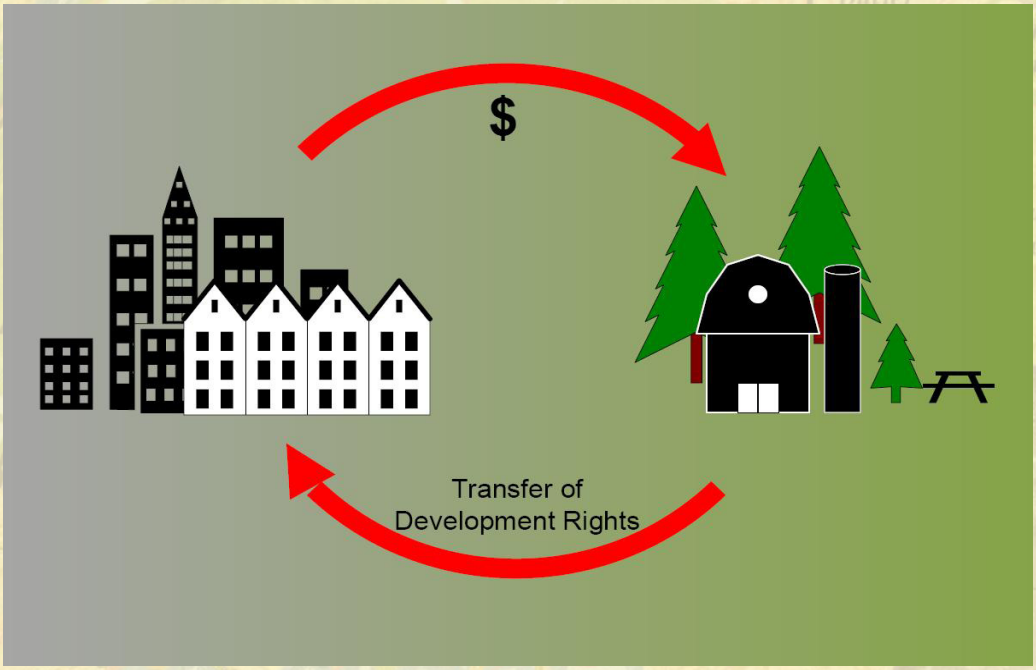
How Much Growth? Where? To do What?

Finding and Planning Receiving Areas for the Highlands Transfer of Development Rights Program



A Report for
The Highlands Water Protection and Planning Council

By
PlanSmart NJ

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PlanSmart NJ takes all responsibility, however, for any error or misrepresentation that may have found its way into this report.

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Finding and Planning Receiving Areas for the Highlands TDR Program

Introduction and Executive Summary

The purpose of a Transfer of Development Rights (TDR) program in the Highlands is to protect sensitive watershed areas from construction. It is accomplished by transferring the lands' development potential as "credits" from "sending" areas to "receiving" areas that are targeted for growth.

The Highlands Water Protection and Planning Council (Highlands Council) has begun to take steps to identify voluntary sending and receiving areas to implement a TDR program in the Highlands Region. Although extensive work had been conducted by the Highlands Council staff on lands that may be suitable for receiving areas ***inside*** the Highlands borders, no similar analysis has been conducted on lands ***outside*** the borders but within the seven Highlands Counties, areas allowed by the Highlands Act to be designated as receiving areas.

This report explores the ***criteria for identifying receiving areas*** in the seven counties and the ***planning objectives that should be sought to be achieved in receiving areas*** once they are selected.

The report also reminds us that ***TDR is primarily a financial mechanism*** to provide landowners with a financial return for the loss of their land's development potential. This is not a criticism of TDR: TDR uses the market to provide incentives to landowners, developers and municipalities to guide development to appropriate locations and protect land from development in important conservation areas. These are both vital public goals.

But it is important for policy-makers to remember that TDR is not Smart Growth itself. Although many planning goals are not mutually exclusive to a TDR program, if policy-makers consider it necessary to drop important goals such as providing more affordable housing or better transit opportunities to make the TDR market work, serious consideration should be given to the use of other mechanisms.

In fact, the report points out that where TDR has been used, it has accounted for the least amount of protected land in sending areas. Outright purchase with public funds, significant down-zoning and other regulations have saved much more farmland and environmentally sensitive areas.

Although the financial mechanism of TDR is designed to "make whole" the owners of land in sending areas, the development potential that they feel they own was created by public policy. In some instances, public policy encouraged suburban sprawl, leading to a pattern of disinvestment in areas

that became communities of concentrated poverty and crumbling infrastructure. Now, government has the opportunity to invest in these places as receiving areas, a way to redress this history. Receiving areas, therefore, should be given the same level of attention – if not more – as TDR programs now give to landowners in sending areas and developers in the TDR credit market. How much growth, where, will make these communities "whole"?

Planning Objectives for Receiving Areas

The primary goal in the Highlands is to protect water resources and critical habitats, which are the defining objectives of the sending areas. The Highlands Council has produced detailed analyses of these attributes. Through their TDR Receiving Zone Feasibility Grants, the Council is also working to collect information on existing conditions in places that could be appropriate receiving areas.

Added growth in the right locations can produce significant benefits for communities and the region. This report, *How Much Growth? Where? To do What?* suggests that growth in receiving areas should seek to improve conditions in four general areas, or what PlanSmart NJ has dubbed the ***4Es: the environment, the economy, regional equity and resource efficiency***. To operationalize these goals, PlanSmart NJ has identified a number of associated planning strategies:

- Coordinate economic development strategies to strengthen the region's economic base
- Connect housing goals to jobs, incomes and special regional needs
- Reduce auto-dependency and increase public transit and other modes of travel
- Conserve, restore and protect water and other natural resources by watersheds
- Reduce the concentration of poverty and disparities among communities, while increasing racial and economic integration.

Because of the special constraints on the water drawn from the Highlands to serve places both inside and outside its boundaries, there must be a special emphasis on ***water conservation***. If the TDR program in the Highlands is to be successful, public policy must include additional and aggressive strategies to conserve water and restore watershed health throughout the seven-county Highlands region.

The Project Analysis:

Three of the seven Highlands counties were used as case studies for the purposes of this project – Passaic, Bergen and Somerset Counties.

The GIS data layers used in this project as the basis for identifying possible receiving areas were selected because they were available and were related to the strategies outlined above. The layers included such information

as the boundaries of the existing sewer service areas, data drawn from DEP's Landscape Project, the Transit Score (see Appendix C) and the location of significant transportation networks, the locations of major employers, areas of concentrated jobs, housing and poverty, and data indicating significant levels of households "cost-burdened" by paying more than 30% of their income on housing.

Based on the results of the convergence mapping and other analyses of conditions in the three counties, four prototype communities were identified that could be targeted as possible receiving areas outside of the Highlands Region. These prototype communities are:

1) ***Contiguous urbanized areas of cities and older towns and urbanized suburbs, such as Somerville Borough and areas east; and the area including and around Hackensack City***. In these places the overlapping of indicators favoring receiving areas is most significant: inside sewer service areas, high transit scores, major employers and concentrations of jobs and housing. In addition there are concentrations of poverty and the number of households paying more than they can afford for housing (the "cost burdened"). A receiving area in this type of area would involve mostly infill and redevelopment of underutilized and vacant properties, a generally more expensive type of development in a generally weak market. Incentive programs should be aimed to attract development.

2) ***Towns, suburban areas and regional centers within sewer service areas, such as Hillsborough and Englewood Cliffs***. These places have concentrations of housing and jobs, and high transit scores, but are generally wealthier, with lower numbers of the housing "cost-burdened" and few areas of concentrated poverty. These places would benefit from a receiving area that would retrofit suburbanized areas to create growth centers within areas that have already been developed, and provide an opportunity to increase access to jobs and other opportunities for social mobility. The market for infill and redevelopment in high value areas may be almost as difficult as in weak market areas, unless there is a significant increase in density in the receiving areas. Incentive programs should be aimed to induce municipalities to undertake redevelopment.

3) ***Smaller towns within sewer service areas, such as Parkridge Borough***. These places have some housing concentration and relatively high transit scores, and may have some capacity to grow. Again, the type of development would be infill and redevelopment, with the benefits and challenges listed above. Incentives for both the developers and municipalities will be required.

4) ***Other suburban growth areas, such as Montgomery Township***. These places have major concentrations of jobs and may have a relatively high transit score. These communities sometimes are desirous of establishing town centers, which could double as receiving areas. In these places, greenfield developments may be the only way to get a receiving area designated.

The report explains a mapping strategy to identify these places that are ***possible*** for receiving areas. It also suggests further analyses that are necessary to identify the ***best*** places for potential growth areas.

Conclusions:

The report concludes:

1. Because TDR is primarily a financial mechanism and not a planning tool *per se,* use TDR in the Highlands and elsewhere as only one of a number of smart growth tools used to benefit receiving areas as well as preserve sending areas.

2. Clearly define program objectives for both sending and receiving areas, treating them as linked within a larger region.

3. Evaluate the economics of TDR use in receiving areas to temper expectations of landowners in sending areas; be prepared to use the TDR Credit Bank to play the mediator, or to step in and purchase credits in advance of the market to use them.

4. Target future infrastructure investments to the receiving areas.

5. Growth should be directed to areas that have at least some of the following characteristics:
    a. are in or near areas of concentrated jobs and/or housing.
    b. are previously developed but underutilized or in need of redevelopment to create vibrant, mixed-use and transit-friendly communities.
    c. have good mass transit, or transit could be efficiently extended, or shuttles or jitneys could provide access to transit.
    d. have existing or planned water and sewer capacity sufficient for added development.
    e. would benefit from redevelopment that would, for example:
        - reduce concentrations of poverty by adding jobs and mixed income housing
        - provide wider opportunities for jobs, housing and public transportation
        - retrofit suburban areas of low density, separate uses

6. Although urban areas are likely to score high on these criteria, the search for receiving areas should not be limited to these places alone. The mapping results also showed there are smaller towns with existing sewer service, less density and lower poverty levels that also receive relatively high transit scores. These towns, especially if located near mass transit, that may offer a ready market for TDR credits, if the

municipalities are willing to accept the additional density and if the process can be made attractive enough for them to participate.

Urban areas in this region often have a weak market and insufficient infrastructure capacity, making a voluntary TDR program challenging to operate. Therefore, the state should:

a. Extend the provision of legal representation by the State in actions challenging municipal decision regarding TDR, to all municipalities in the seven counties who volunteer to host TDR receiving areas, not just those in the Highlands Region.

b. Extend the priority status for State capital or infrastructure programs to all municipalities in the seven counties that volunteer to host TDR receiving areas.

c. Provide greater financial incentives and/or administrative incentives as inducement for municipalities and developers. The one-time $15,000 per unit impact fee for all new development within a voluntary receiving zone is insufficient incentive for many municipalities to volunteer to host a receiving area and is a significant ***dis***incentive for developers.

d. One possible incentive includes linking mandatory Highlands receiving area designation with targeted financial programs like the Urban Transit Hub Tax Credit Program, Urban Plus and the NJT Transit Town Initiative designation, promoting both transit-oriented development and TDR.

7. Many places in the Highlands Counties, particularly in Passaic County, get most of their water from reservoirs in the Highlands, and it is these water resources that are under pressure. Growth capacity can only be achieved through aggressive conservation and improving conditions in the Highlands.

8. Although the Highlands Council has been supporting important efforts to reduce infrastructure leaks (inflow and infiltration) affecting the region's sewers that could have significant water capacity benefits, the region should take a strong position promoting conservation for both water usage and wastewater treatment that people throughout the region could easily implement. For drought conditions, the criteria for allowing inter-basin transfer of water, and where water will be transferred from, should be clearly established.

9. The most important problem in the Highlands TDR program is the lack of incentives – either carrots or sticks – to encourage either municipalities or developers to participate in the Highlands TDR program. Both are needed for a TDR program to work.

10. In strong market areas, it seems that the incentives should be weighted toward the municipalities. In weak market areas, the incentives should be weighted toward the developer.

1.0 Transfer Development Rights and Receiving Areas

As part of the Highlands Water Protection and Planning Act, P.L. 2004, c.120 (N.J.S.A. 13:20-1 et seq) (Highlands Act), the New Jersey State Legislature authorized the Highlands Council to implement a Highlands TDR program. In accordance with this Act, the Highlands Water Protection and Planning Council (Highlands Council) has been taking steps to identify appropriate sending and receiving areas to implement a Transfer of Development Rights (TDR) program in the Highlands Region. As the TDR program is set up today, municipalities may choose to volunteer to have receiving areas established within their boundaries.

Although extensive research has been conducted by Council staff on lands within the Highlands borders to identify places where receiving areas could be located, they have not yet done a similar analysis on lands outside the borders but within the seven Highlands counties (areas allowed by the Highlands Act to be designated as receiving areas). The Council understands how important seeking receiving areas outside the borders may be to their success in protecting the Highlands natural resources: they have already awarded three TDR Receiving Zone Feasibility Grants to communities outside the boundaries and they have supported this project – *Finding and Planning Receiving Areas for the Highlands TDR Program* – because of their commitment to this goal.

This report explores whether there is a relatively simple and goal-oriented methodology to determine where those receiving areas should be located. What should be the basis of the decision-making framework? What planning objectives should be associated with the selection of receiving areas? What are the opportunities and challenges within the Highlands seven-county region? What lessons can be drawn for other TDR programs in New Jersey and elsewhere?

Three counties are used as case studies to explore these questions about the mapping of goal-oriented criteria to identify receiving areas. Data constraints and political perspectives on growth led to Somerset, Bergen and Passaic counties being selected for the regional analysis, which was designed to show where, how much and what kind of development should take place to achieve goals in the receiving areas in the Highlands TDR program.

1.1 What is TDR?

Transfer of Development Rights (TDR) is a market-based financial mechanism that was developed to use in association with a land preservation strategy. Property owners in the designated preservation or "sending" areas receive payment for the development potential of their properties.

The potential for new construction (or development rights) in an area where preservation is sought, is literally severed from the land, purchased and

transferred to another area, where growth and new construction are desired and can be accommodated. How the development potential is calculated and transformed into "credits", which are then allocated to the sending area property, is according to complex equations taking into consideration the environmental attributes of the land, underlying zoning and value of the property in the real estate market.

Once the development rights or credits are allocated to a sending area property, they can be purchased from the landowner by developers who wish to use them in a designated growth area or "receiving" area. The credits can also be purchased by a central credit bank that holds onto the credits until developers are willing to pay for them, or they choose to retire them.

Once development credits are purchased from a "sending" property, a permanent conservation deed restriction is placed on the property, protecting it from future development. The landowner has had significant equity restored at limited direct cost to the public.

In most TDR programs, much more attention is paid to delineating the sending areas than evaluating the receiving areas. But a TDR program is only effective if the development rights have value to developers and municipalities in designated growth areas, where redevelopment and new construction is desired. In this sense, "sending" and "receiving" areas are linked, since the real value of development credits is dependent on the viability of development opportunities in designated receiving areas.

TDR has been in use in NJ since 1985 when the Pinelands Development Credit Bank was created. In 1989, a statute was adopted establishing a pilot TDR program in Burlington County for the land area in the county outside of the Pinelands region. And in 1993, the State of New Jersey approved the creation of a statewide TDR Bank. This statute also established an intra-municipal transfer of development on non-contiguous sites, dubbed "baby" TDR. In 2004, a law was enacted to enable a statewide TDR program to be used anywhere in New Jersey.[1]

Outside of the regional TDR program in the NJ Pinelands and the experience of one municipality in Burlington County, TDR has not been widely used in New Jersey. The question for policy-makers is, why has TDR been so little used and what can be done to make it a more useful tool for planners? This report will, hopefully, help to answer these questions.

1.2 The Role of TDR in the Highlands

In the case of the New Jersey Highlands, where demand on nearly all water systems is already beyond sustainable levels, the main goal of its TDR program is to protect critical watershed resources by severely limiting future

[1] An evaluation of the statewide TDR law is in progress as of this writing, funded by the William Penn Foundation and carried out by DVRPC and New Jersey Future.

development in designated "preservation" areas. Unfortunately, the limited availability of water also impacts the viability of "receiving" areas, because Highlands water is used extensively throughout northern and central New Jersey.

The Highlands water resources that need to be protected in "sending" areas through the Highlands TDR program consist of both groundwater that primarily serves Highland communities and surface water stored in huge reservoirs that serve all of northern and much of central New Jersey. Because of its role as the regional water resource for hundreds of communities, continued growth in the wrong places in the Highlands could have catastrophic consequences.

On the other hand, a successful TDR program would also bring new growth in targeted "receiving" areas that could provide a welcome influx of investment dollars, restoring and revitalizing communities, retrofitting suburban areas and helping to create more mixed income communities. There simply needs to be a way to achieve these benefits, while taking action to protect the region's water resources.

The designation of receiving areas to match a preservation district as large as the Highlands is a difficult and complicated endeavor with potentially huge consequences that in the case of the Highlands, has largely been relegated to chance and local politics. Unlike other TDR programs that have been established in New Jersey and the region, the governing agency, the New Jersey Highlands Council, does not have the authority to designate mandatory receiving areas. The designation of receiving zones in the Highlands is totally voluntary on the part of municipalities. They may be located within the Highlands Region boundaries, or located outside of the Region boundaries, but within one of the seven Highlands Region counties (Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren).

Although the Highlands Council has conducted thorough Region-wide evaluations of water and sewer service capacity and developable land within the Planning Area and identified about 12,000 acres of potential receiving areas, the Council has made no ***specific*** recommendations regarding receiving areas within the Region. That is expected to be conducted through work with individual municipalities. And to date, the Highlands Council has not yet been able to conduct any regional capacity or land use analyses on the lands in the seven counties beyond the district boundaries, and likewise, has made no recommendations.

Instead, using powers given them in the Highlands Act, the Highlands Council has offered up to $250,000 in planning grant money to municipalities willing to evaluate the feasibility of voluntarily designating a TDR receiving area in their community. Both municipalities within the Highlands Region boundary and municipalities outside the boundary but within the seven Highlands counties are eligible to receive grant monies.

