

**NJ Department of Environmental Protection**  
**State Plan Endorsement**  
**Opportunities & Constraints Assessment Report**  
**Town of Newton, Sussex County**

April 09, 2024



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## **Introduction**

Municipal Plan Endorsement is a voluntary review process designed to ensure the coordination of state, county, and municipal planning efforts in achieving the goals and policies of the State Planning Act (Act). The State Development and Redevelopment Plan (State Plan) is the blueprint for achieving these goals and provides the template for coordination. The endorsement process expands upon the requirements of the Municipal Land Use Law (MLUL) and incorporates many planning initiatives of the State agencies.

This document constitutes the Department of Environmental Protection's (DEP) component of the State Opportunity and Constraints Assessment (OCA) conducted as part of the Plan Endorsement process. This document provides an overview of the Department's regulatory and policy concerns within the **Town of Newton, Sussex County**. The information provided herein is intended to reflect the Department's current information concerning the town. Recommendations may be found throughout the document **in bold** and are listed for easy reference in the Summary of and Recommendations section at the end of this report.

## **Overview**

The Town of Newton encompasses approximately 3.38 square miles and 2,163.86 acres with a population of approximately 8,466 (2022). A majority of Newton (1,647.42 acres/76.13%) was recognized as a designated regional center in 1993 and completed endorsement in 2013. The current town center expired on March 15, 2023. A Master Plan was completed in 2008 with a 2018 Re-examination Report and a Master Plan Update completed on June 21, 2023. The Town of Newton submitted a Municipal Self-Assessment (MSA) which was deemed complete by the Department of State's Office of Planning Advocacy (OPA) and submitted to NJDEP for review on **February 28, 2024**.

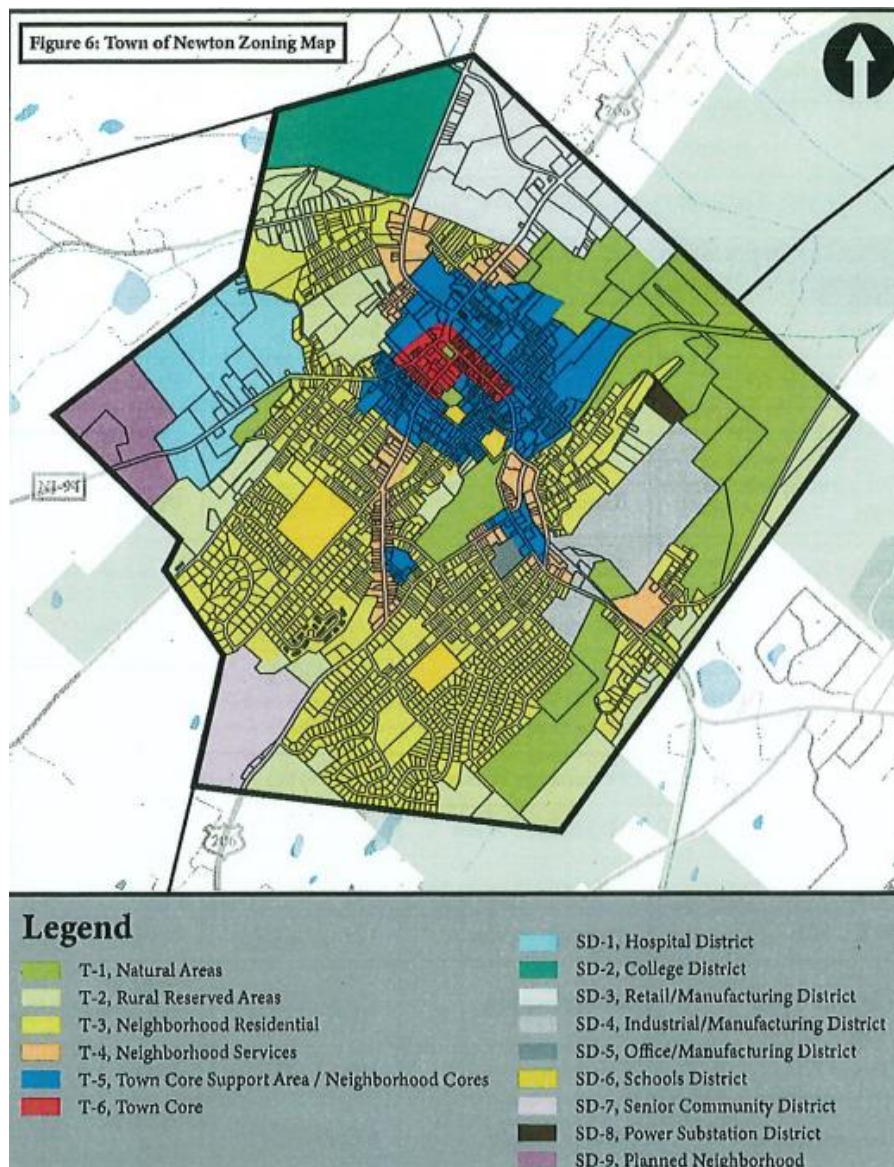
Newton is proposing re-endorsement of their existing center to concentrate their future growth and planning. The town is not located within the NJ Highlands Region and the jurisdiction of the New Jersey Highlands Commission, and the town is divided into two planning areas, PA 4 Rural and PA 5 Environmentally Sensitive. There are areas of the town near streams that are subject to flooding and adverse impacts from climate change. Any changes to ordinances, updates to the Master Plan, proposed changes to State Plan designated areas, or proposed redevelopment plans must be consistent with State Plan. While Plan conformance is voluntary, the NJDEP is recommending some adjustments to the proposed center to eliminate some areas of undeveloped Natural Heritage Priority Sites currently within the center and to update zoning to identify areas of habitat, wetlands, flooding and/or steep slopes.

## **Newton Characteristics**

Newton is a mature community that encompasses several distinct neighborhoods and growth areas. Land use throughout the thorough is divided between, public property/parks/preserved open space, roadways, schools, critical infrastructure, emergency services, municipal facilities, commercial and residential development, houses of worship, and privately owned vacant land. Within Newton's 2,163.86-acre boundary, 1,267.54 acres (58.6%) are urban, 479 acres are forested, 312.86 acres are designated commercial/industrial, 688.61 acres are residential, and 299.63 acres are preserved as open space. If surface water bodies were removed from the town area, the area of Newton without surface water would

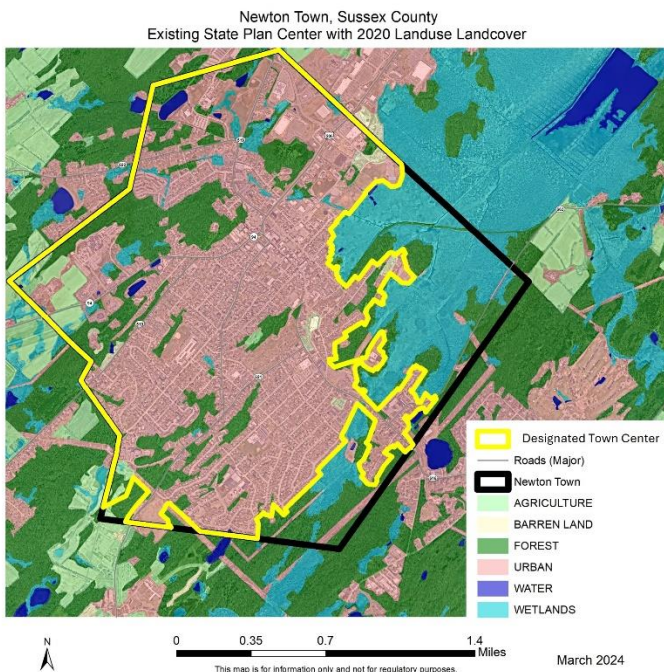
be 2,149.16 acres. Of Newton's Open Space, a GIS review indicates that 91.52 acres are Municipal owned (although the MSA indicates that it is only 71.5 acres), 0.87 acres are County owned and 207.24 acres are State encumbered. Newton has 45.27 acres of farmland although the MSA did not indicate if any farmland has been preserved. **Public water is provided by the Newton Public Water Supply System which includes the Morris Lake reservoir in Sparta and sewer wastewater is handled by the Newton Sewer Department.**

**Newton Zoning Map (map supplied in MSA)**



## Land Use Cover

Newton is composed of two major planning areas and significant areas of historic and natural resources designated for protection and preservation.



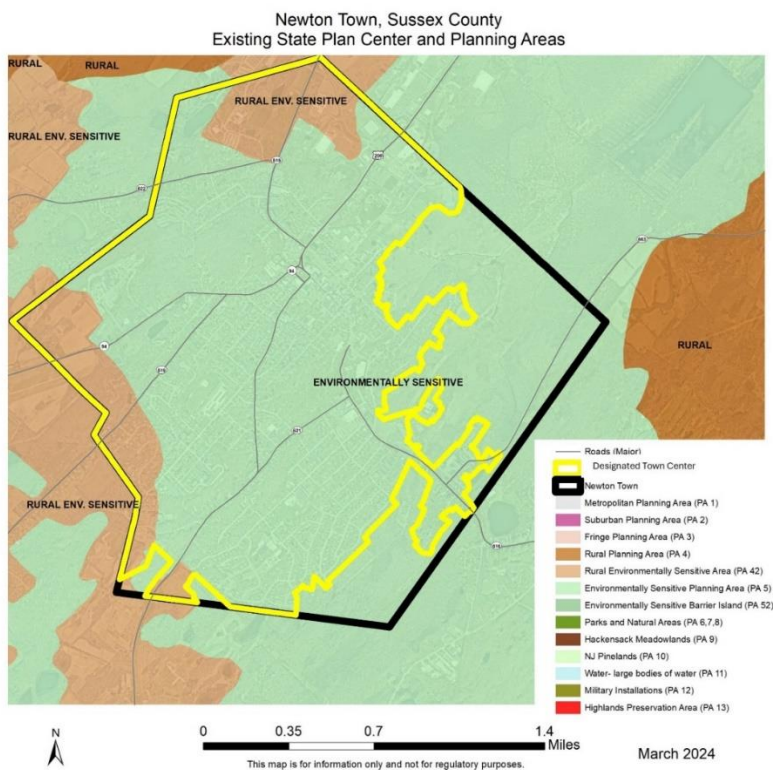
Newton Total Area = 2,163.86 Acres

LULC 2020		
LULC 2020 Type	Acres	Percent
AGRICULTURE	45.27	2.1
BARREN LAND	20.58	0.9
FOREST	479.10	22.1
URBAN	1,267.54	58.6
WATER	14.70	0.7
WETLANDS	336.67	15.6
URBAN (1,267.54Acres)	Acres	Percent
Residential (High, Medium, Low Density,Mix Use)	688.61	54.3
Industrial/ Commercial	312.86	24.7
Other	266.07	21.0

## Proposed Newton Center

Newton is proposing to restore and preserve the town's natural and historic resources, preserve open space, and to address sustainable economic development, stormwater management, affordable housing and congestion concerns consistent with the planning goals and objectives within the State Plan. Newton is also proposing for State Plan endorsement and readoption of the existing Center that encompasses 76.13% of the entire town. The proposed Newton Center for State Plan endorsement is designated as either Planning Area PA-4 (Rural) and PA-5 (Environmentally Sensitive) as illustrated below:

Newton Total Area = 2,163.86 Acres		
State Plan Existing Planning Areas	Acres	% of Total Existing PLA Area
PA 4 - Rural	264.75	12.2
PA 5 - Environmentally sensitive	1,899.11	87.8
Existing Center	1,647.42	
Existing Center overlay existing planning areas		



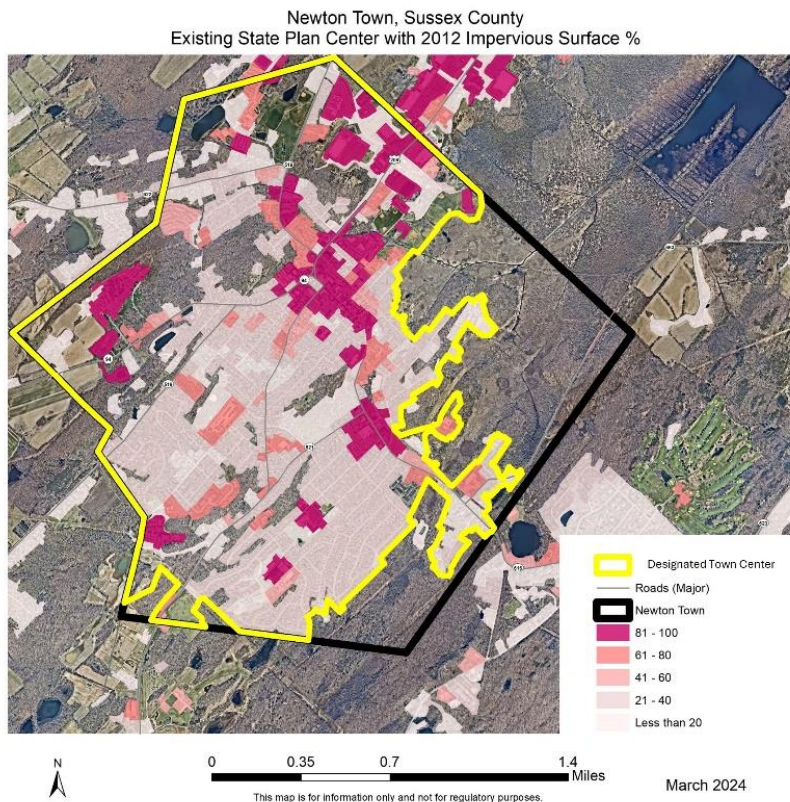
**NJDEP Center Recommendation Summary:** The DEP recommends endorsement of the proposed center with minor adjustments to eliminate undeveloped areas within Natural Heritage Priority Sites and to provide adjustments to zoning include a critical environmentally sensitive (CES) zoning overlay to accurately inform the public of parcels with threatened and endangered species habitat, steep slopes, or within the 100-year flood zone and/or subject to repetitive flooding. A final map advanced to the State Plan Commission will be based on discussions between Newton, the Office of Planning and Advocacy (OPA), the New Jersey Department of Environmental Protection (NJDEP), and other applicable agencies and stakeholders.

**NJDEP MSA Comments:** The following represents the DEP's opportunities and constraints comments with a focus on the proposed center.

#### Impervious Surfaces



With additional development within the proposed center boundary Newton must address how to manage and minimize any additional impervious surface. An increase in stormwater runoff may result in a discharge of excessive nutrient and pollutant loads to nearby surface water bodies. Additional stormwater runoff can also lead to soil and stream bank erosion and further degradation of valuable surface water bodies.



Newton Total Area (without surface water) = 2,149.16 Acres

	Acres of Impervious 2012	Pct of Impervious 2012	Acres of Impervious 2015	Pct of Impervious 2015
Newton Town ( 2,149.16 ac)	495.15	23.0	646.49	30.1
Existing Center ( 1,635.63 ac) (without surface water)	491.83	30.1	629.83	38.5

As a result of changing climate conditions, including increases in temperature and precipitation, the ability of the municipality to manage an increase in stormwater in situ will be challenged by an increase in new construction of impervious surfaces. The proposed center (1,635.63 acres), as of 2015, includes a total of **629.83 acres (38.5.5 %) of impervious surfaces.** *Note: Numbers are approximate (2015).*

## Climate Change Impacts

In past OCA reports, DEP has largely focused on assessing the impacts to the development potential of municipalities based on environmental resources and water/wastewater capacity. In addition to addressing those issues, this OCA will consider the current and future impacts of climate change on those issues, as well as climate mitigation (e.g. greenhouse gas reduction, renewable energy) and climate resilience (e.g. vulnerability to increased flooding).

New Jersey issued its first *Scientific Report on Climate Change (1)* on June 26, 2020. The report details the latest science and describes the current and projected impacts of climate change, specific to New Jersey. As atmospheric levels of carbon dioxide and other greenhouse gases increase, Newton can expect to see increases in average temperature, precipitation, flooding, and impacts to its extensive natural resources. The following are key findings of the Scientific Report that may be germane to Newton.

### Temperature

- New Jersey is warming faster than the rest of the Northeast region and the world.
- Since 1895, New Jersey's annual temperature has increased by 3.5° F.
- Historically unprecedented warming is projected for the 21st century with average annual temperatures in New Jersey increasing by 4.1° F to 5.7° F by 2050.
- Heatwaves are expected to impact larger areas, with more frequency and longer duration by 2050.
- Climate change could result in a 55% increase in summer heat-related mortalities.

### Precipitation

- Annual precipitation in New Jersey is expected to increase by 4% to 11% by 2050.
- The intensity and frequency of precipitation events is anticipated to increase due to climate change.
- Droughts may occur more frequently due to the expected changes in precipitation patterns.
- The size and frequency of floods will increase as annual precipitation increases.

### Air Quality

- The effects of climate change are likely to contribute to an increase in air pollution, lead to increased respiratory and cardiovascular health problems, like asthma and hay fever, and a greater number of premature deaths.
- Environmental degradation from climate induced increases in air pollution will reduce visibility and cause damage to crops and forests.

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1 <https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf>

### Water Resources

- Water supplies will be stressed from the increase in the growing season and extreme temperatures expected due to climate change.
- Surface and groundwater quality will be impaired as increased nutrients and contaminants enter waters due to runoff from more intense rain events.

### Agriculture

- The productivity of crops and livestock are expected to change due to the climate-induced changes in temperature and precipitation patterns.
- New Jersey may become unsuitable for specialty crops like blueberries and cranberries in the future as higher temperatures reduce necessary winter chills.

### Forests

- The persistence of Southern pine beetle in New Jersey represents an early example of the destruction of invasive pests that can occur due to climate change impacts.
- Wildfire seasons could be lengthened, and the frequency of large fires increased due to the hot, dry periods that will result from increased temperatures.

### Terrestrial Carbon Sequestration

- The loss of forest habitats to climate change will result in carbon losses and increase New Jersey's net greenhouse gas emissions.

### Terrestrial Systems

- Climate change is likely to facilitate expansion of invasive plant species.
- 29% of New Jersey's bird species are vulnerable to climate change, including the American Goldfinch which is the state bird of New Jersey.

### Freshwater Systems

- Freshwater fish, like brook trout, that need cold-water habitats are expected to lose habitat as water temperatures increase due to climate change.
- Reptiles with temperature-dependent sex determination could experience changes in sex ratios as New Jersey temperatures increase.

### **Climate Change Mitigation**

As climate change, energy use, and environmental sustainability take on a larger role in New Jersey's policies, land use planning should promote energy efficiency, and specifically, integrate green building design and Greenhouse Gas (GHG) reduction into its planning and regulatory structures.

New Jersey's Global Warming Response Act calls for an 80% reduction of GHG emissions from 2006 levels by the year 2050. Released in October of 2020, the GWRA 80x50 Report<sup>2</sup> was written in response to that mandate and builds on the State's previous efforts to address and reduce greenhouse gas emissions. The report analyzes New Jersey's emissions reductions to date, evaluates plans presently in place for further reducing emissions, and presents a set of strategies across seven emission sectors for policymakers to consider in formulating legislation, regulations, policy, and programs.

The 80x50 Report concludes that, "New Jersey can meet its goal of reducing GHG emissions to 80% below 2006 levels by 2050 – protecting our people, economy, and environment from the worsening impacts of climate change to which our state is uniquely vulnerable. Reaching our 80x50 goal requires planning and collaboration across all economic sectors, levels of government, political boundaries, and administrations, all fixed on a carbon neutral future. Achieving this goal depends upon a swift and decisive transition away from our reliance on fossil fuels, accomplished through adaptive policies that also ensure reliability and remain responsive to the scope and pace of efforts to electrify the transportation and building sectors while expanding renewable energy sources. However, only by working in concert across time and economic sectors can we implement the long-term, structural changes to how we generate and use energy, build our homes and businesses, operate our industries, develop, and preserve our land, grow our food, manage our waste, and transport our people and products."

While the 80x50 Report focuses on state-level actions, action at the municipal level will be crucial to meet the state's GHG reduction goals. The Municipal Plan Endorsement Guidelines identify a series of mandatory requirements that will make substantial progress. Additionally, New Jersey's climate change website identifies similar and additional actions for local governments at <https://www.nj.gov/dep/climatechange/action.html>.

