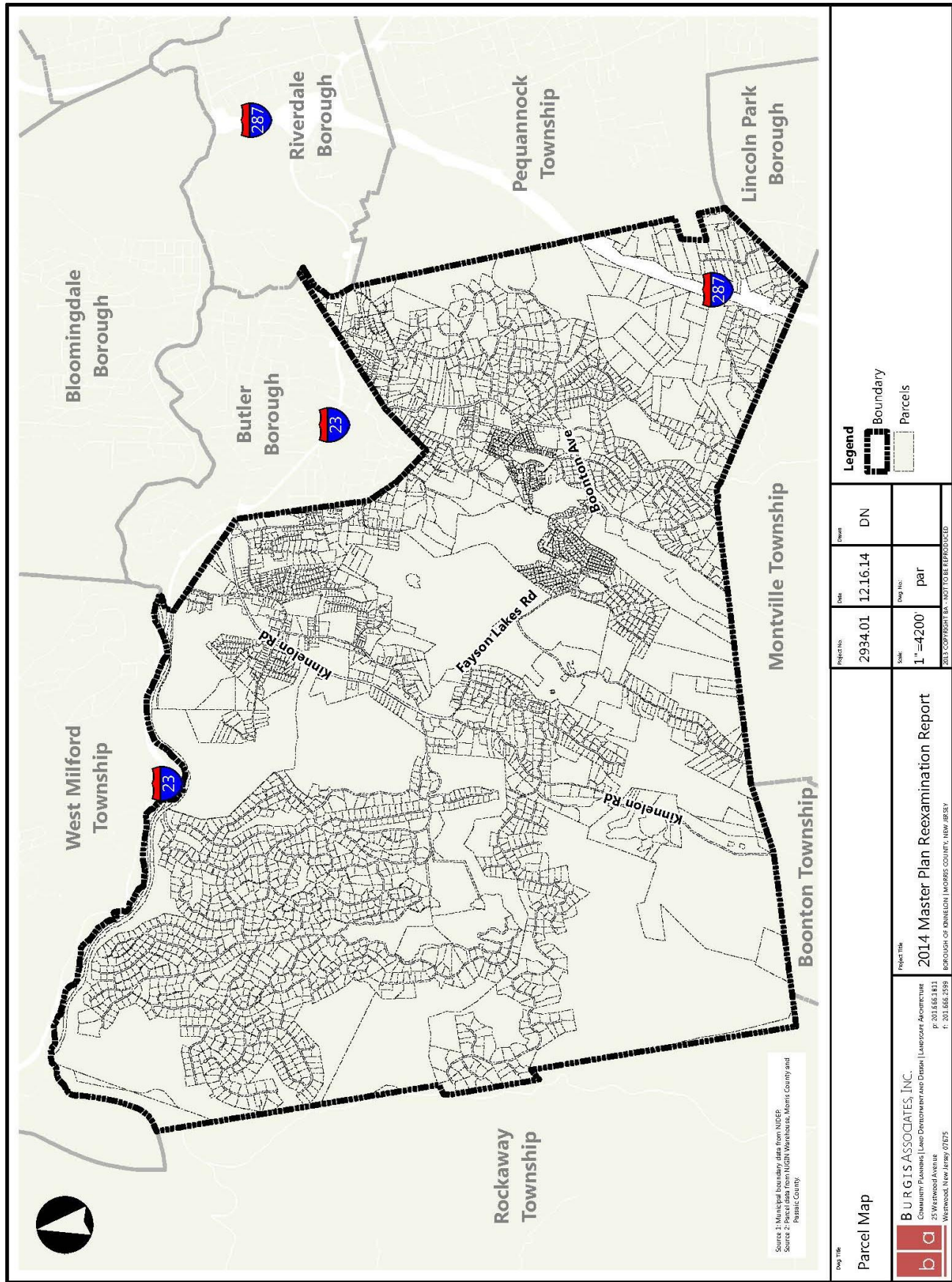


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## INTRODUCTION

### Overview

The Borough of Kinnelon master plan reexamination review process is part of a continuing comprehensive planning tradition that has been undertaken by the Borough throughout the past sixty years. The reexamination process requires the planning board to evaluate the major problems and objectives affecting the community at the time of the last reexamination report, assess the extent to which those problems have been resolved and objectives met, identify significant changes in the community including changes in goals, policies and planning objectives, and reflect on any changes to the master plan or development ordinances that may be appropriate to implement such as new policies, etc. The reexamination report, while not a master plan, is an assessment of it, and within that framework represents a continuing effort on the part of the municipality to ensure that its planning policies, land use goals and objectives remain relevant and affirmatively address contemporary land use issues impacting and affecting the municipality.

This document highlights the impacts the Borough's compliance with elements of the 2008 Highlands Regional Master Plan (RMP) has had on the community. One of the most significant policy and regulatory changes affecting development in Kinnelon was the signing of the Highlands Water Protection and Planning Act (Highlands Act) in 2004. The Highlands Act created a new political subdivision of the state which was authorized to prepare, adopt and implement a Regional Master Plan (RMP) to protect the water resources of this 7 county, 88 municipality, 1,343 square mile Highlands Region in the northwestern portion of New Jersey. The Highlands Act divided the Highlands Region into two broad areas, including a Preservation Area, where compliance with the RMP is mandatory and NJDEP emergency regulations took effect immediately upon the RMP becoming effective. The remaining section of the Highlands Region is designated as the Planning Area where municipal compliance with the RMP is voluntary. A total of 97.4% of Kinnelon (11,984 acres) is within the Highlands Preservation Area, leaving just 2.6% of the Borough (325 acres) in the Planning Area.

The small Planning Area in Kinnelon minimizes the Borough's ability to accommodate new development and achieve additional ratable, thus imposing significant fiscal constraints on Kinnelon, as well as limiting the community's ability to affirmatively address various state mandates, such as affordable housing.

This document is comprised of two principal sections. These include the following:

1. The first section addresses the community's planning and zoning issues within the framework of the statutory requirements of the Municipal Land Use Law (MLUL) and its master plan reexamination provisions. The MLUL requires municipalities to periodically reexamine their master plan and development regulations. The statute mandates that this report must include, at a minimum, five key elements, which identify:

- a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report;
  - b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date;
  - c. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land use, housing conditions, circulation, conservation of natural features, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, County and municipal policies and objectives;
  - d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulation should be prepared;
  - e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.
2. As a component of this master plan reexamination report, Burgis Associates was instructed to review property on Boonton Avenue (Block 45502 Lot 119) for potential future acquisition for recreation purposes by the borough.

### The Legal Requirement for Planning

The MLUL establishes the legal requirements and criteria for the preparation of a master plan and reexamination report. The planning board is the local planning entity responsible for the preparation and adoption of the master plan and its periodic reexamination report. These documents may be adopted or amended by the board only after a public hearing. The MLUL requires the board to prepare a review of the plan at least once every ten years. Kinnelon's last master plan reexamination report was adopted in 2000, some 14 years ago. However, Kinnelon has been participating in the planning process directed by the Highlands Council which began with adoption of the Highlands Council Regional Master Plan in 2008.

The master plan and associated reexamination reports establishes the legal basis for the community to control development in the municipality. This is accomplished through the adoption of development ordinances designed to implement the plan's recommendations. However it is important to recognize that the absence of the adoption of a reexamination report by the planning board constitutes a rebuttable presumption that the municipal regulations are no longer reasonable.



## Previous Planning Activities Undertaken By the Borough

A summary of the Borough's previous planning efforts is described below:

\* The Borough planning board adopted its first master plan document in 1954. This document established the initial foundation for the community's land use planning efforts, and identified a proposed distribution of uses throughout the municipality.

\* The Kinnelon governing body adopted the Official Zoning Map for the community in October 1966. The 1966 Zoning Map was revised on August 5, 1996.

\* Kinnelon's planning board adopted a periodic reexamination report in 1988. Related planning board documents were also prepared around this time, including a Recycling Plan Element and a Land Use Study Map, both in 1990. The planning board also prepared a Draft Report on the Relationship of the Kinnelon Master Plan to other Master Plans in 1990, and a 1990 interim report which included recommendations concerning residential/multi-cluster/recreation zone and potential modifications to the Limited Industrial zone.

\* Kinnelon in 1988 adopted its first Housing Element and Fair Share Plan. Based upon this plan, Kinnelon received Substantive Certification for the years 1987 through 1993 from the Council on Affordable Housing (COAH).

\* In 1991, the planning board prepared four planning reports as follows:

1. Office Zoning, Kinnelon Road;
2. Planned Recreation/Residential Community Use and Development Guidelines;
3. Golf Course Environmental Guidelines and Planning Criteria; and
4. Draft Circulation Plan for the Morris County Master Plan.

\* The Borough planning board reexamined the local master plan in 1994. This document concluded "The basic land use patterns and regulatory framework of the Borough continues to be appropriate." However, it also recommended the draft Recycling Plan Element and draft Policy Statement on Relationship of Kinnelon Master Plan to other Master Plans be incorporated into the master plan. A further recommendation, also set forth in the 1994 reexamination report, was to regularly monitor development to ensure environmentally critical resources and large undeveloped tracts are protected from "degradation" and development.

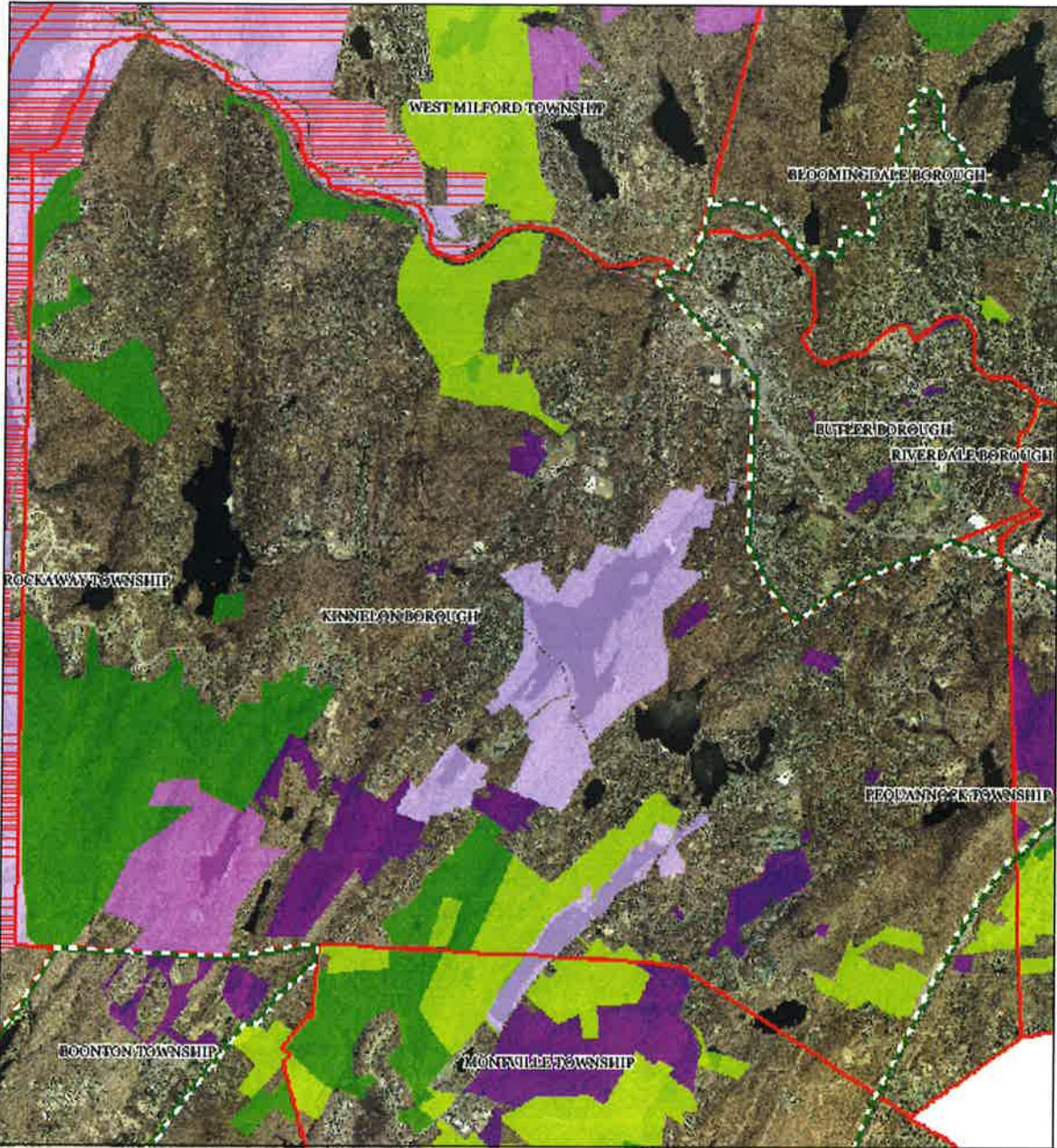
- \* The Borough adopted a second Housing Element and Fair Share Housing Plan in 1996. This document was designed to affirmatively address the community's affordable housing obligations as established by COAH to cover the years 1993 to 1999. This plan addressed a fair share obligation of 72 units of low-and-moderate income housing and a 9 unit rehabilitation obligation.
- \* In 2000 the planning board again completed the obligatory master plan reexamination process.
- \* In 2005 an Open Space and Recreation Plan was adopted as an element of the community's master plan.
- \* Kinnelon's current Housing Element and Fair Share Plan is dated May 2010. Subsequent to local adoption and endorsement of the 2010 housing plan, COAH promulgated revised rules and regulations in response to a Supreme Court decision invalidating portions of its adopted rules. COAH was subsequently directed to prepare new housing-need numbers and regulations and adopt them no later than November 2014. While new numbers and regulations were prepared, they have yet to be adopted. Kinnelon will need to adopt and submit a revised Housing Element and Fair Share Plan following the adoption of revised regulations, whether it's by COAH or the Court.
- \* The Open Space and Recreation Plan Update dated March 2012 was adopted, updating a March 2005 document. The primary purpose of the 2012 update was to document land preservation efforts that were achieved since the preparation of the original plan, while simultaneously assessing the current status of open spaces in the Borough, recognizing that municipal goals may have been refined with the approval of the Highlands Council's Regional Master Plan. The 2012 document also suggested future activities the Borough may consider to undertake.
- \* Kinnelon's Planning Board adopted an Environmental Resources Inventory in April 2013.