There are a number of tasks required to be conducted in Phase 1 of the planning grant. The proposed receiving area(s) must be identified and described. Then the area's existing infrastructure capacity must be determined. Next, a real estate market analysis must be conducted and conceptual growth scenarios must be developed. If submitted and approved to proceed, the Phase 2 of the planning study includes an impact analysis and an evaluation of the growth scenarios.

As of January 2010, 11 municipalities have been approved for the receiving area planning grants. Three of the communities are located outside the district boundaries. These towns include: Clifton, Bogota, and Long Hill.

1.3 Other TDR Programs

a. New Jersey Pinelands Development Credit Program

One of the country's oldest and most successful TDR programs is located in southern New Jersey in the New Jersey Pinelands, an area characterized by nearly 1,500 square miles, or 960,000 acres, of forested wet and sandy soils that lies over a giant aquifer. The area serves as habitat for a range of unique and important species of plants and animals. As of October 2009, the New Jersey Pinelands Commission reported that 59,720 acres or about 6% of the total land area of the Pinelands have been permanently protected, and about 637 development projects using Pinelands Development Credits have been built or approved.

Initiated in 1981 through both state and federal regulations, the Pinelands TDR program is structured somewhat differently than that of the Highlands where the designation of receiving areas is voluntary. In the Pinelands, places were identified and designated as "regional growth areas" within the Pinelands Comprehensive Management Plan Area. These are mandatory receiving areas.

While the purchase and use of credits to build at higher densities is voluntary by developers, the receiving area towns cannot refuse to accept TDR credits, and are required to amend their plans and zoning ordinances accordingly: to identify development centers and to give credit holders as-of-right density bonuses. The market value of Pinelands Development Credits has grown overtime, as regional housing demand has continued to be directed toward the designated receiving zones.

In the New Jersey Pinelands, each credit can be used to build four homes and can be bought and sold in ¼ (1 right) increments. Receiving areas, or Regional Growth Areas, have zoning that allows density bonuses of about 50% more homes to be built using development credits than would otherwise be permitted.

The criteria for identification of regional growth areas in the Pinelands were pretty straight forward. Selected regional growth areas had to have the following basic characteristics:

- The land was already subdivided.
- The areas had to be located near settlements likely to experience housing demand (i.e., on the fringes of Philadelphia metropolitan area and adjacent to Atlantic City).
- Areas had to be located near roads.
- Areas had to be away from and contain no environmentally sensitive features.

Although there are substantial structural differences between the Pinelands Development Credit Program and the nascent Highlands program, some relevant recommendations from the Pinelands Development Credit Program include:

- Keep it as simple as possible
- Clearly define **both** sending and receiving areas.
- Clearly define program objectives for ***both*** areas.
- Aggressively market the program in both sending and receiving areas.
- Provide more receiving opportunities than there are rights to transfer (can be accomplished by the opportunity to build a great deal in one receiving area, or a smaller amount in more receiving areas).
- Locate receiving areas where infrastructure and services can be efficiently provided.
- Target future infrastructure investments to receiving areas.
- Evaluate the economics of TDR use in receiving areas to avoid unrealizable expectations by landowners in sending areas.
- Be prepared to have the government/credit bank play middle man if property owners' interest in selling TDRs initially exceeds developers' interest in buying them.

b. Long Island Pine Barren TDR Program

The Long Island Pine Barren TDR Program has successfully preserved over 1,000 acres of fragile wetlands in a very expensive market. Compared to both the New Jersey Pinelands and the New Jersey Highlands, the Long Island Pine Barren program is much smaller, involving only three towns, each of which is partially located within the boundaries of the protected Pine Barrens District. Each town was required to designate as-of-right receiving areas with sufficient room to accept all the development credits that could be issued from the designated sending (or preservation) areas in that town. Although there are regional rules and guidelines for the program, each town has what is really an intra-municipal TDR program.

c. Montgomery, MD

A notable TDR program is located in Montgomery County, Maryland, a suburb of Washington, D.C., where approximately 45,000 acres of farmland has been preserved over 25 years, representing about 48% of the designated 93,000 acres agricultural reserve. Through very large-lot zoning, site development on the reserve has been limited to one unit per 25 acres. After a court ruling requiring local legislative action, Montgomery County identified as many as fifteen mandatory receiving zones in towns throughout the county through the adoption of a county-wide comprehensive zoning ordinance.

The county zoning ordinance established maximum residential density requirements for projects that include TDR credits and "baseline density" for projects that do not include TDR credits. Significantly, the only way for a developer to get an increase in density beyond the baseline density is through the use of TDR or the provision of affordable units as the county zoning ordinance does not provide for density variances within receiving areas.

Through the purchase of development credits, developers can gain density bonuses of ***three to five times the base zoning in the receiving areas***, compared to the 50% increase allowed in the Pinelands. Over the years, the generous density bonuses, the highly desirable nature of the county for residential development, and the mandatory receiving zone designations have combined to give value to the credits and make the TDR program workable.

Recent reports in Montgomery County, however, seem to show the TDR program has lost vitality. One reason could be that the early problem of diminished land value is no longer an issue as the shift in development potential has become more accepted and landowners' expectations have changed over the years.

This recent experience in Montgomery is a good reminder to New Jersey policy makers that TDR is ***not*** a tool to shift land use patterns, which can be accomplished by aggressive down-zoning in some places and up-zoning in others, as well as by other techniques. Rather, TDR is a financial mechanism to pay landowners in the sending areas for the change in their expectations about their land's development potential.

d. Chesterfield, NJ

After more than thirteen years of planning, Chesterfield, New Jersey now represents a singular TDR success story in Burlington County, NJ. Using TDR as one of several strategies, Chesterfield, a mostly rural town in a rapidly suburbanizing area, was able to preserve over 6,800 acres of farmland by concentrating new residential development in a well-designed receiving area on a greenfield site.

The original zoning in the receiving area was about 1 unit per 3 acres, while the transferred density raised it to 2 or 3 units per acre. When fully built out, the receiving area, named Old York Village, will consist of 1,200 new

homes. The new development was enabled by a State investment in the expansion of a sewer plant used by a near-by correctional facility.

The development of Old York Village required the developer to contribute to the cost of extending sewer and water infrastructure as well as provide affordable housing (a 6% set-aside of the total number of units) and pay for other public amenities. At the time, the market was strong enough to make this financially acceptable to the developer in this location.

Uniquely in the case of Chesterfield, the goals of the TDR initiative seemed equally focused on the quality of new development in the receiving area as on the preservation of the farmland.

1.4 Designating Growth Areas for the Highlands TDR Program

The Highlands Act specifically requires that the Highlands Regional Master Plan (RMP) be based on a regional resource assessment. The result is an ambitious comprehensive report that analyzes the status of relevant natural and man-made resources of the Highlands Region, including those of the forest, critical habitat, water quality and quantity, wastewater, agriculture, historic cultural and scenic resources, transportation, community character and economic development.

The Act also requires that the Highlands Council include "a smart growth component," which in this case seems to mean: finding growth areas, based on the resource assessment that identifies opportunities for appropriate development, redevelopment and economic growth and a transfer of development rights program; and preparing a Land Use Capability Map (LUCM). The Land Use Capability Map turned into a series of maps that included information on zoning, water availability, public community water systems and domestic sewerage.

Within the Highlands Region, the Highlands Council conducted regional environmental GIS-based build-out analysis of designated Preservation and Planning Area lands. Through its Land Use Capability Map series and its Municipal Build-Out Reports Grants Program, the Highlands Council has produced extensive development capacity analyses on a parcel-by-parcel basis for many Highlands Region municipalities.

Planning grants are currently available from the Highlands Council for individual planning studies and build-out reports for communities that express interest in becoming receiving areas and apply for and receive a Highlands Receiving Area Planning Grant. They are available for any town within the total seven county region.

The Highlands Act limits growth capacity in designated Preservation Areas to "existing uses, exempt development and agriculture," and further limits additional development in the Preservation Area to brownfields or areas where at least 70% of land is already covered by impervious surfaces. The

Highlands Act also limits development there through the "pullback" of water and sewer service to areas already with utility pipes in the ground.

Although the Highlands Council is not empowered to require municipalities to provide receiving zones for Highlands Development Credits, it does have the authority to evaluate alternatives and make final designations. If communities within the seven Highlands counties are interested in volunteering to establish receiving areas within their municipal boundaries, the Highlands Council's receiving zone criteria will be applied. To this end, the Highlands Council has established ***internal criteria*** for designating voluntary receiving zones, starting with and including:

- Land analysis must demonstrate access to available water supply and wastewater infrastructure with the capacity to support increased development;
- Land analysis must demonstrate that proposed zoning is economically viable and can accommodate an increase in density above that allowed at the time of adoption of a voluntary TDR ordinance (this is a more difficult task to accomplish than it might appear);

In addition, these land areas must exhibit at least one or more of the following characteristics:

- Land with access to multi-modal transportation utilizing the existing transportation network;
- Land that is proximate (may need to be a new site) to areas of concentrated development patterns and existing population centers; or
- Land that is underutilized or previously developed (infrastructure ready or already developed with capacity for growth).

Although there are policies in the Highlands Regional Master Plan that are more flexible, these criteria reflect an emphasis on existing conditions, not on the need for ***planned*** transit service or ***new*** infrastructure capacity to accommodate growth.

On the other hand, using such restrictive criteria, however, makes it relatively simple to screen areas using data alone to find ***possible*** receiving zones. A more analytic process – planning – is required to determine whether, where and how infrastructure should be expanded.

Added flexibility connected to planning would promote pportunities for ***improving*** conditions by encouraging new investments in places that need it – to clean up failing septics or brownfields; to provide new, transit-levels of density that would justify new transit service; or to provide affordable housing opportunities in employment areas, where none has existed before. Even our cursory survey of the urban places in the seven counties where infrastructure exists, turned up a number of places with capacity issues of one sort or another that would make them problematic as receiving areas in the short-term.

Officially, the Highlands Regional Master Plan provides limited guidelines for the type of land area that would be acceptable as receiving zones. The only specified requirement for becoming a receiving area for an area outside the Highlands Region is that the municipality must have received Plan Endorsement from the State Planning Commission. New legislation would allow more an agreement between the Highlands Council and the State Planning Commission to suffice.

1.5 Focusing on Receiving Areas

The main purpose of designating receiving areas in any Transfer of Development Rights program ***is to create a private market for the transfer credits*** that will serve as compensation to landowners for restricting development potential on their land. In other words, TDR programs are shaped primarily with the sending area in mind. In reality, unless the TDR Bank buys the credits and retires them, the sending and receiving areas need each other to work.

In the early years of TDR in New Jersey, the primary challenge to the program was the difficulty of persuading municipalities and landowners to identify the ***sending areas***. In recent years, however, the primary challenge has been to encourage municipalities and developers to identify and build in ***receiving areas***.

Policy-makers are just beginning to focus on the receiving area: what makes it function well in a TDR program, and what makes it a benefit to the host community and financially attractive to the developer?

In the New Jersey Pinelands, for example, it took nearly twenty years of implementing TDR before strategic action plans were developed for the designated growth areas, where considerable development had already taken place. Because of this inattention to the receiving areas, many had already been developed at densities that were too low and had used too few development credits for the TDR program to achieve its goals.

In any TDR program, if the growth areas run out of space before "receiving" the growth that needs to be "sent", pressure builds to open up more of the environmentally sensitive areas as places to locate new development.

The Pinelands experience is a good example of why the sending and receiving zones need to be balanced. But beyond that very practical requirement, amidst the current fervor of sustainable growth, there is no excuse for encouraging significant new growth to be transferred from one zone to another without carefully analyzing the regional environmental, economic and societal impacts in receiving areas.

1.6 Location and Performance of Highlands Counties' Receiving Areas

Theoretically, there are hundreds of possible receiving areas for Highlands Development Credits in municipalities outside the Highlands Region. To limit these possibilities to the best places to grow, we need answers to these questions:

- What do we want growth to do for the community and the region?
- And what kind of growth – amount, type, mix and density – will be needed, where, to get these results?

Most would agree they are in favor of "***smart*** growth", which generally means compact mixed-use centers located away from environmentally sensitive areas. Clearly, TDR programs support this goal. They discourage unfettered suburbanization in favor of choosing specific, limited locations for growth in order to protect large tracts of open land and farmland or stabilize existing neighborhoods. However, without being clear on what new growth is expected to ***do*** to improve conditions – how much growth is needed, where, to achieve what - there will never be a clear enough answer to where the best receiving areas are. And we will not achieve smart growth.

Smart growth usually expects TDR programs to transfer development to places where there already is development. While this is clearly the best option, it is problematic for a number of reasons and often results in a greenfield site being selected instead.

Here are some of the problems. In the state's urban areas, where there is a great need for the revitalizing investment that being designated as a Highlands Receiving Area could bring, there are a number of expensive obstacles: there are often expensive contamination issues and requirements for structured parking; there may be crumbling infrastructure in need of repair as well as expansion. Developers may find it difficult to pay for TDR credits ***and*** clean up brownfields ***and*** build structured parking ***and*** contribute to the improvement of infrastructure, particularly if they are also asked to subsidize affordable housing. Although the market has allowed that much profitability to pay for these things in the past and it may again in the future, today no such market exists.

New Jersey's suburbs could also provide opportunities for designating receiving areas. The suburbs had a huge residential growth boom from the 1950s through the 1990s, and a huge spike in office development between 1980 and 1990. These places would benefit from retrofitting low-density and single-use suburban development into compact, mixed-use centers, adding affordable housing and transit-readiness where there were none before. There may be a more likely market in these areas in the near future.

There may also be rural areas where a designated receiving area could accommodate development in one place that would otherwise have sprawled

across the landscape in large lots, the most environmentally degrading and exclusionary of zoning categories.

But designating receiving areas in either the suburbs or in rural areas faces other sorts of challenges equal to those of making receiving areas work in urban areas. In all kinds of places, TDR must attract the participation of both the developer and the municipality. In all kinds of places, people who live where a receiving area is designated, have trouble – like all people – with ***change***. In Chesterfield in Burlington County, the only community to use the Burlington TDR program successfully, public officials selected a greenfield site for the receiving areas, primarily because of this problem.

To use TDR to transfer development from one town to another is even more challenging: it involves the additional complications of taxation and school children. Most towns would prefer to have both the sending and receiving areas within its own boundary, limiting the ability to protect large tracts of open land across a region.

In most rural areas, the idea of increased density – even in only one specified location – is objectionable to public officials, in and of itself. Besides the "change in character" of the community and the added traffic and expense of more school children, there is also the fact that the receiving area will probably accelerate growth. And with the density bonus given to the developer, it may also bring more growth than the sending area would have produced. Added to this is the fact that local officials fear that any new wastewater treatment facility may force them to allow development beyond the receiving area. All these issues help explain why TDR has not been embraced by more municipalities.

1.7 Linking Sending and Receiving Areas: Special Issue in the Highlands

An unresolved aspect of the existing Highlands Development Credit program is the possibility that a planning or even a preservation area located within the Highlands Region may be identified as a receiving area for Highlands Development Credits. When most Highlands watersheds have been established as having a water deficit, how can growth at higher densities be approved?

The answer in the Highlands Plan is that through the investment of a developer in a Highlands Region receiving area, it will be possible – and required – to improve water and sewer capacity to reverse the deficit through the strategic implementation of "inflow and infiltration reduction" measures, installing new storm drainage systems to keep storm runoff out of the sanitary sewers, replacing and/or relining sewer pipes and providing storage tanks to capture rain water, and other strategies likely to improve the capacity and functioning of the system.

If the receiving area is outside the Highlands area, however, no improvements to these deficit watersheds are required, even though many

places in the seven county region use Highlands' water. Although the communities in the Highlands Region use primarily ground water, and communities outside the District use primarily surface water, the water sources are connected. It is a dilemma that is addressed in the Highlands Regional Master Plan by recommending legislation to require the purchase of Highlands Development Credits, which will ensure that less development happens in the Highlands Planning or Preservation Areas. It is clear that aggressive conservation strategies must also be in place in any area receiving Highlands Development Credits.

2.0 Mapping and Analysis to Identify Growth Areas in the Highlands Counties

Although extensive land use capability mapping and build-out analyses have been undertaken for lands inside the Highlands Region boundaries, there has been no comparable analysis undertaken for designating receiving areas outside the district boundaries, but within the seven Highlands counties – areas which are permitted by the Act to be used as locations for transferred growth from within the Highlands. Finding receiving areas in these places would enhance the land conservation efforts inside the Highlands boundary.

This project originally sought to replicate the analysis conducted by the Highlands staff, however, we found zoning build-out and other data were not available. As we explored alternatives, we found no analyses that were aimed explicitly toward improving conditions in the receiving areas. So we began to develop our own.

But even in our own methodology, which was developed to use existing data sources relevant to our multi-goal principles, we had problems collecting the data by county (some were just completing zoning updates to electronic formats, others had outdated information and lacked funds to update it, etc).

Until there is consensus on what policy-makers should be trying to achieve in the field of land use planning, government will not be collecting the right data to support its goals.

The information provided by the GIS data layers that we collected (see Appendix A and B) was useful in identifying where ***possible*** receiving areas could be, but not for determining the ***best*** places for receiving areas.

2.1 Setting Goals for Growth Areas: Environment, Economy, Equity and Efficiency, the 4Es of Smart Growth

The Highlands TDR program seeks receiving areas solely to locate growth away from the sensitive resources in the Highlands. This limited focus makes the process of identifying and implementing receiving or growth areas just one of the “means” toward the “end”. However, because there is so much at stake in targeting growth, it would be shortsighted not to address goals for making

receiving areas successful for the community, the region and New Jersey as a whole.

The goals for receiving areas should follow the principles of smart growth to achieve sustainability. These principles include making sure that ***new development is good for the environment, the economy, regional equity, and resource or cost efficiency***. PlanSmart NJ has dubbed these principles the 4Es.

Environment: For *the environment*, the first principle for locating receiving areas is "to do no harm" – do not build on environmentally fragile land. In addition, receiving areas should be located in places where the water supply and the safe management of sewage and stormwater are not problematic. And finally, if possible, growth should improve existing environmental conditions, such as replacing combined stormwater and wastewater pipes, improving recharge, restoring stream banks, reducing greenhouse gas emissions and conserving open space.