## **Climate Resilience**

Pursuant to Governor Murphy's Executive Order 89, the state has released for public comment a Draft Climate Change Resilience Strategy (CCRS) to promote the long-term mitigation, adaptation, and resilience of New Jersey's economy, communities, infrastructure, and natural resources throughout the State in a manner consistent with the Scientific Report on Climate Change. Much like the 80x50 Report, the CCRS will identify state-level action, including guidance and strategies for municipalities to implement resiliency measures, including through changes to plans, by-laws, regulations, policies, or land use standards. Executive Order 89 also requires the Climate & Flood Resilience Program at DEP to provide technical guidance and support to counties and municipalities in their efforts to plan for and address the current and anticipated impacts of climate change in accordance with the CCRS. Plan Endorsement is one avenue for the state to provide that assistance.

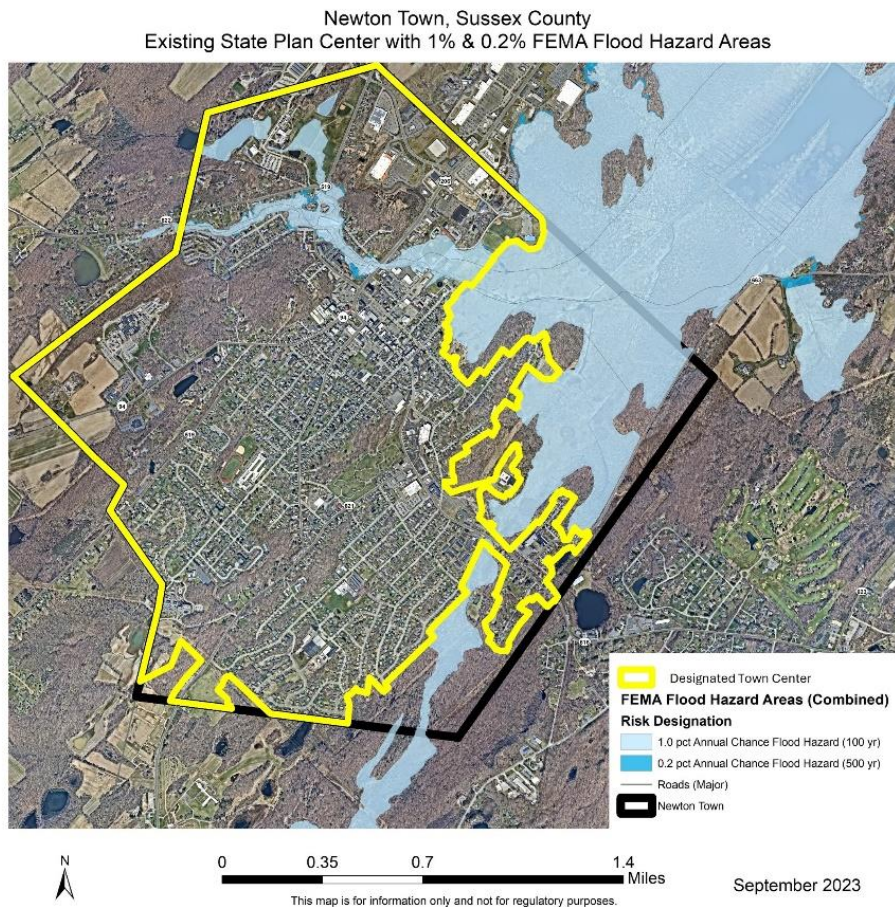
## **Flooding**

Newton participates in the National Flood Insurance Program (NFIP). Several developed areas are within the flood zone. Using a total town area of 2,149.16 acres that excludes surface water bodies, approximately **349.24 acres (16.3%) of the town are in the FEMA 100-year flood hazard area and an**

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<sup>2</sup> <https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf>

additional 5.45 acres are in the FEMA 500-year flood hazard area. A total of 354.69 acres (16.5%) of the town is in the floodplain. Newton has identified inadequacies with their existing stormwater management system to address repetitive flooding and increased precipitation events. Newton should update its municipal annex to the Sussex County Hazard Mitigation Plan on a regular interval to address changing climate conditions.



## Flood Zones

The Federal Emergency Management Agency (FEMA) maps Special Flood Hazard Areas (SFHA) adjacent to streams or rivers that experience flooding during periods of high precipitation and/or stormwater discharge. FEMA has identified flood hazard areas within Newton. In total, 354.69 acres (16.5%) of the Town's total land cover excluding surface water (2149.16 acres) falls within a FEMA SFHA.



Newton Total Area (without surface water) = 2,149.16 Acres		
Flood Hazard Area	Acres	% of Total Municipal Area
1% (100 Year) Floodplain	349.24	16.3
0.2% (500 Year) Floodplain	additional 5.45 (354.69)	16.5
Source: FEMA Flood Hazard Areas (Combined)		
NJDEP LULC 2015 Surface Water Removed from FEMA Flood Hazard Area		

A limitation of the currently delineated SFHAs is that they do not consider projections of future precipitation due to climate change. While annual increases may not result in significant additional flooding, the increased frequency of shorter but more intense precipitation events is expected to result in additional flooding events. **As such, DEP recommends that Newton utilize the SFHA for the 1.0 percent (100-year) and the 0.2 percent (500-year) storm for planning purposes.** This will allow the town to inform its current decisions in a manner that is protective of health and safety from future impacts.

Newton should also consider flood hazard area riparian buffers for any waterway in future planning. The regulated area of the riparian zone (50, 150 or 300 feet) that may restrict future development in these areas depends on the designation of that regulated waterbody as per the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-4.1 below:

(c) The width of the riparian zone is as follows:

1. The width of the riparian zone along any regulated water designated as a Category One water, and all upstream tributaries situated within the same HUC-14 watershed, is 300 feet;
2. Except for the regulated waters listed at (c)1 above, the width of the riparian zone along the following regulated waters is 150 feet:
  - i. Any trout production water and all upstream waters (including tributaries);
  - ii. Any trout maintenance water and all upstream waters (including tributaries) located within one mile of a trout maintenance water (measured along the length of the regulated water); and
  - iii. Any segment of a water flowing through an area that contains a threatened or endangered species, and/or present or documented habitat for those species, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) located within one mile of such habitat (measured along the length of the regulated water). A list of critically dependent species is available from the Department at the website set forth at N.J.A.C. 7:13-1.3; and
3. For all other regulated waters not identified in (c)1 or 2 above, the width of the riparian zone is 50 feet.

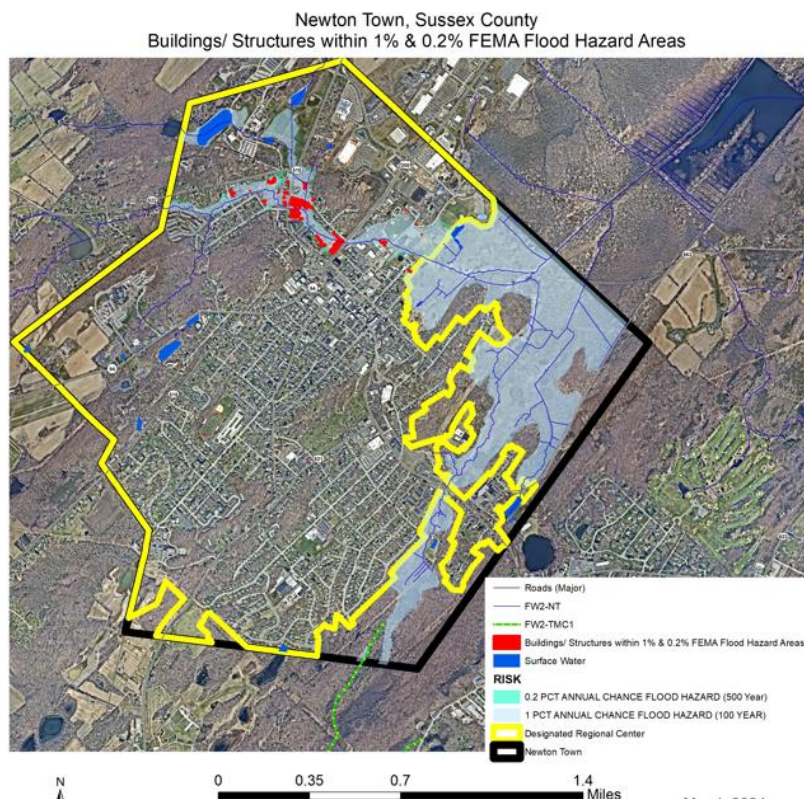
## Critical Facilities and Assets in Flood Zones

These flood-prone areas are subject to state and federal regulations which limit new construction and promotes open space preservation. In addition, municipal code should minimize new construction in flood hazard areas and mitigate any redevelopment of existing structures. Of particular concern are adverse impacts to existing assets, infrastructure, and buildings within the flood zones, and how a municipality will mitigate for potential increased vulnerability to flooding. **Newton, in addition to existing structures, critical infrastructure, emergency services, schools, should identify any stormwater, wastewater treatment and discharge, or potable water infrastructure, conveyance, utility piping, power line infrastructure, critical roadways or historic structures in or near flood zones.**

The Newton Municipal Sewer Service Area covers approximately 72.86% (1,565.89 acres) of the Town excluding surface water bodies. However, while **69.27** acres and **4.4 %** of the SSA excluding surface water is in the 1% flood zone, **74.61** acres (4.8%) of the **1,565.89** acre sewer service area (excluding surface water) is in the combined 100-year and 500-year flood zone.

Sewer Service Area Total Area (without surface water) = 1,565.89 Acres		
Sewer Service Area within Flood Hazard Area	Acres	% of Total Sewer Service Area
1% (100 Year) Floodplain	69.27	4.4
0.2% (500 Year) Floodplain	additional 5.34 (74.61)	4.8
Source: FEMA Flood Hazard Areas (Combined)		
NJDEP LULC 2015 Surface Water Removed from FEMA Flood Hazard Area		

Newton also has many building structures that are subject to flooding.



**Newton should regularly update map areas that flood frequently, including, but not limited to, repetitive loss (RL) and severe repetitive loss (SRL) properties.** If a local Floodplain Administrator is interested in obtaining a copy of their community's RL and SRL properties list for planning purposes, a request must be made in writing on the municipality's letterhead and signed by the mayor. The municipality will be required to sign an Information Sharing Access Agreement with FEMA to protect Personally Identifiable Information associated with this list. For more information on this, please contact the Region II Insurance Representative, [Marianne Luhrs at Marianne.luhrs@fema.dhs.gov](mailto:Marianne.luhrs@fema.dhs.gov).

Unimpeded transportation via road is critical to safety and is also subject to flooding. It is recommended that Newton identify the linear feet of roadways including critical evacuation routes within the flood zone. It is likely that municipal and public works officials are fully aware of areas in the Town that flood regularly.

**Newton should continue to map areas that flood regularly, including roadways/intersections, with particular attention given to evacuation routes or critical access areas.** The 2008 Master Plan and 2023 master plan re-examination report recommend that zoning regulations be enhanced and building codes updated to encourage building outside of the flood zone and to minimize construction in flood prone areas when reconstructing existing buildings. When evaluating any construction within the identified floodplain of Newton, one must also consider the cost of damage and replacement in the event of flooding. Construction of any critical utility line and associated infrastructure, emergency services, or public services buildings (schools, hospitals, churches, etc.) should be avoided in the flood hazard area. By avoiding construction in floodplains, this can also avoid adverse impacts to critical roadways and provide a safety in the event of a flood. NJDEP also supports resiliency measures including elevating critical infrastructure and relocating critical infrastructure outfalls to ensure uninterrupted power and adequate/ safe sewer and potable water service.

**DEP recommends that Newton adopt a floodplain development ordinance that is consistent with the most recent standards and National Flood Insurance Programs.** For guidance please review the riverine model ordinance at <https://www.nj.gov/dep/floodcontrol/modelord.htm> and FEMA guidance at <https://www.fema.gov/floodplain-management/manage-risk/local>.

Future development within the floodplain requires a higher level of regulation through state and federal environmental rules for flood hazard areas. **Any proposed concept plans should be presented to DEP early in review process, prior to planning or zoning board approval, and before submitting any permit applications. This preliminary review enables DEP to determine if there are any fatal flaws with the current design of the project that might result in the inability to obtain permits .**

**Green infrastructure should be incorporated into all projects within the floodplain.** By creating more open public space, Newton gains flood zone buffer areas, additional recreation areas, as well as enhanced areas for stormwater management. Any opportunity in a flood area to enhance or expand a buffer area protects vulnerable residential areas and minimizes future flood events. **Newton has initiated development of conservation corridors and should also develop a stream corridor buffer area and protection ordinance.** A reference to Section 21-10-10.24 of Revised General Ordinances is listed in MSA.

**The DEP supports the Town of Newton's efforts to adopt an updated Flood Mitigation Plan and Flood Ordinance** to effectively manage stormwater runoff and mitigate the adverse impacts of climate related flooding within and adjacent to the town acres of identified floodplain.



## **Blue Acres**

A portion of Newton includes rivers and tributaries that are not currently protected by levees, floodwalls, and channel modifications. Newton has not applied to date to the Blue Acres program for individual parcel relief from repetitive flooding.

As reference for any future flooding issues, the Green Acres, Farmland, Blue Acres and Historic Preservation Bond Act of 2007 authorized \$12 million for acquisition of lands in the floodways of the Delaware River, Passaic River or Raritan River and their respective tributaries for recreation and conservation. An additional \$124 million was approved in the Green Acres, Water Supply and Floodplain protection, and Farmland and Historic Preservation Bond Act of 2009. Properties (including structures) that have been damaged by or may be prone to incurring damage caused by storms or storm related flooding, or that may buffer or protect other lands from such damage, are eligible for acquisition. DEP encourages any town that has homes and neighborhoods that repetitively flood to consider contacting the DEP Blue Acres program regarding guidance for buyouts of flood prone properties.

DEP Blue Acres helps New Jersey residents and communities identify and avoid risks of flooding through strategic climate resilience planning and the state-led acquisition of flood-prone property. Blue Acres acts as the disaster recovery and flood preparedness arm of DEP's Office of Climate Resilience. Blue Acres purchases lands from willing sellers that have been damaged, or may be prone to future damage, due to sea-level rise, storms, or storm-related flooding, or that may buffer or protect other lands from such damage. Once purchased, homes are demolished, and the land is public open space. NJDEP encourages any town that has homes and neighborhoods that repetitively flood, or are substantially damaged, to contact Blue Acres for guidance on flood buyouts as part of overall community resilience. <https://dep.nj.gov/blueacres/>

## **Open Space**

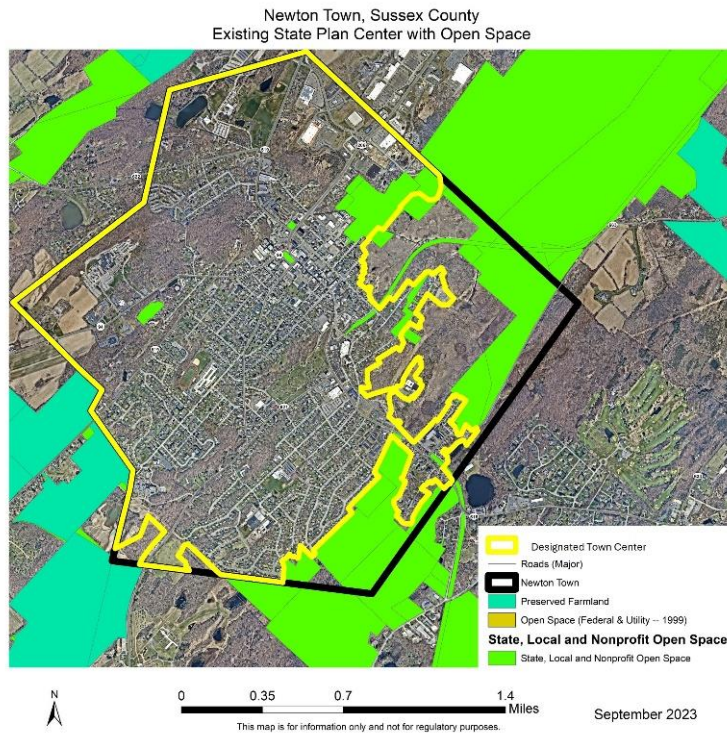
Open space not only provides Newton residents with recreational opportunities, but it also acts as a means of climate change mitigation through enhanced tree cover shade and carbon sequestration. It also improves the town and the state's natural resources by mitigating stormwater runoff, acting as flood storage, and protecting habitat for threatened and endangered species.

Based on the projected population of Newton and according to the National Recreation and Park Association standards, it is recommended that community needs require additional acres of public parkland acquisition for direct recreational usage.

## **Green Acres Program and Office of Transactions and Public Land Administration Comment**

The Green Acres program was created in 1961 to meet New Jersey's growing recreation and conservation needs. Together with public and private partners, Green Acres has protected over a half a million acres of open space and provided hundreds of outdoor recreational facilities in communities around the State. **Newton has preserved 92.44 acres of open space as municipal and county owned property and 207.24 acres of State encumbered property. Newton is included in the Sussex County Open Space and Recreation Plan but is working towards adopting as part of the Town Master Plan an Open Space Greenway Plan and an updated Critical Natural Resources Analysis. Newton completed a Recreation and Open Space Inventory (ROSI) and are working to adopt the Open Space and Recreation Plan**

**Element of the Master Plan.** Newton updated their Natural Resources Inventory in 2023 and the DEP recommends that Newton update the natural resources inventory documents as necessary to account for any changes since the last inventory as well as climate change considerations.



#### Town of Newton, Sussex

##### Local and State Open Space

Type	Acres
Municipal	91.52
County	0.87
State	207.24

Preserved Farms = 0 Acres

Federal Open Space = 0 Acres

DEP recommends that Newton further work with Sussex County and surrounding municipalities to provide and expand corridors of open space and natural features to protect historic structures, support habitat connectivity and adapt to changing climate conditions. We also recommend that Newton add municipal owned open space within the center to the ROSI by applying for Green Acres Funding and that a habitat management plan be generated for each of these large open space areas. These actions will ensure that these areas remain open and available for public use. Any steep slopes within these preserved areas should also be included under the steep slope ordinance.

## **State Open Space**

If Newton pursues additional open space land via State resources, any use of Green Acres-encumbered parkland for purposes other than recreation and conservation, even temporary use, requires Green Acres review and approval at a minimum. Any easements or other conveyance of land granted for other than conservation and recreation purposes (such as for utilities or road rights-of-way) on Green Acres-encumbered parkland must be reviewed by the Green Acres Program and will require Commissioner and State House Commission approval. A full jurisdictional determination by the Green Acres Program is required for any land which may have been held for recreation and conservation purposes by the municipality or the county at the time that they accepted Green Acres funding, regardless of whether the lands were listed on a Recreation and Open Space Inventory (ROSI).

Any easements or other conveyance of land granted for other than conservation and recreation purposes (such as for utilities or road rights-of-way) on Green Acres-encumbered parkland must be reviewed by the Office of Transactions and Public Land Administration Public Land Compliance section and will require Commissioner and State House Commission approval. A full jurisdictional determination by the Office of Transactions and Public Land Administration is required for any land which may have been held for recreation and conservation purposes by the municipality or the county at the time that they accepted Green Acres funding, regardless of whether the lands were listed on a Recreation and Open Space Inventory (ROSI).

### **Potential Future Planning and Funding Opportunities:**

The following comments represent potential planning and funding opportunities within the Green Acres Program that Newton may consider to help achieve its goals. We have also provided a review of the Town's proposed planning areas and development activities in the context of their existing preserved parkland. The Department can help Newton achieve their goals of coordinating open space/density development property acquisitions through land preservation, park development, and stewardship funding opportunities.

In the following, we provide comments on potential planning and funding opportunities within the Green Acres Program that the town may consider helping achieve its goals. We also have provided a review of the Town's proposed planning areas and development activities in the context of their existing preserved parkland.

### **Potential Future Planning and Funding Opportunities:**

The MSA and 2023 Master Plan identified proactively conserving environmentally sensitive areas, providing more bicycle infrastructure, improving the facilities and natural areas of existing parks, advancing accessibility of open space, prioritizing open space opportunities to underserved communities, and promoting eco-tourism. Green Acres can help Newton Town achieve their goals through land preservation, park development, and stewardship funding opportunities.

Newton is currently home to several great parks and open spaces. In fact, many of its residents are less than a ½ mile away from a preserved open space or park. Most of Newton's residents are only within a mile or 2 miles from the nearest trail. There are also priority lands for ecological integrity identified through the Conservation Blueprint that are not currently preserved. Through assistance from Green

Acres, Newton can find solutions to bring nature and trails closer to where people live and protect ecologically sensitive landscapes.