Included on the following pages are two Highlands Council generated maps. The first map is labeled Preserved Lands. Two general types of properties are highlighted; one is those lands in Kinnelon that have been preserved for open space and/or recreation purposes. The second category is those lands with easements that limit the development potential of the property.

The second Highlands map depicts areas in Kinnelon that are either a moderate priority or a high priority for conservation purposes. This map indicates there are many properties in the Borough that are a priority for acquisition according to the Highlands Council. This Highlands Council determination may assist Kinnelon in seeking funding partners for additional land acquisition efforts.

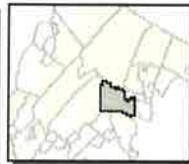
Each of the master planning/reexamination documents referenced above was designed to guide the future growth and development of the Kinnelon community in a manner that advanced the general welfare. Similarly, the 2000 Borough master plan reexamination report provided the required statutory review of the community's land use policies and planning objectives and updated land use information in accordance with the New Jersey Municipal Land Use Law.

# Exhibit AA – Preserved Lands



Conservation Easements	Preserved Lands
Green Acres	Federal Open Space
SADC Final	State Open Space
SADC 8 Year	County Open Space
SADC Preserved	Municipal Open Space
Municipal Boundaries	Non-Profit/Private Open Space
Preservation Area	Water Supply Watershed Lands
	Preserved Farmland

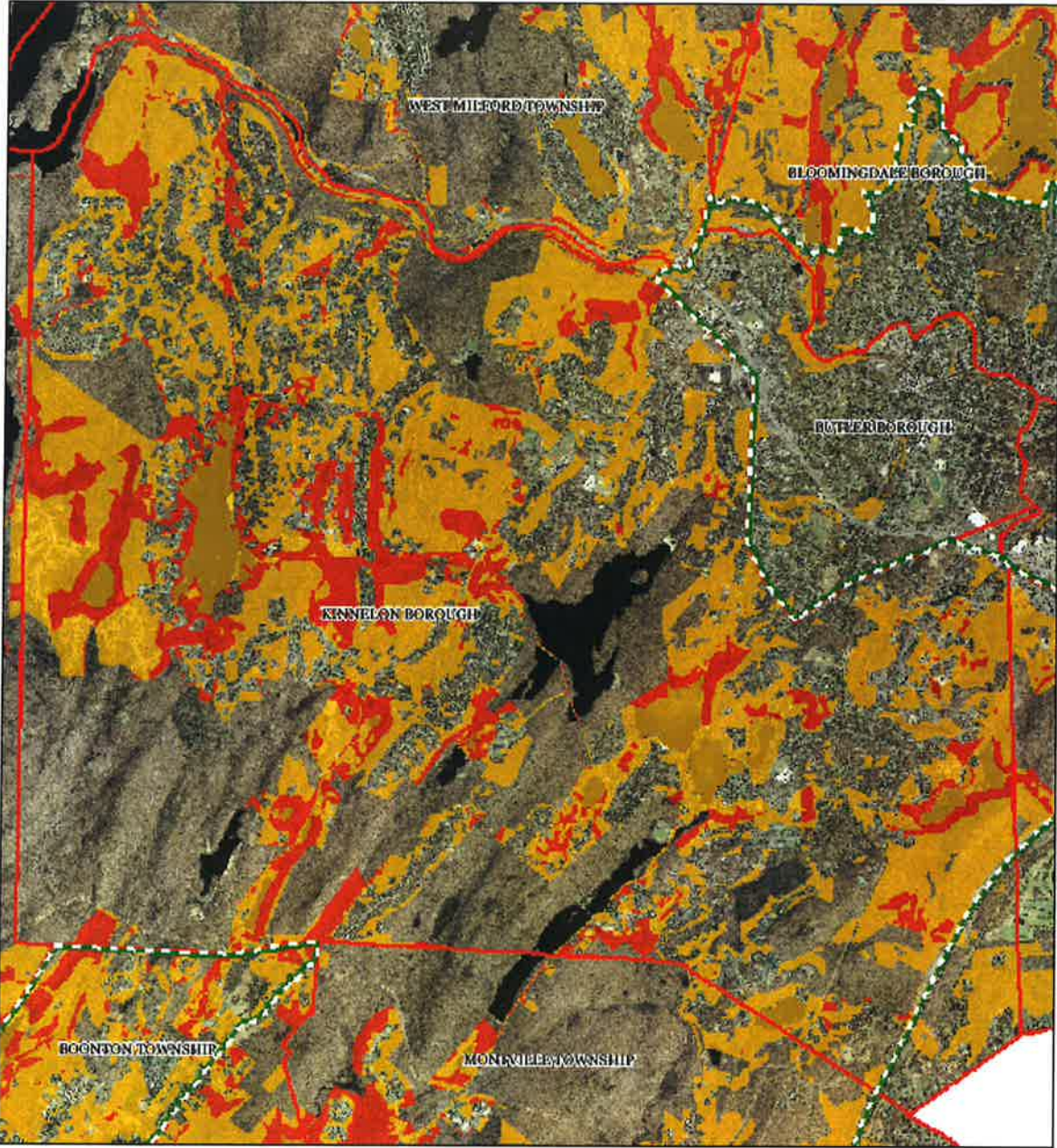
## KINNEELON BOROUGH



1 inch = 0.688 miles



# Exhibit BB – Highlands Conservation Priority Areas



Conservation Priority Area

- Moderate
- High
- Preservation Area
- Municipal Boundaries

**KINNELON BOROUGH**

1 inch = 0.688 miles

Highlands Council  
New Jersey

## I. THE MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT

The MLUL initially requires a reexamination report to identify the major land use problems, and planning objectives that were enumerated in the most recently adopted master plan or reexamination report. The following are the problems and objectives set forth in Kinnelon's 2000 adopted document.

### Problems/Concerns

1. Continued population growth was a major concern at the time of the 2000 reexamination report. This concern was in response to the on-going construction of single-family homes and planned affordable housing developments, especially Kinnelon Ridge, a multi-family project containing 295 dwelling units.
2. A related demographic concern expressed in the reexamination report was the housing and social needs associated with Kinnelon's aging population. One issue that was raised was the needs for the municipality to review opportunities for the provision of senior citizen housing in appropriate locations in the Borough.
3. Growth in local school enrollment was a third demographic concern expressed in the 2000 reexamination report. An increase of 578 public school children between 1995 and 2000 represented a 40% increase in students during this five year period. This increase was attributed to new home construction and the re-occupancy of existing homes by young families with school-age children.
4. The 2000 reexamination report noted that new COAH affordable housing-need numbers was expected to be released shortly, and called on the Borough to continue to be part of the COAH process in order to maintain substantive certification of its housing plan, and thus minimize the likelihood of a so-called "builder's remedy" lawsuit against the Borough. Kinnelon's concern with a builder's remedy lawsuit is two-fold. One concern was over the damage and inevitable disruption to Kinnelon's well-ordered land use plan that would result from a successful builder's remedy lawsuit. The second concern focused on the additional demographic impact the implementation of a successful builder's remedy lawsuit would generate.
5. Another significant land development objective noted in the 2000 reexamination report was the need to provide land use regulations that balanced residential, commercial and other land uses to facilitate the fiscal stability of the community.

6. The reexamination report also expressed concern over the on-going need to protect environmentally sensitive resources, particularly water supply sources. The document also called for the use of innovative design techniques and careful site design to preserve on-site open space and recreation areas. It noted that as early as 1994, Kinnelon has been an active participant with both Morris County and New Jersey in the preservation of open space resources, acquiring approximately two square miles of open space. The reexamination report expressed the Borough's commitment to continue its aggressive open space and resource preservation efforts.
7. A related concern was the need to preserve local heritage and traditions by providing protection to a variety of cultural and historic sites located within the Borough's boundaries, as many sites date back to the Revolutionary War period.

### Objectives

1. On-going energy conservation efforts were identified as a continuing borough objective. The reexamination report recognized that trees and other vegetation provide cooling in summer and protection from winter wind chill. Achieving open space acquisition goals results in protection of the borough's micro-climate against dramatic changes which would result from over intensive suburbanization, creation of new roads and clearance of wooded areas.
2. Preserve and improve to the extent possible the established character and natural resources of the community through careful land use planning at both the master plan and site-specific levels.
3. Maintain the Borough's supply of housing types in a well-maintained, safe and healthful condition for all residents including the significant supply of low and moderate income dwellings which have been approved and certified by the New Jersey Council on Affordable Housing.
4. Maintain the Borough's system of streets to provide for the safe and efficient movement of traffic and to discourage routes which adversely impact neighborhood residential settings.
5. Continue the Borough's on-going recreation and open space planning and acquisition activities to ensure that sufficient permanent open space remains within the Borough for conservation and recreation purposes and for the visual protection of the Borough's natural beauty.

## II. EXTENT TO WHICH SUCH PROBLEMS AND OBJECTIVES HAVE BEEN REDUCED OR HAVE INCREASED SUBSEQUENT TO THE LAST REEXAMINATION

The Borough has been successful in addressing a number of the problems, goals and objectives highlighted in the previous section of this report, although some represent on-going concerns that require continuing efforts. Many of these remaining issues are a function of the type of long-range planning concerns which they represent, and the general nature of those problems and objectives. The general planning concerns regarding the impact of development upon the community, the protection of environmentally sensitive land forms, and the preservation of existing established residential neighborhoods all represent long term issues which focus on the inherent character of the community, and consequently necessitate continual assessment and reassessment on the part of the borough. The following identifies the extent to which the community's problems and objectives, as outline above, have been addressed:

**1. Continuing concern with regard to school enrollment.** Concern had been raised about school enrollment. According to the Kinnelon Borough School District, the 685 student enrollment at Kinnelon High School in 2014 exceeded the documented student capacity of 646 students for the high school. The data reveals that the number of students enrolled in Kinnelon High School will drop if current trends continue. It is noted that Kinnelon's Board of Education has relocated kindergarten from the Glen Sisco School to Stony Brook School. Stony Brook's student enrollment exceeded its rated capacity in 2011 and 2012. Enrollment figures for the lower grades are dropping. There is excess student capacity available if needed due to the ability to relocate classes to the Sisco School.

**2. Maintain vigilance over regional planning activities.** Kinnelon has kept abreast of the various state planning efforts that have a direct impact on the Borough. Two of the most significant, from a planning prospective, regard the interwoven topics of affordable housing and the Highlands Water Protection and Planning Act. The Borough has been an active participant in both areas. The Borough commenced an analysis of the Highlands Council's Regional Master Plan (RMP) and how the municipal master plan's goals and policies conform to the goals and policies set forth in the RMP. One component of this review included participation in the Highland Council's Plan Conformance analysis which resulted in a full-build out analysis of the community and includes a detailed environmental analysis of the entire community. Subsequent to this review, the governing body adopted two separate resolutions in November 2009, one expressing the Borough's intent to conform Kinnelon's planning documents and land use regulations to the RMP in the Highlands Preservation Area, and the other expressing the intention to conform Kinnelon's planning documents and land use regulations to the RMP in the Highlands Planning Area.

The Borough's petition to the Highlands Council seeking plan conformance designation was approved by the Highlands Council at a public hearing held May 19, 2011. Kinnelon should complete and finalize all remaining open items contained within the Highlands Council Implementation Plan and Schedule. Among other tasks, these open items include:

- a. adoption by the Kinnelon governing body of the Highlands Land Use Ordinance and an amended zoning map once the planning board has adopted the environmental resource inventory and Highlands Element of the master plan;
- b. upon completion of those projects the Borough should consider adoption and implementation of Highlands Council-sponsored resource management plans and programs; and
- c. revisions to Board of Health ordinances, primarily pertaining to septic systems and potable wells, should be considered for adoption.

Fortunately the Highlands Council provides Kinnelon with grant money and a collaborative planning process to achieve these above noted tasks.

Participation in these studies and adoption of the planning programs sponsored by the Highlands Council enables Kinnelon to take advantage of the Highlands Council's assessment of Kinnelon's affordable housing obligation which is separate and distinct from, and lower than, the numbers promulgated by COAH. The Highlands affordable need housing numbers reinforce Kinnelon's limited ability to accommodate an appropriate number of affordable dwelling units without sacrificing community character or the quality of its environmental resources.

The Highlands Council affordable housing assessment result in a reduced affordable housing obligation assigned to the Borough due to the nature and extent of environmentally sensitive lands in the community and the amount of land in Kinnelon included within the Highlands Preservation Area. The Borough undertook its own assessment of the COAH regulations and their projections of affordable housing needs, and this analysis facilitated the preparation of Kinnelon's 2010 Housing Element and Fair Share Housing Plan. Participation in the Highlands planning process is important as it has also enabled the Borough to receive a COAH extension on the period of protection against the filing of a builder's remedy affordable housing lawsuit against the municipality.

Under previous rules, COAH and the Highlands Council entered into a Memorandum of Understanding whereby COAH accepted the environmental carrying-capacity analysis performed by the Highlands Council, and COAH accepted reduced new construction affordable housing obligations based on the results of the environmental carrying-capacity analysis. Kinnelon needs to be diligent in understanding how new COAH regulations might affect the previous agreement between COAH and the Highlands Council concerning municipal affordable housing obligations in the Highlands region. Kinnelon supports the Highlands Council determination of affordable housing-need, unless COAH under a yet-to-be-determined formula would establish a lower affordable housing obligation for the Borough.