Economy: Receiving areas should be good for the *economy,* meaning able to accommodate the jobs needed to strengthen the economic base and the housing for the workforce and special needs populations. The qualities and expectations of the receiving areas must make fiscal sense for both the developer and the municipality.

The best outcome for the economy is that growth creates the kind of place and quality of life that encourages continued investment in the region. Prosperity is always good for the environment, since it can help restore and enhance existing conditions. Without sufficient water capacity, however, the region will surely stagnate.

Regional Equity: Receiving areas should provide regional or social *equity*. The concept of equity in relation to TDR programs usually means restoring the dollar value of the land that development would have brought to the landowner in a sending area. But this is too narrow a conception for smart growth. Receiving areas should be identified where new growth could promote reduce the disparities among communities and improve racial and economic integration – *regional equity*.

Smart growth principles require that the costs and benefits of growth and conservation should be shared across the region and across populations. In every region in New Jersey, there are places with concentrated poverty and racial segregation, and places of concentrated wealth and opportunity. Both types of communities would benefit from new growth, either to add jobs and market rate housing in areas of poverty, or to add affordable housing in areas of concentrated wealth. Both types of communities would benefit from seeing themselves as part of the same region.

Resource Efficiency: Receiving areas should also be *efficient*, in locating growth to make efficient use of infrastructure, delivery of services and

conservation of natural resources. This is a principle of smart growth to achieve sustainability. In particular, *resource efficiency* means:

- moving away from auto-dependency toward public transit and other modes of travel;
- reducing the costs of concentrated poverty;
- reducing the costs of duplicating infrastructure; and
- conserving water and other natural resources.

One area of efficiency that deserves special emphasis is finding locations where it would be easier to shift the most number of trips away from auto-dependency. This does not limit receiving areas to rail station areas alone, but means using planning tools such as NJ Transit's Transit Score, which evaluates an area's density and demographic characteristics for the potential for transit ridership. With the right density and mix of development, new transit services can be added to a location.

According to smart growth principles, ***efficiency does not mean the least cost, but rather delivering the most benefits for the money***.

2.2 Goal-Oriented Criteria for Receiving Areas

Environmental mapping provides information about where development should ***not*** take place. The concept behind this project was to take a different approach and attempt to map where development ***should*** go, using mapped data that reflect "goal-oriented" objectives. The project was designed to develop a methodology for identifying receiving areas that could be replicated elsewhere and would be sensitive to the special problems of the region.

For the purposes of this mapping project, receiving areas should ideally meet not just one, but several goal-oriented criteria, based on the goals for the four E's discussed previously (improving the environment and the economy, while improving regional equity and resource efficiency).

The mapping methodology was designed to locate possible receiving areas, based on the following operational principles:

> ***1. Areas with existing or planned sewer service***: Channeling new growth into receiving areas already in a sewer service area is good for the *environment* because it protects natural resources from development in the sending areas, and it is *efficient* because it uses existing infrastructure rather than requiring the expansion of the service area. But the capacity of existing systems is often limited in places that would otherwise be good locations for receiving areas, so analysis must also be done to determine where infrastructure can be most *efficiently* expanded without damage to the *environment*.

2. Areas with existing transportation networks and services: For *efficiency*, prospective receiving areas should be in places that have at least a "medium" Transit Score (a tool provided by NJ Transit) both in and around them, indicating that transit service, if it does not already exist there, may be feasible to provide. Besides being *efficient*, this adds growth capacity for the *economy*, is good for many *environmental* reasons, and can help connect people with jobs to advance *regional equity*.

3. Areas with major employers and job concentration (of at least 5+ jobs per acre): This data identifies places where jobs provide the *economic* base of the region, as well as where there may be opportunities to retrofit suburban employment centers by adding housing, retail and other amenities to create vibrant mixed-use and mixed-income communities in the suburbs. Without the retrofit, new markets and demographics may make these low-density single-use office parks obsolete. Retrofitting in a receiving area would, therefore, be good for the *economy* and the *environment*. It can also advance *regional equity* if affordable housing is provided near jobs, and it is resource *efficient* if it creates the opportunity to reduce auto-dependency and increase public transit use.

4. Areas with housing concentration (of at least 2+ units per acre): Similarly it is important to know where significant amounts of housing are located. Identifying many of the same opportunities as the data on jobs, this layer also shows the mismatch between where the jobs are in relation to the housing, and how improvements can be made through both housing and transportation policy.

5. Areas of concentrated poverty; Areas with high levels of the housing "cost-burdened": Receiving areas should always create mixed-income as well as mixed-use, communities. This objective is to help revitalize places with concentrated poverty and increase access to places with good jobs, safe neighborhoods and successful schools. Targeting new jobs, market-rate housing and other investment in distressed areas can improve *regional equity*, but only if it improves quality of life and does not lead to widespread displacement.

6. Areas with important natural resources (Landscape Project: priority areas for threatened and endangered species): To protect the *environment*, receiving areas should be located away from these potential habitats whenever possible. To the extent that these areas are also explored for other environmental benefits, such as protecting farmland, improving water quality and supply, providing green infrastructure services and carbon sequestration, adds value.

7. Impervious cover by HUC14 Watershed indicators (Data available for Somerset County only): A widely accepted rule-of-thumb for protecting water resources is that those areas with less than 10%

impervious cover would benefit from protection from development more than places that already have more than 25% impervious cover.

2.3 Choosing Key Counties for Mapping: Bergen, Passaic and Somerset

Three of the seven Highlands Counties, Bergen, Passaic and Somerset, were chosen as subjects for this mapping project. Somerset, Bergen and Passaic Counties were selected because they are the three Highlands counties with the most land area ***outside*** the Highlands Region boundaries. In addition, they are also the most urbanized counties which extend into the Highlands Region.

While in total the seven Highlands Counties have experienced an increase in population over the last decade or so, Bergen and Passaic Counties have been the exceptions and both have had a significant net loss of population to more rural counties. Because of this population loss and their urban character, it was presumed that Bergen and Passaic Counties might be more receptive to hosting receiving areas than less developed counties.

Of the seven counties included within the Highlands Regional Plan, Bergen, Passaic and Somerset are the three with the least amount of acreage within the Highlands Region boundaries. Bergen has the very least with only 22,398 acres located within the District, split between 10,089 acres in the Planning Area and 12,309 acres in the Preservation Area.

a. Bergen

Bergen is part of the New York metropolitan region and is the most populous county in the State of New Jersey. Just two Bergen municipalities located at the northwestern tip of the county, Mahwah Township and Oakland Borough, are located within the Highlands Region, each partially within the Preservation Area.

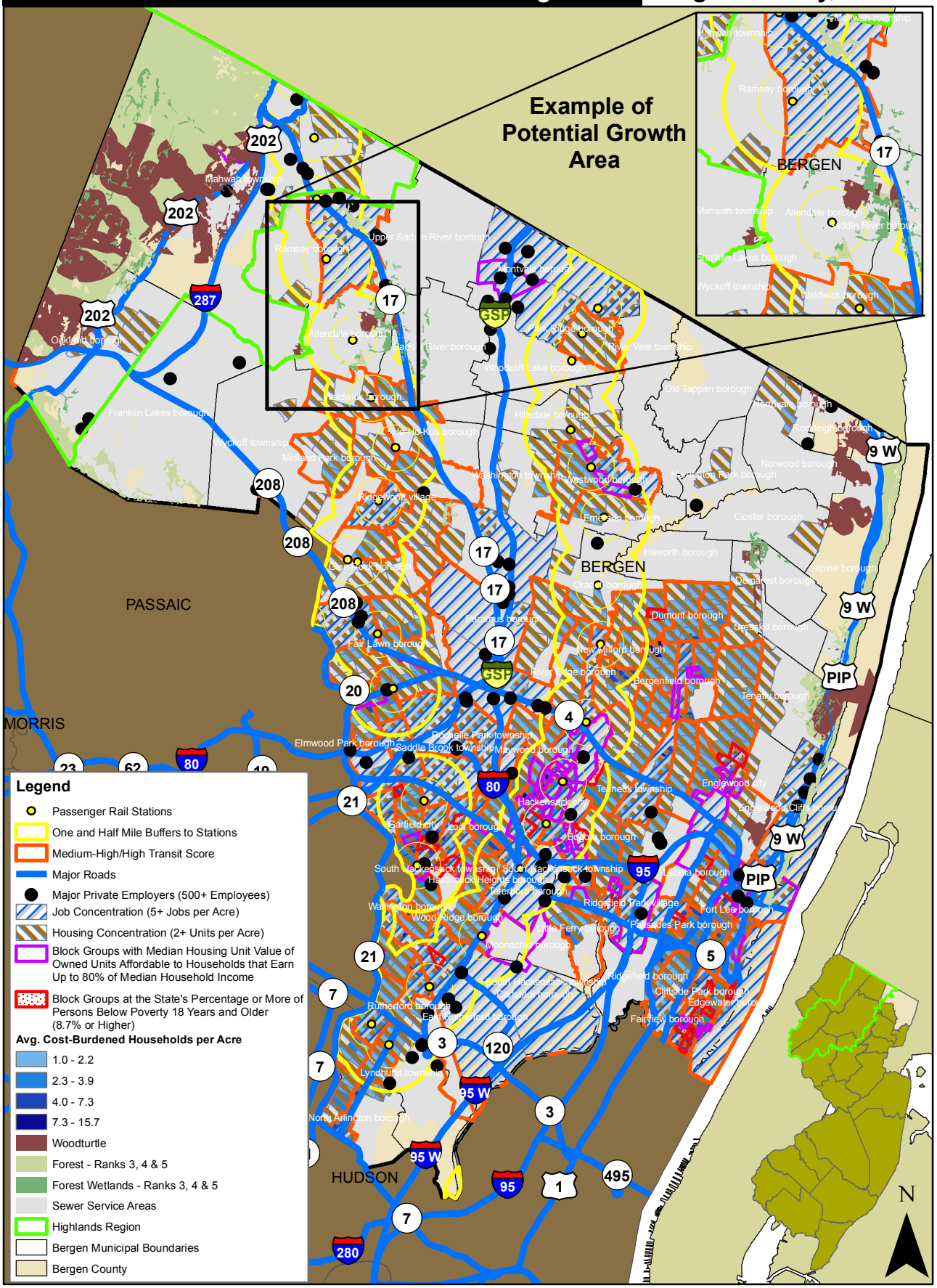
Bergen County also has land within the Meadowlands, which is managed by another regional planning agency established in the late 1960s. Unlike the Highlands Council, the Meadowlands Commission has zoning power over parts of its 14 municipalities, overseeing both development and conservation within a giant wetlands area that drains the eastern part of Bergen County.

There are three reservoirs in the county. The County ranks 18th in per capita income, putting it among the highest income counties in the nation. The City of Hackensack is the county seat.

Except for the small portion within the Highlands Region, Bergen County is made up of 72 mostly older suburban municipalities. It is considered to be 97% developed, the closest to full build-out.

Data Framework for Potential TDR Receiving Areas

Bergen County, NJ



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By and large, except perhaps for a few towns like Fort Lee and Englewood, our research indicated that most of the communities want to stay suburban and are not interested in more growth or density. Indeed "density" is regarded as a bad word in much of these parts, making them unlikely to support hosting a receiving area.

In Bergen County's less affluent communities like Garfield, Wallington and Fairview, where the local governments struggle financially, consideration of increased density is customarily rejected due to the presumed costs of an increase in school children that would accompany growth.

b. Passaic

Passaic County is located in the upper northeastern part of New Jersey and is also part of the New York metropolitan region. It is a diverse county that ranges from city and suburban areas to rural spaces. The Highland District boundary bisects the county into two halves: the northern half being sparsely developed and the lower half nearly entirely within a sewer service area.

The largest city is the historic city of Paterson, which is the county seat. As the site of the Great Falls of the Passaic River and because of its industrial history, the City of Paterson is known as the "cradle of the industrial revolution."

Within an already dense county of 2,639 people per square mile – including the sparsely settled Highlands region - the Cities of Passaic and Paterson have the highest densities.

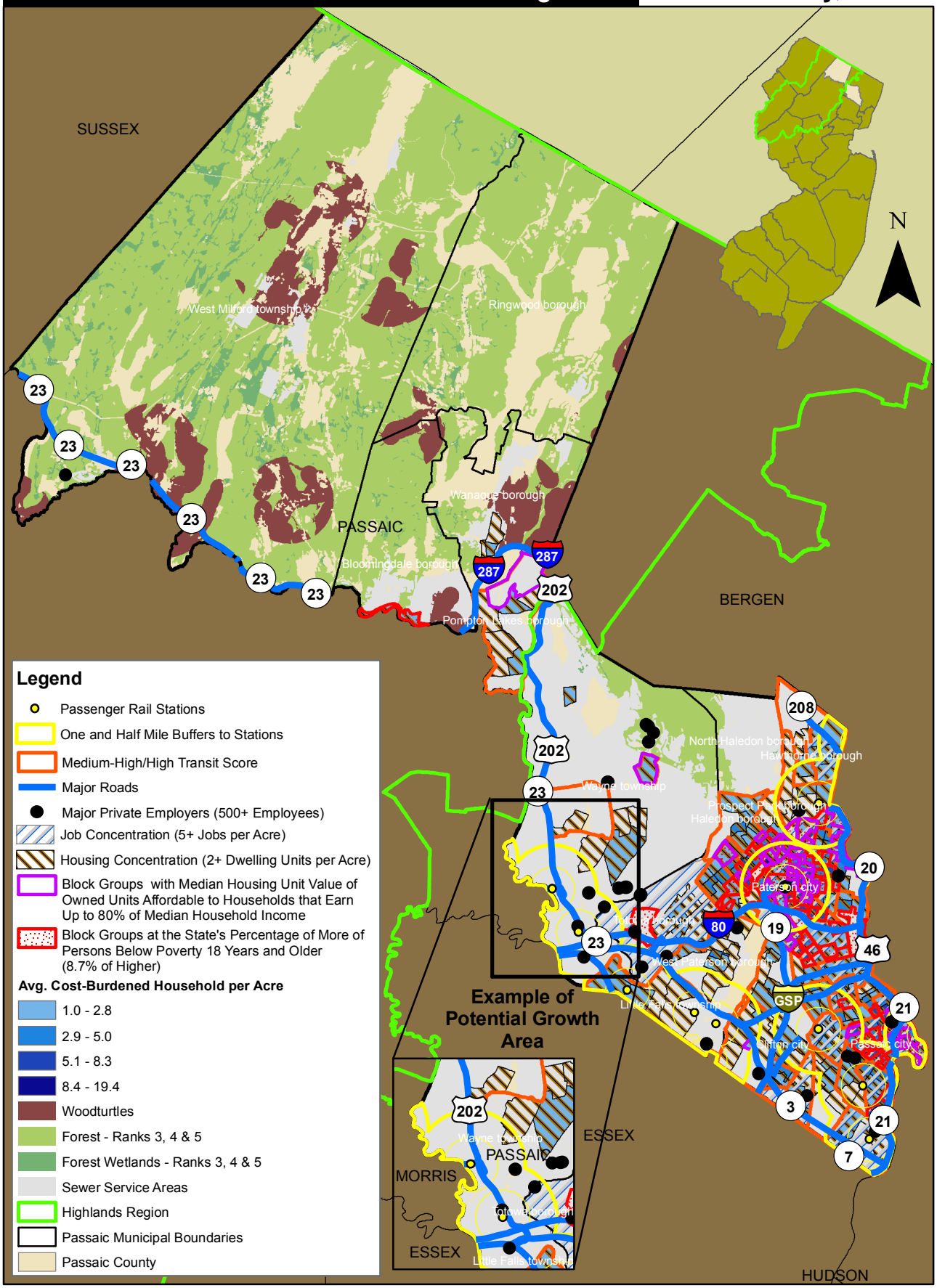
NJ Transit's Main Line serves the eastern part of the county. The new Passaic-Bergen Commuter Rail Line is scheduled to begin operation in 2010 and will serve Hawthorne and central Paterson and several communities in Bergen County between Paterson and Hackensack. Numerous NJT bus routes crisscross the county.

The City of Clifton in Passaic County was the first of the few municipalities outside of the Highlands Region to apply for and receive a Highlands TDR Study Grant for Receiving Areas. Although the City's Master Plan Re-Examination Report (2008) expressed concern that new development and redevelopment might have a negative impact on municipal services and have an adverse fiscal impact on the community, Clifton is now eager to attract new development in some neighborhoods that are considered to be suitable for higher density than currently exists.

The City is proposing to identify receiving areas where the density might be increased from a maximum of three story townhouses to a maximum of five story townhouses, even though schools are near capacity. None of these areas are directly adjacent to a train station, but none are very far either, as Clifton has four different stations either in town or on its borders. In addition, Clifton also has frequent bus service to Manhattan.

Data Framework for Potential TDR Receiving Areas

Passaic County, NJ



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Water and sewer service infrastructure in the target areas have been evaluated as having the capacity to support the anticipated growth. While much of its water originates in the Highlands, interconnections between water companies allow cities like Clifton to accommodate modest growth. While the City has experienced some frustration getting its affordable housing spending plan approved by COAH, the attitude is "can do." The City of Clifton claims to be prepared to go forward to meet its constitutional obligation to provide a fair share of the region's need for affordable housing with its trust fund resources collected from developers.

c. Somerset County

The five northern-most municipalities, the rural towns of Bernardsville Borough, Bernards Township, Peapack Gladstone Borough, Far Hills Borough and Bedminster Township are all located within the Highlands Region. Of the five, only a small portion of Bedminster is in the Highlands Preservation Area.

Representatives of the Boroughs of Somerville and North Plainfield, both older urbanized towns in Somerset County, have expressed their lack of interest in pursuing Highlands Receiving Area designation. In North Plainfield the issue appears to be mainly that the city is in a near build-out situation and that they only want to pursue the rehabilitation of their existing housing stock, which is an obligation of COAH. Currently North Plainfield is trying to figure out how to pay for this, but since "COAH is a mandate," it is the city's the first priority.

North Plainfield has little vacant land to offer. Because they are very cautious about tax ratable base and are looking for growth that will not add significantly to the school system which is already at capacity, they are putting emphasis on commercial redevelopment of their few underutilized industrial areas.