It is undeniable that the Sussex Branch Trail is one of the greatest ecotourism assets in Town. To increase awareness and encourage more residents and community members to recreate on the trail, consider collaborating with New Jersey State Park Service, Sussex County, neighboring municipalities, local trail and outdoors groups, and nonprofit organizations to think of creative ways to define and shape the identity of the Sussex Branch Rail Trail. A few exemplary trail projects that have created trail destinations include the Highline in New York City, the 606 Trail in Chicago, the Circuit Trails network in New Jersey and Pennsylvania, the Lady Bird Lake Trail in Austin, and the Midtown Greenway in Minneapolis. See Appendix for reference photos. These projects have created cohesive and unique branding identities to help users find their way to the trail. Creating a logo or brand will excite residents and visitors about the trail and all the opportunities that it has to offer. Other improvements to consider are upgraded trailhead signage that details points of interest and distances to points of interest, scenic views, and nearby recreation opportunities, as well as wayfinding kiosks, water fountains, benches, and trash receptacles. Signage and wayfinding stationed across town will also better promote the Sussex Branch Trail and make stronger geospatial connections to other parks and points of interest. It is worth considering a combination of solutions that can be low cost and are community driven. Trail signage, interpretative signage, kiosks, and trail benches are all eligible costs under the Green Acres Stewardship grant.

In addition to signage and wayfinding, physical links are needed to better connect the Sussex Branch Trail in Newton. The Town may consider collaborating with private developers and private landowners for trail connections. The Town may also consider partnering with the their Board of Education to build trails that can provide safe routes to schools. For projects that involve acquisition or park development -- either new park developments or rehabilitation of existing parks -- the Town can consider applying for funding through Green Acres. Additionally, the Town may want to work with the County or with local nonprofits that are eligible to receive Green Acres funding.

The Green Acres Program seeks to fund projects that provide and improve recreation and conservation areas throughout the State. One of the goals of the Program is to help alleviate environmental justice issues by giving additional points in the priority ranking system to projects within designated Overburdened Communities (OBC), which are often the communities which have the greatest need for parkland and open space. The 2024 dataset from New Jersey Department of Environmental Protection's Environmental Justice Mapping tool (EJMAP) indicates that there are several OBCs with low income and minority residents, which could benefit from increased access to parkland. The Town may want to consider developing a plan for a proposed public recreation and conservation project that would serve residents of OBCs. In addition, the Town can make sure that potential trail connections within the Town also service and benefit residents of these OBCs. While analyzing land use, open space, OBC, and vacant land (both by tax records and through GIS), there are a few areas to consider for future parkland and or trails that would directly benefit residents of the OBCs:

- Block 3.04 Lot 1 is largely wooded and is a high point in Town. Consider partnering with the landowner to build a trail or overlook park.
- Consider partnering with Newton Medical Center to build a trail network in their woodlands.

- Town owned parcels of Block 5.04, Lot 3; Block 4.02, Lot 1; and Block 4.02 Lot 30 have potential for trails and a park that overlook the town.
- Consider partnering with Sussex County Community College to build trails across the campus that could connect with the Town's trail network.

The Town can apply for Green Acres park development or stewardship funding to address stormwater management concerns at Memory Park and other parks that might need assistance. Green Acres encourages nature-based resiliency strategies to mitigate the effects of flooding. Please note that Green Acres regulations do not permit locating stormwater management and other climate change mitigation and adaptation infrastructure on Green Acres-encumbered parkland required for a non-parkland project or intended to serve other development. However, resiliency measures that are intended to serve the park and may have indirect local impacts to flooding may be permitted. Please contact the Office of Transactions and Public Land Administration Sussex County Compliance Officer, Kevin Appelget at [kevin.appelget@dep.nj.gov](mailto:kevin.appelget@dep.nj.gov) with any questions or concerns.

The Town may contact Larry Fink at [larry.fink@dep.nj.gov](mailto:larry.fink@dep.nj.gov) with any questions regarding park and open space acquisition projects. The Town may also contact Connor Milligan at [connor.milligan@dep.nj.gov](mailto:connor.milligan@dep.nj.gov) with any questions regarding park development or stewardship projects. For more information on the Green Acres Program and examples of assistance applications, please refer to <https://www.nj.gov/dep/greenacres>.

The Green Acres Program applauds Newton for working to preserve and maintain the town's parkland. We encourage the Town to apply for funding and collaborate with eligible nonprofits and the County on proposed projects that are eligible for Green Acres funding. The Green Acres Program's partnership with the local governments and nonprofits could help the area achieve goals of a shared mission to preserve the area's natural, historic, and recreational resources to better the local community and New Jersey residents alike.

### **Newton Existing Parkland, Planning Areas, and Development Activities:**

The Town was active with Green Acres between 1978 and 1982. It partnered with the Green Acres Program to acquire and develop several parks and open spaces within the Town. Overall, the Green Acres Program has helped to fund the acquisition of approximately 15 acres in Newton and has helped to fund the development of three (3) Town Parks. In addition, Newton Town contains several State protected conservation areas, including the Paulinskill River Wildlife Management Area, the Sussex Branch Trail which is managed as part of Kittatinny Valley State Park and the NJ Natural Lands Trust Mackenzie's Bog Preserve.

Newton has five (5) closed projects with the Green Acres Program. There are currently no open projects with the Green Acres Program. Park inspection reports indicate that the most recent inspection occurred in May 2023. These reports reveal that the Town's Green Acres funded parkland was, for the most part well maintained. It was noted in the May 2023 inspection that there was a missing Green Acres sign at the Summit Avenue Park and a small area of dumping existed at Memory Park.

As noted in the Town's Municipal Self-Assessment Report, the current petition for Plan Endorsement is to effectuate a renewal of the Town's existing Town and Regional Center. There are limited areas of Green

Acres-encumbered Municipal parkland within the existing Town Center. There are, however, Town owned lands labelled as vacant land within the center, that are denoted as Rank 4 habitat on the Landscape Project mapping. These parcels should be considered for preservation as open space due to site conditions and limited development potential. These parcels are identified as Block 4.02, Lots 1 and 30, Block 5.04, Lot 3.

The Town's Municipal Self-Assessment Report included recent and upcoming development activities. A review of the development activity locations revealed that no encroachments or conflicts with current parkland is evident. As a general reminder to the Applicant, any use of Green Acres encumbered parkland for purposes other than recreation and conservation, even temporary use, requires Green Acres review and approval at a minimum. Any easements or other conveyance of land granted for other than conservation and recreation purposes (such as for utilities or road rights-of-way) on Green Acres-encumbered parkland must be reviewed by the Office of Transactions and Public Land Administration Public Land Compliance section and will require Commissioner and State House Commission approval. A full jurisdictional determination by the Office of Transactions and Public Land Administration is required for any land which may have been held for recreation and conservation purposes by the municipality or the County at the time that they accepted Green Acres funding, regardless of whether the lands were listed on a Recreation and Open Space Inventory (ROSI). Please contact the Sussex County Compliance Officer, Kevin Appelget, at [kevin.appelget@dep.nj.gov](mailto:kevin.appelget@dep.nj.gov) with any questions or concerns.

### **Natural and Historic Resources**

New Jersey is the most densely populated state in the nation. One of the consequences of this is the extreme pressure that is placed on our natural resources. As the population grows, we continue to lose or impact the remaining natural areas of the state. As more and more habitat has been lost, people have also gained a greater understanding of and appreciation for the benefits and necessity of conserving the natural ecosystems of the state.

For example, we know that wetlands are critical for recharging aquifers, lessening the damage from flooding, and naturally breaking down contaminants in the environment. Forests and grasslands protect the quality of our drinking water, help purify the air we breathe and provide important areas for outdoor recreation. Collectively, these habitats are of critical importance to the diverse assemblage of wildlife found in New Jersey, including endangered and threatened species and species of special concern.

### **Wetlands and Riparian Buffers**

Based on a review of the Municipal Self-Assessment for Newton, Sussex County by the Division of Land Resource Protection (Division), the Division believes that mostly all areas of importance for future development have been outlined within the Master Plan report. We strongly agree with the continued push for protecting undeveloped and environmentally sensitive areas, expanding access to, and improving green open spaces, incorporating best management practices for stormwater management and green infrastructure techniques, and limiting development outside of environmentally important areas.

Areas regulated by Watershed and Land Management (Program) that are present within the town include flood hazard areas, floodways, riparian zones, freshwater wetlands, transition areas, and State open waters. We discourage the development of these areas where possible and note that permits will likely

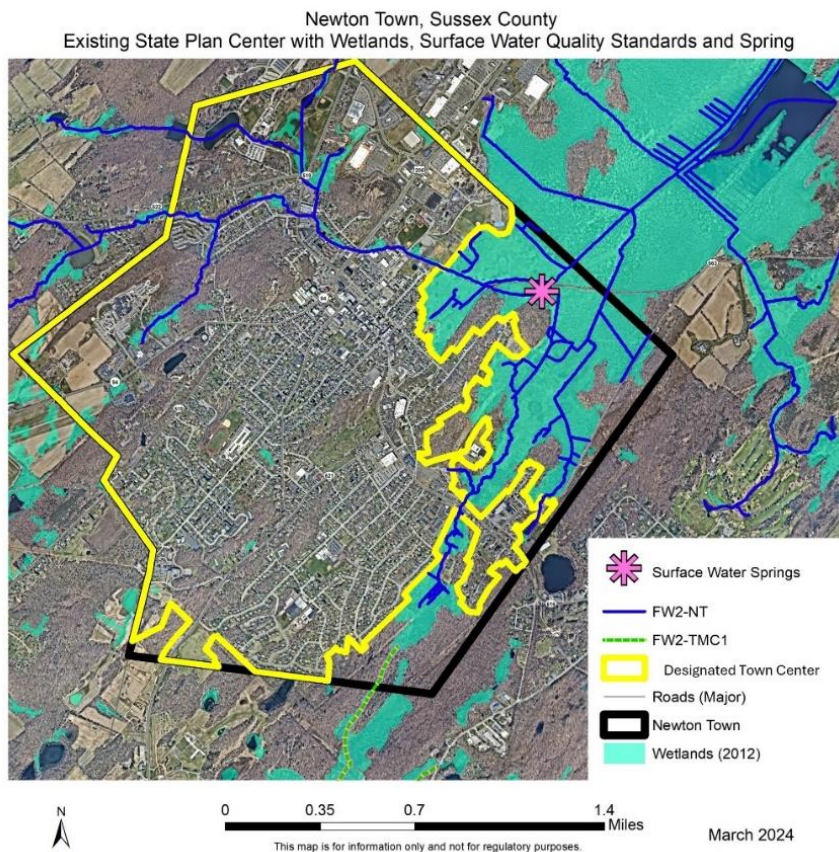
be required by our office for any regulated activities (including the creation of trails) proposed within these areas. Please see our Common Projects page for more information on what permits may be required for specific projects: <https://dep.nj.gov/wlm/lrp/common-projects/>.

To comment on resources protected by our Program, please be advised that the wetland mapping provided by our department is only meant to be used as a predictive tool and does not represent verified wetland boundaries. It is likely that additional wetlands exist beyond the approximate 280 acres specified in the report. Waterways, including intermittent waters, may also be present beyond what is delineated by available mapping. As such, it is very important that any future developments fully consider impacts to regulated resources based on field investigation and Program verification as opposed to mapping alone. Based on further GIS review, of Newtons total area of 2,163.86 acres, Newton has 479.10 acres of deciduous forested land (22.1%) and 336.67 acres (15.6%) of wetlands which are protected under state and federal regulation. Category 1 (C1) tributaries or critically dependent wildlife (CDW) species are associated with Newton that would require a riparian buffer of 300 feet. Page 13 of the 2023 Master Plan Update mentions that 900 feet of the C1 category Pequest River runs through Newton and requires a 300-foot buffer. Wetlands outside C1 category riparian buffers would be 50 feet and the Department may also regulate activities within 150 feet of a wetland as a transition/buffer area. Where applicable, undeveloped wetlands should be designated as Planning Area PA 5 environmentally sensitive or have a critical environmental site (CES) zoning overlay with a requirement that any proposed development include a habitat suitability determination.

Freshwater wetlands and transition areas (buffers) are regulated by the Freshwater Wetlands Protection Act rules (NJAC 7:7A). Previously misunderstood as wastelands, wetlands are now recognized for their vital ecological and socioeconomic contributions. Wetlands contribute to the social, economic, and environmental health of our state in many ways:

- Wetlands protect drinking water by filtering out chemicals, pollutants, and sediments that would otherwise clog and contaminate our waters.
- Wetlands soak up runoff from heavy rains and snow melts, providing natural flood control.
- Wetlands release stored flood waters during droughts.
- Wetlands provide critical habitats for a major portion of the state's fish and wildlife, including endangered, commercial, and recreational species.
- Wetlands provide high quality open space for recreation and tourism.





There are on-site activity limits on lands identified as wetlands. The NJ Freshwater Wetlands Protection Act requires DEP to regulate virtually all activities proposed in the wetland, including cutting of vegetation, dredging, excavation or removal of soil, drainage or disturbance of the water level, filling or discharge of any materials, driving of pilings, and placing of obstructions.

### Center Flood Hazard Areas

Newton has 16.5% of land within FEMA Flood Hazard Areas. The proposed center includes this flood hazard area, therefore any proposed activities in those areas would need to be compliant with the Flood Hazard Area Control Act Rules found at N.J.A.C 7:13.

### Surface Water

Newton has several valuable and recreational bodies of water including streams and tributaries. These water bodies are subject to flooding which is exacerbated by an increase in impervious cover and a decrease in stormwater's ability to infiltrate the ground. Newton's surface water bodies include at least one Category 1 exceptional waterway (900 feet of the Pequest River) but all waters within the town center are classified as FW2-non trout streams which require a 50-to-150-foot buffers depending on current buildout and habitat present. All waters within the town boundaries that are categorized as C1 or C1 tributaries require a 300 ft buffer which are determined and regulated in the NJDEP Flood Hazard Area



Control Act Rules. Where applicable, undeveloped stream buffer areas should either be redesignated at PA-5 Environmentally Sensitive or have a CES zoning overlay with a requirement that any development proposal include a habitat suitability determination. Forested habitats on both sides of any river/stream/wetland corridor should be protected and maintained.

### **Open Waters – Surface Water Quality Standards (SWQS)**

Pequest River

The headwaters of the Pequest River leave the municipal boundary to the south, but never cross into the designated center.

Paulins Kill River & tribs.

The Paulins Kill River & Tributaries enter the municipal boundary and center from the northeast and north travelling westerly across the municipality leaving the center just north of the Newton MUA (Sewer Dept) before crossing the municipal border within the Paulins Kill Wildlife Management Area.

All waters within the town center are FW2-NT. 900 feet of the Pequest River outside the center is classified as C1.

No Anadromous waters are located in the proposed Center.

### **Surface Water Quality Standards**

The Surface Water Quality Standards (SWQS) are rules established under the New Jersey Administrative Code at N.J.A.C. 7:9B that include the policies, surface water classifications, and surface water quality criteria necessary to protect the quality of New Jersey's surface waters. The SWQS protect the health of New Jersey waters and ensure that they are suitable for all existing and designated uses, including recreation and water supply. SWQS also protect the health of New Jersey citizens and visitors by ensuring that the waters at our bathing beaches are safe for swimming, that water supplies are suitable sources of drinking water, and that the fish and shellfish harvested from our waters are safe to eat. SWQS protects waters for other uses such as trout production and trout maintenance, and agricultural and industrial use.

The SWQS establish designated uses (e.g., drinking water supply, recreation, etc.) to the State's surface waters, classify surface waters based on those uses (e.g. FW1, FW2-TP, etc.), and set water quality criteria that protect the designated uses for each water classification. The SWQS contains various policies for protecting water quality, including general, technical, antidegradation, nutrients, and mixing zones. The SWQS also contain procedures for establishing and modifying water quality-based effluent limitations for NJPDES point sources and reclassifying specific stream segments.

Surface waters are classified based on the type of waterbody and the designated use of the waterbody. Freshwaters are classified as FW1 waters (not subject to any man-made wastewater discharges) and FW2 waters (all other freshwaters except Pinelands waters). FW1 waters are non-degradation waters set aside for posterity because of their unique ecological significance. FW2 waters are further classified based on their ability to support trout, which thrive in cooler stream temperatures. Trout classifications include trout production (FW2-TP), trout maintenance (FW2-TM), and non-trout (FW2-NT).

The SWQS establishes antidegradation policies for all surface waters of the State (see N.J.A.C. 7:9B-1.5(d)). The antidegradation policies require that all existing and designated uses shall be maintained and protected for all surface waters of the State; impaired waters must be restored to meet SWQS; and existing water quality shall be maintained.

1. Category One (C1) Waters: This tier of antidegradation designation applies to surface waters designated as C1 waters (see N.J.A.C. 7:9B-1.4). C1 waters are protected from any measurable change to existing water quality because of their exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources. C1 waters have more stringent antidegradation requirements than Category Two waters.
2. Category Two (C2) Waters: This tier of antidegradation designation applies to surface waters designated as C2 waters (see N.J.A.C. 7:9B-1.4). Some lowering of existing water quality may be allowed in C2 waters based upon a social and/or economic justification. However, all existing and designated uses must be protected in all cases and waterbodies that are generally not meeting criteria must be improved to meet water quality criteria. All waterbodies not designated as Outstanding Nature Resource Waters or Category One receive the Category Two antidegradation designation.

Additional information is also provided in the [Antidegradation/Category One Fact Sheet](#).

Newton has 354.69 acres of floodplain that are protected under state and federal regulation. Overlays are recommended for protected areas in flood zone C1 (300 foot) buffer), C2 waters (50-foot buffer), 150-foot transition areas, Wetlands, Surface Water and Open Space (local, non-profit, State, Federal).

Newton also has several impaired waters within municipal boundaries (Paulins Kill Lake, Pequest River, Pequest River Watershed) requiring a total maximum daily load (TMDL) restoration plan as outlined by US Clean Water Act. Information is available at

<https://dep.nj.gov/njpdes-stormwater/municipal-stormwater-regulation-program/tmdl/>

However, a stream corridor buffer plan would reduce sedimentation to valuable waterways in Newton. Stormwater management would also be improved by preventing excessive sedimentation, reducing impervious surface, promoting on site stormwater management, and upgrading the existing Town stormwater management system.

### **Dam Safety**

There are three (3) NJDEP regulated dams in Newton.