On a related matter, many Highlands communities have expressed concerns over impacts the RMP and plan conformance has had on local ratable growth. While the impact on ratable growth, the municipal tax base and employment growth is too complex an issue to analyze and enumerate with certainty within the context of master plan reexamination report, the Borough feels it appropriate to highlight the community's loss in ratables and tax revenue resulting from the fact that nearly all of the municipality is in the Preservation Area where any significant development is precluded.



The Highlands Act requires a substantive review of the RMP take place every six years. The first such review of the RMP is now beginning. The review will include a monitoring program designed to evaluate the progress of achieving the goals established in and by the Highlands Act and the RMP. The monitoring program will include a fiscal impact assessment that will measure the overall economic health of the Highlands region. Topics to be included and studied in this assessment include: level of income growth, employment, wages, building permits, property value and business growth, among others. This upcoming monitoring report should provide stakeholders with verifiable and up-to-date information on how the economy of the Highlands Region, including municipal taxes and finances, has been impacted by the adoption and implementation of the RMP and the accompanying regulations and rules. Kinnelon should track the progress of the Highlands Council monitoring group and offer insight and direction as warranted.

3. Continued strong support for land preservation efforts. The Borough has an aggressive on-going program of land preservation including acquisition of environmentally sensitive properties. Numerous properties have been acquired in an effort to facilitate water quality protection, scenic vista preservation, biodiversity, creation and extension of greenways and trails and expansion of recreation facilities.

Land preservation efforts have been well supported by Kinnelon's residents. Kinnelon voters overwhelmingly (63%) approved a referendum in 2002 establishing a local open space trust fund to create a stable and long-term funding source for use in the acquisition and improvement of land for recreation and conservation purposes as well as other ordinance designated purposes. In 2005, the Borough's open space tax was increased to provide additional funding.

Borough officials did not delay in implementing and applying the public's commitment to open space preservation. In 2004, a critical 34 acre tract was purchased using local open space trust funds. This property has since been incorporated into the adjacent Pyramid Mountain Natural Historic Area.

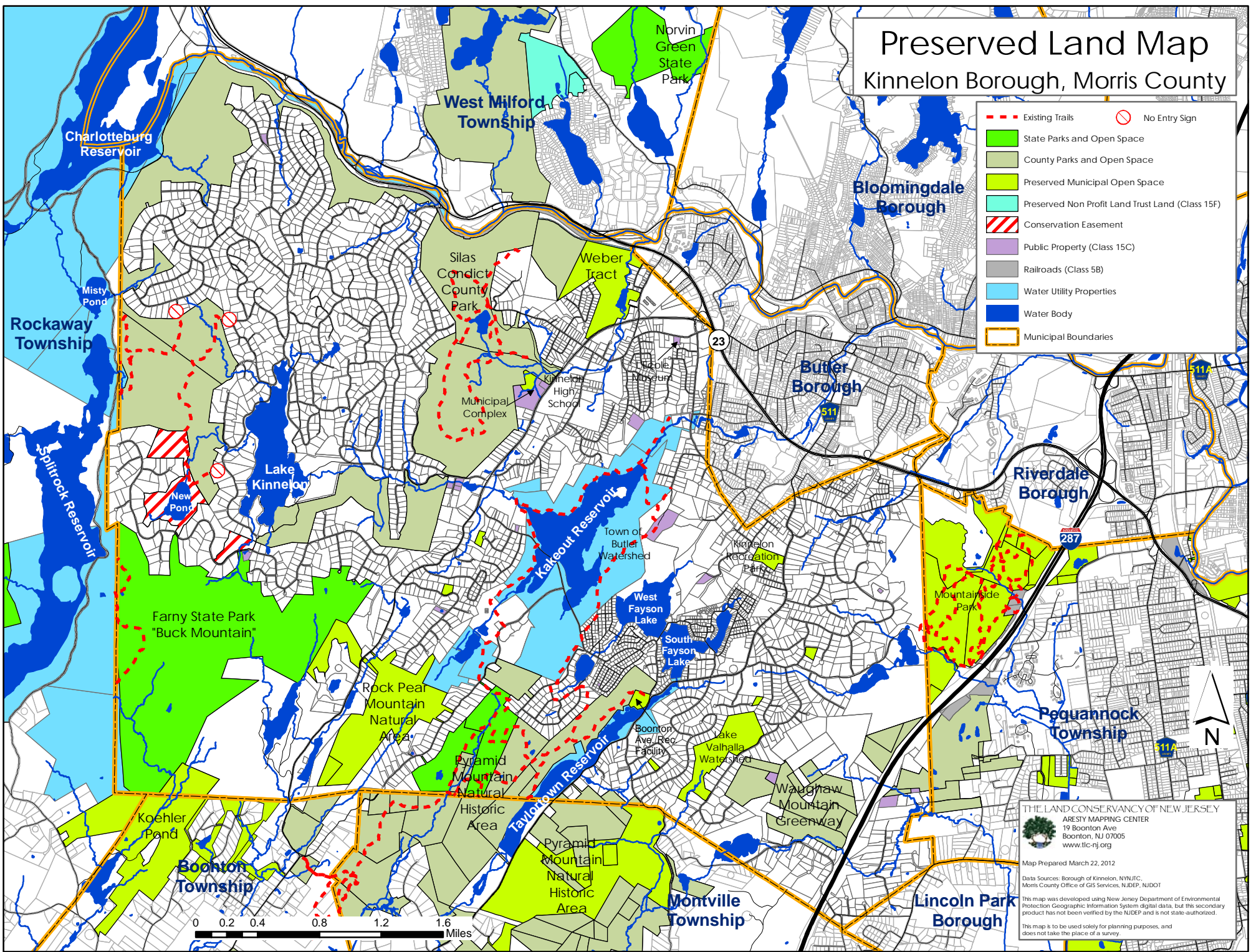
The acquisition of this parcel was not the end of Kinnelon's open space preservation efforts. Since 2005 the Borough and its open space acquisition partners have been active. Nearly 1,600 acres of property have been permanently preserved since 2004, with 98% of the total amount spent for open space, recreation and historic preservation in Kinnelon contributed by outside funding partners. Only 2% of the funding has been directly attributed to local taxpayers.

Two maps, one depicting the location of Preserved Land, the other the location and extent of Open Space in Kinnelon have been inserted on the following pages.

# Preserved Land Map

## Kinnelon Borough, Morris County

- - - Existing Trails
- ⊘ No Entry Sign
- State Parks and Open Space
- County Parks and Open Space
- Preserved Municipal Open Space
- Preserved Non Profit Land Trust Land (Class 15F)
- Conservation Easement
- Public Property (Class 15C)
- Railroads (Class 5B)
- Water Utility Properties
- Water Body
- Municipal Boundaries

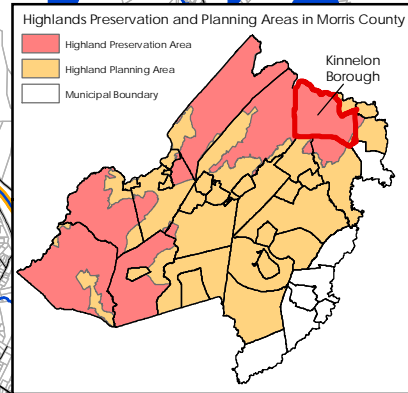


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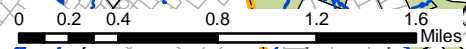
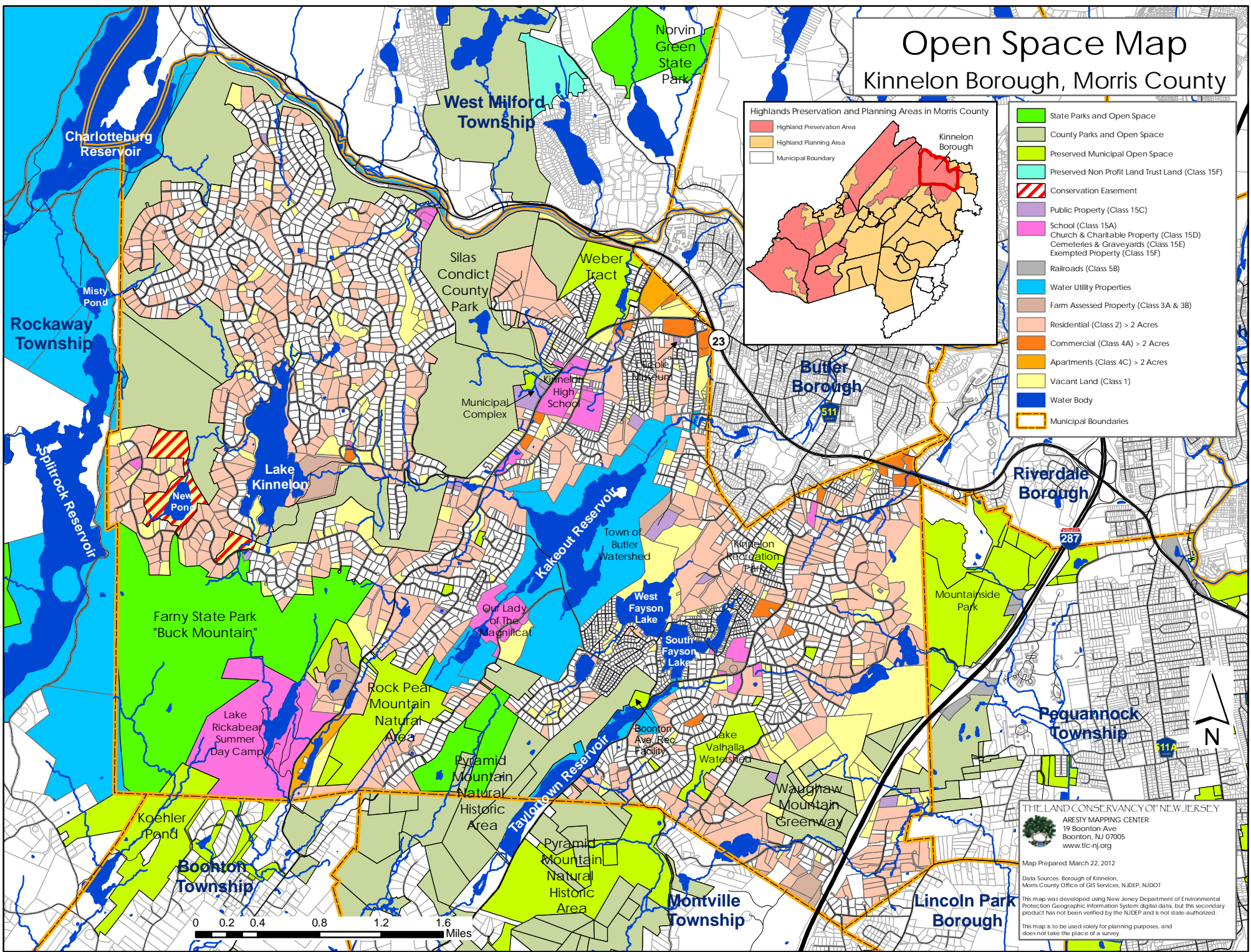
Map Prepared March 22, 2012  
 Data Sources: Borough of Kinnelon, NJLIC,  
 Morris County Office of GIS Services, NJDEP, NJDOT  
 This map was developed using New Jersey Department of Environmental  
 Protection Geographic Information System digital data, but the secondary  
 product has not been verified by the NJDEP and is not state-authorized.  
 This map is to be used solely for planning purposes, and  
 does not take the place of a survey.

# Open Space Map

## Kinnelon Borough, Morris County



- State Parks and Open Space
- County Parks and Open Space
- Preserved Municipal Open Space
- Preserved Non Profit Land Trust Land (Class 15F)
- Conservation Easement
- Public Property (Class 15C)
- School (Class 15A)
- Church & Charitable Property (Class 15D)
- Cemeteries & Graveyards (Class 15E)
- Exempted Property (Class 15F)
- Railroads (Class 5B)
- Water Utility Properties
- Farm Assessed Property (Class 3A & 3B)
- Residential (Class 2) > 2 Acres
- Commercial (Class 4A) > 2 Acres
- Apartments (Class 4C) > 2 Acres
- Vacant Land (Class 1)
- Water Body
- Municipal Boundaries



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Map Prepared March 22, 2012

Data Sources: Borough of Kinnelon, Morris County Office of GIS Services, NJDEP, NJDOT

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but the secondary product has not been verified by the NJDEP and is not state-authorized.

This map is to be used solely for planning purposes, and does not take the place of a survey.

Table 1 below provides information on open space, recreation, farmland and historic resource acquisition activities in Kinnelon.

**Table 1: Property Acquisition for Open Space, Recreation, Farmland And Historic Resources  
Kinnelon, New Jersey**

Project Name	Year Acquired	Number of Acres
Pyramid Mountain Natural Historic Area	2004	34
Sunset Valley Golf Course	2005	3.93
Silas Condict County Park Expansion	2005	959
Waughaw Mountain Greenway	2005	57.38
Waughaw Mountain Greenway	2006	33.40
Silas Condict County Park Expansion	2007	296
Waughaw Mountain Greenway	2008	25.6
Koehler Pond	2009	30
Weber Tract	2011	162
Kinnelon Recreation Fields	1960's	4
Boonton Avenue Field*		7.1
Kinnelon Recreation Fields II	1990-2000	10.7
Pheasant Run Recreation Area	Early 1980's	2.8
Lake Valhalla Watershed	2003	71.0

Source: Kinnelon Open Space and Recreation Plan and 2012 Open Space and Recreation Plan update.