In Somerville, where there are some large scale redevelopment opportunities, public officials do not see any reason to pursue Receiving Area designation. They feel that when the market bounces back, they will be able to attract just as much interest in their redevelopment areas without going through the headaches of dealing with the Highlands Council, the TDR bank and other requirements.

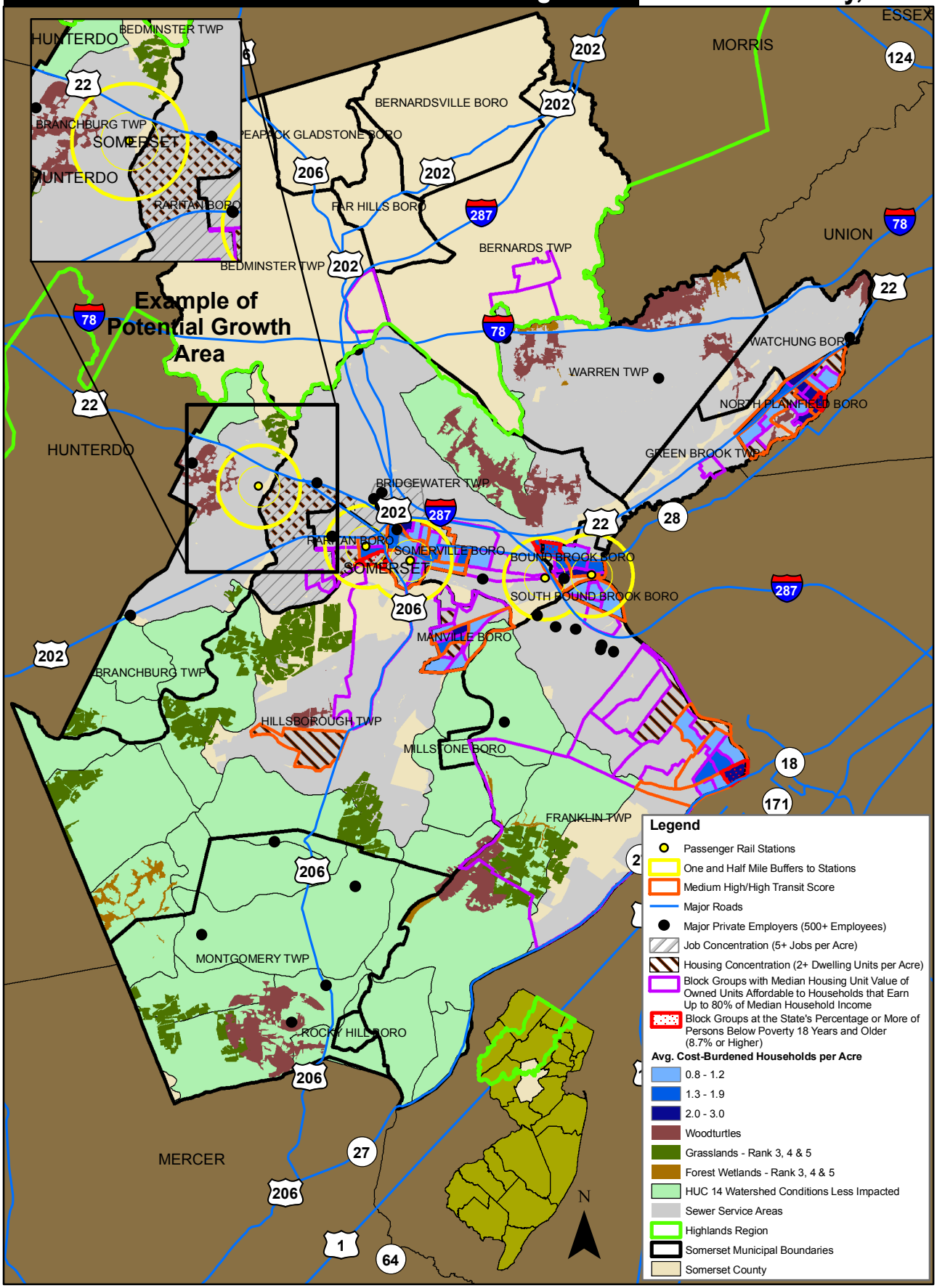
2.4 Mapping Results and Analysis

The results of the mapping analysis reinforce much of what is readily surmised, that existing older cities and suburbs represent the greatest overlap of goal-oriented indicators, including:

- highest density of housing and employment

Data Framework for Potential TDR Receiving Areas

Somerset County, NJ



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- greatest concentration of poverty
- best access to mass transit
- least impact on the environment.

New Jersey's urban areas represent a huge investment in infrastructure over the past century. They also represent the areas of greatest redevelopment need, in terms of physical deterioration.

According to these mapping results, nearly half of Bergen County's municipalities outside the Highlands Region appear to be good candidates for becoming receiving areas. Because of water and sewage capacity issues, however, Passaic County municipalities seem less attractive options at this time.

A note on the voluntary nature of the Highlands program: although there is some empirical evidence from the TDR experience in the New Jersey Pinelands that communities that obtain mandatory receiving area designation will gain in market value from the designation, it seems less than likely that receiving areas located in distressed urban locations would be successful or actually benefit from increased market demand with the Highlands ***voluntary*** receiving area structure.

Under the voluntary scenario, and without significant incentives added to the program, a developer will always be able to choose to develop his project in a stronger market and not have to worry about acquiring Highlands Development Credits.

The mapping results also show something else: there are smaller towns with existing sewer service, less density and lower poverty levels that also receive relatively high transit scores. These towns, especially if located near mass transit services, are the ones which may offer the most ready market for TDR credits, if the municipalities are willing to accept the additional density and if the process can be made attractive enough for them to participate (*see* Example of Potential Growth Areas on each map).

An unknown variable in this mix must be highlighted: New Jersey's regulations overseeing the municipal obligation to provide an opportunity for affordable housing to be built, are so controversial that they are being challenged by 24 lawsuits and the Christie Administration has made it known they would like to change them completely. Currently, all new housing projects must set aside at least 20% to meet the affordability criteria.

Even if the rules are completely different, meeting the constitutional obligation will remain unchanged. Whether in the Highlands or any other TDR program in New Jersey, to the extent that the builder is unwilling to pay for both the development credits ***and*** the subsidy for the affordable units, along with other things the municipality needs, providing qualified affordable housing may prove to be a drag on TDR implementation.

The mapping results highlight another lesser but significant challenge to the Highlands TDR program: there is significant concentration of large employers along major highways, such as along 287 just south of South Bound Brook Borough in Somerset County. Although retrofitting any of these areas as a receiving area would have significant "4E" benefits (as articulated above), it will also have all the challenges of changing the landscape – how can planners create mixed-use, mixed-income places in single-use, high-value office parks, where there is a huge need for affordable housing, significant traffic congestion, little transit service, and even less interest in adding more growth?

3.0 Developing a Framework for Identifying Receiving Areas

This project developed a general understanding of infrastructure capacity and zoning and the attitudes toward receiving areas, through both an analyses of data and through interviews conducted with public officials.

Although the capacity of a sewerage treatment facility is relatively easy to find out, the capacity of other systems, such as water supply, stormwater, and the capacity of non-sewered areas to accept a receiving area, can only be determined by extensive analysis and by making a number of difficult political decisions.

Furthermore, the rules governing all these systems – and more – are changing significantly every year, and are likely to continue to do so for the next few years. So it will remain difficult to know whether any particular location for a receiving area, which may otherwise be a good one for many reasons, will be permissible to any or all agencies of government.

3.1 Proposed Criteria for Identifying Receiving Areas

In the end, the mapping methodology used in this project identified ***possible*** receiving areas classified into four prototype communities that could be suitable for receiving areas outside of the Highlands Region. These prototype communities are:

1) ***Contiguous urbanized areas of cities and older towns and urbanized suburbs, such as Somerville Borough and areas east; and the area including and around Hackensack City***. In these places the overlapping of indicators is most significant: sewer service areas, high transit scores, major employers, jobs, housing concentration, housing cost burden and poverty. A receiving area in this type of area would involve mostly infill and redevelopment of underutilized and vacant properties, a generally more expensive type of development in a generally weak market.

NOTE: The urbanized lower part of Passaic County is so dependent on Highlands water that ***unless there are new technologies discovered or***

significant conservation measures taken*, the whole of Passaic County should probably be taken out of consideration for the designation of receiving areas. "Figure 1.2: Water Supply to Areas Outside the Highlands Region," in the Highlands Regional Master Plan, indicates that municipalities in Passaic County get at least half of their water from the Highlands and many get greater than 75% of their water from the Highlands Region.*

Likewise, in many older areas, the infrastructure is severely challenged. The City of Paterson, for instance, has serious combined sewer and stormwater pipes, and its pipes send untreated overflow into the river every time it rains.

2) ***Towns, suburban areas and regional centers within sewer service areas, such as Hillsborough and Englewood Cliffs***. These places have concentrations of housing and jobs, and high transit scores, but are generally wealthier, with lower numbers of the housing "cost-burdened" and few areas of concentrated poverty. These places would benefit from a receiving area that would retrofit suburban areas, create growth centers within areas that have already been developed, and provide an opportunity to increase access to jobs and other opportunities for social mobility. The market for infill and redevelopment in high value areas, may be almost as difficult as in weak market areas, unless there is a significant increase in density in the receiving areas.

3) ***Smaller towns within sewer service areas, such as Parkridge Borough***. These places have some housing concentration and relatively high transit scores, and may have some capacity to grow. Again, the type of development would be infill and redevelopment, with the benefits and challenges listed above.

4) ***Other suburban growth areas, such as Montgomery Township***. These places have major concentrations of jobs and may have a relatively high Transit Score. These communities sometimes are desirous of establishing town centers, which could double as receiving areas. In these places, greenfield developments may be the only way to get a receiving area designated, since opposition among existing neighborhoods may be high.

3.2 Infrastructure and Receiving Areas

This report has already identified the 4E goals – improving the economy and environment, while improving regional equity and resource efficiency – and the mapping analysis that was done in relation to those goals to find suitable receiving areas. Areas within the three Highlands Counties selected as case studies that might be desirable locations for growth were identified and put into generic categories, along with a brief description of the benefits and challenges in each category. In addition, infrastructure challenges have been identified that are unique to the Highlands region – the limitations of

depending on Highlands water in receiving areas and other problems, such as the combined stormwater and wastewater pipes in Paterson.

There is one other infrastructure issue remaining to be explored: the way in which infrastructure capacity should be considered in smart growth planning.

In many smart growth programs, it is common to limit growth areas to places with existing infrastructure. It is normally expected that it would be the most efficient to do so. This is a good guiding principle, but it has significant limitations: first, places where there is infrastructure may not have the capacity to accommodate new growth; and places that do have capacity, may not have any other reasons to support growth in that location.

Although the boundaries of existing sewer service areas were used in the mapping methodology used in this report, it is not intended to exclude a more nuanced approach to selecting the most appropriate receiving areas. Indeed, the mapping is merely the beginning to find possibilities.

Particularly in the Highlands counties, restricting receiving areas to sewer area boundaries may prove to be too limiting. If no receiving areas, or an inadequate number of receiving areas are identified that meet this criteria, the environmentally sensitive lands in the sending areas will not be adequately protected.

In addition, ***proximity*** to existing infrastructure may also be an inappropriate criteria for every type of infrastructure. For example, a rail line may connect many far-flung places: the criteria for adding a place to a transit system would not be the same as, for example, the criteria for expanding a sewer service area or extending pipes or utility wires.

Even the best designed "neo-traditional" housing project with density of five units per acre or more may still not be appropriate as a receiving area, if it is not well located. A selected "smart growth" project site should also be a "planned infrastructure site."

Within a multi-goal analysis, a better policy is to limit receiving areas to places that meet a number of criteria ***and*** where there is existing infrastructure ***or where it can be efficiently expanded or extended***.

How to determine whether infrastructure can be efficiently expanded and extended is, admittedly, not easy. That is where planning comes in.

For this report, therefore, the principle that infrastructure serves land use – and not the other way around – is recommended as a guide, within the limitations of effective service and financial resources.

This recommendation fits within a multi-goal approach, based on smart growth to achieve the 4Es of sustainability: first mapping data, then

undertaking more detailed analyses of specific places – looking for existing infrastructure, weeding out some problem areas, but determining the best locations for growth, given planning objectives through a more thorough analysis of whether, where and how infrastructure could be added.

4.0 TDR Promise and Pitfalls in Bergen, Passaic and Somerset Counties

4.1 The Potential for TDR in the Three Counties

With the necessary incentives provided, there is great potential for TDR to play an important role in the conservation of designated preservation lands in the Highlands. While considered a relatively difficult strategy to implement, there are a number of successful regional and nationwide examples of TDR programs for the Highlands to use as models.

Although the New Jersey Highlands TDR program is unique because of the non-mandatory nature of its receiving area designations, there is good reason to believe that many potential receiving area locations in the Highlands counties could be successfully developed, if there was a better "hook". If a community already has a strong development market, then developers can be expected to continue to want to develop there, and conceivably would be interested in acquiring development credits, assuming the density bonuses were correctly adjusted.

However, why a community with a strong market and zoning already in place would choose to volunteer to become a receiving area is not obvious at this point. To have successful receiving areas, incentives are needed to entice both municipalities and developers. In general, developers would probably not need to be enticed to work in higher income neighborhoods, only in poorer urban areas. Likewise, disinvested urban municipalities would be expected to be more interested in pursuing receiving area designation than wealthy communities. In the end, both developers and municipalities must be committed to the development of a well functioning receiving area.

4.2 The Obstacles to TDR in the Three Counties

As it currently stands, the Highlands Council and the State of New Jersey will need to provide greater incentives to induce communities outside of the Highlands Region in Bergen, Passaic or Somerset Counties to volunteer in any significant number to become TDR Receiving Areas.

Many municipalities are wary of the associated costs of growth, particularly the costs of affordable housing, such as more school children and greater demand on other public services. Strategies are needed to address these two most-mentioned roadblocks: COAH regulations and property taxes.

Although regional tax-base sharing has been used in New Jersey in the Meadowlands for more than 40 years, it has not been considered for other parts of the state. It is, however, something that must be considered, particularly for the inter-municipal transfer of development credits that would be associated with Highlands Credits receiving areas outside of the Highlands Region. See Appendix C for a description of how regional tax-base sharing could work.

As for affordable housing, one possibility is to offer additional density adjustments or other rewards for the developer to build affordable housing, particularly in areas of concentrated employment in the suburbs. The TDR bank could contribute to the cost of the credits, and/or other state agencies' incentive programs could be applied in these areas on a priority basis, to help the developer meet other costs.

In particular, developers mention the high cost of brownfields clean up, investing in infrastructure and the high cost of structured parking – all costs associated with many receiving areas.

Ironically, the State Planning has already encouraged communities to reconsider their building profiles, recalculate growth capacity, and increase zoning density of downtown or redevelopment sites in order to receive plan endorsement. These same communities are probably logical "receiving areas" in the Highlands region, but they may be unable and/or unwilling to redo their work to qualify for the Highlands TDR program. Many of these towns already have the zoning in place to become as dense as they wish to be, and may be unwilling to accept even more density in order to provide developers with the "as-of-right" density bonus.

If they are interested, which many are not, would towns be expected to allow increased density in a Receiving Area over and above what was already "envisioned"? Do they even want that additional growth? How would they explain that to their constituents? Or conversely, if towns down-zoned the as-of-right base density in a zoning district or redevelopment area in order to accommodate Highlands Development Credits, certainly developers would cry foul. Moreover, unless a town was forced to, why would a town choose to go through this process? Many towns do not believe including Highland Development Credits in the mix will make their development projects any more appealing, profitable or likely to happen.

Once again it must be emphasized that, despite other positive objectives, a serious limiting factor for selecting communities in Passaic County as Receiving Areas is that nearly the entire county gets the majority of its water from the Highlands region. According to HRMP Water Supply to Areas Outside the Highlands Region Maps, only Hawthorne Borough gets 25% or less of its water supply from the Highlands. North Haledon Borough gets 26-50% of its water from the Highlands and the rest of the county not in the Highlands boundary receives over 50% of its water from the Highlands. Significantly, the

City of Paterson currently relies on the Highlands for more than 75% of its water supply.

Many communities in Somerset County outside the Highlands boundary are similarly impacted, getting between 26 and 50% of their water from the Highlands. The portion of Bergen County outside the Highlands boundary appears to be less impacted by water constraints emanating from the Highlands as most of Bergen's communities not located within the Highland's district get less than 25% of their water from the Highlands area.

5.0 Conclusions

Transfer of Development Rights (TDR) should be used as a smart growth management tool benefiting receiving areas as well sending areas. There are some basic assumptions that must be made about identifying receiving areas: they must have sustainable sewer and water capacity and other built infrastructure resources, or have plans, backed by technical analysis, of how the shortfall in public services would be remedied.

In addition, designated receiving areas must meet basic precepts of "smart growth" planning that includes improving other 4E conditions: increasing access to good jobs, housing and public transportation, reducing the disparities among communities and increasing racial and economic integration.

Designated receiving areas must also function financially, having a positive real estate value, such that there will be a workable exchange of Highlands Development Credits. Because the purchase and exchange of development credits takes place in the private market, weak market areas are of concern, but cannot be ruled out. Better programs and incentives to make TDR work in weak market areas must be provided.

A sensible and possibly cost-effective way to deal with this problem is to take the long term approach by working over time to improve, fix and/or address the negative issues keeping urban areas out of the competitive market in the first place. This would include investing sensibly in the existing infrastructure system that already serves the cities, particularly the public transit system. By focusing on enhancement of public transit as the primary positive objective for the designation of Highlands receiving areas, New Jersey could positively impact its mostly urban areas with the promotion of transit-oriented development.

5.1 Changes Needed for TDR to Work in Bergen, Passaic and Somerset

In each section of the report there are a number of issues and recommendations. This section highlights some short-term steps that could be taken in addition to those ideas:

a) Issue: Participating municipalities located outside of the Highlands Region but within the seven Highlands counties are currently not entitled to have legal representation by the State in actions challenging municipal decision regarding TDR, although municipalities located within the District are.