Atlas #	Dam Name	Class	City/Town	County	Last Date Inspected	Current Condition	Lat	Long	Owner 1
22-103	Houghton Dam	L	Newton Town	Sussex			41.06348333	-74.75913333	Wood Associates
22-104	Don Bosco Dam	L	Newton Town	Sussex	12/14/2022	Satisfactory	41.06858333	-74.75548333	Town of Newton
22-291	Paulins Kill Site 4 Dam	H	Newton Town	Sussex	12/14/2022	Satisfactory	41.06721667	-74.7634	Town of Newton

### Vulnerable, Threatened and Endangered Species

The NJDEP's Fish and Wildlife's (NJFW) Office of Environmental Review (OER) has reviewed the proposed town center plan. The Town planning board should recommend for any development/redevelopment proposals that come before it that applicants provide evidence of consultation with DEP GEO-WEB. (<https://www.nj.gov/dep/gis/geoweb splash.htm>). The comments and recommendations are subject to change, if any additional environmental issues or concerns, that may negatively affect resources under the purview of NJFW are discovered during pre-construction surveys, or the construction phase of any proposed project. The OER should be contacted upon discovery at (609) 960-4502 or (609) 292-9451

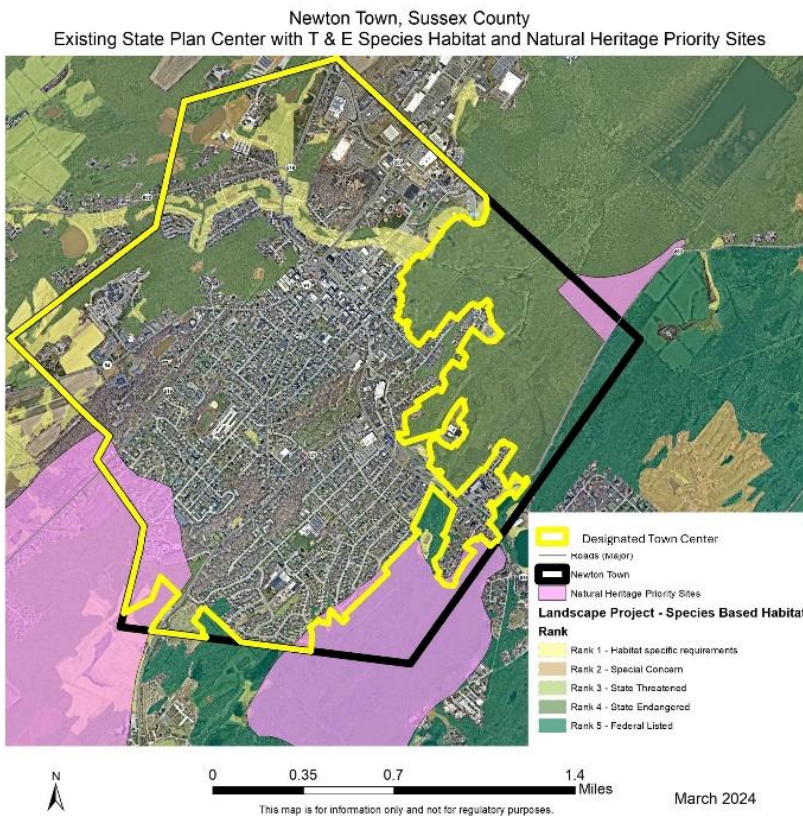
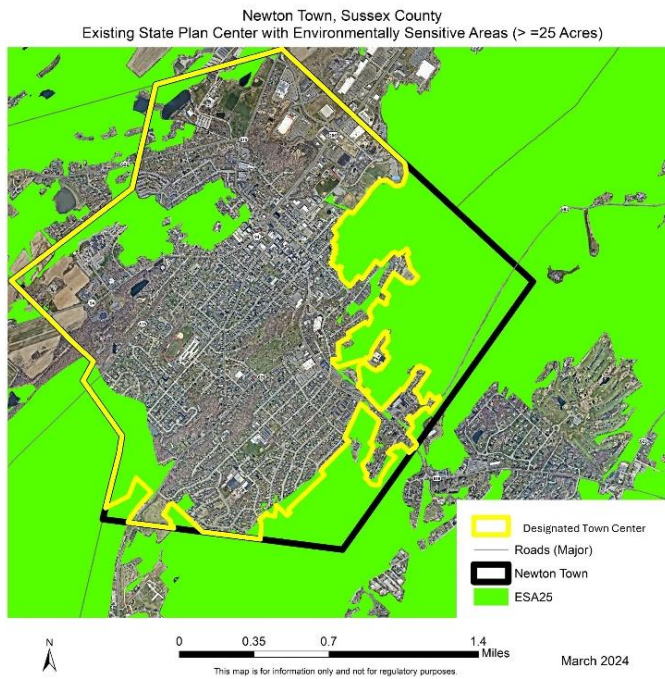
### T& E Habitat - Landscape Project Town Wide

Landscape Rank 1,2, 3, 4 and 5 Threatened and Endangered Species are present in the town. While approximately 60.33% of Newton has no ranked habitat over the entire town, approximately 7.54% (163.11 acres) is designated rank 5, 24.66% (533.71 acres) is rank 4, 0.046% (1.68 acres) is rank 3, 1.32% (28.6 acres) is rank 2 and 6.20% (134.19 acres) is rank 1 habitat. The entire town is predominantly in environmentally sensitive Planning Area PA-5 (1,899.11 acres/87.8%) of Rural Planning Area PA-4 (264.75 acres) 12.2%).

Landscape Project T& E	
Rank	Acres
1	134.19
2	28.6
3	1.68
4	533.71
5	163.11
Vernal Pool Habitats	
Potential	3
Documented	0

These rankings define the following habitat types:

- Rank 1 is assigned to species-specific habitat patches that meet habitat-specific suitability requirements but do not contain confirmed sightings of endangered, threatened, and special concern wildlife species.
- Rank 2 is assigned to species-specific patches containing one or more occurrences of habitats of special concern.
- Rank 3 is assigned to species-specific habitat patches containing one or more occurrences of State threatened species.
- Rank 4 is assigned to species-specific habitat patches with one or more occurrences of State endangered species.
- Rank 5 is assigned to species-specific habitat patches containing one or more occurrences of wildlife listed as endangered and threatened pursuant to the Federal Endangered Species Act of 1973.



Within the town center, 80 % of the area has no ranked habitat while 1% is designated rank 5, 12% is rank 4, less than 1% is rank 3, 1 % is rank 2 and 6% is rank 1 habitat.

## **Existing Newton Center Assessment**

Key: F – Fed, S – State, E – Endangered, T – Threatened, SC – Special Concern, S – Stable

CSP - Consensus State Status Pending Rule Revision

SOA – Species Occurrence Area indicate possible presence

L – Landscapes indicate habitats valued for

**The Center boundary proposed by Newton includes riparian flood areas and E&T habitats.** However, some adjustments may be made during the re-endorsement process to address repetitive flooding and/or identified habit. While the proposed center is already well developed, undeveloped habitats on both sides of any river/stream corridor should be maintained. For any development proposals within Newton, applicants should provide evidence of consultation with DEP GEO-WEB. (<https://www.nj.gov/dep/gis/geoweb splash.htm>)

The comments and recommendations of the NJ DEP's Fish and Wildlife's (NJFW), Office of Environmental Review (OER) are subject to change, if any additional environmental issues or concerns, that may negatively affect resources under the purview of NJFW are discovered during pre-construction surveys, or the construction phase of any proposed project. The OER should be contacted upon discovery at (609) 960-4502 or (609) 292-9451.

### **Newton Town Center:**

#### **Avian Species**

Bald Eagle	(S/E) Foraging	L
Red-shouldered Hawk	(S/E) Breeding Sighting	SOA/L
American Bittern	(S/E) Breeding Sighting	SOA/L
Barred Owl	(S/T) Non-Breeding Sighting	SOA/L
Long-eared Owl	(S/T) Non-Breeding Sighting	L
Least Bittern	(S/E) Breeding Sighting	L
Wood Thrush	(SC) Breeding Sighting	SOA/L
Worm-eating Warbler	(SC) Breeding Sighting	L
Great Blue Heron	(SC) Foraging	SOA/L

#### **Terrestrial species**

Indiana Bat	(F/E – S/E) Maternity/Roost	L
Bobcat	(S/E) Live Individual Sighting	SOA/L
Jefferson Salamander	(SC) Vernal Pool Non-Breeding	SOA/L
Northern Metalmark	(SC) Casual Flyby	L



- \*Northern Myotis (F/E – S/E) Summer range
- \*Little Brown Bat (CSP/E) Summer range
- \*Tri-colored Bat (CSP/E) Summer range
- \*Eastern Small-footed Myotis (CSP/E) Summer range
- \*Big Brown Bat (CSP/SC) Summer range

*(\*These Bats are found statewide in habitats with highly suitable roost trees {trees with shaggy or exfoliating bark, and trees of any species over 26 inches d.b.h.}) (\*diameter at breast height)*

**Newton should continue to promote ongoing and proposed community environmental education and public outreach events.**

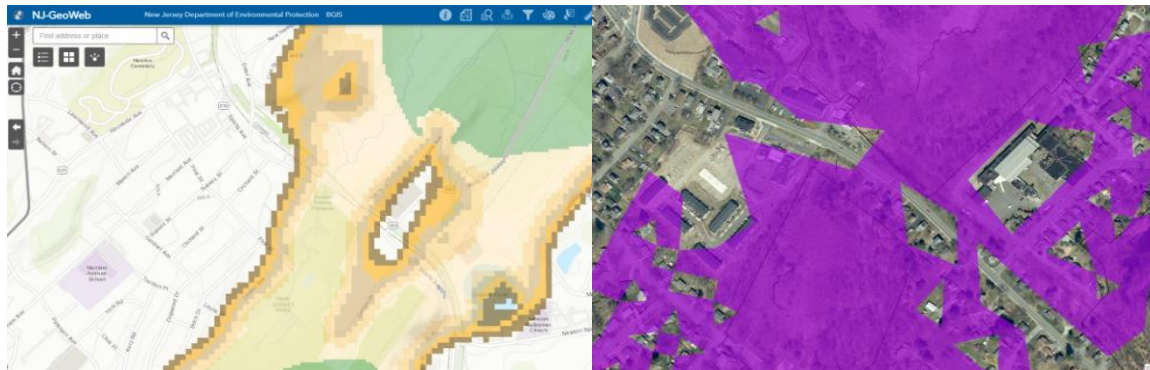
**Newton updated its Natural Resources Inventory and its Conservation Master Plan Element in 2023.** DEP supports Newton’s commitment to conservation and renewable energy, although it encourages the Town to pursue it in an ecologically responsible manner.

**Newton should continue to protect the Town’s open spaces and the recolonization and reuse of open field habitats for ground nesting and foraging birds.** Further research is needed to determine the causes and nature of direct and indirect effects of the placement of solar arrays on and/or over ground nesting habitat on birds.

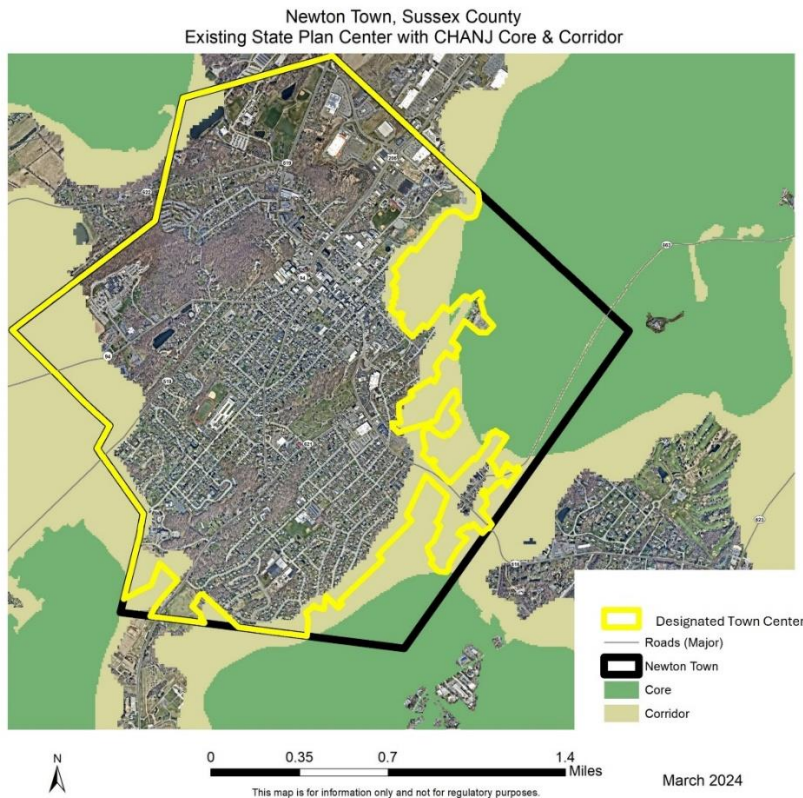
#### **Connecting Habitat Across New Jersey (CHANJ) Mapping**

A review of the Department's CHANJ mapping (information on this mapping found at <https://www.nj.gov/dep/fgw/ensp/chanj.htm>) shows that overlapping several areas at the boundaries of the proposed center, there are identified wildlife travel corridors that could serve as viable wildlife passageway through Newton and around the proposed center. A passageway classified as a more restricted wildlife corridor is shown in brown. While a passageway classified as less restrictive to wildlife movement is shown in tan, based on the land cover features occurring within it.

**Habitat corridors within CHANJ Corridor Areas overlap the south, east, and west borders of the center in Newton.** A CHANJ Corridor passes through the Center at Sparta Ave. This can also be seen on Terrestrial and Wetland Core-Connector Network mapping (in purple).



Given the potential significance of this area as a landscape habitat connector/wildlife movement corridor, **DEP recommends that Newton incorporate a habitat corridor overlay district in their zoning ordinance.** Development in the Corridor Areas that would obstruct / inhibit movement between habitats should be minimized and by reducing the development potential of this critical area, the likelihood that this area will remain a suitable corridor is significantly increased.

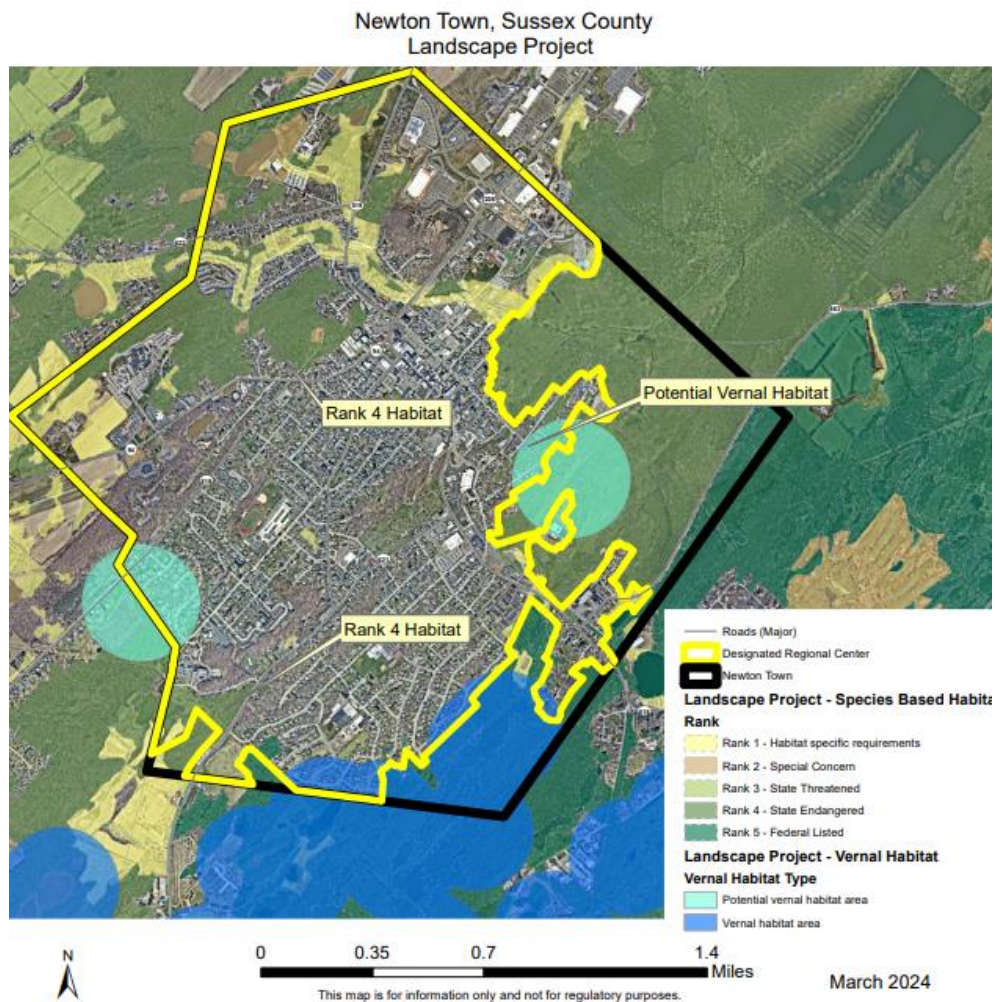


**Note:** Cores: Patches of contiguous natural land cover (land and water) at least 78.5 ha in size, which are likely to meet the habitat needs (shelter, forage/prey, reproduction) of most terrestrial wildlife species, especially if functionally linked to other Cores.

Corridors: Continuous swaths of habitat representing the most efficient movement routes between Cores. The Corridors are displayed in color gradients (1-5) based on a cost-weighted distance analysis. Gradient 1 (lightest color) represents the most optimal move-through habitat, whereas gradient 5 (darkest color) is the most marginal.

### Vernal Pools and Vernal Habitats

There are several known vernal pool habitat areas located in the eastern and southwestern area of the proposed center. While there are no areas within the center that are undeveloped vernal pools, there are two mapped vernal pools that overlap the edge of the center. Within undeveloped areas, these pools may be used by a few “obligate” vernal pool breeding species which are dependent upon the pools for successful breeding.



In 2001, DEP partnered with Rutgers University Center for Remote Sensing and Spatial Analysis (CRSSA) to develop a method for mapping potential vernal pools throughout New Jersey. Through an on-screen visual interpretation of digital orthophotography, CRSSA identified over 13,000 potential pools throughout the state. A subset of these pools was field verified and confirmed, with an 88% accuracy rate, to meet the physical characteristics to qualify as a vernal pool (Lathrop et al. 2005). This source indicates that Newton has several vernal pools.

In accordance with N.J.A.C. 7:7A-1.4, the term “vernal habitat” includes a vernal pool - or the area of ponding - plus any freshwater wetlands adjacent to the vernal pool. Vernal habitat areas mapped in the Landscape Project rely upon those data developed by the DEP and CRSSA to identify sites that should be field checked for possible identification as vernal habitat areas. DEP staff are in the process of field-verifying these pools. The Department also maps vernal habitat areas based upon on-the-ground assessment of sites not captured by the CRSSA mapping. The Landscape Project includes all the CRSSA-identified sites, as well as sites identified by on-the-ground reconnaissance.



## State Wildlife Action Plan

The **State Wildlife Action Plan (SWAP)** is a strategic and cost-effective strategy for preserving the state's wildlife resources for the future. Recovering species that have reached threatened or endangered status is typically more costly than preventative actions that keep species populations from reaching such declines. Proactive management actions identified in the SWAP are intended to keep species from becoming threatened or endangered or to aid in the recovery of those that are already listed.

State Wildlife Action Plans are proactive plans created by virtually every state and U.S. territory that assess the health of each state's wildlife and habitats, identify the problems they face, and outline the actions that are needed to conserve them over the long term. The New Jersey Wildlife Action Plan identifies both priority species and habitats, assesses the threats they face and outlines actions to take to improve or stabilize their condition.

New Jersey's State Wildlife Action Plan (2018) was approved by the U.S. Fish and Wildlife Service in July 2018. New Jersey's Plan serves as a blueprint for conserving our wildlife heritage over the next decade. The Plan identifies priority actions over the next five to ten years to address the myriad threats facing our wildlife populations and their habitats. It also identifies species of greatest conservation need in New Jersey, as well as 107 focal species that are of the highest conservation priority.

New Jersey's State Wildlife Action Plan can be found at [https://www.nj.gov/dep/fgw/ensp/wap/pdf/wap\\_plan18.pdf](https://www.nj.gov/dep/fgw/ensp/wap/pdf/wap_plan18.pdf)

## Natural Heritage Priority Sites

The MSA Figure 10 accurately shows all Habitat Rankings. However, similar considerations should be made for areas within a mapped Natural Heritage Priority area, shown in pink in the figure below. These mapped areas represent some of the best remaining habitats for rare plant species and rare ecological communities in the state by the DEP Endangered and Nongame Species Program.

### **There are two (2) Natural Heritage Priority (NHP) Sites located in Newton.**

Muckshaw Ponds	Newton Town Center overlaps a small portion of the northern most area of the Muckshaw Ponds NHP Site
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Mackenzie's Bog Preserve	(see State Open Space Parcel B: 23.01, L: 4)
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## Natural Heritage Grid Map (This layer indicates occurrences of State Listed plants)

**The Natural Heritage Grid Map indicates that there are several identified occurrences of sensitive plants within the proposed center.** For reference, the Natural Heritage Grid Map valued grids for the following data sensitive species/ecological communities overlay the southwest and southeast corner portion of the proposed center. Seven (7) Valued grids for plants with a documented location known overlay the Center. All have a documented plant location known within 1.5 Miles and one (1) overlaying the Sussex Swamp Preserve and Mackenzie's Bog Preserve has known documented plant species including Few-fruit Sedge (S/E), Brown Sedge and Hitchcock's Sedge



A full listing of Rare Plant Species and Ecological Communities Presently Recorded in the NJ Natural Heritage Database for Sussex County can be found at:  
<https://www.nj.gov/dep/parksandforests/natural/heritage/textfiles/monmouth.pdf>.