\* Property is leased, not owned by Kinnelon Borough.

See the 2012 Open Space and Recreation Plan update for additional information and details concerning the community's open space and recreation resources. The 2012 Open Space and Recreation Plan update includes a series of recommendations focusing on improvements and additions to Kinnelon's existing open space and recreation inventory.

**4. Avoiding adverse impact on the environment and preservation of community character.** Kinnelon has continued its efforts to protect environmentally sensitive features, including wetlands, steep slopes, flood prone areas, and potable ground water supplies. This has been achieved through the approving board's site plan review process, where the boards have required adherence to the community's environmental regulations. Since the adoption of the 2000 reexamination report the Borough has prepared and adopted a stormwater management ordinance (April 19, 2007), and revised Board of Health provisions (July 24, 2002), both of which supplement the environmental ordinances that were previously adopted by the municipality prior to the adoption of the reexamination report.

Environmental constraint maps, depicting the generalized location and extent of streams, flood hazard areas, wetlands, ponds, lakes and reservoirs, forest resources and various steep slope categories within the community are depicted on the accompanying two maps.

5. **Maintain Borough's housing supply including its supply of affordable housing.** The Borough has an excellent code enforcement department that ensures the community's housing stock is well-maintained, safe and affords healthful conditions for borough residents.

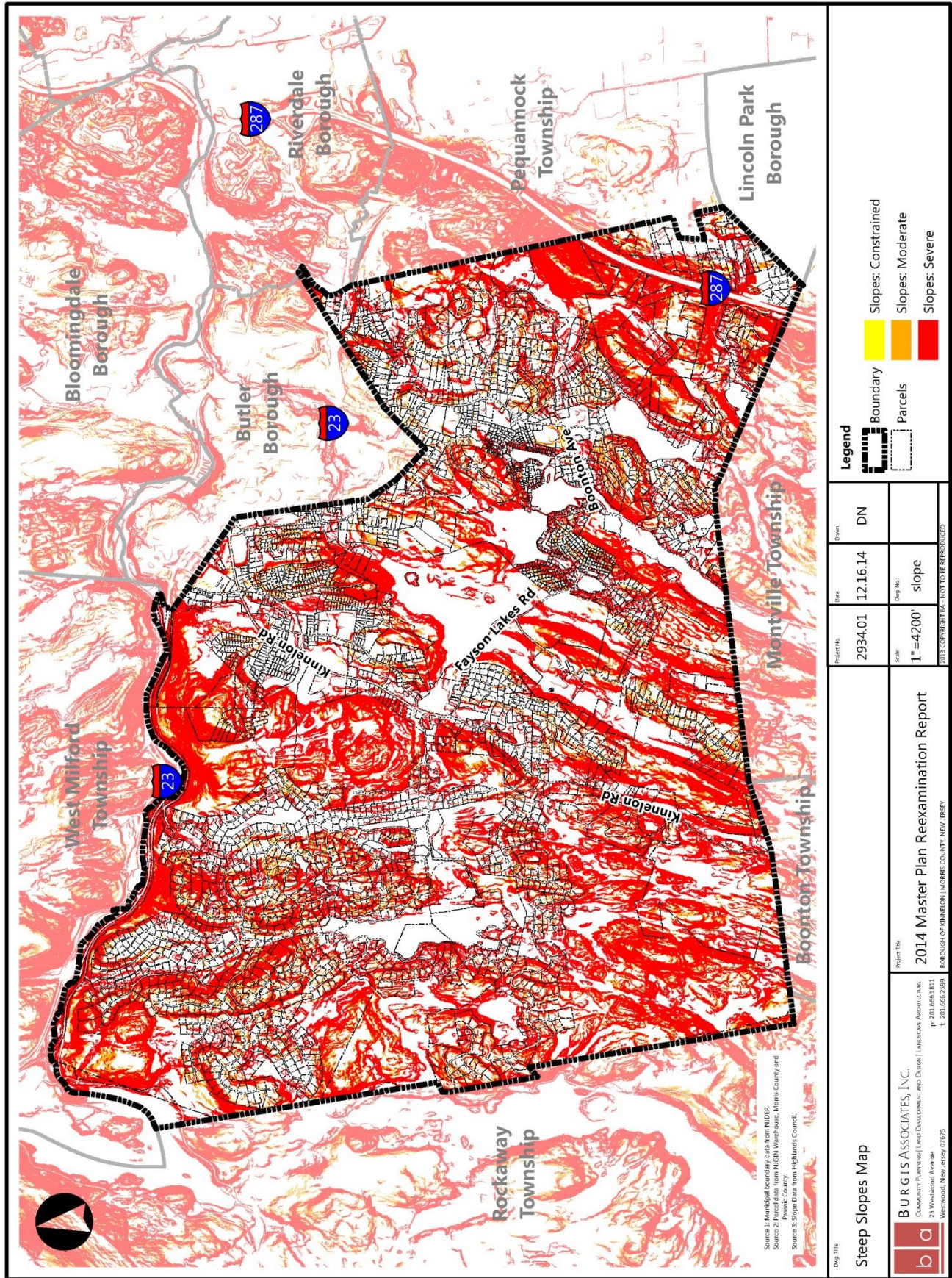
Kinnelon has implemented a number of actions in response to the obligation placed on all municipalities to provide realistic opportunities for the construction of affordable housing. Kinnelon's response included the preparation of three Housing Element and Fair Share Plans. The first such plan is dated 1988, the second one is dated 1996. These two plans received Substantive Certification from the COAH. Kinnelon's most recent Fair Share Plan did not receive Substantive Certification as COAH suspended review of municipal Fair Share Plans in response to a series of court decisions that invalidated many aspects of the substantive rules adopted by COAH to regulate the production and occupancy of affordable housing since 1999.

Kinnelon has done more than just prepare a series of Fair Share Plans. The Borough has authorized the construction of an abundance of low and moderate income housing units. The Kinnelon governing body in 1988 created and adopted an Affordable Housing Zone and applied this designation to Block 133 Lot 16. Development plans were submitted and approved by the Planning Board resulting in the construction of 54 rent-restricted dwelling units and 241 market-rate apartments.

Since COAH's most recent rules regulating the planning, construction and occupancy of affordable housing has been invalidated by the New Jersey Supreme Court, and no new ones have been adopted, there is great uncertainty as to the regulatory framework that will regulate future affordable housing efforts.

Kinnelon will need to continually monitor the unfolding developments relating to COAH, affordable housing, and municipal affordable housing obligations and responsibilities. Pursuant to recent case law, the Courts will establish mechanisms regulating this issue shortly.

6. **Achieve New Jersey's mandated recycling goals.** Achieve the state's established recycling goals. It is noted that in 2013 the Borough modified its recycling program to a "single stream" system. This system simplifies the recycling process for residents, potentially making them more likely to recycle. The Borough should carefully monitor the newly implemented program to ascertain if recycling goals are being attained under the new system.



Steep Slopes Map

Project No:	2934.01	Date:	12.16.14	Drawn:	DN
Scale:	1" = 4200'	Drawn By:	slope		

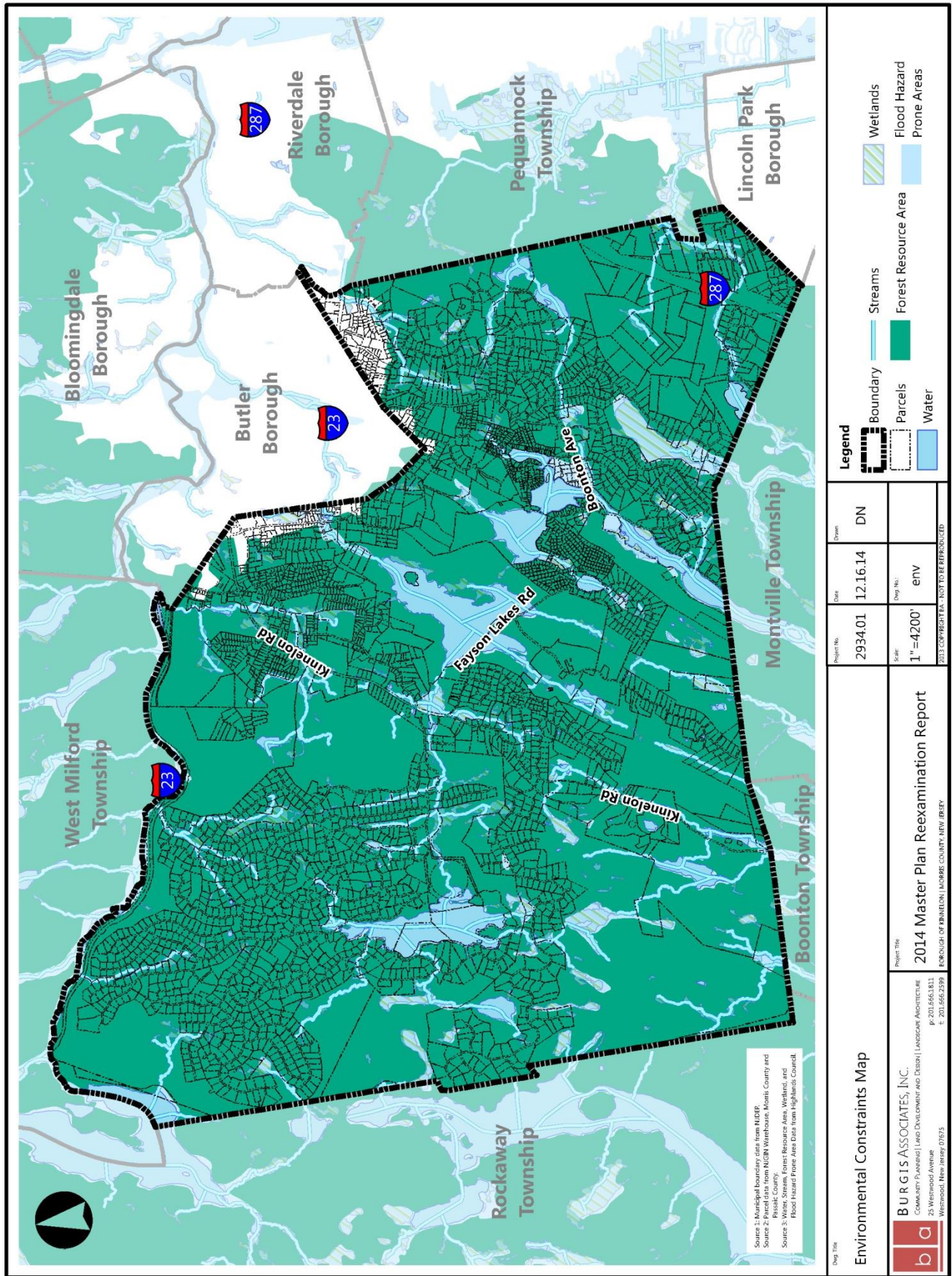
**Legend**

- Boundary
- Parcels
- Slopes: Constrained
- Slopes: Moderate
- Slopes: Severe

**Project Title:**  
 2014 Master Plan Reexamination Report  
 BOROUGH OF KINNELON | MORRIS COUNTY, NEW JERSEY

**Client:**  
 BURGIS ASSOCIATES, INC.  
 COMMUNITY PLANNING | LAND DEVELOPMENT AND DESIGN | LANDSCAPE ARCHITECTURE  
 25 Westwood Avenue  
 Westwood, New Jersey 07675  
 p: 201.666.1811  
 f: 201.666.2599





Source 1: Municipal boundary data from NJEP.  
 Source 2: Parcel data from NGRN Warehouse, Morris County and Passaic County.  
 Source 3: Forest Resource Area, Wetland, and Flood Hazard Prone Area Data from Highlands Council.


**BURGIS ASSOCIATES, INC.**  
 COMMUNITY PLANNING | LAND DEVELOPMENT AND DESIGN | LANDSCAPE ARCHITECTURE  
 p: 201.666.1811  
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**Environmental Constraints Map**  
 Project Title:  
**2014 Master Plan Reexamination Report**  
 FOR BOROUGH OF KINNELON, MORRIS COUNTY, NEW JERSEY

Project No:	2934.01	Date:	12.16.14	Drawn:	DN
Scale:	1" = 4200'	Dwg No.:	env		

**Legend**

-  Boundary
-  Streams
-  Wetlands
-  Flood Hazard Prone Areas
-  Forest Resource Area
-  Water
-  Parcels

III. THE EXTENT TO WHICH THERE HAVE BEEN SIGNIFICANT CHANGES IN THE ASSUMPTIONS, POLICIES, AND OBJECTIVES FORMING THE BASIS FOR THE MASTER PLAN OR DEVELOPMENTAL REGULATIONS AS LAST REVISED, WITH PARTICULAR REGARD TO SPECIFIC PLANNING ISSUES AND GOVERNMENTAL POLICY

There are a number of substantive changes at the state and local level that were not contemplated at the time of the preparation and adoption of the 2000 master plan reexamination report, which require the Borough's attention. Additionally, the Borough has experienced changes resulting from growth and development which are also noteworthy. The following is noted:

A. Changes at the local level

1. Population Size. The 2010 census indicated that Kinnelon had a population of 10,248 residents (see accompanying table), a 9.42 percent growth from the 9,365 residents recorded in 2000. The U.S. Census estimates that by 2013, Kinnelon's population had increased by an additional 152 residents, a growth rate of 1.48% since 2010.