Recommendation: Extend the provision of legal representation to all municipalities who volunteer to host TDR receiving areas.

b) Issue: Participating municipalities located outside of the Highlands Region but within the seven Highlands counties will not receive priority status for any State capital or infrastructure programs.

Recommendation: Extend the priority status for State capital or infrastructure programs to all municipalities that volunteer to host TDR receiving areas. Concentrated infill development in existing urban and/or suburban receiving areas will likely require significant public investment in drinking water, sewage service and storm water infrastructure, in addition to transportation improvements.

c) Issue: The one-time $15,000 per unit impact fee for all new development within a voluntary receiving zone is insufficient incentive for many municipalities to volunteer to host a receiving area. It is also a significant ***dis***incentive for developers, who must be attracted to the program as much as municipalities. In addition to this impact fee, they must also buy the credits and pay for many other public items, such as affordable housing, etc. Because of the voluntary structure of the Highlands TDR program, if either the municipalities or the developers are uninterested, there will be no viable receiving areas.

Recommendation: Provide greater financial incentives and/or administrative incentives as inducement for municipalities and developers. One possibility includes linking mandatory Highlands receiving area designation with targeted financial programs like the Urban Transit Hub Tax Credit Program, Urban Plus and the NJT Transit Town Initiative designation, promoting both transit-oriented development and TDR. Although limited in size and reach, New Jersey Transit's existing Transit Village Initiative seems to be well-received by municipalities. As a model, New Jersey could look to Montgomery County, Maryland's TDR program that resulted in new transit-oriented development centers that combine residential, office and commercial uses.

Developers are interested in the Urban Transit Hub Tax Credit Program (UTHTC), but, as a primarily economic development tool, it is single use, only providing tax credits for offices, which is meant to translate into jobs. Powerful incentives like the UTHTC could be used to promote high density mixed use transit oriented development combining residential, commercial and office uses, not just office complexes.

Appendix A: Data Framework for TDR Receiving Areas

The Data Framework for identifying possible receiving areas for the Highlands TDR program was developed flowing a review of previous work by the Highlands staff, the Bloustein School, and a survey of the literature on TDR in other states (see attached Table 1).

While previous studies shared a focus on environmental protection and economic development, PlanSmart NJ sought to bring two additional criteria to bear on choosing receiving areas: regional equity and transit enhancement (see Mapping Options table below for a summary of previous analyses).

The Data Framework was constructed in part through GIS mapping of various data layers. This allowed an analysis of existing conditions to identify where data converged to identify possible smart growth receiving areas, and where data identified problems that could be solved through targeted growth.

In the resulting map (see maps in Appendix B), green areas with low impervious cover require special protection from development. Clusters of red dots with high job concentration require housing and transit connections. Orange and black striped areas indicate areas of concentrated poverty, which require access to jobs through transit connections and an effort to de-concentrate poverty through added jobs and market-rate housing. New development in these areas must ensure a better quality of life for the existing residents, with programs to ensure that displacement is not caused by gentrification.

The Sewer Service Areas data were used as the foundation for potential development. Optimum development conditions occurred where there were few environmental constraints, high transit opportunity and existing concentrations of jobs.

The Land Use/Land Cover and Hydrologic Unit 14 (HUC 14) data were used to quantify the percent impervious cover per HUC 14. This percentage was then categorized by where there was already a severe impact (25% or more impervious coverage), a moderate impact (11-25%) and the least impact (10% or less). Areas of least impact were targeted for conservation. Areas of severe impact were targeted for more growth.

In addition, NJ DEP's Landscape Project data for the three most important potential habitat areas, forested wetlands, grasslands and wood turtles, were used to prioritize places for conservation.

Concentrations of jobs, housing, cost-burdened households, poverty, and housing affordability were taken into account to help prioritize areas for receiving development credits. The goals in these areas were to provide more affordable housing and transit opportunities, connect jobs and housing, and improve the use of transit.

NOTE: For all data contained in the maps, PlanSmart NJ makes no representations of any kind, including, but not limited to, the warranties of merchantability or fitness for a particular use, nor are any such warranties to be implied with respect to the digital data layers furnished hereunder. PlanSmart NJ assumes no responsibility to maintain them in any manner or form.

TABLE 1 - Highlands Mapping Options

	Rutgers' Method	Highlands Redevelopment & Infill	Highlands Receiving Areas	Other from Literature Search
Scale of Base Map	Municipalities	Parcels (Lot and Block)	Parcels over 2 acres for greenfields, .125 acres for developed lands	Sites, neighborhoods, census blocks
Constraints	Environmental from LU/LC	Environmental from Highlands Land Use Capability Zone Map (LUCM)Technical Report	None stated (implied because only Sewer Service Areas (SSA) considered)	Environmental (comparable to LU/LC)
Developed & undeveloped land	LU/LC	LUCM Technical Report	LUCM Technical Report	Comparable LU/LC data
Planning Areas	PA1,2, centers in 3,4,5	PA1,2 designated centers	Not mentioned (SSA used instead)	N/A but do direct to centers
Zoning	No	Yes	Yes, must be higher than 5 du/acre, .84 FAR	Usually
Public Water And Sewer	Sewer Service Areas and some capacity	No	Existing Areas Served with capacity at the HUC 14 level	Yes
Tax data	No	MODIV 2007, improvement to land values, vacant lands, oversized SF lots	No	Some references
Brownfield sites	Yes	No	No	Yes
Redevelopment initiatives	Yes	No	No	Yes
Transit	Train Stations, Bus Lines, commute time to major employment	Baseline Transit and Transportation layer from LUCM	Not mentioned	Train Stations
Population and Employment Growth Projections	Yes	No	No	Occasionally
Poverty	Distressed Cities	UEZ	No	Usually
Political Support for Growth	Yes	No	No	Yes

DATA LAYERS

Layers used in our Data Framework were from the New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.

- Sewer Services Area – 2006
- Landscape Project, Ranks 3, 4 and 5 – 2007
  - Forested wetlands
  - Grasslands
  - Wood Turtle
- Land Use/Land Cover – 2002
- Hydrologic Unit Code 14 - 2006

Other layers used in our Data Framework were from the United States Census, but this secondary product has not been verified by the US Census and is not federally-authorized.

- Census Tract boundaries and acreage
- Block Group boundaries and acreage
- Median Household Income - County
- Concentration of Below Poverty 18 Years and Older – 2000 (block group)
- Concentration of Cost Burdened Households – Households spending 30% or more of income on housing – 2000 (block group)
- Housing Affordable to 80% of the Median Household Income - Median Housing Unit Value of Owned Units – 2000 (block groups)
- Housing Concentration - Housing Units – 2000 (block groups)

We also used layers from NJ Transit data, but this secondary product has not been verified by the NJ Transit and is not state-authorized.

- Transit Score – 2009 (census tract)
- Job Concentration – 2009 (census tract)
- Passenger Stations - 2008
- Passenger Rail Lines – 2008
- Bus Lines - 2008

In addition, we also used layers from the New Jersey Department of Transportation, but this secondary product has not been verified by the NJDOT and is not state-authorized.

- Roads – 2008

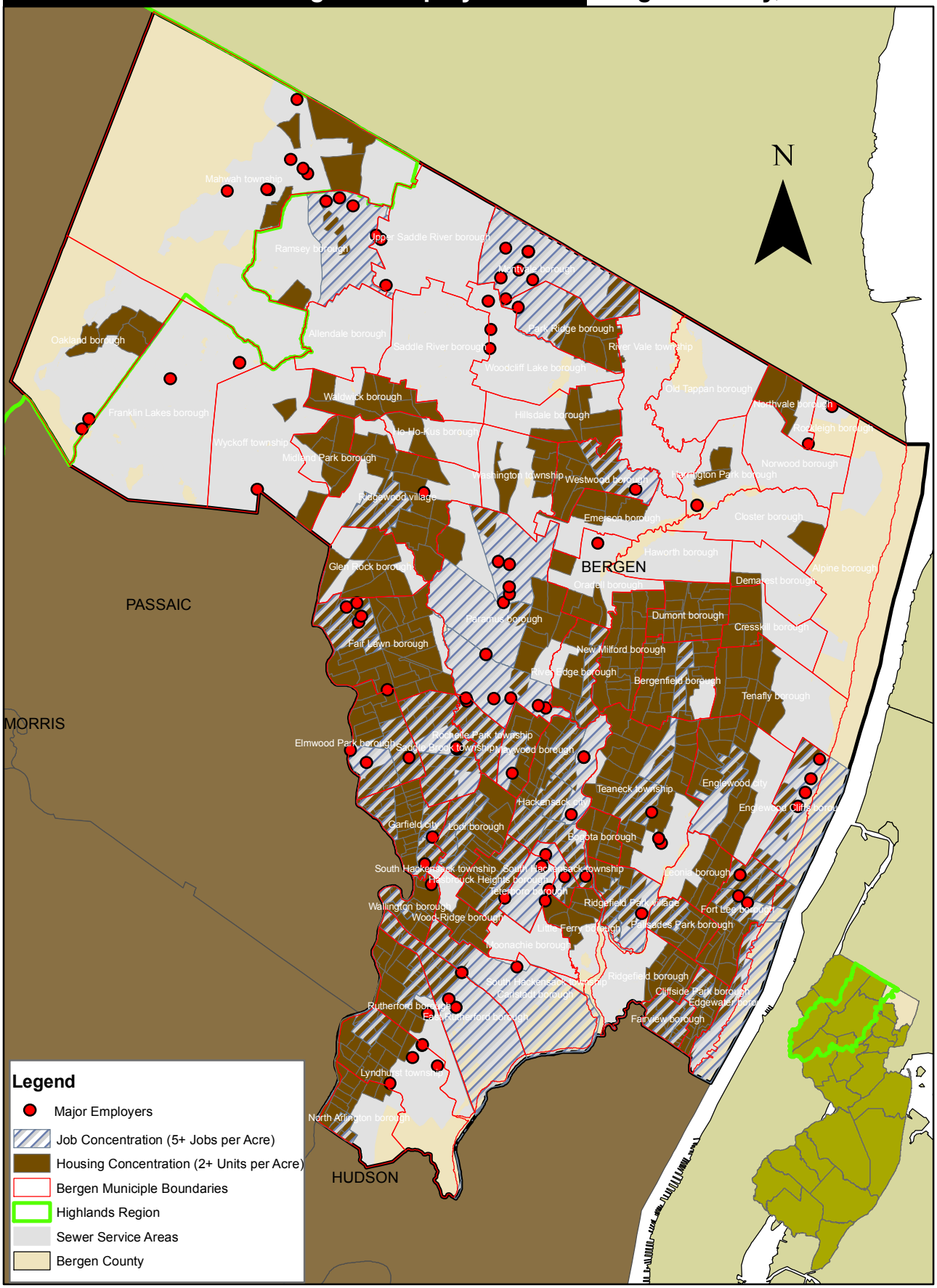
And finally, layers were used from InfoUSA data, but this secondary product has not been verified by InfoUSA and is not authorized by them.

- Major Employers – 2006

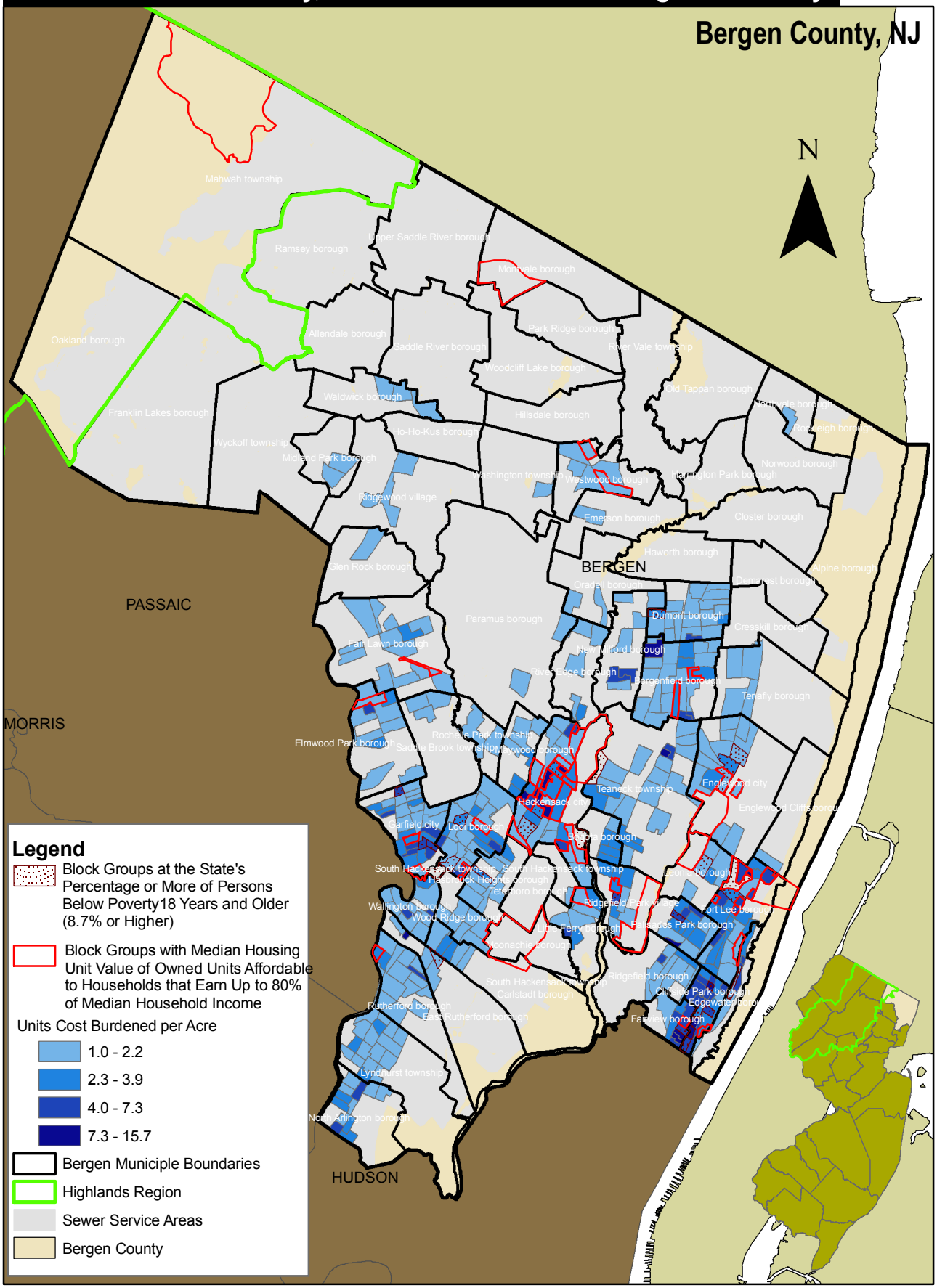
APPENDIX B: PROJECT MAPS – Bergen, Passaic and Somerset