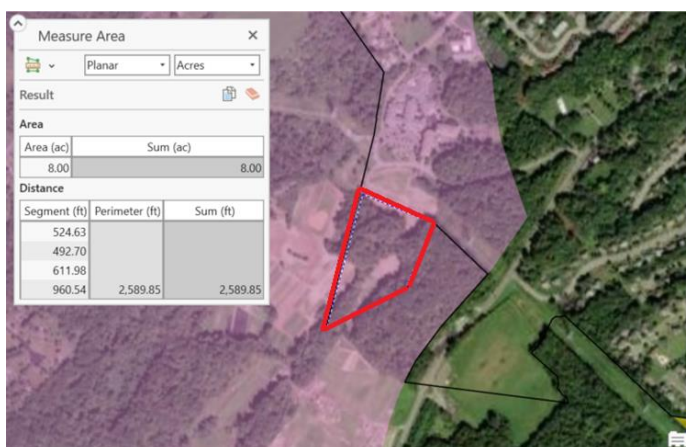
More information about State Endangered plant species and Plant Species of Concern and the codes used on the list of species can be found at:

<https://www.nj.gov/dep/parksandforests/natural/heritage/njplantlist.pdf>

[https://www.nj.gov/dep/parksandforests/natural/heritage/nhpcodes\\_2010.pdf](https://www.nj.gov/dep/parksandforests/natural/heritage/nhpcodes_2010.pdf)

### Non-Game Wildlife and Natural Heritage Sites local concerns

The justification for the Muckshaw Ponds primary boundary includes globally rare upland forest, globally imperiled wetlands, and associated rare plants and animals.

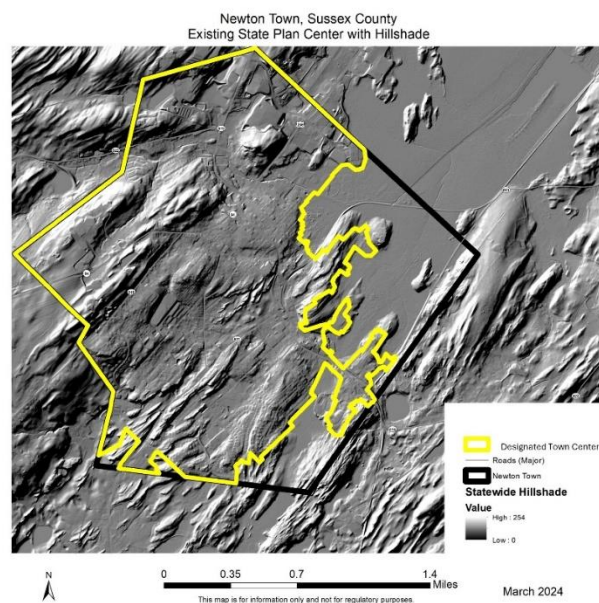
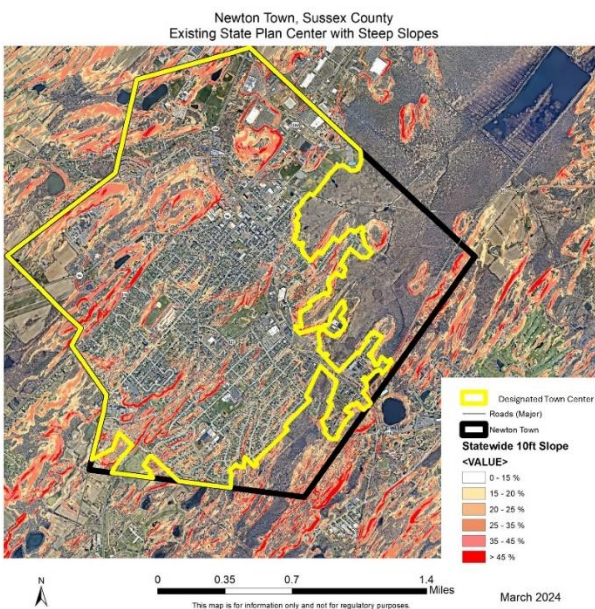


Undeveloped areas, in particular, undeveloped forested areas of the NHP site and particularly the approximately 8-acre area outlined in red (above) should be cut out of the designated center boundary and remain undeveloped.



### Steep Slopes

Newton should prepare an inventory of steep slopes and should confirm adoption of a steep slope ordinance. Several areas have been identified that have a slope greater than 20 %, particularly in the Northwest of the municipality. As guidance, the DEP 2008 model steep slope ordinance ([https://www.nj.gov/dep/wqmp/docs/steep\\_slope\\_model\\_ordinance20080624.pdf](https://www.nj.gov/dep/wqmp/docs/steep_slope_model_ordinance20080624.pdf)) defines steep slope as “any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.” Newton should require a restriction of any disturbance of a steep slope unless it is either 1) redevelopment within the limits of existing impervious surface or 2) new disturbance necessary to protect public health, safety, or welfare, provide environmental benefit, or to prevent hardship.



## **Forest Management and Wildfire Mitigation**

Adverse effects of climate change increases in average daily temperature contribute to an increase in the potential for forest fires. Public and private property, infrastructure, public safety, and utilities could be compromised in a wildfire emergency. The impacts of a wildfire event can be reduced through the enhancement of the Town's emergency response plan and through the implementation of pre-event wildfire mitigation and response measures. Forest fuel loading conditions are characterized by fire hazard ratings (map below) and through coordination with the New Jersey Forest Fire Service and the New Jersey Emergency Management Program.

**Newton has not adopted a Wildfire Protection Plan (CWPP) with NJ Forest Fire Service** and should update their Community Forest Management Plan and street tree species inventory in the town center and proposed redevelopment areas. Newton should also consider initiating a Community Stewardship Incentive Program.

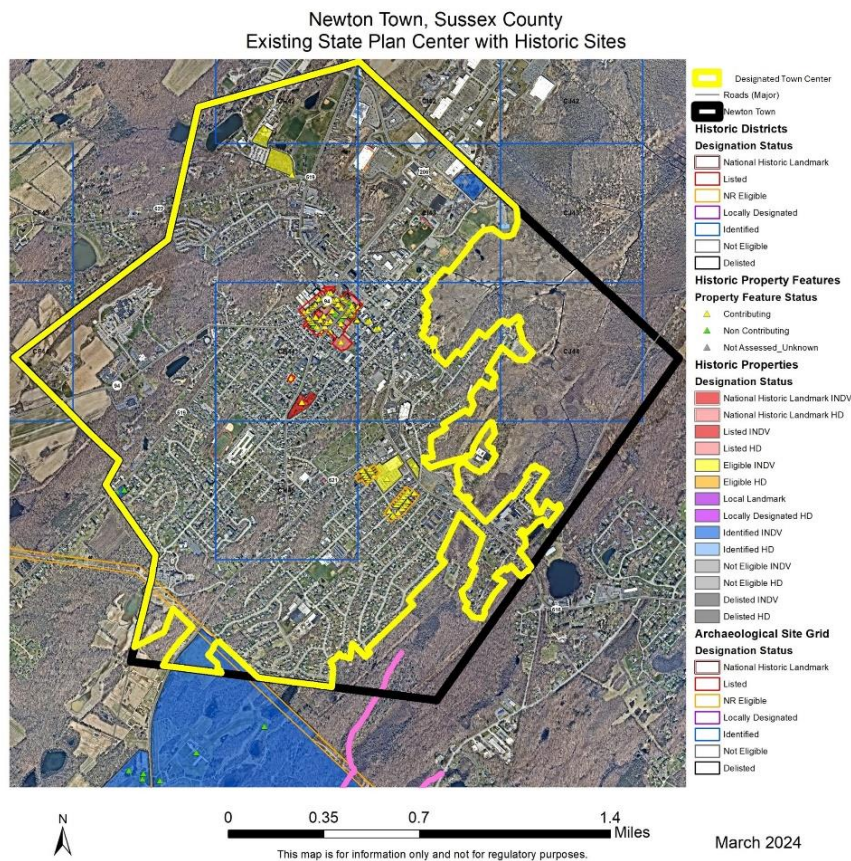
Forested habitats on both sides of any river/stream/wetland corridor in Newton should be maintained. While captured to some extent in the "Priority Lands for Ecological Integrity" figure in the report, we would like to stress the importance of also protecting upland forest habitats which may not be afforded the same level of protection as other areas subject to the Department's rules and regulations. While perhaps not classified as "environmentally sensitive", these areas are important for stormwater management, soil conservation, habitat connectivity, and other aspects that promote both ecological and human health. The forested areas extending from Paulinskill River Wildlife Management Area as well as the tract of forest beyond the Newton Medical Center are of particular ecological value due to their large size.

Additionally, we recommend that any forestry plan or municipal-led projects that involve tree planting (such as the street tree plantings referenced in the report) incorporate a more stringent native species policy if not already implemented. While trees of all types, both exotic and native, afford certain benefits to the environment and people, the planting of native, non-invasive species is exceedingly important for maintaining and improving the ecological health and diversity of the area. We highly recommend that native, non-invasive species are implemented beyond the bounds of what is currently required in state and local law and codified into local law if possible. We also strongly discourage the use of exotic species in landscaping where feasible.

## **Cultural and Historic Resources**

The 2023 Master Plan and 2024 MSA included a brief summary of Newton's recognized historic structures inventory, Plan Element, Historic Preservation Commission and ordinance. Figure 12 accurately accounts for all Historic Districts; however, appropriate considerations may also be given for areas mapped as Historic Properties and for undeveloped areas within a mapped Archaeological Site Grid (locations of prehistoric or historic occupation or activity possessing potential archaeological value). See the figure below for reference.





According to the MSA, a 1985 Historic and Cultural Resource Survey was adopted by the Newton Town Council. This document provided an inventory of the historic resources and districts within Newton, provided recommendations for future municipal undertakings, and established a Historic Preservation Advisory Commission (HPC). According to the MSA, the purpose of this Commission has been the implementation of regulatory review of undertakings within the formally designated local historic districts. This has also facilitated the preparation of the Newton Town Plot Historic District National Register nomination as well as a town-wide Archaeological Reconnaissance Survey. The MSA notes that Newton is in the process of completing an updated historic inventory of the Town, with the goal of preserving and enhancing areas with historic value (Bullet Point 7 of section 8.2 – State Plan: Goals, Policies, and Indicators.) Additionally, Bullet Point 9 of section 8.4 – State Plan: Planning Area Policy Objectives refers to Historic Preservation goals of the municipality. This section makes specific note that Newton encourages the preservation and adaptive reuse of historic buildings, sites, neighborhoods, and districts. This further elaborates on heritage tourism goals and the creation of a historic walking tour of the town, which is currently being developed in consultation with the Newton Historic Preservation Advisory Commission.

The MSA acknowledges the presence, appreciation, and importance of the Town's historic properties which are either eligible for inclusion or fully listed on the New Jersey and National Registers of Historic Places.

**As needed, Newton should contact the NJ State Historic Preservation Office and update the historic sites inventory** when any additional areas are added to the State and National Registers of Historic Places since 1992 when the Historic Town Plot District was added to the National Register and 1993 when a pre-Colonial architectural survey was completed. The Newton Town Plot Historic District, which is currently listed in the New Jersey and National Registers of Historic Places (SR: 9/24/1992; NR:11/12/1992) encompasses the historic downtown core of the municipality. Additionally, the MSA includes the boundaries of the larger locally designated Newton Local Historic District, which includes the historic downtown area as well as several residential blocks.

The MSA acknowledges the presence of historic properties within the municipality including the historic district of Church Street and Park Place, portions of High, Main, Spring and Moran Streets, Number 1 Dunn Street, and elements of the former Lackawanna Sussex Branch train station and 1.6 miles of former rail line now used as a public access recreational trail. The following property is individually listed in the New Jersey Register of Historic Places as a Key Contributing element of the Newton Town Plot Historic District: The First Presbyterian Church of Newton (SR: 10/26/1979)

The following properties are all individually listed in both the New Jersey and National Registers of Historic Places as Key Contributing elements to the Newton Town Plot Historic District: Hill Memorial Building (SR: 5/13/1985; 7/18/1985); Sussex County Court House (SR: 5/9/1979; 7/23/1979)

The following property is individually listed in both the New Jersey and National Registers of Historic Places: Henry W. Merriam Residence (SR: 9/11/1970; NR: 12/18/1970)

Finally, the MSA notes the presence of the following properties that have been determined to be eligible for listing in the New Jersey and National Registers of Historic Places:

- Horton Mansion (COE: 1/27/1992)
- H. W. Merriam Shoe Factory (SHPO Opinion 6/25/1987)
- Sterling Silk Mill (demolished, SHPO Opinion 6/25/1987)
- Pine Street Streetscape (SHPO Opinion 6/25/1987)
- Sussex Street Streetscape (SHPO Opinion 2/5/1993)

Information on file at the HPO indicates that Newton Town contains a segment of the eligible Pennsylvania-New Jersey Interconnection Bushkill to Roseland Transmission Line (SHPO Opinion 9/9/2011). While this historic district is not directly managed by the municipality, it should be considered for adjacent development actions.

In addition, according to information on file at the HPO, there are various Native American archaeological sites located throughout Newton Town. The majority of these sites are located in well-drained upland

areas in proximity to the Paulins Kill and its tributaries. While the precise locations of these archaeological sites are only available to cultural resource professionals upon direct request, any ground-disturbing activities within these areas should take this archaeological sensitivity into account. The same is true for historic-period archaeological sites, which are often also found in well-drained upland areas in proximity to freshwater sources and in conjunction with historically documented settlement areas. Undertakings adjacent to buildings over 50 years old may also represent historic properties requiring archaeological consideration if subject to formal regulatory review.

The MSA acknowledges the importance of historic and cultural resources. This acknowledgement can be bolstered through greater utilization of the Town of Newton's HPC as defined in Chapter 139 of the Newton Municipal Code. An active HPC provides important viewpoints by preservation professionals aiding local officials in the guidance, consideration, protection, and adaptive reuse of historic sites and buildings as part of the municipal development process defined in the MSA. The HPO recommends that the HPC as defined in Chapter 138 continues to be implemented to aid the municipality in considering historic property and preservation considerations in planning board meetings and as part of the municipality's longer-term planning and development policies.

Further, the HPO notes that Newton Town is an active participant in New Jersey's Certified Local Government (CLG) program ([CLG Program](#)). Through this program, municipalities can obtain authority to identify, evaluate, designate, and regulate historic resources. The CLG program offers municipalities the opportunity to participate more directly in state and federal historic preservation programs through the development and adoption of a local historic preservation ordinance, creating a historic preservation commission which conforms to the specifications of the Municipal Land Use Law and the National Park Service's approved *New Jersey Certified Local Government Guidelines*. As a CLG, Newton Town is eligible to apply for Historic Preservation Fund (HPF) grants for a variety of local preservation activities. ([CLG grants](#)). This information should be reflected in the MSA and incorporated into future planning and development policies.

Finally, consideration of project effects to historic and archaeological resources is also required if a project requires any federal funding, licensing, or permitting, any State of New Jersey's Division of Land Resource Protection Freshwater Wetlands, Waterfront Development, Upland Development, or CAFRA permits, or any environmental assessments under Executive Order 215.

The HPO commends the ongoing efforts to highlight and preserve the historic resources of Newton Town. Please reference HPO Project #24-0760 in any future correspondence in order to expedite our review and response. If you have any questions, please feel free to reach out to Meghan Baratta at [Meghan.Baratta@dep.nj.gov](mailto:Meghan.Baratta@dep.nj.gov)

Within the proposed center, Newton shall continue to encourage the preservation and adaptive reuse of historic or significant buildings, Historic and Cultural Sites, neighborhoods and districts in ways that will not compromise either the historic resource or the ability for a Center to develop or redevelop; coordinate historic preservation needs with public access and tourism efforts.

Historic preservation efforts should be accomplished in accordance with the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation*, 1983.

It is critical to protect our cultural and historic resources. The New Jersey Historic Preservation Office (HPO) administers a variety of programs that offer protection for historic properties. The HPO consults with federal agencies under Section 106 of the National Historic Preservation Act for federally funded, licensed, or permitted projects. At the state level, the New Jersey Register of Historic Places Act requires that actions by state, county, or local governments, which may impact a property listed in the New Jersey Register of Historic Places, be reviewed and authorized through the HPO. The HPO also provides advice and comment to several permitting programs within the Department of Environmental Protection, including some permits required under the Division of Land Resource Protection. The Historic Preservation Office also maintains an inventory of historic properties in each municipality.

The New Jersey and National Registers of Historic Places listings include properties and historic districts in New Jersey for which a formal action was taken by the State Historic Preservation Officer or designee. The listings itemize the buildings, structures, sites, objects, and districts listed on the New Jersey Register of Historic Places (SR) and the National Register of Historic Places (NR). They also include resources that have received Certifications of Eligibility (COE), opinions of eligibility from the State Historic Preservation Officer (SHPO Opinion), or Determinations of Eligibility (DOE) from the Keeper of the National Register. These properties and historic districts all meet the New Jersey and National Register criteria for significance in American history, archaeology, architecture, engineering, or culture, and possess integrity of location, design, setting, materials, workmanship, feeling and association. Properties that have been entered on the New Jersey and/or National Registers of Historic Places are listed by their historic names, which may be different from their current names. Properties that have SHPO Opinions or DOE's are listed by their historic name, when known. The listings are updated regularly to reflect ongoing additions and corrections. The most effective way to protect historic resources and promote our architectural and archaeological heritage is through local stewardship.

When implemented at the local level, historic preservation activities may take the form of master plan elements, comprehensive zoning ordinances, the establishment of a local historic preservation commission, regulated code enforcement, or public education and outreach programs. Local initiatives have far reaching effects on preserving historic resources for future generations. The HPO provides technical assistance, training, and other resources for historic preservation to New Jersey's communities through a variety of programs, including the Certified Local Government (CLG) program. The CLG program is a formalized partnership between the National Park Service, the States, and local municipalities. To become a CLG, a local government must a) enact a preservation ordinance that establishes a Historic Preservation Commission, b) establish criteria and procedures for the designation of local historic properties and the review of proposed changes to those properties, c) maintain a system for the survey and inventory of historic properties, d) provide for adequate public participation in the local historic preservation program, including the process of nominating properties to the National Register of Historic Places, and e) perform the responsibilities delegated to the local government in the certification agreement. The requirements for certification are outlined in the document "New Jersey's Certified Local



Government Guidelines,” available from the Historic Preservation Office (HPO) or online at [http://www.state.nj.us/dep/hpo/3preserve/clgguides8\\_07.pdf](http://www.state.nj.us/dep/hpo/3preserve/clgguides8_07.pdf).

One of the chief benefits of this partnership for local governments is access to grant funding. Each federal fiscal year, New Jersey sets aside ten percent of the state’s allocation of federal historic preservation funds for pass-through as sub-grants to communities participating in the CLG program. The total amount of available funding varies each year with the federal allocation. Finally, the Historic Preservation Office maintains the State’s Cultural Resources Geographic Information System (CRGIS) to record the location and extent of cultural resources in our statewide inventory. LUCY is our NJCRGIS Online Map Viewer.

Known historic properties, identified resources, and areas containing known archaeological sites discussed above are available for consideration during municipal planning through the HPO’s LUCY data viewer available here: <https://njdep.maps.arcgis.com/home/index.html>.

The HPO also plays a formal role during the following regulated activities: any federal funding, licensing, or permitting, any State of New Jersey’s Division of Land Resource Protection Freshwater Wetlands, Waterfront Development, Upland Development, or CAFRA permits, any environmental assessments under Executive Order 215, or any state, county, or municipal undertakings on a property listed on the New Jersey Register of Historic Places pursuant to the New Jersey Register of Historic Places Act. If a development project is subject to any of the above referenced regulations, consideration of project effects on historic properties, historic districts, historic landscapes, and/or archaeological resources will require consideration as part of any development or redevelopment activity.

The HPO further encourages municipalities to complete inventories of their historic structures, historic districts and archeological sites within their jurisdiction for consideration during planning activities. Protection of the integrity of historic properties, historic districts and archeological sites is crucial to maintaining a municipality’s unique sense of place. In addition, municipalities are required to consider changes and impacts to all municipally owned properties listed on the New Jersey Register of Historic Places pursuant to the New Jersey Register of Historic Places Act [NJ Register Act](#).

Further, municipalities can obtain authority to identify, evaluate, designate and regulate historic resources through New Jersey’s Certified Local Government (CLG) program [CLG Program](#). The CLG program offers municipalities the opportunity to participate more directly in state and federal historic preservation programs through the development and adoption of a local historic preservation ordinance creating a historic preservation commission which conforms to the specifications of the Municipal Land Use Law and the National Park Service’s approved *New Jersey Certified Local Government Guidelines*. As a CLG, a municipality is eligible to apply for Historic Preservation Fund (HPF) grants for a variety of local preservation activities. ([CLG grants](#)).