Table 2: Historic Population Trends: 1930 - 2013  
Kinnelon, New Jersey

Year	Population	Population Change	Percent Change
1930	428	--	--
1940	745	317	74.0
1950	1,350	605	81.2
1960	4,431	3,081	228.2
1970	7,600	3,169	71.5
1980	7,770	170	2.23
1990	8,470	700	9.00
2000	9,365	895	10.56
2010	10,248	883	9.42
2013*	10,400	152	1.48

Source: U.S. Census of Population, 1930-2010

\* U.S. Census Population Estimate Program



2. **Age Characteristics.** The age characteristics of the Borough's population are presented in the following table. The 2010 census indicates the Borough's population continues to mature, with the median age increasing to 43.5 years of age from a 2000 median age of 39.6 years. As the population continues to age, and as the "baby boomer" generation approaches retirement and the survival rate of individuals 65 years and older increases, there will be significant impacts on community planning over the next two decades, particularly in the increased need for public and private facilities that address the needs of an increasing senior population. Cedar Crest Village, located just east of the Borough is a good example of private and public efforts to address the social, housing and recreational needs of an older population. The development of multi-family and/or townhouse developments may present a viable alternative for older residents looking to downsize from large single family homes while staying within the community, although site selection may prove difficult given the restrictions imposed on the Borough by the Highland's RMP. It is noted that the planning board has approved the development of 85 age-restricted housing units as part of the approval for Kinnelon Ridge.

Table 3: Age Distribution: 2000 & 2010  
Kinnelon, New Jersey

Age Group	2000		2010	
	Population	%	Population	%
under 5	702	7.5	437	4.2
5-14	1,711	18.2	1,780	17.3
15-24	799	8.5	1,240	12.0
25-34	694	7.4	600	5.8
35-44	1,836	19.6	1,342	13.0
45-54	1,701	18.2	2,111	20.5
55-64	1,081	11.5	1,490	14.5
65-74	533	5.7	762	7.4
75+	308	3.4	486	4.7
<b>Total</b>	<b>9,365</b>	<b>100.0</b>	<b>10,248</b>	<b>100.0</b>
	<i>2000 Median Age: 39.6</i>		<i>2010 Median Age: 43.5</i>	

Source: 2000 & 2010 U.S. Census

3. **Birth Statistics.** The number of births is also important in assessing future needs for community facilities and services, particularly with respect to the school system and recreational facilities. As shown below, between 1995 and 2011, there was an average of 88.4 births per year in Kinnelon. The total for individual years ranged from a high of 116 births in 1996 to a low of 57 births in 2010. Information on the number of births is not reported after 2011.

Table 4: Births: 1995 - 2011  
Kinnelon, New Jersey

Year	Births
1995	100
1996	116
1997	87
1998	95
1999	105
2000	105
2001	96
2002	72
2003	109
2004	97
2005	103
2006	86
2007	77
2008	75
2009	62
2010	57
2011	62
<b>Total</b>	<b>1,504</b>

Source: NJ Department of Health and Senior Services,  
September 2014

4. **Household Size.** Between 1990 and 2010, the Borough's average household size continually decreased, from 3.07 persons per household in 1990 to 2.95 persons per household in 2010. This trend is consistent with most municipalities in Morris County. Morris experienced a decrease in average household size from 2.78 persons to 2.68 persons per household between 1990 and 2010.

Table 5: Average Household Size: 1990 - 2010  
Kinnelon, New Jersey

Year	Population	Number of Housing Units	Household Size	
			Kinnelon	Morris County
1990	8,470	2,903	3.07	2.78
2000	9,365	3,123	3.06	2.72
2010	10,248	3,600	2.95	2.68

Source: U.S. Bureau of the Census, 1990-2010

5. **School Age Enrollment.** According to the Morris County Data Book, Kinnelon schools experienced a total elementary school enrollment of 1,284 pupils and 428 high school students in the 1999-2000 school year. In the 2014-2015 school year, 1,327 elementary school pupils are enrolled in Kinnelon schools. 685 high school students are enrolled in Kinnelon High School for the 2014-2015 school year. Table 6 below provides additional detail on Kinnelon school enrollment in during these selected years. Analyzing enrollment data by including in district, out of district placements and special education students reveals a slightly greater than 6% increase in enrollment from the 1999/2000 school year to the 2014/2015 school year.

Table 6: School Enrollment 1999-2000 & 2014-2015  
Kinnelon, New Jersey

Grade Level	Enrollment Kinnelon Schools 1999-2000	Enrollment Kinnelon Schools 2014-2015
Pre-K 3	-	7
Pre-K 4	-	13
K	157	100
1	149	127
2	149	125
3	134	131
4	139	162
5	160	152
6	124	165
7	144	175
8	128	170
Total Elementary	1,284	1,327
9	125	176
10	109	165
11	107	164
12	88	180
Total High School	428	685
Spec. Ed K-12	178	
Home Instr.	2	
Out of District Spec. Ed. K-12		25
All Grades	1,892	2,012

6. **Housing Characteristics.** This section provides a brief overview of the characteristics of Kinnelon's housing stock. The 2010 Census indicated an increase of 477 units in the number of housing units in Kinnelon, as the number of dwelling units went from 3,123 units in 2000 to 3,600 in 2013, a 15.3% increase. This increase is due in part to the Kinnelon Ridge/Heights development which added 295 units to the overall housing stock. 85 of these dwellings are age-restricted "for sale" units. As shown in the following tables, this increase appears to be the result of increases in owner and renter occupied units and attached and detached housing units.

**Table 7: Year-Round Housing Units  
by Tenure and Occupancy Status: 2000 & 2010  
Kinnelon, New Jersey**

Category	2000		2010	
	Number of Units	Percent	Number of Units	Percent
Owner Occupied	2,972	95.2	3,129	86.9
Renter Occupied	90	2.9	343	9.5
Vacant Units	61	2.0	128	3.6
<b>Total</b>	<b>3,123</b>	<b>100.0</b>	<b>3,600</b>	<b>100.0</b>

Source: 2000 & 2010 U.S. Census

The following table indicates the number of new home occupancy permits issued by the Borough between 2010 and 2014:

**Table 8: Certificates of Occupancy (CO) Granted: 2010-2014\*  
Kinnelon, New Jersey**

Year CO Granted	Housing Units Gained
2014	6
2013	3
2012	4
2011	8
2010	6
<b>Total</b>	<b>27</b>

Source: Conversation with the Borough Construction Official

The above table illustrates the relatively modest growth in the local housing stock since 2010, revealing an average increase of 5.4 new homes per year between 2010-2014. In comparison, the number of new homes constructed in the period between 2000-2009 averaged 19 units per year. The recent slowdown in new home development can be attributed primarily to the lower turnover in established housing stock and

new restrictions on development resulting from the Borough's compliance with elements of the 2008 Highlands Regional Master Plan.

**Table 9: Units in Structure: 2000 & 2012**  
Kinnelon, New Jersey

Units in Structure	2000		2012	
	No.	%	No.	%
Single Family, Detached	3,083	98.7	3,251	89.8
Single Family, Attached	25	0.8	55	1.5
2	15	0.5	16	0.4
3 or 4	-	0.0	87	2.4
5 to 9	-	0.0	22	0.6
10 to 19	-	0.0	75	2.1
20+	-	0.0	113	3.1
Mobile Home	-	0.0	0	0.0
Other	-	0.0	0	0.0
<b>Total</b>	<b>3,123</b>	<b>100.0</b>	<b>3,619</b>	<b>100.0</b>

Source: 2000 U.S. Census & American Community Survey

6. **Recent Development Activity.** The following table provides data on the amount and type of residential development that has occurred locally between the years 2003-2013. As reflected in the table, 146 dwellings, all single-family homes have been constructed during this time span. In addition, 19 single-family dwellings have been demolished.

**Table 10: Number of Residential Building and Demolition Permits Issued: 2003 - 2013**  
Kinnelon, New Jersey

Year	Building Permits			Demolition Permits
	Single-Family	Multifamily	Total	
2003	16	0	16	2
2004	42	0	42	4
2005	27	0	27	4
2006	23	0	23	1
2007	9	0	9	2
2008	5	0	5	0
2009	3	0	3	1
2010	6	0	6	1
2011	8	0	8	1
2012	4	0	4	0
2013	3	0	3	1
<b>Total</b>	<b>146</b>	<b>0</b>	<b>146</b>	<b>19</b>

Source: New Jersey Department of Labor;  
New Jersey Construction Reporter, New Jersey Department of Community Affairs

Data concerning site plans that have been reviewed for non-residential uses is detailed below. As shown, no additional industrial or commercial space has been constructed. The majority of new construction, nearly 95,000 square feet, has been classified as "Other". Kinnelon has experienced the construction of 40,000 square feet of office space during this timeframe.

**Table 11: Non-Residential Development,  
Square Footage by Use Type, as Reported on Certificates of Occupancy  
2003– 2013 Kinnelon, New Jersey**

Year	Commercial	Industrial	Office	Other	Total
2003	0	0	1,488	54,902	56,390
2004	0	0	5,872	0	5,872
2005	0	0	23,443	2,032	25,475
2006	0	0	0	0	0
2007	0	0	0	30,810	30,810
2008	0	0	5,373	3,438	8,811
2009	0	0	0	0	0
2010	0	0	0	0	0
2011	0	0	0	1,141	1,141
2012	0	0	4,000	0	4,000
2013	0	0	0	2,348	2,348
<b>Total</b>	<b>0</b>	<b>0</b>	<b>40,176</b>	<b>94,671</b>	<b>134,847</b>

Source: New Jersey Construction Reporter, New Jersey Department of Community Affairs

## B. Changes at the State Level



Below is a summary of recent changes at the State level.

1. **Highlands Water Protection and Planning Act.** The Highlands Water Protection and Planning Act, passed into law by the New Jersey State legislature on June 10, 2004, significantly impacts land use planning and environmental protection throughout the 860,000 acre region that is encompassed by the Act, by establishing a regional planning perspective. The New Jersey Highlands Region includes 88 municipalities in seven counties. The legislation authorized and directed the Highlands Water Protection and Planning Council to effectuate the Act's goals through a comprehensive set of powers. The Act empowered the Highlands Water Protection and Planning Council, a 15 member political subdivision of the State created under the Act, with a number of duties including the preparation and adoption of a regional master plan. On July 17, 2008 the Highlands Council adopted the Regional Master Plan (RMP).

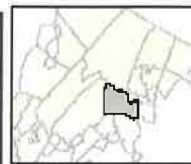
The Act divides the Highlands region into two areas, a Preservation Area and a Planning Area. As it pertains to Kinnelon, 11,984 acres or 97.4% of the Borough has been placed in the Preservation Area, leaving just 325 acres in the Highlands Planning Area. The following page presents a Highlands Council map depicting the location and extent of the Preservation Area and the Planning Area in Kinnelon. Relatively two small areas of the community, one on the north side of Route 23, the other in the southeast corner of the Borough, are in the Highlands Planning Area. The remainder of the Borough is in the Highlands Preservation Area.

# Exhibit A – Borough Highlands Area



-  Preservation Area
-  Municipal Boundaries

**KINNELON BOROUGH**



1 inch = 0.688 miles





Within the Preservation Area local government compliance with the goals, policies and objectives included in the RMP is mandatory. This is to be achieved by local revision of master plan elements followed by revisions, if necessary, to local development regulations. The Act offered incentives for municipalities to also incorporate and adopt Highlands regulations for properties in the Planning Area, where such compliance is optional.

While development in the Preservation Area is severely restricted through the associated NJDEP permitting process that implement the policies contained within the RMP, Planning Area regulations permit sensible, smart growth development sensitive to natural resources and community character.

The Act empowered the Council to provide financial and technical assistance to Highlands municipalities for a variety of activities such as the creation of Transfer of Development Rights (TDR) ordinances and revision of master plans and development regulations. Moreover, upon request, the Council is authorized to provide legal representation to a Highlands municipality or county in any cause of action filed against it contesting a Municipal Land Use Law (MLUL) decision, as long as the decision is consistent with the regional master plan and the local community has petitioned and received plan conformance designation from the Highlands Council.

The Act encouraged municipalities to accommodate increased density in the Planning Area through targeted incentives for that purpose. A Highlands municipality that agrees to create a voluntary receiving zone with a minimum density of five dwelling units per acre is subsequently:

- Eligible for an enhanced planning grant of up to \$250,000
- Eligible for a grant to reimburse the costs of amending regulations to allow the receiving zone
- Authorized to impose impact fees no more than \$15,000 per dwelling unit through ordinance (with certain restrictions)
- Accorded priority status in the Highlands region for any State capital or infrastructure programs

Non-Highlands municipalities with state plan endorsement that establish a receiving zone from a sending zone in Highlands are also eligible for the above incentives – with the exception regarding the above-noted issue of priority status that may be accorded.

The Borough has participated in the planning activities sponsored and encouraged by the Highlands Council. As a result of this municipal participation two resolutions were adopted by the Kinnelon governing body on December 8, 2009. The first resolution sought plan conformance for the Kinnelon portion of the Preservation Area. The second resolution expressed the Borough's desire to seek plan conformance for that part of the Highlands Planning Area located in Kinnelon. On May 19, 2011, upon the conclusion of a

noticed public hearing the Highlands Council adopted a resolution accepting and approving Kinnelon's Petition for Plan Conformance.

The Highlands Act requires the Highlands Council to prepare and adopt the RMP to provide for the protection and preservation of the region's water and other natural resources. The RMP relies on the Land Use Capability Maps for managing the development and use of land. The information depicted on these maps is reviewed and analyzed, resulting in the Land Use Capability Zone map.

The Land Use Capability Zone map uses overlay zones and subzones to distinguish between and among different land forms. These overlay zones and subzones are superimposed over existing municipal zoning. The RMP establishes three overlay zones and four subzones: the Protection Zone, Existing Community Zone and Conservation Zone. The RMP delineates two overlay zones in Kinnelon, a Protection Zone and an Existing Community zone. Two subzones have also been established in Kinnelon, an Existing Community-Environmentally Constrained Sub-Zone and the Lake Community Sub-Zone.