Concentration of Housing and Employment

Bergen County, NJ



Concentration of Poverty, Cost Burdened and Housing Affordability



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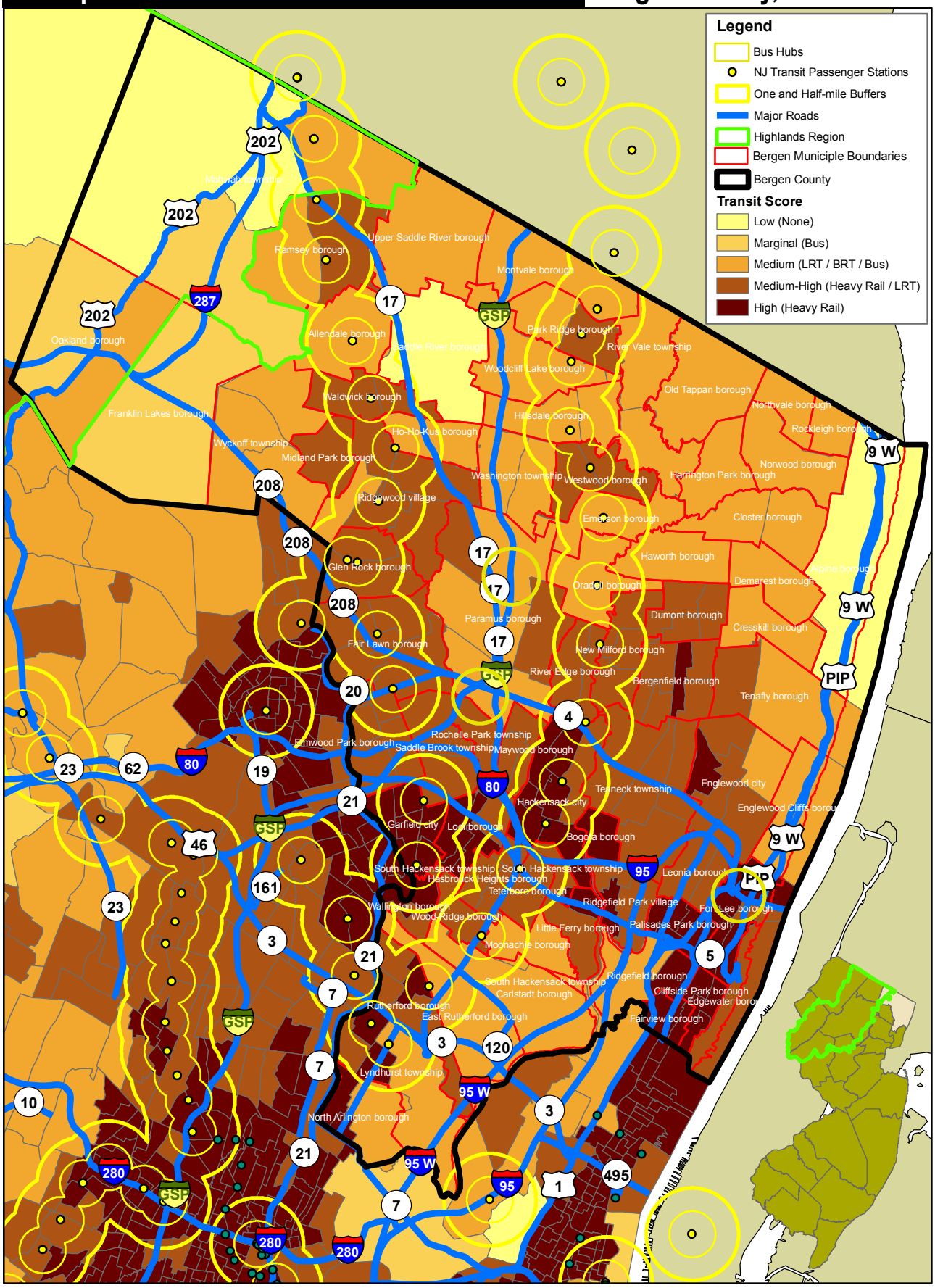
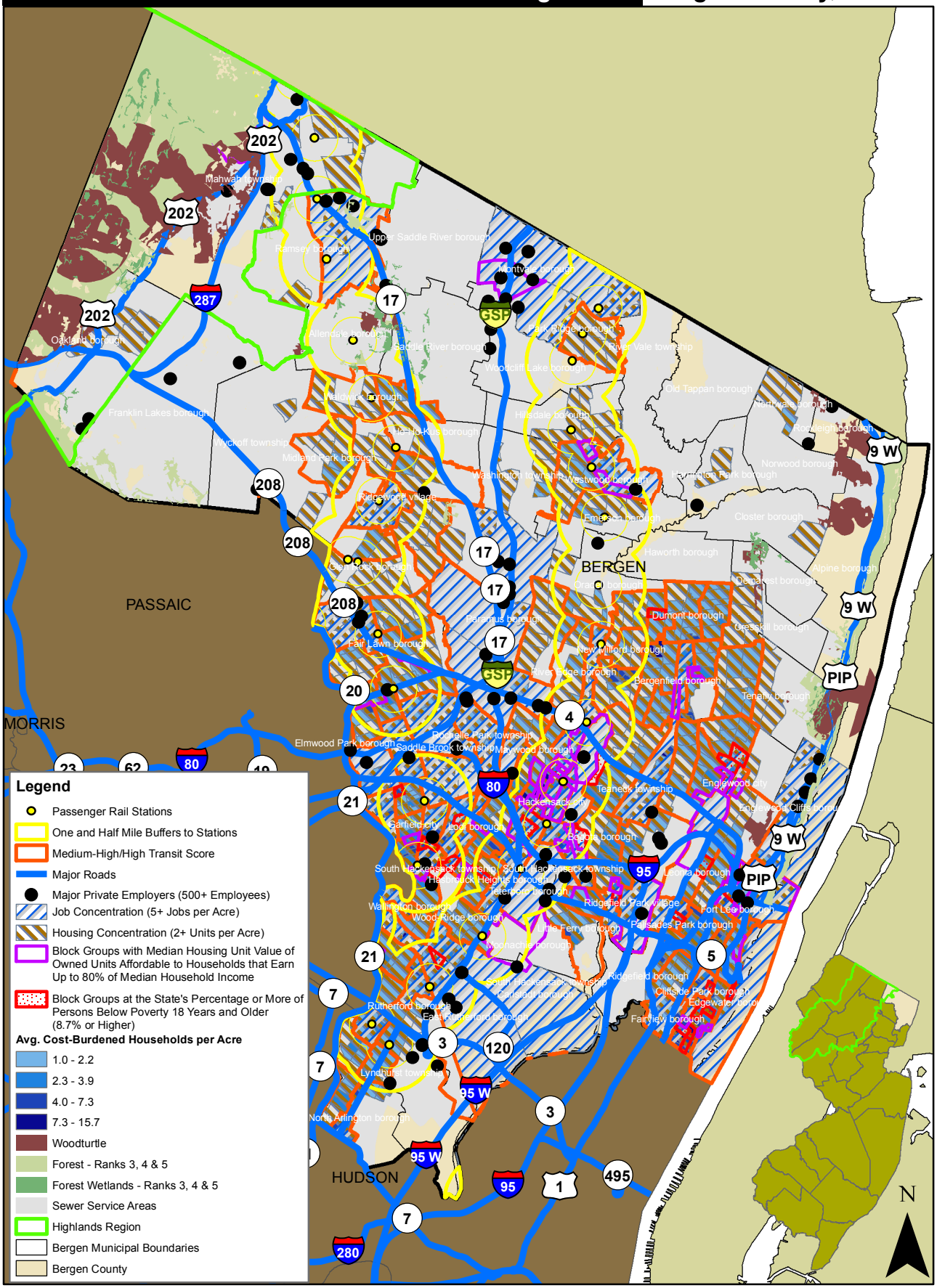
Transportation Network and Transit Score

Bergen County, NJ



Data Framework for Potential TDR Receiving Areas

Bergen County, NJ



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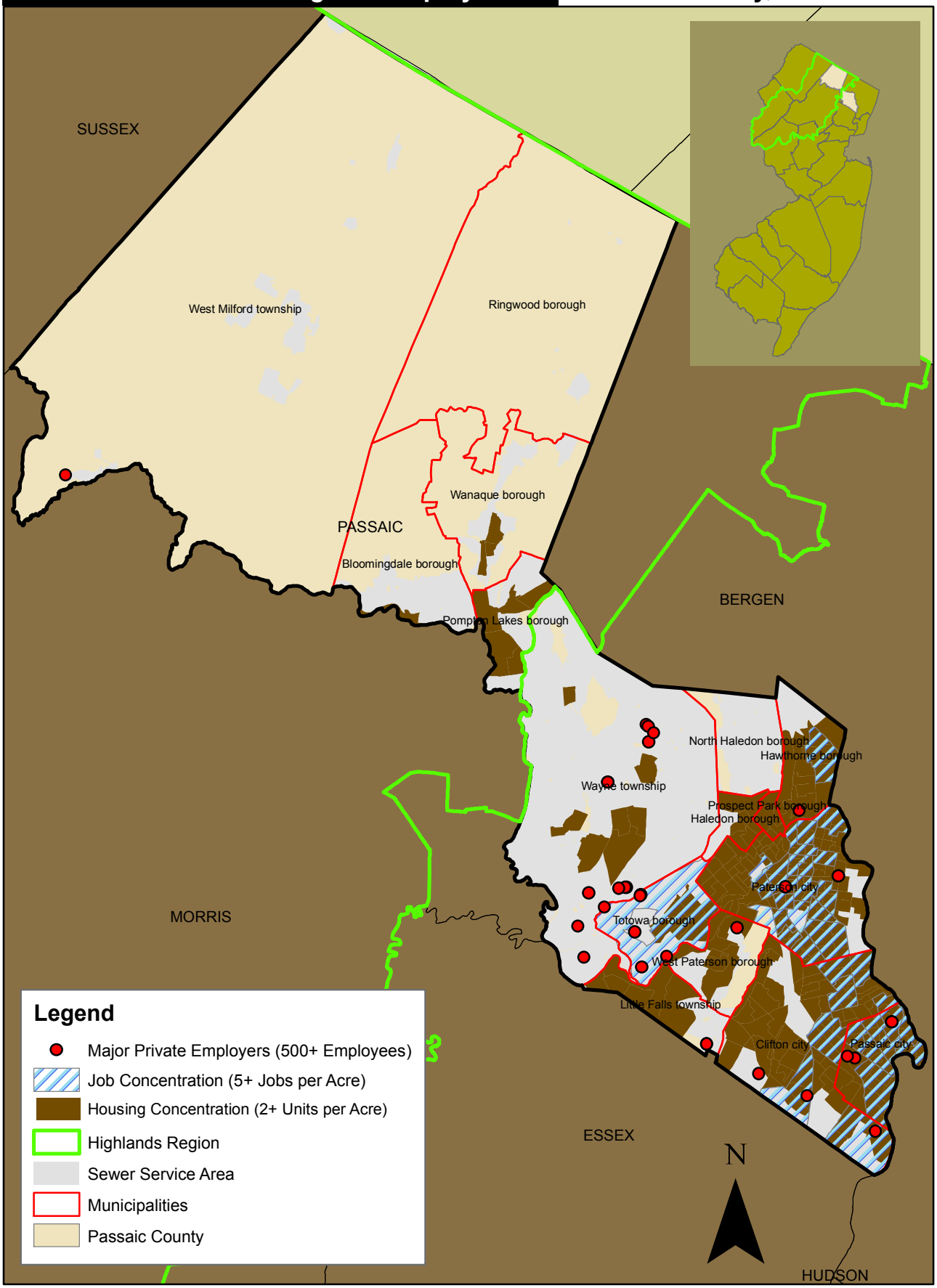
Concentration of Housing and Employment

Passaic County, NJ



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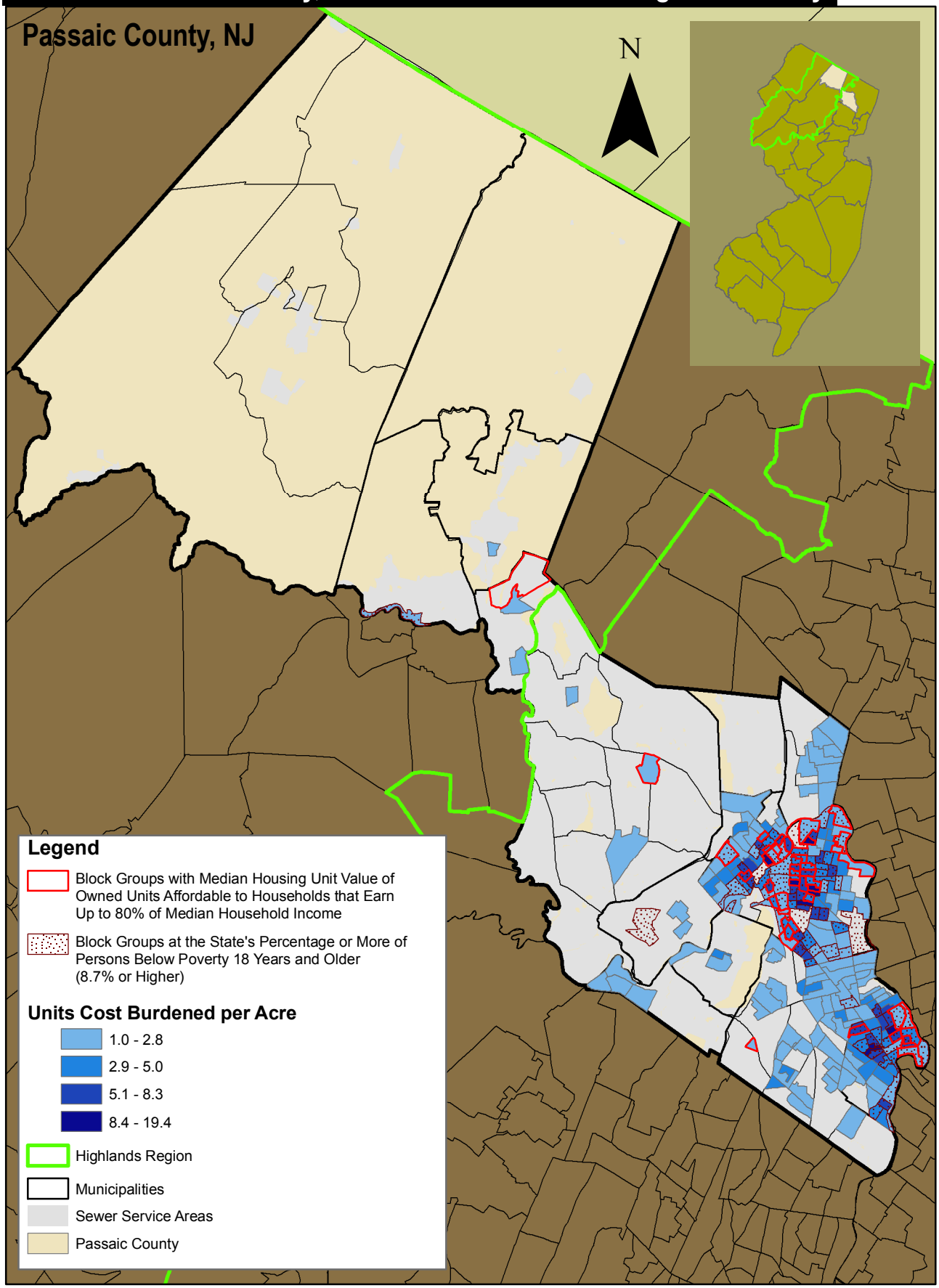
Concentration of Poverty, Cost Burdened and Housing Affordability



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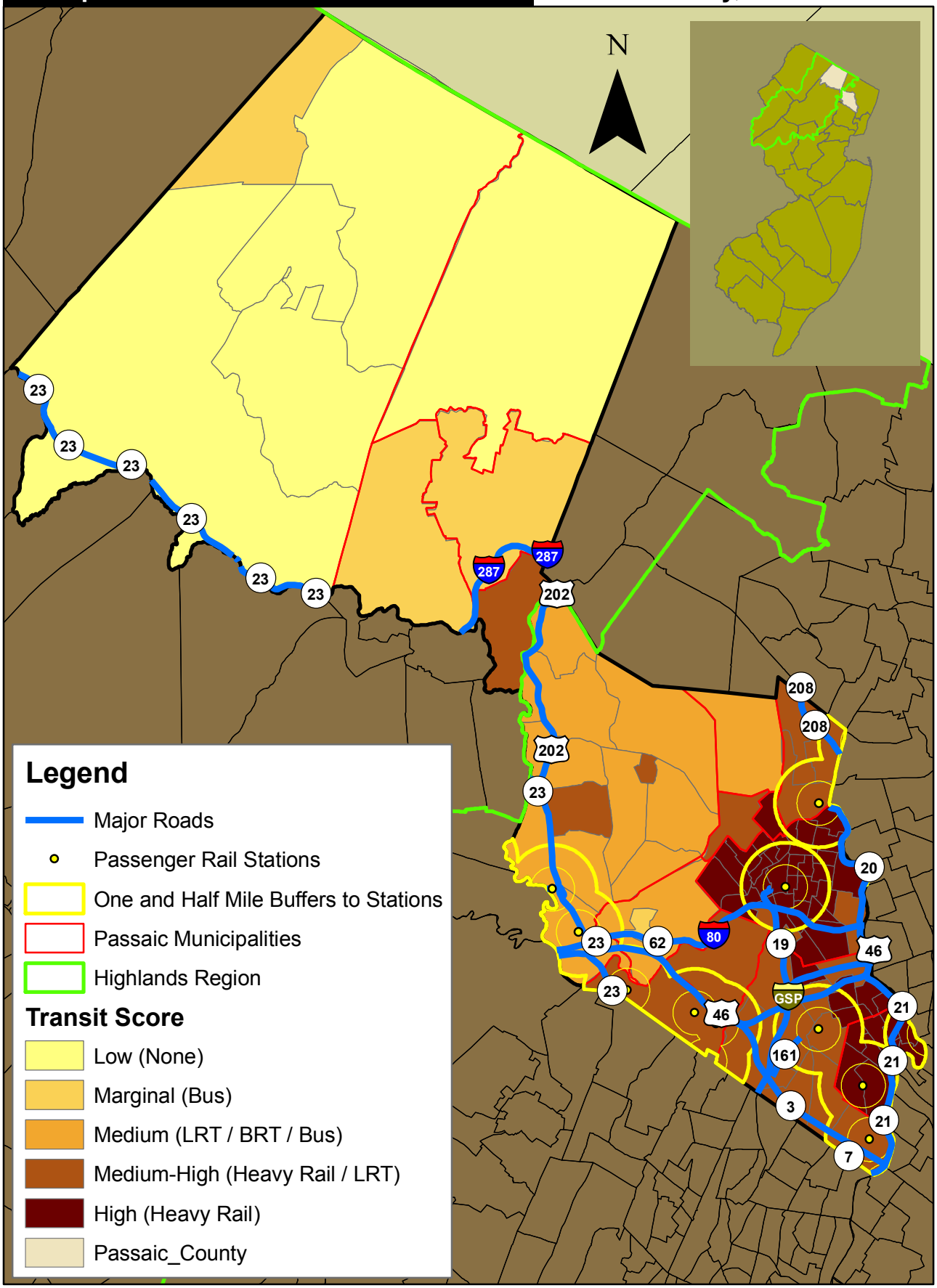
Transportation Network and Transit Score — Passaic County, NJ