Finally, the HPO also plays a formal role during the following regulated activities: any federal undertaking, such as but not limited to funding, licensing, or permitting which is subject to Section 106 of the National Historic Preservation Act; any State of New Jersey’s Division of Land Resource Protection Freshwater Wetlands, Highlands Preservation Area Approval, Waterfront Development, Upland Development, or CAFRA permits; any environmental assessments under Executive Order 215, or any state, county; or municipal undertakings on a property listed on the New Jersey Register of Historic Places pursuant to the

New Jersey Register of Historic Places Act (see above). These regulatory reviews not only address above ground historic architecture and landscapes, but archaeological resources related to pre-Contact period and early historic period development within New Jersey.

#### Historic Resources in Floodprone Areas

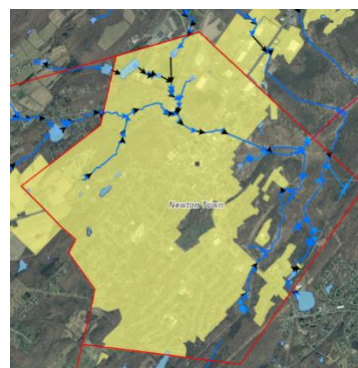
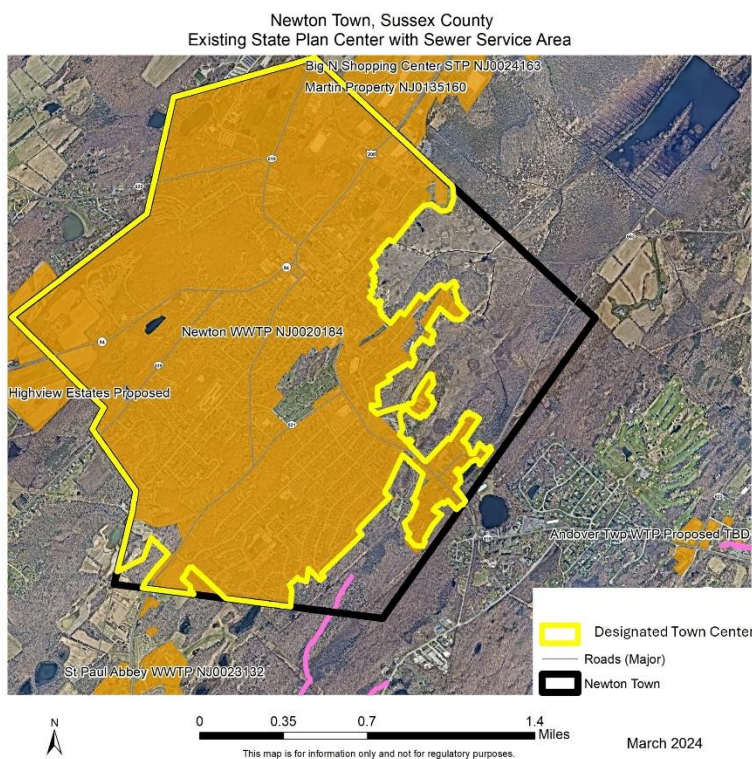
Newton should update their historic structure inventory throughout the Town and determine if any parcel identified by lot and block are in the 100 or 500 year flood zone and indicate if any are in the proposed center.

**Newton should update the Historic Preservation Plan of its Master Plan to include climate resilience and social equity.**

- **Update the Historic Districts Inventory** – Newton should provide a table in any master plan re-evaluation of all lots and blocks in historic districts, if they are in center, and if they are in the a) 100- or 500-year flood zone, 2) rank 3,4,5 threatened and endangered species habitat, 3) SSA or 4) public water system.
- **Update the Newton Historic Preservation Implementation Ordinance to address Climate Resilience**
  - **Historic structures should be evaluated and protected with enhanced stormwater management plans and flood minimization plans.** DEP adopted Elevation Design Guidelines for Historic Properties in December 2019, which can be found at [https://www.state.nj.us/dep/hpo/images/\\_MULT\\_DG\\_32\\_v2\\_ID14078r.pdf](https://www.state.nj.us/dep/hpo/images/_MULT_DG_32_v2_ID14078r.pdf).
  - **Zoning Update** – Newton should revise the municipal code to implement within the historic districts the following: define and adopt an historic district buffer area, adopt architectural and development standards within and adjacent to the district, establish an Historic Preservation Commission, continue to update the historic sites inventory and include historic sites in capital improvement program especially related to flood resiliency.

#### **Wastewater and Water Supply**

Sewer Service Area and Water Quality Management Plan\_Wastewater Analysis - The yellow shaded areas in the figure below represent the portions of the town within the currently mapped sewer service area. The infrastructure to collect and convey sanitary wastewater within the municipality is owned and operated by the **Newton Municipal Utilities Authority**. Wastewater is directed from Newton to the **Newton Wastewater Treatment Plant (NJPDES Permit No. NJ0020184)**. The area of the Town of Newton is approximately 2149.16 Acres (without surface water) and the Newton sewer service area covers an area of approximately 1,565.89 Acres (without surface water) which is about **72.86 %** of the Town of Newton.



Any septic system or onsite wastewater treatment plant that requires a NJPDES permit must be in the sewer service area prior to receiving any permit authorization by our office. Specifically, any new sewage-generating structure that discharges to a surface water, or any system that discharges more than 2,000 gallons of wastewater per day to groundwater, or that will discharge any industrial process wastewater needs a NJPDES permit, and thus, will need to be in the sewer service area and Water Quality Management plan.

Following the above, beyond these suggestions, additional information on specific projects and sites would be required to give detailed feedback regarding environmental impacts. The Department is available for pre-application meetings regarding specific projects that may impact any of the resources outlined in the Master Plan report.

### Wastewater Capacity Analysis

The Town must consider existing capacity as well as any future building to ensure that the current wastewater system does not exceed capacity. The WQMP rule at NJAC 7:15-4.5(b)5 adopted in 2013 requires that if the “existing permitted flow is 80% or more at the time of WMP development, a municipality must determine, as part of the buildout analysis, if remaining projected growth (for buildout of the SSA) will result in a capacity deficiency and, if the potential for a capacity deficiency exists.” **Any WQMP amendment must also be consistent with the County Wastewater Management Plan.** Any future WTP should be discharging on a monthly average, below 80% of the permitted capacity including proposed ten-year development plan until next master plan re-examination plan in 2028. Newton shall assess the Sussex County-wide draft WMP buildout analysis for the entire proposed service area in MGD and percent capacity and if that accommodates any future center development in Newton. According to

Section 2.3 (page 9) of the MSA, Newton has identified eight (8) formerly disturbed areas in need of redevelopment. In 2024 the Newton WWTP had an average flow of 1.093 million gallons per day (MGD) and was at **78.07%** capacity of that allowable under the NJDEP permit. Newton shall confirm that proposed redevelopment areas projected estimated of additional wastewater flow with additional redevelopment does not exceed 80 % capacity of the wastewater treatment system.

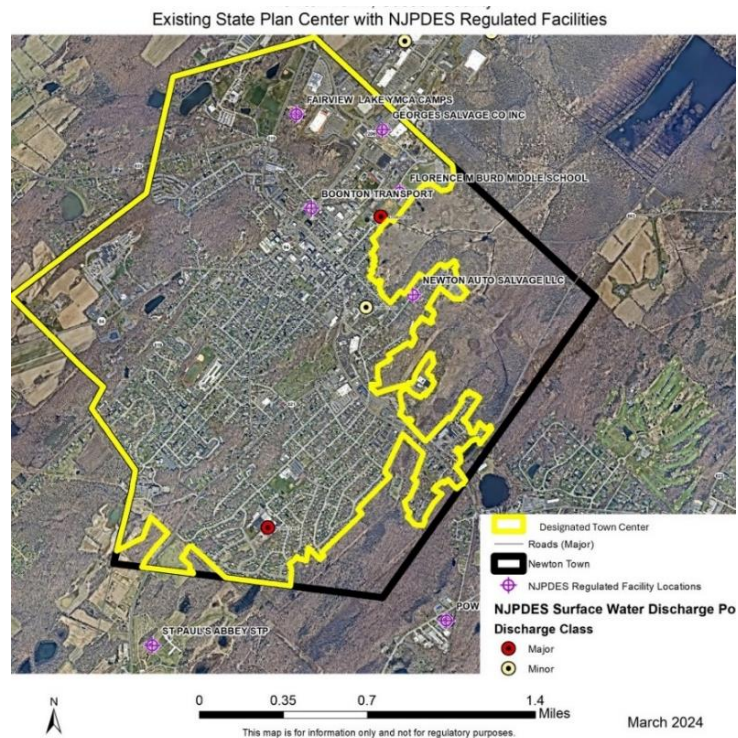
### Wastewater Infrastructure in Floodprone Areas

Critical utility infrastructure like powerlines, stormwater sewers, and potable water lines can be adversely impacted by flooding. The Newton wastewater sewer service area of 1,565.89 acres within the town excluding surface water includes 4.8% (74.61 acres) within the 100 year and 500-year flood zone.

### Newton SSA within Flood Zone

Sewer Service Area Toral Area (without surface water) = 1,565.89 Acres		
Sewer Service Area within Flood Hazard Area	Acres	% of Total Sewer Service Area
1% (100 Year) Floodplain	69.27	4.4
0.2% (500 Year) Floodplain	additional 5.34 (74.61)	4.8
Source: FEMA Flood Hazard Areas (Combined)		
NJDEP LULC 2015 Surface Water Removed from FEMA Flood Hazard Area		

Newton has several building facilities with discharges to surface water that are regulated by the NJDEP with a New Jersey Pollutant Discharge Elimination System (NJPDES) permit. Some of these facilities are also in the flood zone.

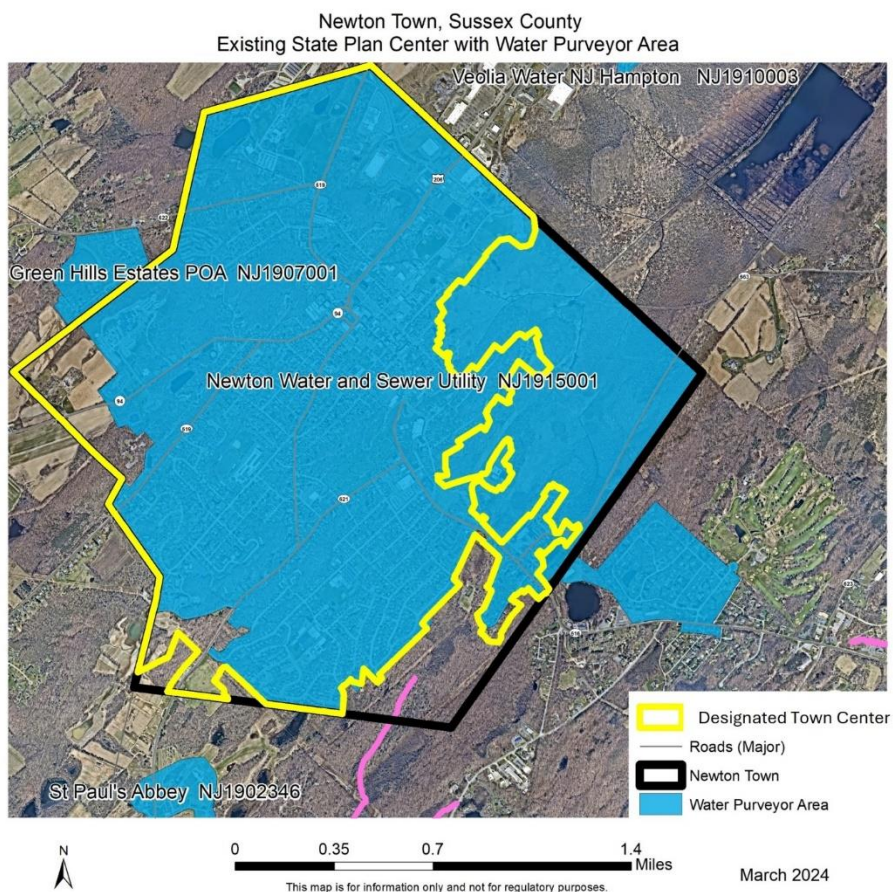




**Newton** should provide an updated map of wastewater piping in the center and elsewhere in the municipality and update its Wastewater Management Plan as necessary to include additional proposed development, additional adopted WMP amendments, infrastructure upgrades, and increased capacity needs.

### Water Supply

The Division of Water Supply and Geoscience (Division), Bureau of Water Allocation and Well Permitting (Bureau) has reviewed the Self-Assessment as part of Town of Newton request for renewal of its prior State Plan Endorsement approval from the State Planning Commission. Public water is provided by the Newton Public Water Supply System which includes the Morris Lake reservoir in Sparta and sewer wastewater is handled by the Newton Sewer Department.



After reviewing pertinent permits, records and other available information related to water supply, water system treatment, distribution, and approved proposed connections related to new development, the Bureau has a few water concerns.



The Town of Newton, located in Sussex County, lies within the public water service area served by the Newton Town Water Utility regulated under Water Allocation Permit Number 5225 (Permit). Newton Town Water Utility serves the following communities: Town of Newton and portions of Andover & Sparta Townships. According to the Well Permitting section of the Bureau, approximately two permits to drill domestic wells have been issued in the Town of Newton.

The permit includes one Allentown Dolomite aquifer well (PW-1) and two surface water sources. Intake 1 diverts from Morris Lake and Intake 2 from Pine Swamp Brook for public water supply. The current permitted allocation limits are 38.75 million gallons per month and 393 million gallons per year from all diversion sources. The peak annual usage from all sources within the past 5 years was 293.44 million gallons (mg) in 2019 with a peak monthly usage of 27.38 mg in July 2020.

As per the Municipal Self-Assessment Report, the following redevelopment and rehabilitation projects are approved through 2023:

- Marotta-Godkar, LLC (PB-8-2023), This is an approved site plan application located at 59-61 High Street, which is Block 5.01, Lot 24 in the T-6 Town Core Zone.
- Analytical Science and Technology Group (PB-6-2023), This is an approved site plan application located at 20 Water Street, which is Block 5.01, Lot 11 in the T-5 Town Core Support Area / Neighborhood Cores Zone.
- Sussex County Community College, This was a courtesy review regarding Sussex County Community College located at 1 College Hill Road, which is Block 3.01, Lot 1 in the SD-2 College District.
- Sussex Realty Investments, LLC (PB-11-2021 & PB-4-2023) – January 2022; Amended March 2022 (PB-11-2021); Pending (PB-4-2023), This is an approved preliminary and final site plan and variance application regarding the properties located at 122 Main Street (Block 7.09, Lot 5) and 124 Main Street (Block 7.09, Lot 3) in the T-4 Neighborhood Services Zone.
- Curiosity Cannabis, LLC (PB-3-2023) – May 2023, This is an approved preliminary and final site plan application for cannabis retail located at 70-72 Mill Street, which is Block 2.02, Lot 17 in the T-4 Neighborhood Services Zone.
- Releaf Newton LLC (PB-2-2023) – April 2023; Amended May 2023, This is an approved preliminary and final site plan application for cannabis retail located at 78 Mill Street, which is Block 2.02, Lot 16 in the T-4 Neighborhood Services Zone.
- Punctuated Equilibrium, LLC (P-15-2020 & PB-1-2023) – January 2021; February 2021 (P-15-2020); January 2023; Amended March 2023 (PB-1-2023), This is an approved preliminary and final site plan application located at 1 Brooks Plaza, which is Block 20.01, Lot 1 and Block 22.04, Lots 3 & 6 in the SD-4 Industrial/Manufacturing District.
- YHK Realty, LLC (PB-6-2021) – December 2022; Amended January 2023, This is an approved preliminary and final site plan application located at 61 Water Street, which is Block 9.013, Lot 1.
- Newton CB, LLC (PB-5-2022) – August 2022, This is an approved site plan, variance, and conditional use application located at 117 Water Street, which is Block 9.03, Lot 15 in the SD-3 Retail/Manufacturing District.
- Thorlabs, Inc. (PB-2-2022) – August 2022, This is an approved preliminary and final site plan application located at 56 Sparta Avenue, which is Block 18.03, Lot 11 in the Sparta Ave Redevelopment District.

- Above Grid Solar Carport 2020 LLC (PB-8-2021) – October 2021; Amended January 2022, This is an approved site plan application located at 175 High Street, which is Block 1.01, Lots 3, 4, and 5 in the SD-1 Hospital District.
- Water Street Holdings, LLC (PB-4-2021) – May 2021; Amended June 2021, This is an approved minor subdivision and site plan application for a multi-use development located at 121 Water Street, which is Block 10.01, Lot 4.
- Angelina Louis & Alfred Stewart, Jr. (PB-14-2020) – February 2021; Amended March 2021, This is an approved site plan application located at 137 Mill Street, which is Block 3.04, Lot 3 in the SD-3 Retail/Manufacturing District.
- Weis Markets, Inc. (P-3-2020) – July 2020, This is an approved use variance and preliminary and final site plan application located at 119 Water Street, which is Block 9.03, Lot 16 in the SD-3 Retail/Manufacturing District.
- Martorana Enterprises, LLC (PB-8-2019 & P-14-2020) – September 2019; Amended October 2019; Amended January 2021, This is an approved site plan and subdivision application located at 104 Sparta Avenue, which is Block 22.05, Lots 13.01 & 13.02 in the SD-4 Industrial/Manufacturing District.
- Kwest Properties, LLC (PB-3-2019) – September 2019; Amended October 2019, This is an approved subdivision and preliminary site plan application located at 134 Spring Street, which is Block 8.08, Lots 10 & 23 in the T-6 Town Core Zone.
- Thorlabs (PB-1-2019) – May 2019; Amended September 2019; Amended October 2019, This is an approved preliminary and final site plan application located at Lower Spring Street, Diller Avenue, and Sparta Avenue, which is Block 18.02, Lots 2, 3, 19-23, 31 & 32.

As per the Municipal Self-Assessment Report the following major applications were pending as of 2023:

- 4 Grace Ave, LLC (PB-7-2023), This is a pending site plan application located at 85.5 Trinity Street, which is Block 15.01, Lot 18 in the T-5 Town Core Support Area / Neighborhood Cores Zone.
- 4 Grace Ave, LLC (PB-9-2023), This is a pending site plan application located at 43 Trinity Street, which is Block 9.06, Lot 12 in the T-5 Town Core Support Area / Neighborhood Cores Zone.
- 113 Main Street, LLC (PB-5-2023), This is a pending site plan application located at 113 Main Street, which is Block 14.01, Lot 5 in the T-5 Town Core Support Area / Neighborhood Cores Zone.
- 4 G and A Fuel, Inc. (PB-1-2024), This is a pending site plan application located at 86 Mill Street, which is Block 2.02, Lot 13 in the T-4 Neighborhood Services Zone.

PW-1 is located in the Delaware River Basin within the Town of Newton and is subject to the requirements of Delaware River Basin Commission (DRBC) and the applicant has obtained approval from the DRBC under Docket No. D-90-111 CP.

The application acknowledges that the town is located west of the Highlands Regional Area. However, the two surface water sources are in the Highlands Preservation Area but have not had any Highlands limitations placed on them.

Natural replenishment of groundwater is probably occurring within PW-1 because the observed water level fluctuations do not follow a continual decreasing trend and are typically recovering seasonally. To confirm this, static water level reports are required as a condition of the permit to determine future

trends. Saltwater intrusion is not expected to occur because it is not an issue within this northern region of the state.

Newton Town Water Utility submitted an updated Water Conservation and Drought Management Plan (Plan) on August 12, 2022, with the next Plan due by August 31, 2024. The system has historically reported high unaccounted-for-water percentage, but the most recent percentage was reported as 11.2 percent in 2021, which is within industry standards. The last Water Utilization Report was submitted on January 19, 2024, for the monitoring period of October 1, 2023-December 31, 2023. The permittee is required to perform an annual American Water Works Association audit. The system has two emergency interconnections with Sparta Township if an emergency water supply is needed. The existing water allocation permit approved diversions should be more than sufficient to satisfy the demand needs of the service area.

To aid in identifying the existing and proposed water supply sources and the strategies that document how water supply capacity will exist for the amount of growth detailed in the Endorsed Master Plan, the Town and County shall refer to the NJ State Water Supply Plan and contact the Bureau of Water Allocation and Well Permitting.

#### Potable Capacity Analysis

The Bureau of Water Systems Engineering (BWSE) Deficit/Surplus webpage indicates that the Newton Town sources of potable water, water system (Newton Water and Sewer Utility (PWSID #: NJ1915001)) has a surplus of water available to service all pending projects that have received approval through the BWSE. The BWSE's Deficit/Surplus analysis for the Town indicates these facilities have sufficient treatment capacity and infrastructure to meet public demand.