These overlay zones distinguish between resource constrained lands, where development will be limited (Protection Zone), and those lands characterized by existing patterns of development where additional growth may or may not be appropriate and encouraged (Existing Community Zone). Overlay zones provide guidance to those areas where special environmental considerations are required to protect regionally significant resources; they also indicate areas that have the ability to accommodate additional levels of development and growth.

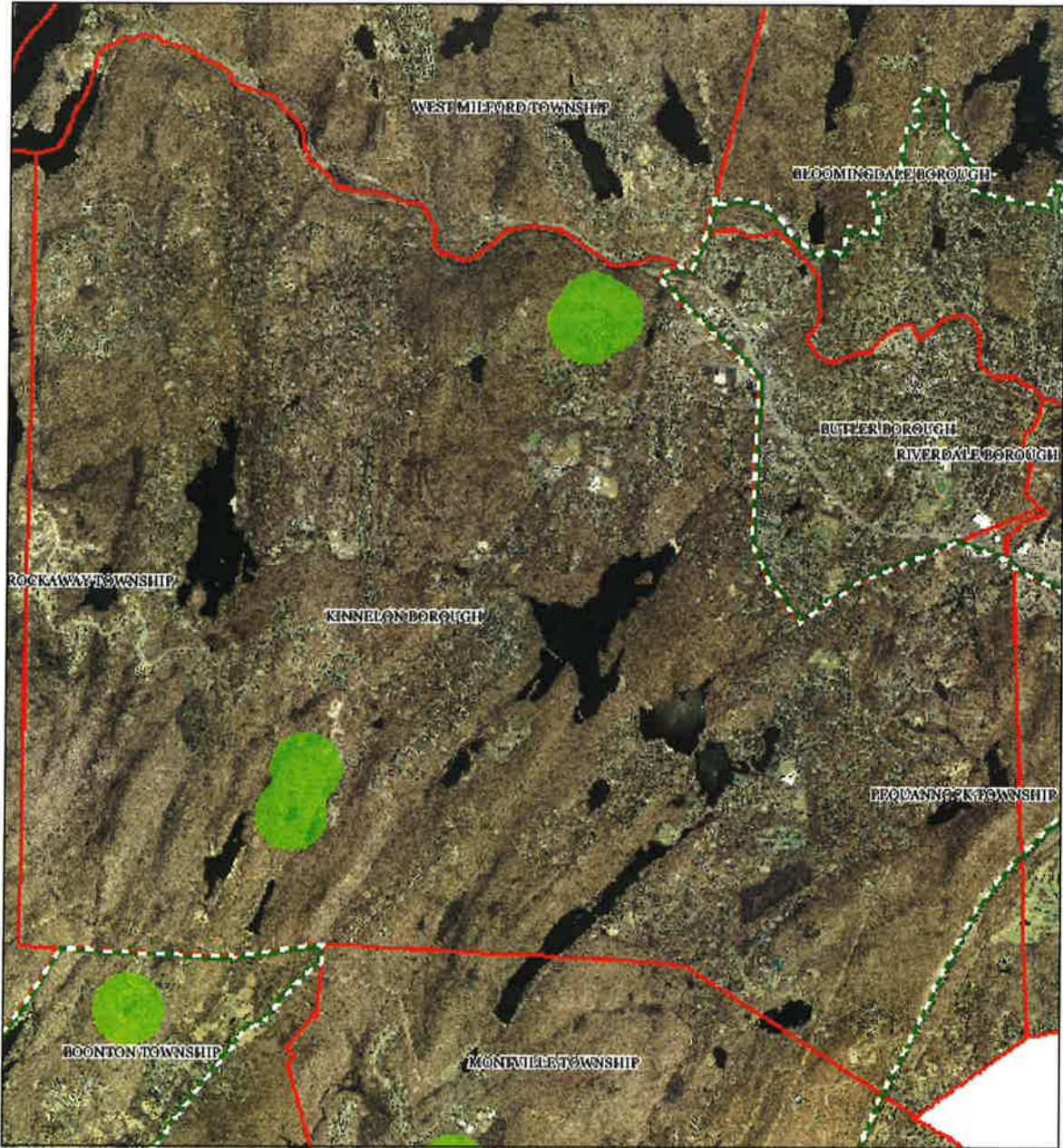
The following pages reproduce several Highlands Council generated maps depicting the various Land Use Capability Zones and Subzones as well as the Preservation and Planning Areas established for Kinnelon. What is readily apparent is the high percentage of the Borough classified as 'Highlands Open Waters', and identified as 'Highlands Riparian Areas'. This has served to support the Highlands ranking Kinnelon as 'High' for 'Watershed Values'. Except for a small area along the border with Montville Township the entire Borough is ranked 'High' or 'Moderate' for 'Riparian Integrity'.

Additionally, the following maps are provided:

- a. Three Highlands maps relating to water resources have been reproduced. These maps depict the location of vernal pools. Vernal pools are specialized and very delicate environmental features. Three vernal pools are depicted in Kinnelon with an additional vernal pool nearby in Boonton Township.
- b. A Highlands map depicting well head protection areas in Kinnelon is shown. Well head protection areas represent areas within the sphere of influence of potable wells. Travel time of water resources to the well head is usually measured in intervals of 2, 5 or 12 years. A number of wellhead protection areas are depicted in Kinnelon, with several additional well head protection areas just outside Kinnelon's corporate boundaries.

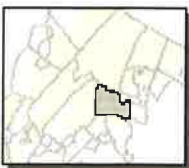
- c. A Highlands map depicting the Prime Ground Water Recharge Area in Kinnelon has been reproduced. This map reveals that significant areas of Kinnelon have been determined to be prime recharge areas. It is notable that it shows prime recharge areas distributed throughout the Borough.
- d. The Highlands Council map depicting the location and extent of steep slopes in Kinnelon is also shown. Preservation of steep slopes is important for a number of environmental reasons, since development of steep slopes have repercussions for soil stability and drainage issues. Similar to the prime ground water recharge areas, the distribution of steep slopes is fairly uniform through Kinnelon.
- e. The protection of forest resources has been determined to be critical to the maintenance of water quality and quantity. As depicted on the Highlands Council map, Kinnelon has been determined to have a high forest integrity ranking across the entire Borough.
- f. Also reproduced is the Highlands map depicting those areas of Kinnelon determined to be critical wildlife habitat. Much of the Borough has been so identified.

# Exhibit O - Vernal Pools



- Vernal Pools + 100ft Buffer
- Preservation Area
- Municipal Boundaries

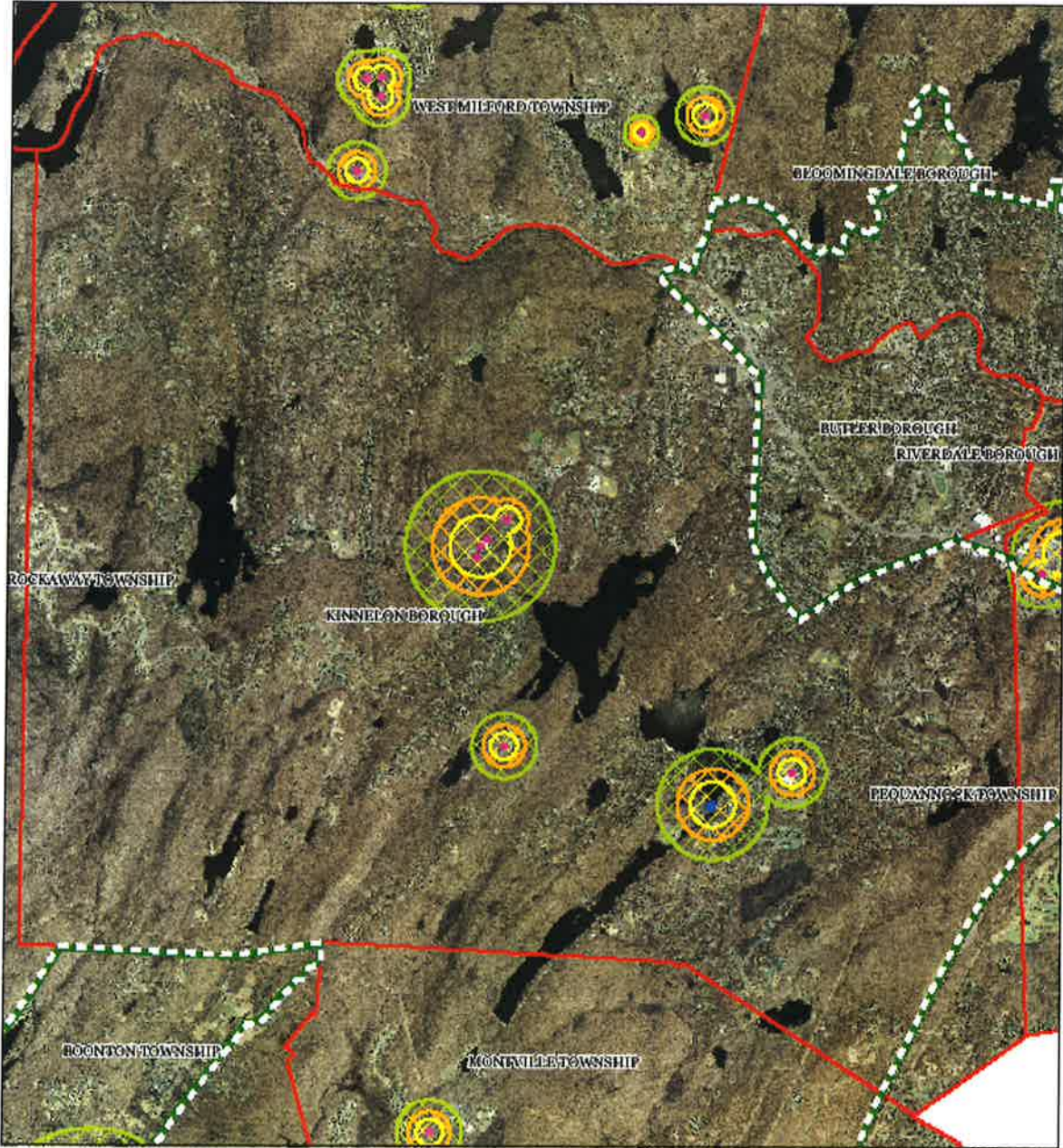
**KINNELON BOROUGH**



1 inch = 0.688 miles



# Exhibit U - Wellhead Protection Areas



- Public Community Wells
- Non-Public Community Wells

**KINNELON BOROUGH**

**Wellhead Protection Areas**

- 2-Year Tier
- 5-Year Tier
- 12-Year Tier

- Preservation Area
- Municipal Boundaries



1 inch = 0.688 miles

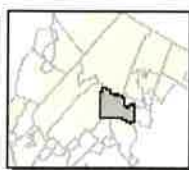


# Exhibit S - Prime Ground Water Recharge Areas



- Prime Ground Water Recharge Areas
- Preservation Area
- Municipal Boundaries

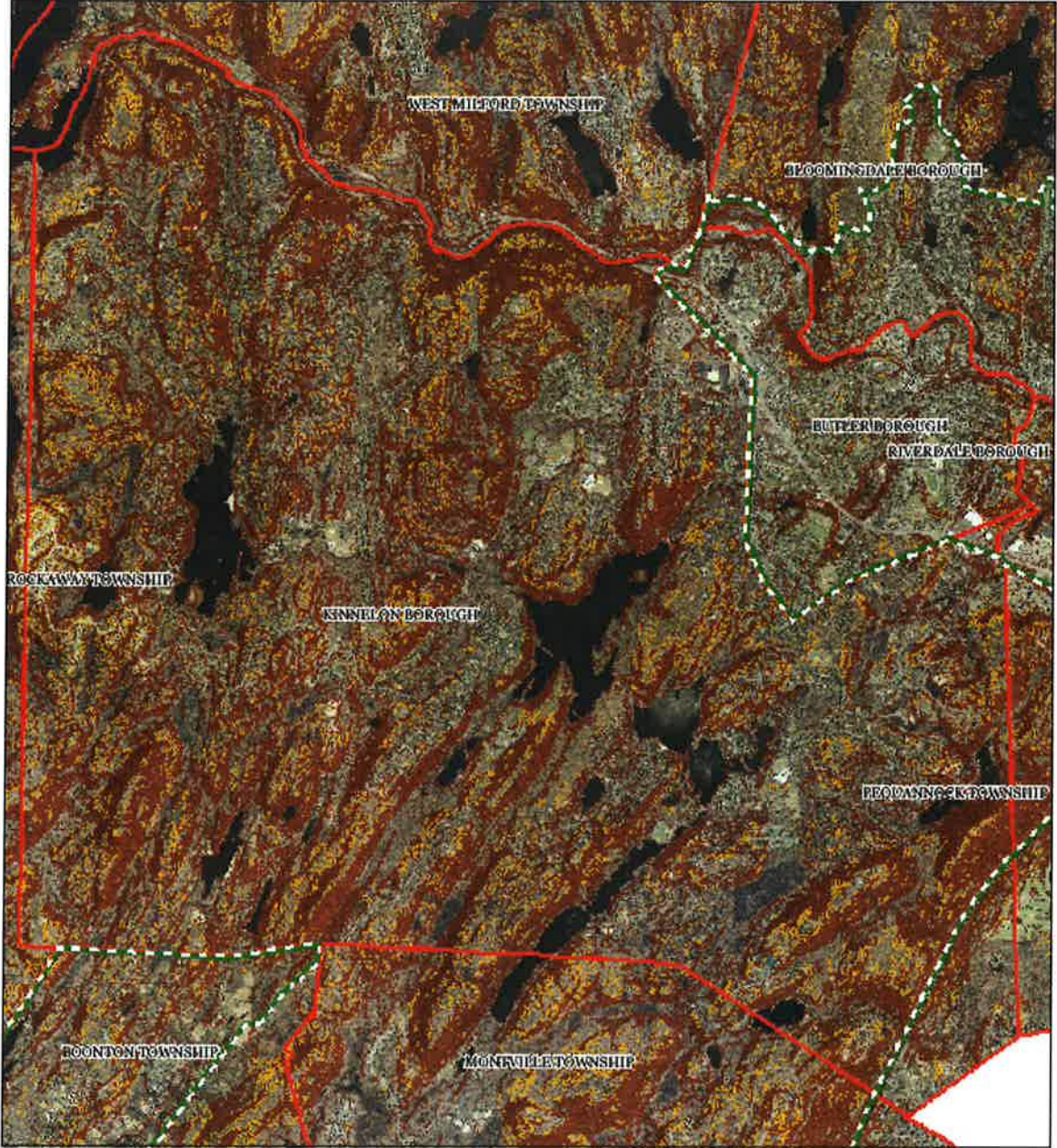
**KINNEELON BOROUGH**



1 inch = 0.688 miles

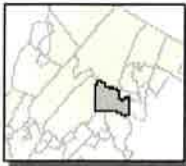


# Exhibit L - Steep Slope Protection Areas



**KINNELON BOROUGH**

- Steep Slopes**
- Moderate
  - Severe
  - Preservation Area
  - Municipal Boundaries