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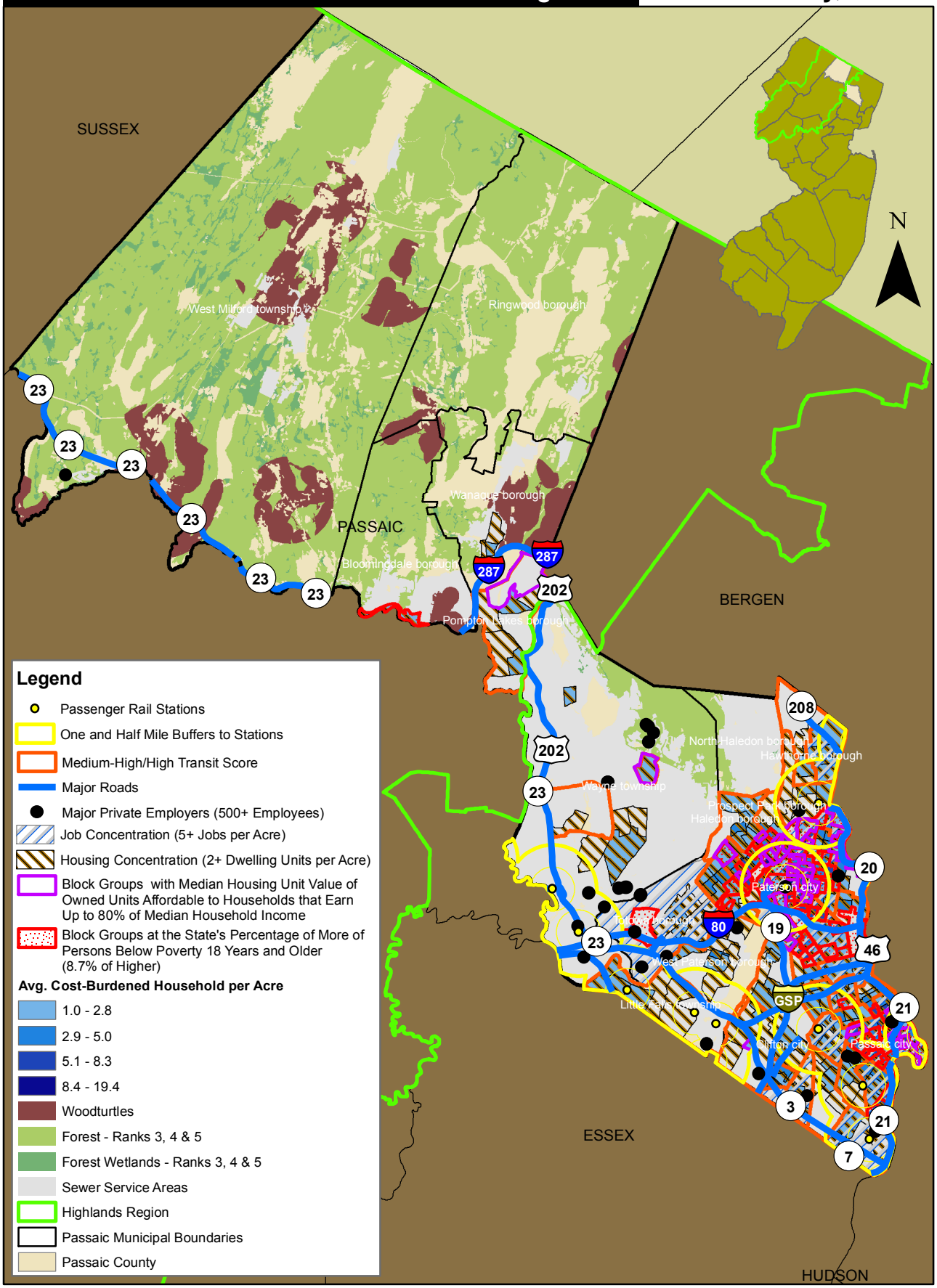
Data Framework for Potential TDR Receiving Areas

Passaic County, NJ



Legend

- Passenger Rail Stations
- One and Half Mile Buffers to Stations
- Medium-High/High Transit Score
- Major Roads
- Major Private Employers (500+ Employees)
- Job Concentration (5+ Jobs per Acre)
- Housing Concentration (2+ Dwelling Units per Acre)
- Block Groups with Median Housing Unit Value of Owned Units Affordable to Households that Earn Up to 80% of Median Household Income
- Block Groups at the State's Percentage of More of Persons Below Poverty 18 Years and Older (8.7% of Higher)

Avg. Cost-Burdened Household per Acre

- 1.0 - 2.8
- 2.9 - 5.0
- 5.1 - 8.3
- 8.4 - 19.4
- Woodturtles
- Forest - Ranks 3, 4 & 5
- Forest Wetlands - Ranks 3, 4 & 5
- Sewer Service Areas
- Highlands Region
- Passaic Municipal Boundaries
- Passaic County

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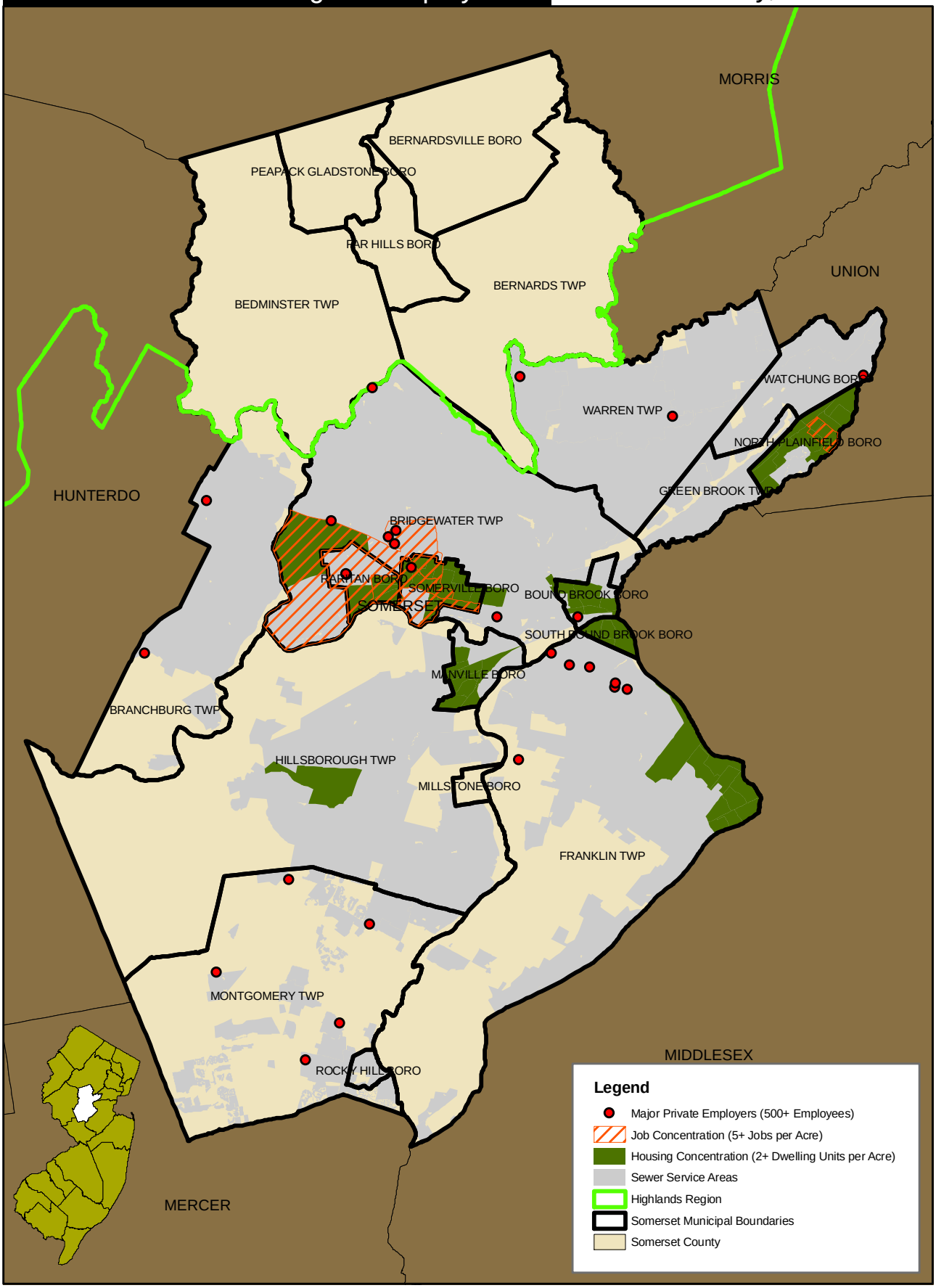
Concentration of Housing and Employment Somerset County, NJ



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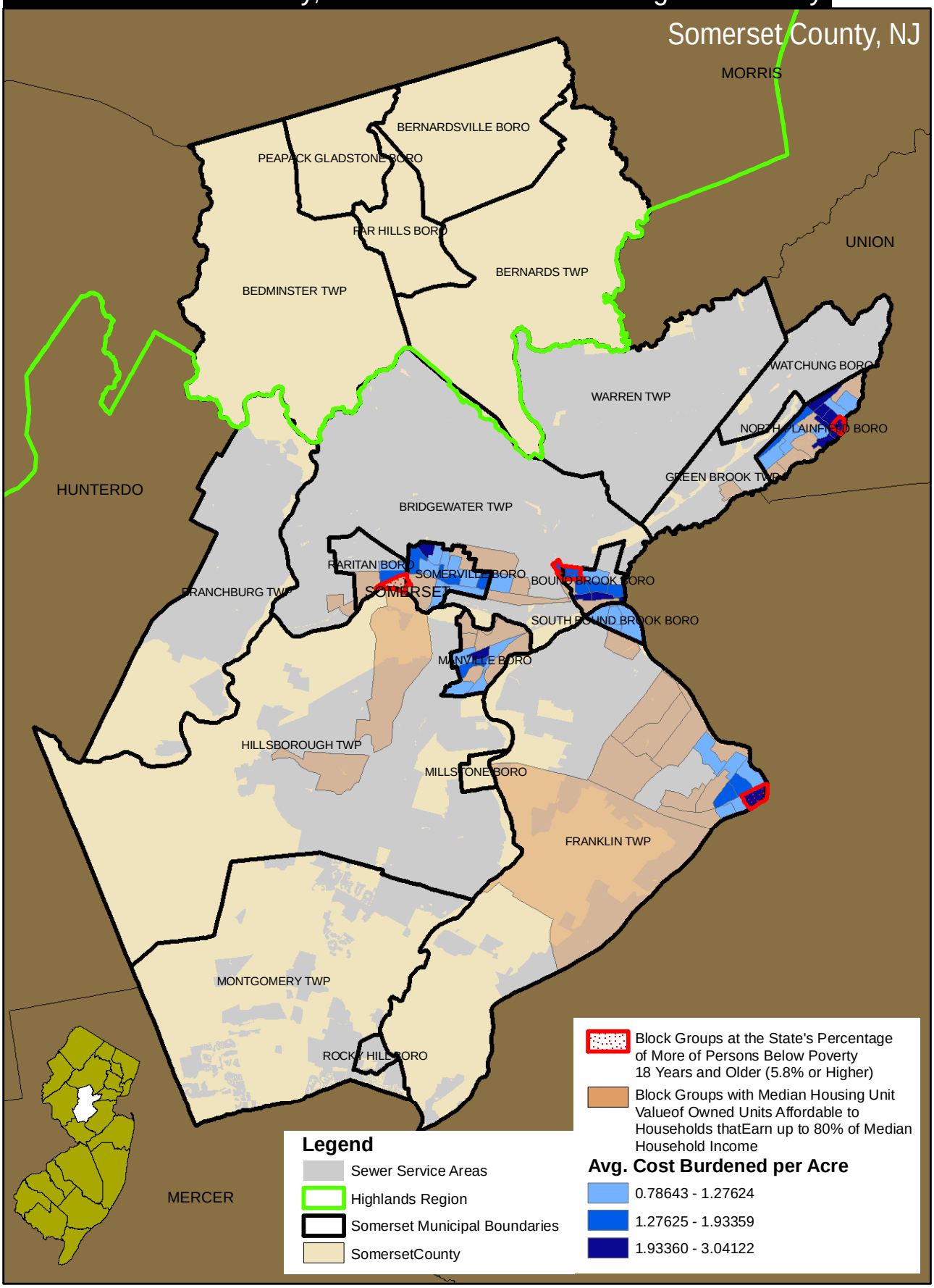
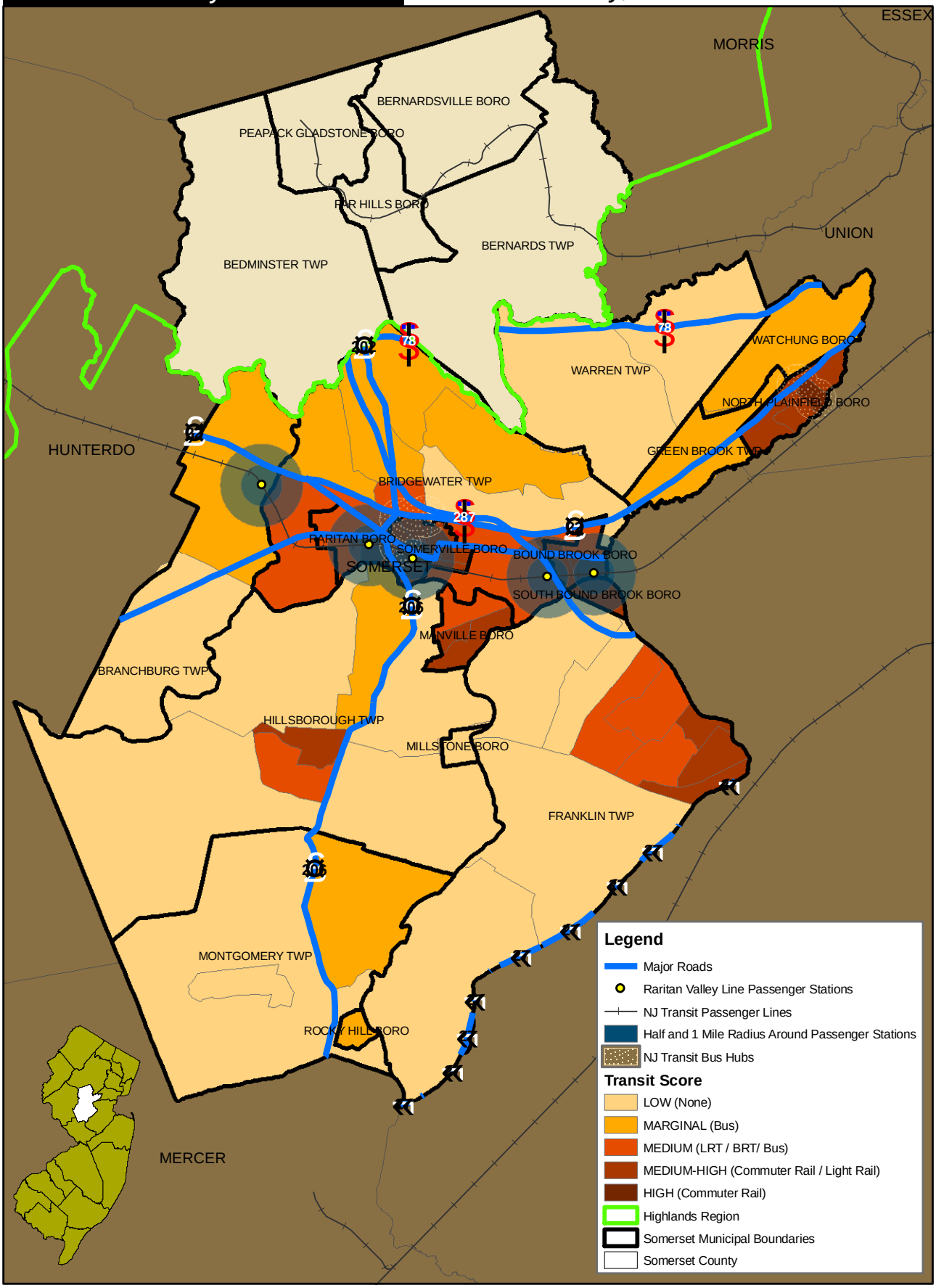
Concentration of Poverty, Cost Burdened and Housing Affordability



Somerset County Transit Score

Somerset County, NJ



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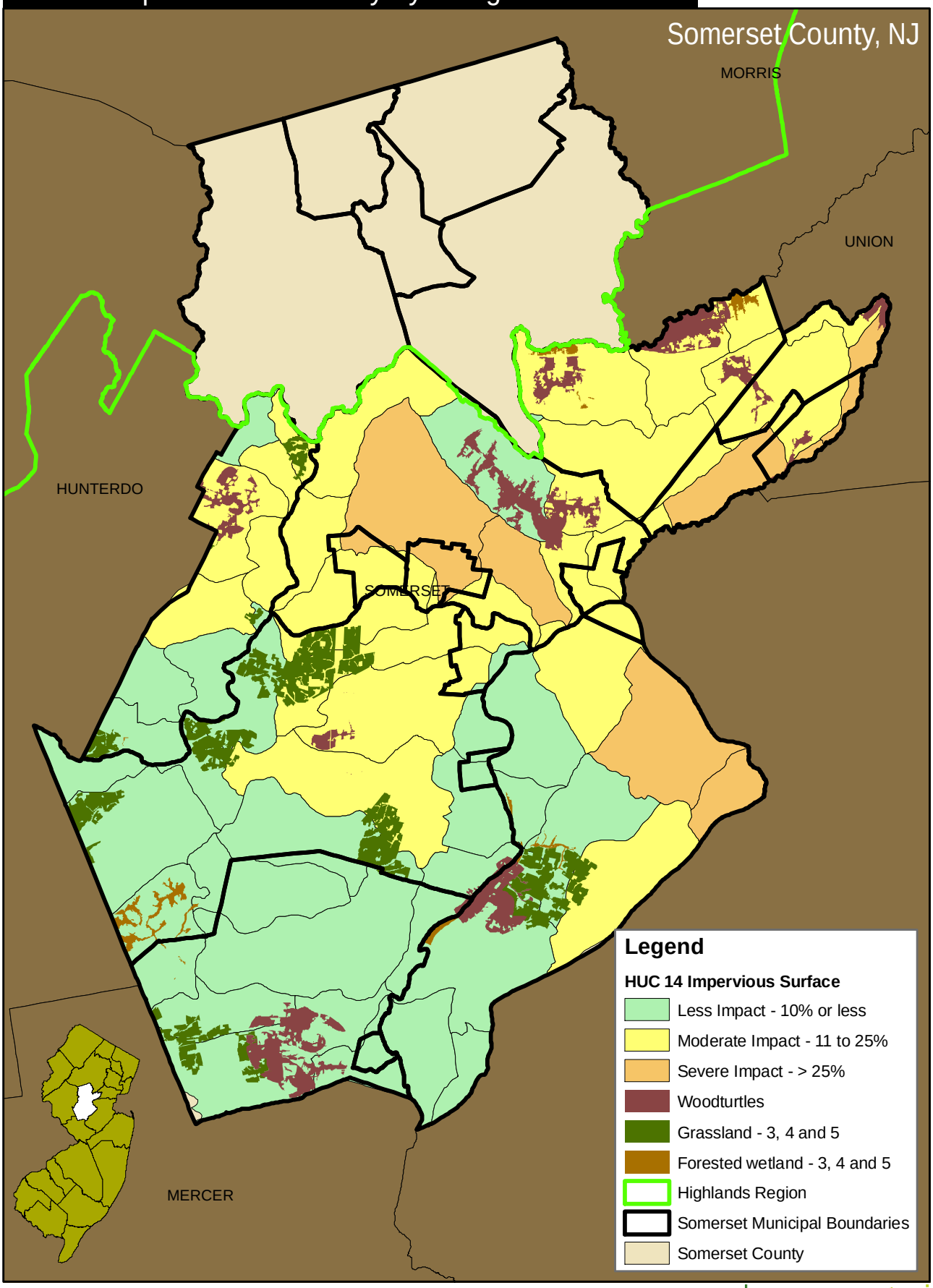
Percent Impervious Surface by Hydrologic Unit Code 14