Attached is the Deficit/Surplus Table (updated as of 09/12/2023) for the public community water system (Newton Town (PWSID #: NJ1915001) that serves the Newton Town in Sussex County.

<b>Firm Capacity:</b>	1.500	<b>MGD</b>									
<b>Allocation Limits:</b>				<b>Contract Limits:</b>			<b>Total Limits:</b>				
(Monthly)	38.750	<b>MGM</b>		(Monthly)		<b>MGM</b>	(Monthly)	38.750	<b>MGM</b>		
(Yearly)	393.000	<b>MGY</b>		(Yearly)		<b>MGY</b>	(Yearly)	393.000	<b>MGY</b>		
<b>Five Year Peak Demand:</b>				<b>Allocated Demand:</b>			<b>Deficit/Surplus:</b>				
(Daily)	0.883	<b>MGD</b>		(Daily)		<b>MGD</b>	(Monthly)	11.370	<b>MGM</b>		
Month/Year	07/2020			(Monthly)		<b>MGM</b>	(Yearly)	99.560	<b>MGY</b>		
(Monthly)	27.380	<b>MGM</b>		(Yearly)		<b>MGY</b>					
Month/Year	07/2020						<b>Firm-Peak Total:</b>				
(Yearly)	293.440	<b>MGY</b>		<b>Total Peak Demand:</b>			(Daily)	0.617	<b>MGD</b>		
Year	2019			(Daily)	0.883	<b>MGD</b>					
				(Monthly)	27.380	<b>MGM</b>					
				(Yearly)	293.440	<b>MGY</b>	<b>WAP Number:</b>	5225			

1. Firm capacity (total capacity-largest source) – 1.500 MGD
2. Water Allocation limits = 38.750 MGM, 393.000 MGY

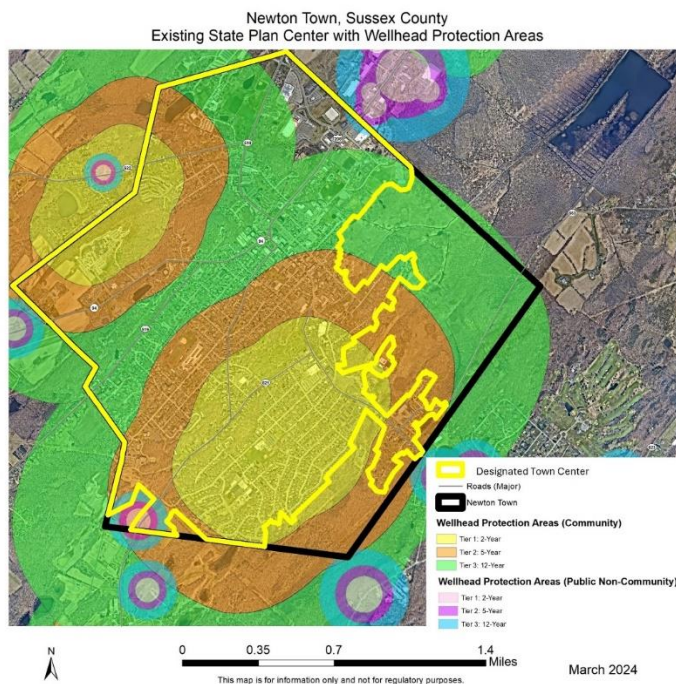
3. Current (utilized) peak demands = 0.883 MGD, 27.380 MGM, 293.440 MGY\_
4. Surplus (available) water= 0.617 MGD,11.370 MGM, 99.560 MGY

### Water Supply Infrastructure in Flood prone Areas

Potable drinking water is provided to the residents of Newton via the Morris Lake/Newton Reservoir in Sparta Township and conveyed 7.5 miles to Newton. While most of the municipality is connected to the public water supply system, a **Well Search should be conducted to inventory all currently documented private domestic and commercial wells within the Town. Newton should work with the County Department of Health to determine if there are any active private or non-community wells in use by conducting an inventory of private water supply wells and to determine if any are located within a flood zone. Newton should also identify any water supply infrastructure from private wells that is located in the flood zone and determine their specific vulnerability to flooding events to both inform the owners of their vulnerability and identify potential solutions to that vulnerability.**

### Well Head Protection Areas

There are Public Supply wells just outside the boundary of Newton that have designated wellhead protection areas. If not already included in the updated Conservation Plan, **Newton should adopt a Water Conservation Plan within a Municipal Water Conservation Ordinance. Newton should also adopt a Wellhead Protection Ordinance for any wells that serve the Newton public potable water system that also considers climate resilience.**



WHPA delineation methods are described in Guidelines for Delineation of Well Head Protection Areas in New Jersey. ([www.state.nj.us/deo/njgs/whpaguide.pdf](http://www.state.nj.us/deo/njgs/whpaguide.pdf))

### Stormwater Management

Improvements to surface water infiltration and stormwater management can be implemented in many ways including replacing impervious pavement with pervious surfaces, maintain and restore all surface water bodies potential for additional stormwater retention through dredging and silt control, constructing green infrastructure, requiring buffers to surface water bodies, restoring wetland areas, adhering to state requirements for stormwater management best management practices, and adding stricter municipal building codes. To reduce flooding as temperatures and precipitation rise, **DEP recommends that Newton continue to address stormwater runoff and improve stormwater retention on site at its source including updating their stormwater ordinance and stormwater management plan. Newton should also upgrade aging infrastructure including piping and pump stations to incorporate climate and flood resilience.**

**Newton's MSA did not indicate if they are in compliance with their NJDEP municipal stormwater management permit.** The NJDEP's Northern Bureau of Compliance and Enforcement conducted a compliance inspection of Newton's MS4 NJPDES Permit was last conducted on February 26, 2024. The inspection and a review of their 2022 and 2023 Annual Report and Certification and Supplemental Questionnaire which is required by the permit indicated the following:

1. Stormwater Pollution Prevention Plan (SPPP) was revised on June 24, 2019.
2. Newton did inspect all stormwater facilities that are operated by the town.
3. Annual employee training was conducted in 2022 and 2023.
4. The Supplemental Questionnaire indicates Public Education and Outreach was completed in 2022 and 2023.
5. Newton has submitted their electronic outfall pipe map to the Department and has indicated no outfalls need scour remediation.

**Newton shall confirm that their Stormwater Ordinance complies with and confirm compliance with all requirements of their stormwater NJPDES MS4 permit which was completed by March 15, 2021. The town has submitted their required electronic outfall pipe map to DEP and updated their Stormwater Pollution Prevention Plan (SPPP) and identified no outfalls in need of scour repair. However, Newton shall set a reasonable period of time to inspect all outfalls, meet their public education requirements and to conduct the required annual employee training.**

**Newton should also inventory and update their maps of any stormwater outfalls located within the flood zone and determine their specific vulnerability to flooding events. Zoning ordinance and building codes should be updated to incorporate overlays for aquifer recharge, stream corridor and greenway conservation, and steep slope erosion control.**

**Newton should seek opportunities to install green infrastructure measures and expand stream corridor buffer areas to offset increased stormwater, but also to lower the impacts of the heat-island effect by reducing the amount of impervious surfaces.**



## **Social Vulnerability and Human Health**

### **Population Assessment**

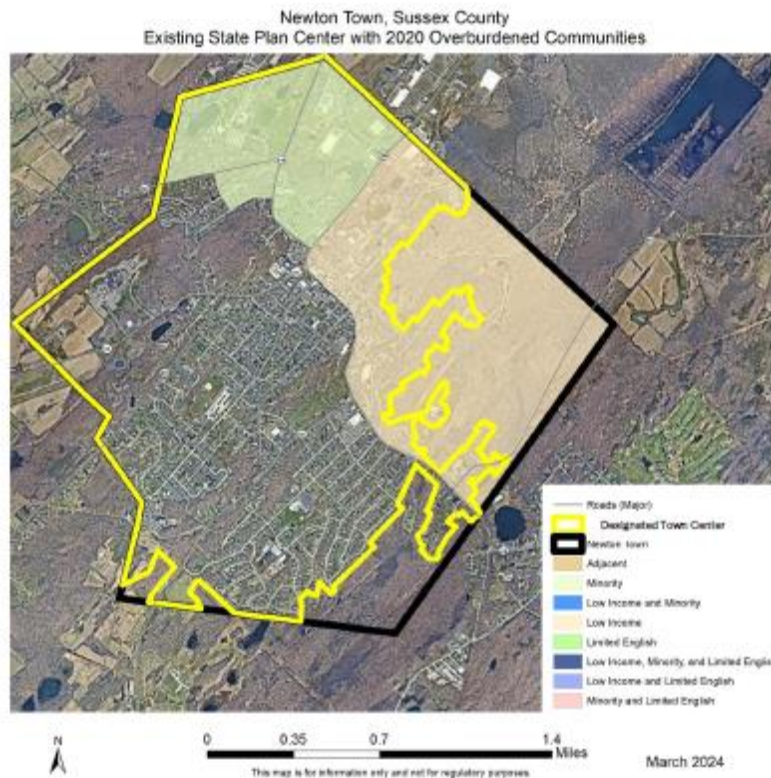
The Town of Newton, an overburdened community, had a population of approximately 8,466 in 2022. With proposed redevelopment, the projected increase in population to 2029 is 9100 which is a 6.97% increase. The town indicated in the MSA eight (8) under-utilized and remediation sites that are expected to become available for future redevelopment. The 2015 Housing Plan Element and Fair Share Plan of the Master Plan mentioned in the MSA (page 27) was updated most recently in 2023 and indicates that Newton has met and is in compliance with their affordable housing requirement. Transportation and evacuation routes are concentrated along Routes 94 AND 206. However, over 9% of Newton residents are living below the poverty line.

**In planning for climate change related resilience measures, Newton must also consider the vulnerability of various populations within the Town to adverse effects of climate change.** All residents of the municipality are vulnerable to adverse impacts of climate change, including an increase in temperature and precipitation and a degradation of natural resources. However, climate change also impacts residents differently based on their location in the Town, their social and economic situation, and their ability to anticipate, resist, or recover from a natural hazard.

For those living near Newton's flood zones, increased stormwater runoff under elevated precipitation and current impervious cover conditions could lead to catastrophic flooding. Any vulnerable residents that are adjacent to or in the floodplain may be at greater risk of flooding. Newton should continue to evaluate residents living in tracts close to or in the floodplain including the elderly, disabled, minorities, and those without personal transportation to identify the social vulnerabilities they may face as a result of increased flooding. For example, if there are people without cars who rely on public transportation, increased flooding could result in loss of wages or their jobs if they cannot get to work on flooded days.

### **Environmental Justice: Overburdened Communities under the NJ Environmental Justice Law**

The blue shaded area in the figure below represents portions of the town subject to the NJ Environmental Justice Law. Any development within this area which meets the definition of a "facility" would be subject to an Environmental Justice review.



As of September 2020, New Jersey has passed new environmental justice legislation and guidance, building on Executive Order 23 to mandate integration of equity considerations into government decision-making. All municipalities should seek to reduce disproportionate environmental and public health stressors and increase environmental and public health benefits for communities of concern, which defined as community block groups having concentrations of low-income, minority, or limited English-proficient residents. Municipalities should empower residents, particularly their most socially vulnerable residents, to meaningfully participate in decision-making that affects their environment, communities, and health. More information can be found on the Office of Environmental Justice Website, <https://www.nj.gov/dep/ej/>.

The 2015 adopted Newton Housing and Fair Share Plan in accordance with Municipal Land Use Law (MLUL) is included in the Housing Element of the MSA. Newton indicates in the MSA that they have met any requirements of the Council on Affordable Housing (COAH) including identifying vacant properties and acres completed under COAH rules NJSA 5:97-5.1 as well as identifying efforts to meet future affordable housing obligations through the development of vacant land and rehabilitation of vacant or underutilized existing buildings. Although it may be difficult to meet required affordable housing units because the lack of available vacant land, the DEP does not support affordable housing in flood zones. In the future, Newton should determine if any vacant lots under consideration for affordable housing construction have regulated wetlands, are in the 100-year flood zone, or have identified state or federal threatened or endangered species and habitat.

While Newton has adopted their most recent housing fair share plan and included it in the Housing Element of their Master Plan and affordable housing ordinance, the municipality **should develop an overlay for proposed affordable housing on vacant or underutilized land including any areas proposed in the center or areas deemed in need of redevelopment and to incorporate recent climate resilience and environmental justice guidance.**

#### Healthy Communities

DEP strongly encourages Newton to continue to work with its municipal and county Offices of Emergency Management (OEMs) to review their Emergency Management Plans and update their Hazard Mitigation Plan as a matter of planning, especially but not limited to potential flooding of critical utilities, roadways and historic structures located in the flood zone and vulnerable to flooding related to increased precipitation. Water, sewer utilities, and piping are subject to flooding. **Newton should document that they have an up to date Emergency Master Plan consistent with the Sussex County Plan and that they have received an approval letter from NJ State Police for their Local Emergency Management Plan.** Department of Health data is currently limited for Newton. This is due to its size. DOH data is more available for municipalities with larger populations. Data for Newton can be found at <https://www-doh.state.nj.us/doh-shad/>.

#### Greenhouse Gas Emission Reduction

The degradation of air quality and elevated temperatures can lead to negative health issues. Elevated temperatures can interrupt power supply to all residences which could impact those who need electricity for medical equipment in their homes and loss of air conditioning could increase heat stress and its associated impacts. **Newton should conduct an energy audit of all municipal owned buildings to identify energy inefficiencies. The Town should also explore utilization of alternative fuels and green energy.**

Traffic congestion relief is a priority in the municipality along its existing and proposed commercial and evacuation routes as they explore alternative bikeways, walking paths and additional parking.

**Newton should adopt a Greenhouse Gas Emissions Reduction Ordinance that encompasses energy efficiency and sustainable alternatives to transportation including bike paths and walking trails.** The DEP has a model ordinance available as guidance.

## **Contaminated Sites, Solid and Hazardous Waste, & Recycling**

### **Known Contaminated Sites**

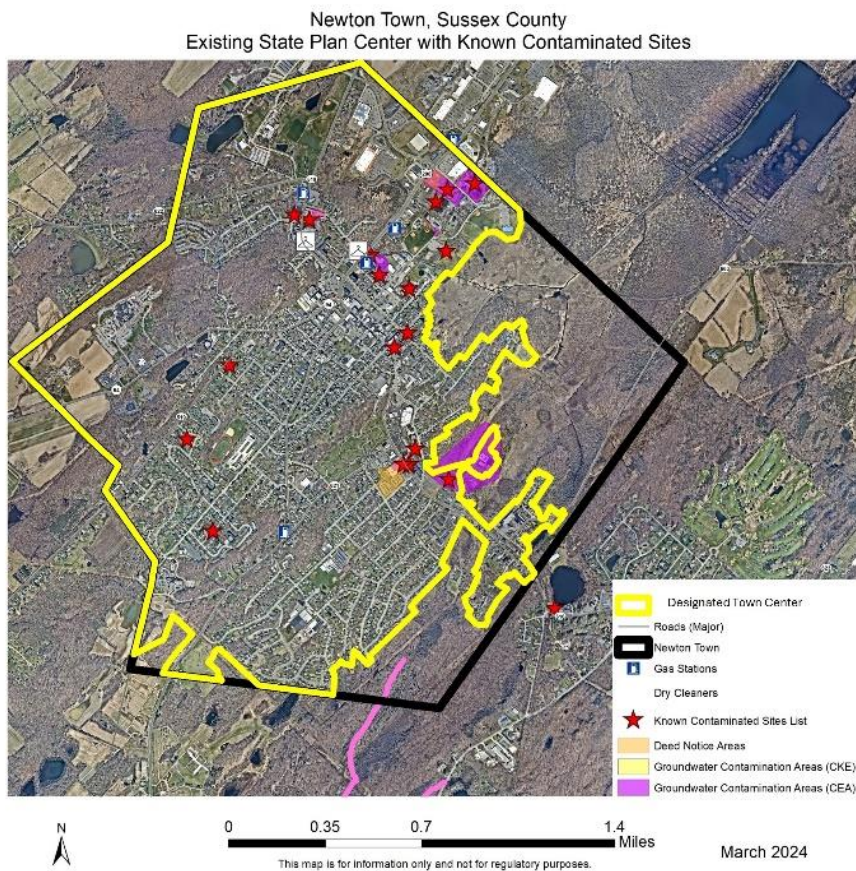
A GIS review indicates Known Contaminated Sites in and adjacent to proposed center that may be an ongoing source of contamination or active remediation. The MSA (page 80) mentions a number of known contaminated sites in Newton that had some interaction with NJDEP between 2021 and 2024 but did not include a map of locations. Figure 9 shows mostly all mapped and active Known Contaminated Sites but should be updated to include the following, excluding the following:

PI Name/Number of other Active Known Contaminated Sites:

- 59 TRINITY STREET (ID # 1029584). **Address:** 59 TRINITY ST, Newton Town
- SHANACHIE PROPERTIES (ID# 765090). **Address:** 37 CLINTON ST E, Newton Town

**Newton did not identify which site remediation sites are located within the 1% (100 year) floodplain and within the 0.2% (500) year floodplain. Several of these sites are within a floodway.** These sites include former industrial sites, dry cleaners, underground storage tanks, gas stations and transportation corridors. Newton should revise their KCSL list of known contaminated sites in the area of the proposed center to also identified with Groundwater Contamination Classification Areas undergoing either active remediation or long-term remediation through natural attenuation and/or monitoring and any contamination related deed restricted areas.

**To protect public health, Newton should maintain and update their list and map of known contaminated sites with their remediation status and vulnerability to flooding.** A KCSL Inventory should not only include maps but also a table of site name, address, lot and block, NJDEP Program Interest Number, and note which sites are within the boundary of the proposed center or areas in need of redevelopment or identified for any future housing needs. **Newton should also conduct an inventory of home sources of contamination including residential underground heating oil tanks and septic systems.** Adhering to DEP regulations for spill prevention and completing any required remediation and long-term groundwater monitoring of existing contamination are required to protect this valuable resource and public health.



## Brownfields

Newton has identified at least eight (8) areas in need of redevelopment including vacant properties within the municipality but did not mention in the MSA any NJDEP Brownfields designated redevelopments. The Town may need technical and financial assistance for remediation of contaminated lands in the municipality. **Newton should identify if any of these Known Contaminated Sites (KCS) meet the DEP definition of a brownfield site.** Newton can refer to Sustainable Jersey's web site and the Brownfield Action for information on how to identify and prioritize any known Brownfields.

The Brownfield Act (N.J.S.A. 48:3-51) defines "brownfield" as:

*"[A]ny former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant."*

The Solar Act (N.J.S.A. 48:3-51) also defines "brownfield" as:

*"[A]ny former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant."*



It is often difficult for municipalities to identify their brownfields. It's even tougher for municipalities to navigate through the cleanup process and partner with willing developers. Sustainable Jersey is a good place to start.

**Many municipalities are part of the Sustainable Jersey Certification Program although Newton does appear to have registered for the certification program but has not achieved a certification level.** There are Actions within Sustainable Jersey specific to brownfields. They are Brownfield Inventory and Prioritization, Brownfield Reuse Planning, Brownfield Marketing, and Brownfield Assessment and Investigation.

Each of these Sustainable Jersey Actions provides information on why they are important and how they can be accomplished. There are also resources provided to help municipalities accomplish the Action goals and examples of what other municipalities have done. The DEP has also created programs to aid municipalities with the cleanup of their brownfield sites.

**If the Town pursues brownfield cleanup and development in the future, DEP recommends taking actions as part of the Sustainable Jersey Certification Program.** These actions include Brownfield Inventory and Prioritization, Brownfield Reuse Planning, Brownfield Marketing, and Brownfield Assessment and Investigation. Each of these Sustainable Jersey Actions provides information on why they are important and how they can be accomplished. There are also resources provided to help municipalities accomplish the Action goals and examples of what other municipalities have done. The DEP has also created programs to aid municipalities with the cleanup of their brownfield sites.

#### Contaminated Sites and Waste Facilities in Flood-prone Areas

**Newton should update its inventory of known contaminated sites including which of the identified KCSs are in the 100 year flood zone and what is their status of remediation completion.** The MSA indicates multiple KCSL sites and many of them are in the floodplain. The MSA did not indicate how many KCSL sites are in the 500-year floodplain and how many in the 100-year floodplain.