1 inch = 0.688 miles



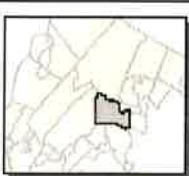
# Exhibit G - Forest Subwatersheds



Forest Integrity by HUC14 Subwatershed

**KINNELON BOROUGH**

- Low*
- Moderate*
- High*
- Preservation Area
- Municipal Boundaries



1 inch = 0.688 miles






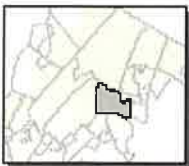


# Exhibit M - Critical Wildlife Habitat



**KINNELON BOROUGH**

-  Critical Wildlife Habitat
-  Preservation Area
-  Municipal Boundaries



1 inch = 0.688 miles



2. Surface Water Quality Standards and Classification. The NJDEP adopted Surface Water Quality Standards (SWQS) and Surface Water Classifications on July 10, 2004 and the rules became effective August 2, 2004. These regulations were enacted to provide protection for the drinking water supply of New Jersey's growing population. NJDEP identified key water bodies to receive special protections based on providing drinking water and serving as high quality habitats for New Jersey's aquatic species.

As part of this effort, NJDEP also implemented regulations providing water quality protection, including stormwater regulations that updated stormwater management rules for the first time since 1983. The rules prioritize groundwater recharge by preventing roadways and parking lots from transporting this resource directly into streams and rivers without first undergoing water quality treatment.

These efforts to protect surface waters are significant in Kinnelon, as there are a number of lakes, ponds and reservoirs within the Borough. Some of these water bodies include Butler Reservoir, Charlottesburg Reservoir (partially located in West Milford Township), Fayson Lakes, Lake Juliet, Lake Kinnelon, Lake Reality, Lake Rickabear, Maple Lake, New Pond, Silas Condict Pond, Sawmill Pond, Surprise Lake (partially located in Montville Township), Taylortown Reservoir (partially located in Montville Township), Untermeyer Lake and West Lake.

The Kinnelon Water Department, a division of municipal government, has the responsibility to distribute potable water throughout Kinnelon. All of their water is sourced from the Kakeout Reservoir on Bubbling Brook Road, and is purchased from the Butler Water Company. In 2014 the water distributed by the Kinnelon Water Department was tested for over 80 contaminants. The results of these test demonstrated that this water meets or exceeds the health and safety standards established by the US Environmental Protection Agency and the NJ Department of Environmental Protection.

The Category One Water Classification is a special level of protection for specified waterways. This classification focuses on waterways that provide drinking water, habitats for threatened and endangered species and popular recreation species such as trout or shellfish. To protect the resource, 300 foot wide buffers, measured from top of bank, have been established along the length of these designated streams. Modifications to land forms and removal of native vegetation within Category One stream buffers is typically regulated to manage and minimize impacts to the resource, such as those regarding impacts on water quality, moderation of water temperature, stormwater and flood water retention and filtration, maintenance of and possible increased aquatic ecosystem integrity of habitat protection, among other issues.

Kinnelon contains a number of Category One streams. These include two unnamed tributaries to the Pequannock River, one located near the Smoke Rise community, the other by the Charlottesburg Reservoir. In addition to these two tributaries, most of the main stem of the Pequannock River as it passes through Kinnelon has also been designated as a Category One stream. The buffers noted above are established along this waterway.

The strategy for reducing nonpoint sources of pollution includes implementing best management practices (BMP's). Under proposed stormwater management rules, new BMP's would be required to establish recharge standards and water quality controls. The proposed rules would also require the implementation of BMP's for new development in order to reduce pollution runoff levels by 80 percent.

The stormwater management rules will not apply to development projects resulting in less than 0.25 of an acre of new impervious surface and less than one acre of site disturbance. In addition, projects receiving approval prior to the effective date of the rules will not need to meet the new standards.

All new large scale development and redevelopment proposals in Kinnelon classified as a major development will be required to address these standards in addition to complying with the requirements contained in the RMP. The regulations prefer, but do not necessarily require, the application of non-structural approaches to stormwater management. One result of these regulations is that more land area is typically occupied with drainage infrastructure. A second result of these regulations is that stormwater management features require on-going long-term maintenance to insure their continued effectiveness. In single-family subdivisions classified as major developments this on-going maintenance responsibility and potential liability falls to the homeowners, unless some other entity assumes such responsibility. Kinnelon might want to establish a broad borough-wide policy as to whether the Borough will assume this responsibility if requested.

**3. Smart Growth Principles for Development.** Smart growth in New Jersey became a funded program in 1999 when the Smart Growth Planning Grant Program was established to fund smart growth initiatives for eligible projects. The program made available funds to assist counties and municipalities with the incorporation of the State Plan and principles of smart growth in local planning and development regulations. In 2002, the office of State Planning was renamed the Office of Smart Growth. This action was designed to promote well planned, well managed growth to provide new homes, new jobs while preserving open space, farmland and environmental resources.

The principles of smart growth enumerated by the Office of Smart Growth include encouraging mixed use development, walkable town centers, mass transit accessibility, compact community design ('a sense of place'), a range of housing choice, directing growth where existing infrastructure exists, and community and stakeholder collaboration in decision making. The initiative supports development and redevelopment in recognized centers as outlined in the State Plan and promotes growth in areas with established infrastructure.

The Borough of Kinnelon in 2013 earned Bronze level certification from the Sustainable Jersey Advisory Committee for its commitment to and implementation of sustainable objectives, which is one aspect of smart growth. Certification is valid to December 31<sup>st</sup> of the third year following certification. Municipalities do not need to wait to the end of the certification period to seek recertification, recertification can occur any time during this three year period.

4. State Development and Redevelopment Plan and Cross-Acceptance Process. On April 28, 2004, the New Jersey State Planning Commission (SPC) approved the release of the Preliminary SDRP and the Preliminary State Plan Policy Map. This action launched the third round of Cross-Acceptance.

A significant aspect of the Cross-Acceptance process, and what distinguishes it from past statewide planning efforts, is the State's intent to rely upon this process and the final adopted State Plan as the basis for determining funding allocations for a variety of programs. The Department of Community Affairs had indicated that a new and refined process should commence with adoption of an updated new plan, and consequently it is important for the Borough to be continually aware of the process as it evolves.

Any portion of a municipality located in the Highlands Preservation Area is exempt from the State Planning Commission Plan Endorsement process. By aligning the municipal master plan with the Highlands RMP, consistency between the local master plan and the RMP is achieved.

An explanation of the Plan's designations for Kinnelon is provided below.

- a. Suburban Planning Area. Nearly all of Kinnelon has been placed in the Suburban Planning Area (PA-2). The Suburban Planning Area, as described by the State Plan can be distinguished from the more densely developed Metropolitan Planning area by the availability of developable land and by a more dispersed and fragmented pattern of low intensity development. PA 2 contains about 11% of the state's population and employment. Current trends continue to extend sprawl, focusing primarily on the same single-use or limited use development products in response to developer and market demand and local zoning requirements. As described in the State Plan the intention of for PA2 is to provide for much of the state's future development by promoting growth in centers and other compact land forms in order to protect the character of existing stable communities and natural resources found in PA-2. A key intent of the State Plan is to redesign areas of sprawl and reverse the current trend toward greater sprawl while revitalize cities and towns.

Briefly listed below are the objectives adopted for the Suburban Planning Area.

- 1) Land Use: Guide new development and redevelopment in PA-2 into more compact forms that can accommodate mixed-use development.
- 2) Housing: Provide a full range of housing choices primarily in centers at appropriate densities to support transit. Any housing proposed to be located outside centers should be planned and located to maintain existing community character.
- 3) Economic Development: Guide economic development into centers or existing pedestrian- and transit-supportive single-use areas.

- 4) Transportation: Maintain and enhance existing transportation systems. Emphasize use of public transportation and alternative modes of transportation where feasible and appropriate.
  - 5) Natural Resource Conservation: Conserve continuous natural systems. Strategically located open space and buffer critical environmental sites. Protect natural linear systems.
  - 6) Agriculture: Guide development to ensure the continued viability of agriculture and the retention of productive farmland in strategically located agricultural areas. Actively promote more intensive, new-crop agricultural enterprises.
  - 7) Recreation: Provide maximum active and passive recreational opportunities and facilities at the neighborhood, local and regional levels. Acquire and improve neighborhood and municipal parkland within centers.
  - 8) Historic Preservation: Encourage the preservation and adaptive reuse of historic or significant buildings. Coordinate historic preservation with tourism efforts.
  - 9) Public Facilities and Open Space: Complete, repair or replace existing infrastructure systems to enable future development and redevelopment.
  - 10) Redevelopment: Encourage redevelopment efforts in existing centers and single-use areas which can be redeveloped into mixed-use areas and areas within walking distances to public transit facilities such as train stations. Redevelop at transit friendly densities. Seek to retrofit existing single-use areas with mixed-uses and higher densities.
  - 11) Intergovernmental Coordination: Provide for regionalization and intergovernmental coordination of land use and development policies. Create public/private partnerships to locate, facilitate, coordinate and implement new development and redevelopment in centers.
- b. Environmentally Sensitive Planning Area. A relatively small section in the southeast quadrant of Kinnelon has been designated as Environmentally Sensitive Planning Area (PA-5). The Environmentally Sensitive Planning Area (PA-5) has large contiguous areas of land that contain valuable ecosystems, natural resources and wildlife habitats. These areas are either undeveloped or have limited development that is rural in character. The primary policy objective for PA-5 is the protection of environmentally sensitive areas through the promotion of center development with clear boundaries and buffer areas separating the center from the surrounding "environs." Natural resources should be protected and preserved in large contiguous tracts of open space. The SDRP suggests that these areas may be appropriate for recreational facilities, and infrastructure should only be provided to support linkages between centers or to promote recreational and other activities.

- c. Parks and Natural Areas. These delineations generally correspond to existing areas preserved for open space and park lands.

The Borough's land use plan is generally consistent with the statewide goals and objectives of the SDRP and the policy objectives of the various planning areas. One significant difference between the State Development and Redevelopment Plan and the Highlands Council RMP is that conformance with the general policies of the State Plan is voluntary while conformance with the RMP in the Preservation Area is mandatory. Since over 11,980 acres of Kinnelon is in the Preservation Area, conformance with the RMP is effectively mandatory in Kinnelon.

5. Council on Affordable Housing (COAH). COAH adopted new rules in November 2004 for the implementation for their third round methodology. The new rules became effective December 20, 2004, but were subsequently determined through litigation to require modification. A new set of revised third round rules were adopted in 2008. Kinnelon, due to its participation in the Highlands Initial Plan Assessment program, was granted an extension to prepare a new housing element and fair share plan. The Borough was prepared to adopt a new housing plan by December 9, 2009. Additional litigation over the revised third round rules resulted in further slippage in the timelines for submission of new affordable housing plans. COAH was scheduled to adopt the most recent set of rules on October 22, 2014 with publication in the register in November. COAH's board failed to adopt the proposed rules, and thus the COAH process and projections for affordable housing need remains in a state of flux. The Supreme Court, in March, 2015, has concluded that, until such time a COAH can prepare an acceptable approach to address this issue, the Court shall take control of the matter, and they have established a schedule whereby municipalities may file declaratory judgments to then file their plans with the Court. It remains unclear as of this date what the specific methodology to be imposed, and the numerical obligation that municipalities must address, is to be utilized by the Court.

IV. THE SPECIFIC CHANGES RECOMMENDED FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS, IF ANY, INCLUDING UNDERLYING OBJECTIVES, POLICIES AND STANDARDS, OR WHETHER A NEW PLAN OR REGULATIONS SHOULD BE PREPARED

1. The Borough of Kinnelon should review its development ordinances in order to identify development regulations that hinder the proper and efficient use of property.
2. Despite the failure of the COAH board to adopt proposed substantive rules, municipalities continue to have a constitutional obligation to provide a realistic opportunity for the construction of affordable housing. Until this obligation is eliminated, Kinnelon can expect to be responsible for the preparation and implementation of a new affordable housing plan. Kinnelon should be prepared to adopt an affordable housing fair share plan upon the completion of the rulemaking process and associated court challenges.
3. It would be appropriate for Kinnelon to update its goals and objectives to properly reflect the Borough's contemporary position on planning and development issues. Kinnelon's most recent master plan reexamination report was adopted in 2000. The following goals and policy statements are herein offered to replace former master plan goals and policy statements.