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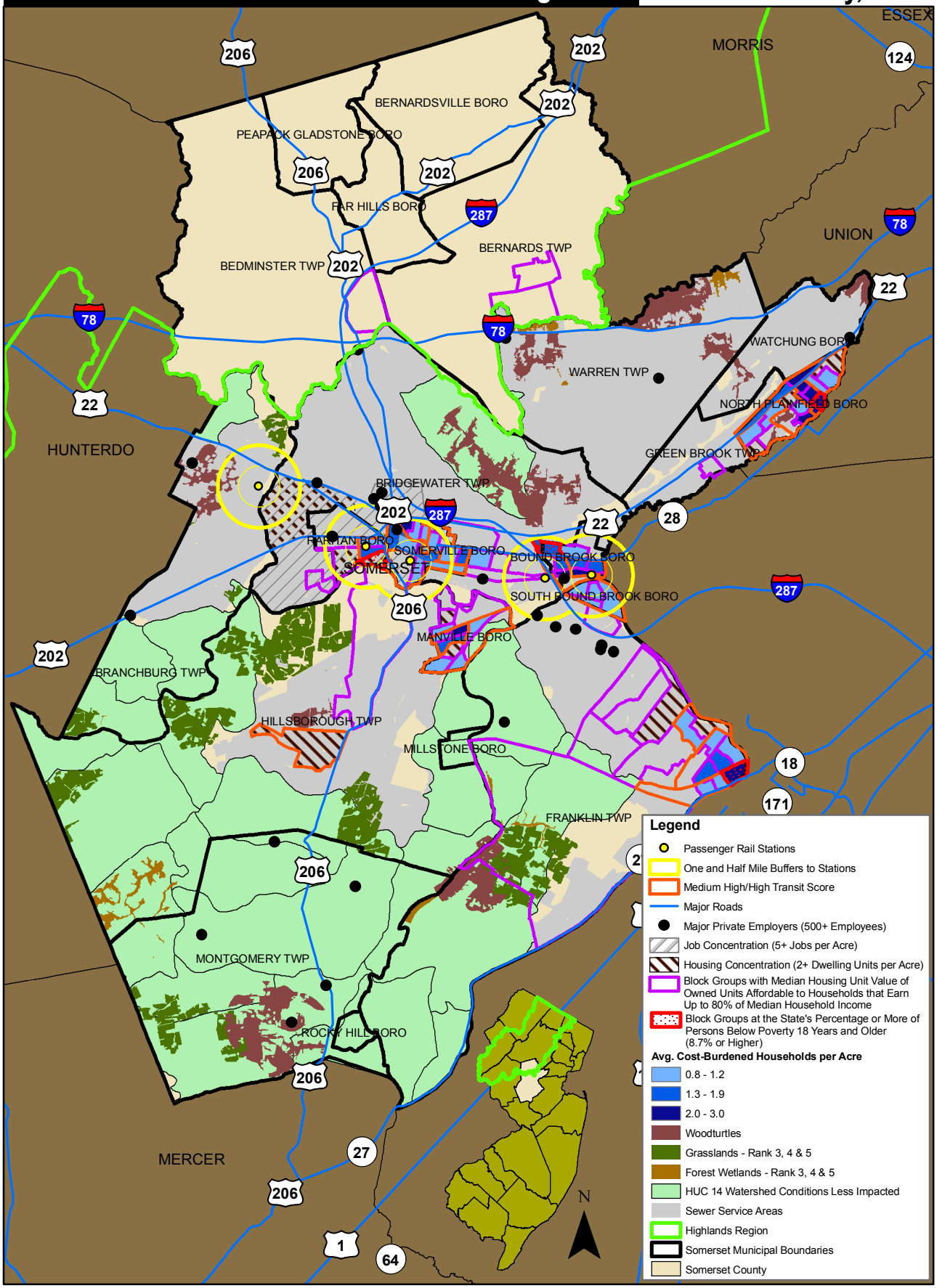
Data Framework for Potential TDR Receiving Areas

Somerset County, NJ



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Appendix C: Regional Tax-Base Sharing Explained

Fundamental Property Tax Reform – 2008

Almost everyone in New Jersey knows that despite being one of the richest states in the country, New Jersey is facing a property tax crisis. The Administration has supported a 20% reduction for at least 70% of taxpayers, but it is unclear how this would be funded and how long the State will be able to afford it. It is also unclear, even if that goal is reached, whether it will achieve PlanSmart NJ's goal to improve the direction of New Jersey's economy and reduce the many inequities and inefficiencies that are embedded in the system today.

Working with the New Jersey Regional Coalition, PlanSmart NJ has developed a two-stage approach that will put us on the path to achieve both goals. The first recommendation, **targeted state school funding reform**, will provide immediate relief to a large majority of New Jersey taxpayers. The Legislature enacted something like this earlier in 2008. The other, **regional tax-base sharing**, will provide the structural reform that is needed to address broader concerns over the long-term.

Impact simulations show this two-stage approach will provide substantial property tax relief and provide more resources to improve the quality of New Jersey's education system in the majority of districts. At the same time, these recommendations will reduce the competition among municipalities, helping New Jersey to compete in a global economy.

Sustainable economic growth, will, in turn, provide a more stable fiscal platform for state and local government. In addition, they will set us on the path toward a sustainable land use pattern that will balance jobs and housing, reduce land and resource consumption, reduce racial and economic segregation and improve transportation options.

Regional tax base sharing adds no new taxes. For this reason, its benefits are the most dramatic over the long term. Tax base sharing delivers a stronger regional economy, which, over the long term, needs less State intervention, less state funding.

Regional tax base sharing requires no consolidations and leaves most of the status quo intact. But experience in Minnesota, however, shows that when competition between municipalities is reduced, cooperation becomes easier to do. Once regional tax base sharing is established, the management of regional systems, such as growth pressure, transportation, wastewater and so forth, become easier to accomplish.

In the short term, however, tax base sharing provides little relief today for some communities. That is why we recommended using the increased sales tax revenues enacted last year for new school aid, so that the State can

simultaneously reduce local dependence on property taxes, improve the education of New Jersey's children, and significantly lower property taxes for a majority of taxpayers. ***Of course, consolidating school districts will accelerate these benefits.***

The benefits of school funding reform are immediate, but are costly to the State. If this relief is coupled with tax base sharing reform, towns within a region can stop competing with each other and grow the region's economic base to provide more revenue capacity for the benefit of all. Over time, the burden on the State to supplement revenues can be reduced or shifted to other needed investments.

New Jersey has a unique opportunity to lower property taxes in a way that will benefit all taxpayers. Together, Regional Tax Base Sharing and new school aid provide structural reform that delivers over both the short and long term at an affordable cost. They address the PlanSmart NJ's agenda to encourage development of the right kind, density, mix, type and amount in the right locations. Now is the time for New Jersey to embrace this change.

Regional Tax Base Sharing

Problem: Under the current property tax system, the costs of development are shared by neighboring municipalities, while the added revenues are not. This inequity produces large differences in community wealth and remains a major barrier to revitalization efforts. This creates competition between communities called the "ratables chase." Towns that "lose" this race are forced to raise taxes as they struggle to maintain services.

For this reason, communities are pressured to continue the "ratables chase," resulting in inefficient development patterns, unnecessarily converting open land into development. Many built-out communities are left with underused infrastructure, while costly new infrastructure in the hinterlands is required to be built.

The competition for jobs, in turn, creates pressure to build new housing where the jobs have located, speeding up the conversion of open land, often at low ex-urban densities. The pressure for housing is often resisted, however, because our tax system requires municipalities to pick up much of the cost of education, creating expenses that outweigh the tax revenue from all but the most expensive housing. This creates an imbalance in the jobs-to-housing ratio, forcing workers to locate further and further away, causing roads to be congested over long commutes.

A vicious cycle continues, sustaining high property tax rates in older towns and hurting New Jersey's present and future.

Concept: Regional Tax Base Sharing (RTBS) responds to these issues of inequity, inefficiency and imbalance by sharing a portion of the growth in property tax base within defined regions. Sharing is critical because although traffic, air pollution and water demand do not follow community boundaries, the revenues from development stay within the lines. This is not a problem only for urban areas and inner-ring suburbs, but outer suburbs and rural areas suffer from the costs of new schools and infrastructure. Under our present system, however, there is no incentive to cooperate for mutual benefit.

In an RTBS system, each region is drawn to capture commuters, economic relationships, and varieties in housing. As the tax base grows in each region, the benefits are shared by all communities. Sharing reduces the fiscal pressure to develop, and removes some of the market distortions and barriers in place today.

Communities are no longer enemies competing for the same slices of the ratable "pie" but part of a team that can make the "pie" bigger. By mandating cooperation, RTBS enables all communities to provide basic services at reasonable tax rates.

Once the fiscal pressure is reduced, towns can compete as a region, leveraging far greater assets than they could alone. Coordinated economic development is more efficient and effective, leading to cost savings. Reducing fiscal pressures also allows greater environmental preservation. By adding incentives for development where infrastructure exists, this program also corresponds with New Jersey's State Plan.

Tax-base sharing has been in use for more than 30 years right here in New Jersey, in the Hackensack Meadowlands. It also has been used since 1971 on a much larger scale – across seven counties and 2.6 million people in the Minneapolis-St. Paul (MN) metropolitan area. ***Both of these examples have survived repeated legal challenges to their constitutionality under each state's Uniformity Clause***.

RTBS is not another tax. It is not "revenue-sharing" – towns do not write checks to each other. It also does not affect existing development – the existing tax-base in each town is not shared. RTBS is based on new growth within the region.

How Regional Tax Base Sharing Works

1. Establish Regional Boundaries. We propose combining COAH regions into three RTBS regions. COAH regions are appropriate because they were established, in part, to address wealth disparities, and they describe areas that share a tax base (employment centers) and workers (commuter sheds).

2. Establish a Base Year, from which tax base growth is calculated. This year needs to be chosen carefully, to account for unique events.

3. Define what is to be shared. We propose sharing growth from the Commercial-Industrial tax base only. This targets the portion of the tax base most important to the regional economy, as well as keeping the system simple.

4. Pool Portion of New Tax Base. In both the Meadowlands and Minnesota examples, 60% of new tax base is kept locally, and 40% is collected into a regional pool. This ratio acknowledges that some costs are borne by the community in which development locates, while other costs spread to neighboring communities.

5. Allocate Shared Tax Base. The entire regional pool is redistributed to region members based on the number of households. If Newark has 26% of its region's households, it will receive 26% of the shared tax base pool. ***The formula does not take community wealth or personal income into account.***

6. Provide Protection. Over time, adjustments may be necessary to the system.

7. Support RTBS with Comprehensive reform. ***Although RTBS provides many benefits on its own, it will not solve every problem, and could be complemented by programs such as: Municipal spending controls, targeted state aid programs, affordable housing programs, transit programs, regional plans to guide new development, regional decision-making authority, and "circuit-breakers" for both individuals and municipalities.***

School District Aid Reform

Problem: The current school aid formula is not providing the resources for all of New Jersey's districts to provide a quality education. At one extreme are a few very wealthy towns, which spend far more per student than most other districts. And they can do so without high rates of taxation. At the opposite extreme are the Abbott districts, which can educate their children only through the high levels of state aid they receive. Hundreds of districts are caught between these two poles – too poor to spend more, and too rich to be an Abbott district.

Concept: This formula both preserves current funding levels to all districts, and provides new aid to the most-stressed districts. By targeting new aid with a different formula, significant reductions in property tax rates are achieved. This is possible by reducing reliance on local property taxes to fund education. Towns unable to spend more per student due to already high tax rates, but which are not poor enough to qualify as an

Abbott district, would receive enough resources to provide the quality education every child deserves.

How New School Aid Works

1. Distribute half the aid using a power-equalizing formula. This kind of formula targets aid to districts with less than the state average revenue capacity, and raises them the same percentage toward the average. Simulations show districts would move at least 45% of the way up to the average with available resources. Greater resources would move districts closer to the state average.

Revenue capacity is the revenue that a district would receive if it both assessed the statewide average property tax rate (for school districts) against its actual tax base, and received its actual aid from the state and federal governments. This formulation means that you neither penalize nor reward districts that currently assess higher- or lower-than-average tax rates.

2. Distribute half the aid based on the number of poor children per district. Poor children are defined as students eligible for free or reduced-cost lunch. While communities with low revenue capacity tend to also have large numbers of poor students, this ensures that all districts with need get additional resources.

APPENDIX D: THE TRANSIT SCORE EXPLAINED (from a forthcoming report for NJ Transit)

WHAT IS A TRANSIT SCORE?

The Transit Score indicates the potential for different types of transit usage in a specific geographic area. Higher score areas can potentially accommodate a greater range of transit service, from commuter rail to various types of bus services. The Transit Score is the first step a community can undertake in identifying where different types of transit investments may be appropriate, subject to available resources and provided certain conditions are met.

Because the Transit Score connects land use to transit service feasibility, it is useful for scenario planning exercises, Smart Growth, Sustainability, and vision plans. For this reason, NJ TRANSIT has provided Transit Score for application in the statewide planning efforts of the Office of Smart Growth. Accordingly, the Office of Smart Growth has included the Transit Score as one of the tools that municipalities should consider using when seeking Plan Endorsement from the State Planning Commission. Transit Score has the ability to be a valuable part of this planning process.

CALCULATING A TRANSIT SCORE

- The three factors

The Transit Score is a numerical index, which is based on a regression equation that includes three factors that influence the potential for transit ridership. Transit Scores are based on year 2000 data, but can also be calculated for the future using future projections or policy targets for each of the three factors:

1. Population Density
2. Employment Density
3. Zero Car Household Density

The Transit Score equation, as calibrated by the Delaware Valley Regional Planning Commission in the report "Creating a Regional Transit Score Protocol", is as follows

Transit score = [0.41*(Population per acre)] +
[0.09*(Jobs per acre)] +
[0.74*(Zero car households per acre)]

All transit scores are classified into one of five categories. These five categories represent ranges based on observed land use characteristics and actual transit service patterns. Following are the five Transit Score categories and the range of transit scores for each:

Table 1 - Transit Score Intervals	
Category	**NJT Range**
High	> 7.5
Medium-High	2.5 to 7.5
Medium	1.0 to 2.4
Marginal	0.6 to 0.9
Low	< 0.6

Table 2- Distribution of Statewide New Jersey Population, Employment, Land Area by Transit Score Category- Year 2000 with revised categories				
Transit Score Category	**Population**	**Primary Employment**	**Households**	**Land Area**
High	23.4%	16.9%	22.8%	1.5%
Medium-High	31.0%	29.4%	31.6%	6.9%
Medium	23.8%	29.3%	23.7%	12.5%
Marginal	6.5%	9.5%	6.8%	7.0%
Low	15.3%	14.9%	15.1%	72.1%
TOTAL 2000	**8,414,000**	**3,962,000**	**3,310,000**	**7,418 Sq. Mi.**

Transit Score categories rated Medium and above are approximately (but not exactly) the same as the areas the 2001 State Plan targeted as locations where growth should occur and where most transit service is viable. Based on 2000 data, these areas:

- Constituted 78.2% of the population of the state.
- Constituted 75.6% of the locations where workers reported to their primary work or employment
- Had 77.1% of the Households of the state
- Had 20.9% or 21% of the land area of the state.

As Table 2 shows, the two highest categories account for just over 50% of the state population and households on about 8.4% of the land area. These areas, however, only held about 46% of the employment, reflecting the more dispersed pattern of employment in New Jersey.

❖ The three types of transit service

There are three types of transit service or investment categories that can be matched with the Transit Score. Each of the three transit investment categories summarizes which modes, services, and intermodal facilities meet demographic and transportation criteria and are applicable for implementation based on a geographic area's Transit Score. These investment categories are:

- **Fixed Guideway Transit** - New transit lines, extensions of existing lines, and potential reactivation of historic stations along existing lines where service plans allow. Fixed Guideway Transit requires significant capital investment, and is primarily on its own Right-of-Way, with no or limited mixing with auto traffic. Fixed Guideways often can provide time savings compared to auto travel. Each type of guideway project must meet certain minimum criteria, primarily related to having at least part of the line/service in an area with a "HIGH" Transit Score and a minimum number of jobs in a dense, mixed-use center.
  - **Related Types:** Rapid Transit, High Capital Cost Electric Light Rail (LRT), Medium-Low Capital Cost Electric LRT, Commuter Rail Terminal, Commuter Rail/Diesel LRT, Monorail/Personal Rapid Transit (PRT), Ferry, Recreational Transit, Bus Lanes-Limited Access Roads, Bus Lanes-Arterials, Bus Priority Treatment, BRT (dedicated ROW or lane ONLY)

- **Bus Service Potential** – Types of bus service are related to the Transit Score of an area, with a range of minimum span of service throughout the day and average daily frequency of bus service. For some services, a minimum number of jobs in a relatively dense, mixed-use center are required, but there may be differences based on location of an area in the State Plan.
  - **Related Types:** Express Bus as a Destination /Terminus, Express Bus-Walk Only Access, Express Bus- Park/Ride Access, High Intensity Local Bus Service, Medium Intensity Local Bus Service, Minimum Intensity Local Bus Service, Local Circulator Bus-Rural Center, Local Social Service/Paratransit, Mini-Bus w/Line Haul Transit, Mini-Bus Express Suburban Service Vanpools & Vanpool Subsidy

- **Intermodal/Access to Transit** – These are transit services and projects which provide access to transit service and facilitate intermodal or multi-modal service. Based on the Transit Score, peak period ridership, and other factors, minimum guidelines are outlined for park-rides, shuttle buses and other intermodal facilities such as parking structures and terminals.
  - **Related Types:** Shuttle Bus to Line-Haul Transit (Walk Access), Shuttle Bus to Line-Haul Transit (Remote Parking), Structured Park/Ride, Surface Park/Ride for Rail/LRT/ Ferry , Multimodal Terminals

Resources:

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