#### Solid and Hazardous Waste

**DEP recommends that Newton update their waste management plan to encourage increased recycling and reduction of solid waste removal by public, and private facilities that either collect, transfer, process, or dispose of solid waste or recyclables on its municipal inventory.** Newton should also continue to inform its residents of any opportunities for recycling including additional drop-off depot locations and opportunities for residents, any municipal plans to build additional waste management facilities in town, and any additional waste facilities or services to provide a more holistic view of how the municipality manages its waste.

#### Recycling

The Division of Sustainable Waste Management, Bureau of Planning and Licensing reviewed the Self-Assessment and have the following general comments and questions:

**The Town is obligated to list at least one municipal recycling ordinance although this was not listed or discussed in the MSA. Solid Waste management and Food Waste Management were also not**

**mentioned in the MSA. Newton shall identify when they last updated their Recycling Ordinance and Program and should also seek certification by Sustainable Jersey.** If not already done so, Newton should provide the NJDEP a recycling statement of consistency to meet the requirements of N.J.S.A. 13:1E-99.11 et seq. (Recycling Act), NJ Statewide Mandatory Source Separation and Recycling Act. As part of their plan, Newton should identify a recycling coordinator and should provide the State with tonnage reports each year and publicize recycling provisions every six months.

**DEP recommends that the Town notify the State of any future updates to the current recycling ordinances adopted through a statement of consistency, pursuant to N.J.S.A. 13:1E-99.16(b).** Future communication with the State should also include long-term plans including recycling education campaigns, how the municipality plans to enforce proper recycling practices, and potential plans to build upon the current recycling infrastructure to provide the State with an understanding of how the municipality plans to improve its current recycling system.

1. [NJAC 5:85-7.9](#): Self-Assessment Report, form, content, adoption, and submission requirements
  - #2 of this statute requires each municipality to provide an inventory of all available public facilities and services.
  - DEP recommends that not only public, but also private facilities that either collect, transfer, process, or dispose of solid waste or recyclables be included as well.
    - The town shall clarify if they have an operational recycling depot in town while also utilizing county facilities.
2. [NJAC 5:85-7.13](#): Consistency review; (d), subsection 2 outlines the requirements needed for a complete and consistent municipal plan.
  - XVII of this section requires the municipality to provide a recycling statement of consistency.
    - MSA satisfactorily mentions following Solid Waste Management
  - DEP recommends [N.J.S.A. 13:1E-99.11 et seq.](#) (Recycling Act), NJ Statewide Mandatory Source Separation and Recycling Act and its various requirements explicitly be mentioned in this section. Requirements should include:
    - Statement that municipality has appointed a recycling coordinator.
    - Statement that municipality has included provisions for recycling in their master plans.
    - Statement that municipality provides the State with tonnage reports each year.
    - Statement that municipality publicizes recycling provisions every six months.
3. [NJAC 5:85-7.13](#): Consistency review; (d), subsection 2 outlines the requirements needed for a complete and consistent municipal plan.
  - [XVIII](#) of this subsection requires the municipality to list at least one municipal recycling ordinance.
  - DSWM recommends that all recycling ordinances adopted by a municipality should be included so that the State is aware of what each municipality is doing to collect recyclables and improve upon the existing recycling system.
  - Providing a statement of consistency that the municipality has adopted ordinances requiring that all county mandated recyclable materials are source separated and the generator is reporting all recycling to the town pursuant to N.J.S.A. 13:1E-99.16(b) would acknowledge the requirements of this legislation in the town's self-assessment.
    - MSA mentions town has adopted state and county recycling goals.

4. DEP recommends that any additional recycling information that remains mostly consistent over time should be included in a self-assessment as well.
  - Due to recycling changing greatly overtime, listing specifics such as the current recycling hauler, where the recyclables are processed, or current tonnages would be unnecessary.
  - Components of a municipality's recycling system that are more long-term should be included. This can include, but is not limited to:
    - Recycling education campaigns (somewhat mentioned)
    - How the municipality plans to enforce proper recycling practices
    - Potential plans to build upon current recycling infrastructure.
  - This is a recommendation from DSWM and is not specifically mandated in the self-assessment requirements.
  - Including this provision would provide the State with an understanding of how a municipality plans to improve its current recycling system.

#### **Assessment of Proposed Planning Areas**

The MSA presented a general overview of areas determined to be in need of redevelopment. All currently appear to be within the SSA and water service area. The Department offers the following preliminary comments:

As general guidance for early planning for any new major development project, especially if it requires an extension of sewer and critical infrastructure, a planning area amendment, or major NJDEP permits, it is recommended that the municipality submit to the Office of Planning and Assessment as early as possible in the planning process a map of each individual proposed development project with a description, GIS shape files, a table with impacted lots and block, current lot use as developed commercial, residential or vacant, pristine or previously disturbed, forested or open, and any area in the proposed development parcels within the 100 year flood zone or within threatened and endangered species habitat. Coordination with NJDOT is also required and recommended before planning board approval. In addition, as multiple NJDEP permits and approvals may be required to complete a proposed development project, the DEP recommends early planning consultation with the Department prior to planning board approval to identify any permitting requirements and constraints. A pre-application conceptual meeting can be scheduled with the NJDEP through the Office of Permitting and Project Navigation at (609) 292-3600 and <https://www.nj.gov/dep/pcer/>

#### **Conclusion**

**The NJDEP supports re-endorsement of the existing center with adjustments to eliminate undeveloped areas within Natural Heritage Priority Sites and to update zoning overlays to inform the public of areas of habitat, flooding, steep slope, etc. The NJDEP will continue to work with OPA to adjust the center to provide maximum protection of undeveloped areas of flooding and/or habitat as well as low density residential areas. In addition, we will also work with OPA and the Town to identify critical environmental site (CES) zoning overlays of areas of habitat, steep slope and/or in the flood zone within the center.**

To be consistent with not only the Municipal Land Use Law, the State Plan, underlying land use and natural resources, modifications to the Proposed Center as presented by Newton in the MSA were made to avoid

and minimize impacts to threatened and endangered species and habitat, Wetlands, Flood Zones, Historic Resources, Surface Water Quality and Critical Infrastructure. These modifications are responsive to projected climate change impacts, allowing Newton to avoid, prepare for, minimize the effect of, adapt to and recover from extreme weather events and changes in environmental conditions that have the potential to adversely affect the resources and residents of the Town of Newton.

### **Summary of Recommendations**

#### **Assessment of Proposed Center**

In reviewing the Newton 2023 Master Plan Update and the State Plan endorsement Municipal Self Assessment received by the NJDEP on February 28, 2024, endorsement of a Newton Center promotes preservation of historic districts, preservation of natural resources, expansion of public access conservation areas, protection of socially vulnerable residents and incorporation of climate resilience measures.

1. The Town needs to further identify in the proposed preservation or redevelopment areas any vulnerabilities to future flooding and adverse impacts related to climate change. Resiliency actions and restrictions should be applied to any sections in flood zones. DEP can offer Technical Assistance in clarifying development constraints for sites.
2. Future development in the proposed center will likely be limited by a shortage of available vacant and open land, overlapping restrictions of Special Flood Hazard Areas, and regulated riparian zones. The Town's zoning ordinance should be updated to include overlays that address stormwater management, aquifer recharge, 100 year and 500-year flood zones and critical habitat and habitat corridors. This includes a CES overlay for structures in the 100 year and 500-year flood zone and environmentally sensitive areas (ESA).
3. Newton should update its Land Development Ordinance to include sustainable development practices.
4. Newton must demonstrate consistency with the State Plan and NJDEP guidance for climate resilience and environmental Justice. While not required in State Plan Endorsement rules, guidance or templates, **Newton did not provide in the MSA a summary table of all ordinances and plans with most recent date each was adopted or updated. It is recommended that Newton maintain an updated summary table of all ordinances and plans** and include it in future Master Plan re-examination reports. Attached is only one example of a summary table that the municipality may use to track and update their current ordinances and plans and update as needed to reflect any changes. Any State Plan required ordinances or plans currently missing need to be created and adopted. Any existing ordinances, plans, zoning, etc. may need to be reviewed and updated to include climate resilience, updated inventories data, and social vulnerability and environmental justice.

## Climate Change Resiliency

1. **As a priority, Newton should prepare for climate impacts described in the state Climate Change Science Report on Climate Change by completing a Climate Change related Hazard Vulnerability which includes a climate vulnerability assessment and planning actions as well as incorporating climate resilience into all applicable ordinances.**
2. This analysis has an extended focus on increased precipitation and flooding. The Town should also prepare for the impacts of increased heat.
3. Newton shall update its Hazard Mitigation Plan and chapter in the County Plan and shall include a NJ State Police approval letter for the Local Emergency Management Plan.
4. Newton should adopt a tree management plan to also prepare long-term adaptive management forestry practices to preserve its tree cover as precipitation and temperatures increase.
5. Newton should expand its conservation corridors connecting parks and walkable community areas via easements and additional open space preservation.

## Flooding

1. To address flooding increases, largely due to increases in intense short-term rain events, DEP recommends that Newton should utilize the Special Flood Hazard Area for the 1.0 percent (100 year) and 0.2 percent (500-year) storm. In assessing flood vulnerability, the Town should evaluate its sewer, water, and stormwater infrastructure vulnerability, as well as its transportation and evacuation routes.
2. Newton is included in the Sussex County Open Space and Recreation Plan. The Town should identify open space, vacant, and underutilized land vulnerable to future flooding and should maintain up to date mapping and inventory of areas that flood regularly, including repetitive loss (RL) and severe repetitive loss (SRL) properties, roadways and intersections, with particular attention to evacuation routes or critical access areas.
3. Future development in the municipality will likely be limited by overlapping restrictions of Special Flood Hazard Areas and riparian zones, wetlands, and critical environmental species habitat.
4. When evaluating any construction within the identified floodplain of Newton, the Town and others involved must also consider the cost of damage and replacement in the event of flooding.
  - Any proposed conceptual redevelopment or conservation plan should be presented to NJDEP early in the review process, before planning board approval, and before submittal of any permit applications to determine if the project has any fatal flaws rendering it unpermittable in its current design. Pre-application guidance is available at <https://www.nj.gov/dep/pcer/>
5. The DEP recommends that Newton, as per the 2023 Master Plan Update, enhance its own zoning regulations and building codes to encourage building outside of the flood zone and to minimize construction in flood prone areas to reconstruction of existing buildings. Flood zone area new



construction or redevelopment of existing buildings should avoid high density concentration and areas of severe flooding.

- Construction of any critical utility line and associated infrastructure, emergency services, or public services buildings (schools, hospitals, churches, etc.) should be avoided in the flood hazard area and any currently within the flood zone should be mitigated for flood resilience. When evaluating any construction within the identified floodplain of the municipality, one must also consider the cost of damage and replacement in the event of flooding.
6. DEP recommends that Newton adopt an updated floodplain development ordinance (<https://www.ecode360.com/35610472>) that is consistent with the most recent standards and National Flood Insurance Programs. For Guidance please review the riverine model ordinance at <https://www.nj.gov/dep/floodcontrol/modelord.htm> and and FEMA guidance at <https://www.fema.gov/floodplain-management/manage-risk/local>.
  7. DEP encourages any town that has homes and neighborhoods that repetitively flood to consider contacting the DEP Blue Acres program regarding buyouts. ([https://www.nj.gov/dep/greenacres/blue\\_flood\\_ac.html](https://www.nj.gov/dep/greenacres/blue_flood_ac.html))
  8. Green infrastructure should be incorporated into all projects within the floodplain.

#### Historic Resources

1. Newton should update its Historic and Cultural Resources Inventory if older than 10 years and update its Historic Preservation Implementation Ordinance to include climate resilience. Historic structures within the Town's Historic Districts should continue to be evaluated and protected with enhanced stormwater management and flood minimization plans within the municipal code.
2. Revise the municipal code to implement within the historic districts the following:
  - Adopt an updated Historic district overlay with defined historic district buffer area;
  - Adopt architectural and development standards within and adjacent to the district;
  - Maintain their Historic Preservation Commission;
  - Continue to update the historic sites inventory and include historic sites in capital improvement program especially related to flood resiliency; and
  - Adopt an Historic vista ordinance - <https://www.ecode360.com/35605049?highlight=vistas&searchId=4417242711656817#35605049>)

### Open Space and Wildlife

DEP recommends that Newton regularly update their 2023 natural resources inventory (most recently updated 2023) every 10 years and adopt a resource conservation protection overlay. With a deficit of acres of center recreation land, the Town should identify additional parkland for public community use in proximity to its center and walkable areas.

Newton should update as necessary their Open Space and Recreation Plan Element (most recently update 2023) to enhance the Newton chapter included in the Sussex County Open Space and Recreation Plan to further protect the municipality's open spaces and expand conservation easements.

- Continue to work with Sussex County and surrounding municipalities to provide and expand corridors of open space and natural features.
- Support habitat connectivity, adaptation to changing climate conditions, and to protect historic structures between and including town NGO, state, and federal open space within Newton.
- Newton should also incorporate conservation easement tracking and monitoring in its Open Space Plan and a Habitat Conservation Protection ordinance.
- Newton should add large municipal owned open space tracts to the ROSI with a habitat management plan to ensure that these tracts remain open and available for public use.

Newton should expand on its long-term tree shade and forestry adaptive management practices to preserve its tree cover as precipitation and temperatures increase.

- Update and/or adopt its tree ordinance to protect trees during development and in accordance with a Community Forest Management Plan
- Adopt a Community Wildfire Protection Plan utilizing guidance from NJ Forest Fire Service

Newton should promote the recolonization and reuse of open field habitats for ground nesting and foraging birds.

Newton should continue to expand public outreach and educational opportunities.

### Wastewater, Water Supply, and Stormwater

1. Newton should regularly re-assess vulnerability of the municipal stormwater, wastewater management system and potable water supply system infrastructure that serves the town including any treatment plants, pump stations, delivery piping or outfalls in the flood zone, determine their specific vulnerability to flooding events, and evaluate resiliency solutions.
2. Stormwater Management - DEP recommends that Newton continue to address stormwater runoff and improve stormwater retention on site at its source, reduce flooding and maintain water quality as temperatures and precipitation rise. Improvements can be implemented in many ways, including replacing impervious pavement with pervious surfaces, maintaining and

restoring all surface water bodies potential for additional stormwater retention through dredging and silt control, constructing green and natural infrastructure, requiring buffers to surface water bodies, restoring wetland areas, adhering to state requirements for stormwater management best management practices, and adding stricter municipal building codes.

3. DEP recommends that Newton confirm compliance with all requirements of their MS4 permit and update its stormwater pollution prevention plan and ordinance to reflect any updates in climate resilience.

- Newton is currently in compliance with the MS4 permit as they have submitted to DEP outfall location maps in the town and completed currently required inspections and training. Newton shall continue to complete as required future inspections of outfalls and employee training under the MS4 permit.
- Inventory and update maps of any stormwater outfalls located within the flood zone and determine their specific vulnerability to flooding events.
- If not already done, it is recommended that Newton update its ordinance to incorporate overlays for aquifer recharge, stream corridor and greenway conservation, and steep slope erosion control.
- Adopt an Impervious Surface Reduction Plan - Evaluate and reduce impervious surfaces and improve stormwater in-situ recharge.
- Stream Corridor and Green Infrastructure - Newton should seek opportunities to install green infrastructure measures and expand stream corridor buffer areas to offset increased stormwater runoff and to lower the impacts of heat-island effect directly related to the amount of impervious surfaces.

4. Wastewater Management – Newton has it's own public wastewater treatment plant. Newton should confirm if there are any private and/or commercial/industrial septic systems in the town and if any are located in the flood zone and vulnerable to adverse impacts of climate change. While it appears that the more than 72% of the town is included in the municipal SSA, any identified houses in need of expansion of a sewer service area to relieve failing septic systems as a health priority should be identified and evaluated if they are in a flood zone.

- DEP supports ongoing resiliency improvement measures in Newton and infrastructure resilience inclusion in an updated municipal chapter of the Sussex County Hazard Mitigation Plan that may require relocating any conveyance or outfall pipe.
- Any effort to extend a sewer service area or build an on-site wastewater package plant will require a Water Quality Management Plan amendment. Newton includes many areas of wetlands and flood hazard and areas identified as habitat for threatened and endangered species. Future evaluation of any County approved sewer service area may eliminate those currently undeveloped species habitat areas. Such parcels would be

subject to review either through a Municipal Chapter of the Sussex County Wastewater Management Plan or through a site specific amendment pursuant to the DEP Water Quality Management rules.

5. Potable water supply system – Newton does have their own municipal public potable water supply system but should inventory if there are any remaining private wells in town and if any are in the 100-year flood zone. Newton shall identify any water supply infrastructure is located in the flood zone and determine their specific vulnerability to flooding events.
  - Newton shall adopt and update as necessary an existing Water Conservation Plan to address climate resilience.
6. Steep Slopes – Newton should prepare an inventory of steep slope parcels and should adopt a steep slope ordinance to prevent erosion, limit disturbance and preserve open space especially in and adjacent to riparian conservation corridors. This should particularly address large open space tracts designated for open space preservation and public access.

#### Contaminated Sites, Solid and Hazardous Waste, and Recycling

1. Newton should update their Known Contaminated Sites Inventory of the Town and generate a status update summary with map locations. Newton should delineate which known sites are currently undergoing active or passive remediation efforts and regular groundwater monitoring. Newton should also identify if any of these Known Contaminated Sites (KCS) also meet the current DEP definition of a brownfield site and evaluate for redevelopment.
2. If the Town pursues brownfield cleanup and development in the future, DEP recommends taking actions as part of the Sustainable Jersey Certification Program.
3. Newton should also inventory potential sources of contamination by identifying all commercial and private home underground storage tanks and septic systems. This should be updated regularly.
4. Newton should update its recycling ordinance and update its municipal solid waste and recycling management plan to identify not only public, but also private facilities that either collect, transfer, process, or dispose of solid waste or recyclables on its municipal inventory. Newton should notify the State of any update to its recycling ordinances adopted through a statement of consistency, pursuant to N.J.S.A. 13:1E-99.16(b).

#### Environmental Justice and Social Vulnerability

1. As per new environmental justice legislation, all municipalities should seek to reduce disproportionate stressors and increase benefits for socially vulnerable populations and frontline communities. Newton can do this by empowering residents, particularly its most socially vulnerable residents, to meaningfully participate in decision-making that affects their environment, communities, and health.

2. Newton included a land use inventory in the 2023 Master Plan Update and discussed it in the MSA. It should be updated every 10 years to further identify sustainable development potential while meeting conservation and environmental protection goals.
3. Newton should update its affordable housing ordinance to include climate resilience and develop an overlay for proposed affordable housing on vacant or underutilized land.
4. The Town should update any assessment of any Redevelopment Areas vulnerable to future flooding, with regulated wetlands and/or with identified critical species habitat during the planning process that would limit any future affordable housing.

#### Greenhouse Gas Reduction and Energy

1. All communities are encouraged to implement actions to meet New Jersey's goals for greenhouse gas emissions reduction. The Sustainable Jersey Gold Star in Energy identifies a suite of actions and levels of performance that municipalities can take to reduce greenhouse gas emissions. Information on the goals star standard can be found at <https://www.sustainablejersey.com/actions/gold-star-standards>.
2. DEP supports any efforts by Newton to pursue the utilization of renewable energy, although it encourages the Town to pursue it in an ecologically responsible manner. Newton shall conduct an energy audit of all municipal buildings and adopt an updated Energy Master Plan.
3. DEP supports renewable energy through solar arrays installation, although it expresses concerns for their placement in ground nesting habitats for birds. Newton should continue to protect the municipality's open spaces and the recolonization and reuse of open field habitats for ground nesting and foraging birds as they evaluate sustainable, renewable, and alternative energy sources and sites.
4. Newton shall adopt a Greenhouse Gas Emissions Reduction Ordinance that encompasses energy efficiency and sustainable alternatives to transportation including bike paths, walking trails and contiguous sidewalks and traffic congestion relief. For guidance, please refer to the Great Plains Institute database of climate ordinances at:  
[https://www.betterenergy.org/blog/database-of-climate-ordinances-now-available-to-planners/?mc\\_cid=ee681f368d&mc\\_eid=64c234231d](https://www.betterenergy.org/blog/database-of-climate-ordinances-now-available-to-planners/?mc_cid=ee681f368d&mc_eid=64c234231d)



Municipal Ordinance  
Checklist.docx



Maps  
Newton\_State\_Plan\_R