Goals and Policies:

**Goal #1: To provide additional recreational facilities and improve existing recreation facilities and programming.**

**Policy Statement:** There is presently a lack of adequate recreation fields in Kinnelon. This insufficiency relates to both the number of existing fields and the poor quality of these fields. The recreation field behind the municipal building suffers from both poor field quality and poor drainage. Fields also suffer from over-scheduling of activities on them. Highlands Council and NJDEP regulations limit stream maintenance of the nearby C-1 stream to hand-cleaning siltation and debris. These same regulations limit and prohibit the active redesign of these fields by the imposition of no-disturbance buffer requirements.

The church-owned property on Boonton Avenue may be the only property suitable to develop for recreational purposes due to Highlands Council limitations. This property is a 10 acre site on Boonton Avenue adjacent to the Boonton Avenue fields. The Borough should explore the potential for securing a Highlands exemption to address the drainage issues that may be inherent with this property and the construction of multi-purpose recreational fields.

**Goal #2:** To provide a community center to serve the recreational and social needs of Kinnelon residents of all ages.

**Policy Statement:** There are limited options available in Kinnelon to address this goal. One possible location for a community center is the church-owned property on Boonton Avenue described above. If all necessary NJDEP approvals and permits authorizing construction can be obtained, the proposed site could be designed to serve multiple purposes such as a community shelter in times of emergencies as well as provide necessary storage for emergency equipment, in addition to its primary function as a community center.

**Goal #3:** Rebuild Fire Company #1.

**Policy Statement:** This firehouse is located on Kiel Avenue next to the Glen Sisco School. The original portion of the current building was constructed in 1933. Additions were built in the 1950's. This building is out-of-date and is characterized by a design that is incapable of accommodating modern firefighting equipment. For example, only if the building is redesigned can it accommodate a ladder truck. In addition, there is a great need for additional storage of equipment and material at this location.

**Goal #4:** To increase the Borough's ratable base: To promote a strong and sustainable economic environment primarily along Route 23 that provides attractive commercial and business development opportunities, increased employment opportunities, an enhanced tax base, quality facilities and services, and convenience and amenities for both residents and the business community, through a collaborative planning process focused on maximizing the cooperation of public and private sector partners.

**Policy Statement:** The Borough recognizes the established character of Route 23 necessitates a flexible approach to capitalize on infill development and redevelopment opportunities as one means to increase the ratable base of the community. Approaches that are developed through the active participatory roles of the municipality, development interests and the public will best assist the corridor to achieve its full development potential. This can realistically be best realized through an administrative planning mechanism that allows all stakeholders to participate in a dynamic process that results in the imposition of regulatory design criteria that is based upon the physical and environmental characteristics of individual tracts of land. There are a few specific properties off of Route 23 that may also represent opportunity to increase the tax base of the community.

The Highlands regulations have limited the ability of Kinnelon to enhance its ratable base. For instance, an undeveloped Kinnelon Road property, commonly referred to as the Prol tract is serviced by water and sewer infrastructure and may qualify for an exemption from the Highlands Council restrictions on development. Additionally, residential properties on Maple Lake Road at Kinnelon Road that abut the Prol tract may also qualify for Highlands Council exemptions.



**Goal #5:** To review the zoning ordinance to permit more uses along Route 23 in an effort to encourage more business to locate along this high volume roadway.

**Policy Statement:** Route 23 represents Kinnelon's best opportunity to capture additional business which can assist in stabilizing the community's tax base. Business along Route 23 will typically draw their customer base from drivers already in the traffic flow without increasing traffic on residential streets.

**Goal #6:** To preserve and maintain the green character and wooded nature of Kinnelon.

**Policy Statement:** As far back as 15 years ago, the Borough Planning Board recognized the benefits trees provide in maintaining and stabilizing Kinnelon's micro-climate, and reinforcing the visual and physical character of the community. To accomplish this goal the Borough should publicize the benefits to be gained through this approach and educate the public about the Tree Removal Ordinance, additionally, the Borough should examine its zoning ordinance to ensure it continues to limit the size of buildings and properly regulates maximum impervious coverage requirements. Along with strict enforcement of the tree removal regulations, the Borough needs to also guard against disturbance to steep slopes.

**Goal #7:** To maintain and enhance existing areas of stability in the community and encourage a proper distribution of land uses by designating areas which have their own uniform development characteristics. A principal goal of this plan is to preserve and protect the residential character and existing community density by restricting incompatible land uses from established residential areas, and limiting intensities of use, including residential density to the level, and locations, prescribed herein.

**Policy Statement:** The Borough of Kinnelon recognizes that one of its most significant attributes is its uniform land use arrangement, with limited intrusions of non-residential development in residential neighborhoods. The plan's land use recommendations are designed to protect and reinforce the prevailing detached single-family residential development patterns in the community, encourage attached residential development only in those areas specified in the plan, preclude any introduction of incompatible non-residential uses in areas designated for residential use, and reinforce the intensities-of-use recommended in this plan, and the quality of life that is reflective of the community's physical character.

**Goal #8:** To maintain the existing character of the Borough.

**Policy Statement:** One of Kinnelon's greatest assets is its character of development, typified by detached single-family dwellings on large, treed lots due to the topographic, environmental and zoning constraints which exist in the Borough. The Borough's policy is to retain its residential character and overall residential density.

**Goal #9:** To promote the continued maintenance of the Borough's housing stock and when appropriate, its rehabilitation.

**Policy Statement:** The Borough recognizes that the overwhelming majority of its housing stock is maintained in excellent condition. There are a small number of dwellings that would benefit from a housing rehabilitation program. The Borough seeks to encourage, as appropriate, improvements in the existing housing stock. The Borough seeks to fulfill this goal through participation in the Morris County Housing Rehabilitation Program. This program provides funding to income eligible homeowners to address major system failures in primary residences. This program can be of great assistance to senior homeowners. Notice of the availability of these funds should be published in the local newspapers and posted on the borough's web site in order to bring the benefits of the various program to the attention of Borough residents.

**Goal #10:** To preserve the historic features of the Borough as an integral part of the community's unique character.

**Policy Statement:** The Borough seeks to protect historically significant structures and sites as identified in this plan through the adoption of regulations, consistent with the land use act's intention to preserve historic properties. The county's list of historically significant properties and districts serves as a basis for which a refined list of properties and districts are to be formulated into a historic preservation element.

**Goal # 11:** To encourage and provide buffer zones to separate incompatible land uses.

**Policy Statement:** The Borough recognizes the need to reinforce the delineation of boundaries separating residential and non-residential sections of the community. Appropriate buffer/screening devices are to be encouraged to separate incompatible land uses in order to minimize adverse impacts on residential properties. This should be accomplished primarily within the framework of appropriate open space buffer strips containing suitable planting elements (including such elements as multiple rows of plant material, planting clusters, etc), in an effort to protect residential areas and to retain and reaffirm the community's overall landscape amenity and community character.

**Goal #12:** To ensure that any prospective development and/or redevelopment is responsive to Kinnelon's environmental features and can be accommodated within the capacity of the community's infrastructure systems.

**Policy Statement:** The Borough seeks to ensure that all development is sensitive to the community's particular physical characteristics, and preserves the Borough's sensitive environmental elements. In particular, the Borough wants to ensure that any development preserves steeply sloped areas (defined to include any slope of minimally fifteen percent grade), protects wetlands, flood plains, and riparian buffers and areas designated as containing high quality forest integrity. The Borough

expressly recognizes that one of its attributes is the extensive treed character that defines Kinnelon, and consequently it is recommended that a planned program of tree protection and preservation, through appropriate ordinance regulation, continue to be imposed to ensure the retention of this natural feature. Additionally, the Borough is cognizant of the fact that there are numerous sites in the municipality that are typified by extensive environmentally sensitive features and therefore may not be able to accommodate their full zoned development potential.

**Goal #13.** To ensure that infill development and redevelopment is accomplished in a manner that complements the overall community and respects the general scale of residential development that exists in the Borough of Kinnelon

**Policy Statement:** The Borough of Kinnelon recognizes that one of its significant attributes is its overall scale of residential development with compatible building forms, heights and arrangements. This plan is designed to reflect and carry forward this overall thematic expression.

**Goal#14:** To support the overall philosophy of the State Development and Redevelopment Plan (SDRP) as a means of providing growth management on a state-wide basis while retaining the principles of home-rule.

**Policy Statement:** The Borough maintains that the general intent of the SDRP, to manage growth within the framework of an assessment of needs and infrastructure capabilities, and the SDRP's specific Metropolitan Planning Area designation for Kinnelon, represents a reasonable approach to growth management.

V. RECOMMENDATIONS CONCERNING THE INCORPORATION OF REDEVELOPMENT PLANS INTO THE LAND USE PLAN ELEMENT AND RECOMMENDED CHANGES IN THE LOCAL DEVELOPMENT REGULATIONS NECESSARY TO EFFECTUATE THE REDEVELOPMENT PLANS OF THE MUNICIPALITY

In 1992, the Local Redevelopment and Housing Law (LRHL) was enacted into law. The LRHL replaced a number of former redevelopment statutes, including the Redevelopment Agencies Law, Local Housing and Redevelopment Corporation Law, Blighted Area Act, and Local Housing Authorities Law, with a single comprehensive statute. At the same time, the MLUL was also amended to require, as part of a master plan reexamination, that the issues raised in the LRHL be addressed.

The LRHL provides the statutory authority for municipalities to designate areas in need of "redevelopment," prepare and adopt redevelopment plans, and implement redevelopment projects. Specifically, the governing body has the power to initially cause a preliminary investigation to determine if an area is in need of redevelopment, adopt a redevelopment plan, and/or, determine that an area is in need of rehabilitation.

A planning board has the power to conduct, when authorized by the governing body, a preliminary investigation and hearing and make a recommendation as to whether an area is in need of redevelopment. The planning board is also authorized to make recommendations concerning a redevelopment plan, and prepare a plan as determined to be appropriate. The board may also make recommendations concerning a determination if an area is in need of rehabilitation.

The statute provides that "a delineated area may be determined to be in need of redevelopment if "after investigation, notice and hearing...the governing body of the municipality by resolution concludes that within the delineated area "any of the following conditions are found:

1. "The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions;
2. "The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable;
3. "Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography or nature of the soil, is not likely to be developed through the instrumentality of private capital;

4. "Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community;
5. "A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare;
6. "Areas in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated".
7. "In any municipality in which an Enterprise Zone has been designated pursuant to the New Jersey Enterprise Zones Act."
8. "The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulations."

The statute defines redevelopment to include "clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan". It is noteworthy that the statute specifically states that a redevelopment area may include lands which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is necessary for the effective redevelopment of an area.

At this time there are no areas in the municipality that are presently contemplated for being designated as an 'area in need of redevelopment' pursuant to the Local Redevelopment and Housing law. Local implementation of this effective planning tool might be reconsidered by Kinnelon in the future.

One aspect of the reexamination report assignment was to explore the potential for establishing the necessary infrastructure along the New York Susquehanna and Western Railroad ("NYSWRR") for use by commuters in the event that commuter rail service were to be re-instituted on this rail line.

The New York Susquehanna and Western Railroad has an alignment through Kinnelon that for the most part generally follows the Pequannock River and Route 23. Preliminary analysis suggests that there are limited opportunities to provide commuter rail infrastructure in Kinnelon. Property along the rail line is

within the Preservation Area of the Highlands. This area is characterized by sensitive environmental features such as steep slopes, critical wildlife habitat, Highlands open waters, prime ground water recharge areas, high priority forest resources and the riparian corridor associated with the Pequannock River. This area of Kinnelon remains lightly developed.

Based on these factors and the remoteness from Kinnelon's population centers, it seems the most likely location for improvements in Kinnelon to support commuter use of the NYSWRR is in the vicinity of where the NYSWRR and the Paterson Hamburg Turnpike cross. This location is near the municipal boundary line with Butler. Unfortunately based on available information it appears this section of Kinnelon is impacted by open water protection areas associated with the Pequannock River and the presence of steep slopes. Unless additional review reverses this preliminary assessment, it appears an alternate location might be necessary if Kinnelon is going to offer commuter services to rail riders.

**VI. 46 Boonton Avenue: Block 45502 Lot 119**

This property is adjacent to Block 45502 Lot 120. The significance of this observation is that Lot 120 is owned by Kinnelon Borough and developed for recreation purposes. Lot 120, which totals 10.7 acres is developed with three baseball/softball fields, tennis courts, a combination field for use by soccer, field hockey and lacrosse, a basketball court, field house/concession stand and a significant number of paved off-street parking spaces.

Block 45502 Lot 120 shares a common boundary line that extends for over 900 feet with Lot 119. Lot 119 is currently wooded and is characterized by a regular configuration that slightly flares out as the lot moves away from Boonton Avenue. Lot 119 is 11 acres in size.

46 Boonton Avenue is characterized by generally flat topography. It is also characterized by an absence of open waters, wetlands and wetlands buffers, vernal pools or riparian corridors. This property, along with adjacent Lot 120 which has been developed for active recreation purposes, has been assigned a high forest integrity value by the Highlands Council.

Block 45502 Lot 119 currently assessed at \$361,600 is owned by the Pompton Plains Reformed Bible Church.

The Kinnelon Open Space and Recreation Plan Update-2012 included a series of recommendations, some to be accomplished within a year, some within 3 years and some even longer. The first listed three year recommendation was to, "Identify locations and opportunities to expand existing recreational space. Acquire property to expand recreational facilities."

Properties of a suitable size that are readily developable for recreation purposes are scarce in Kinnelon. Those that are adjacent to already developed municipal recreation fields and courts are even rarer. If this property can be acquired through negotiation with the owners, the borough should attempt to acquire same. As in the past, Kinnelon should look for outside funding partners to assist in the acquisition and development of this property for active recreation purposes.

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