



ORDINANCE

AMENDING THE ZONING ORDINANCE BY ESTABLISHING A GROUNDWATER MANAGEMENT ZONE OVERLAY DISTRICT TO INCLUDE THE GROUNDWATER MANAGEMENT ZONES FOR FOUR HILLS LANDFILL AND THE GILSON ROAD SITE

CITY OF NASHUA

In the Year Two Thousand and Thirteen

The City of Nashua ordains

- I. That Part II “General Legislation”, Chapter 190 “Land Use”, Part 2 “Zoning Districts and Supplemental Use Regulations”, of the Nashua Revised Ordinances, as amended, be and hereby is further amended as follows:
 1. In Article II “Generally”, Section 190-11 “Establishment of Districts”, Table 11-1 “Zoning Districts”, add the following new entry:

Full Name	Class	Short Name
Four Hills Landfill Groundwater Management Zone	Overlay	FHL-GMZ

2. In Article II “Generally”, Section 190-11 “Establishment of Districts”, Section 190-12 “Zoning Map”, add the boundaries of the FHL-GMZ, as shown on the map entitled “Current and Proposed Land Use, Groundwater Overlay District Four Hills Landfill and Gilson Road Superfund Site,” dated July 2013, according to Section 190-12, A and B.

LEGISLATIVE YEAR 2013

ORDINANCE: 0-13-050

PURPOSE: Amending the zoning ordinance by establishing a groundwater management zone overlay district to include the groundwater management zones for Four Hills Landfill and the Gilson Road site

ENDORSER(S): Mayor Donnalee Lozeau

**COMMITTEE
ASSIGNMENT:**

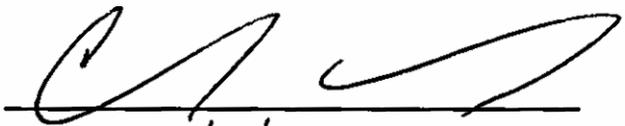
FISCAL NOTE: None.

ANALYSIS

The New Hampshire Department of Environmental Service (NH-DES) Groundwater Management and Release Detection Permit for the Four Hills Landfill requires that the City create a Groundwater Management Zone (GMZ) for Four Hills Landfill. NH RSA 485-C:6-b and regulations thereunder require that notice of a GMZ be recorded in the registry of deeds in the chain of title for each property included in the GMZ. As an alternative form of notice, the law allows for the establishment of an overlay district. Due to the number of parcels affected by the Four Hills Landfill GMZ, the City, in consultation with the NH-DES, determined that it was more efficient and effective to establish a Four Hills Landfill Ground Management Zone Overlay District in lieu of recording notice in the chain of title for each property located within the GMZ. This ordinance creates the new overlay district for the NH-DES required GMZ.

State statute (RSA 675:2) and NRO Section 190-132 require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least ten (10) calendar days prior to the date of the hearing. (Notice period does not include the day notice is posted or the day of the public hearing. RSA 675:7, 1.) A super majority vote (two-thirds (2/3) of all members present) of the board of aldermen would be required if a protest petition is filed pursuant to RSA 675:5.

Approved as to form: Office of Corporation Counsel

By: 

Date: 8/8/2013

3. In Article IV “Overlay Districts”, add the following new section:

“§ 190-24A. Four Hills Landfill Groundwater Management Zone.

Purpose: On April 5, 2011, the New Hampshire Department of Environmental Service (NH-DES) issued Groundwater Management and Release Detection Permit No. GWP-198403099-N-004 to the City of Nashua for the Four Hills Landfill (Permit). One of the conditions of the Permit was for the City to collect data for a final definition of the off-site Groundwater Management Zone (GMZ). A GMZ is an area within which groundwater use must be controlled and/or monitored due to the potential presence of groundwater contaminants that exceed the State’s Ambient Groundwater Quality Standards (AGQS). On June 10, 2013 the City submitted its technical justification for the boundary of the proposed off-site GMZ. The boundary was determined by analysis of groundwater flow in the areas surrounding the Four Hills Landfill. The NH-DES approved the off-site GMZ boundary delineation proposed by the City on June 24, 2013.

NH RSA 485-C:6-b and regulations thereunder require that notice of a GMZ be recorded in the registry of deeds in the chain of title for each property included in the GMZ. As an alternative form of notice, the law allows for the establishment of an overlay district. Due to the number of parcels affected by the GMZ, the City in consultation with the NH-DES determined that it was more efficient to establish a Four Hills Landfill Ground Management Zone Overlay District in lieu of recording notice in the chain of title for each property located within the GMZ. The Overlay District also includes properties in the GMZ of the Gilson Road Superfund Site which is administered by NH-DES.

It is the purpose and intent of this section to establish an overlay district to protect the public health and the well-being of the City by restricting groundwater use to meet the requirements of New Hampshire’s Groundwater Protection Act and the rules promulgated thereunder. The groundwater quality is being monitored under the Permit.

A. Authority.

The Four Hills Landfill Groundwater Management Zone Overlay District (FHL-GMZ) is established in consultation with the New Hampshire Department of Environmental Services (NH-DES) and pursuant to NH RSA 47:17, XV “Bylaws and Ordinances, Miscellaneous,” NH RSA 485-C, “Groundwater Protection Act,” and the regulations promulgated thereunder including but not limited to Env-Or 607.02 and 607.06, and the Groundwater Management and Release Detection Permit No. GWP-198403099-N-004 issued April 5, 2011 to the City of Nashua by the NH-DES (Permit).

B. Four Hills Landfill Groundwater Management Zone Overlay District established.

The Four Hills Landfill Groundwater Management Zone Overlay District is hereby established as an overlay district and shall be superimposed on the other districts

established by the zoning ordinances. The requirements for this FHL-GMZ shall be in addition to, rather than in place of, the requirements of such other districts.

C. Boundaries.

- (1) The FHL-GMZ is herein established to include all lands within the City of Nashua lying in and between the Four Hills Landfill and in a westerly direction, the easterly bank of the Nashua River; in a northern direction the Trestle Brook and following northwesterly along the Trestle Brook to the easterly bank of the Nashua River; and in a southern/southwesterly direction the southern boundary of the Gilson Road Superfund site extending westerly to the easterly bank of the Nashua River. The map entitled "Current and Proposed Land Use, Groundwater Overlay District Four Hills Landfill and Gilson Road Superfund Site," dated July 2013, and prepared by the City shall delineate the boundaries of the overlay district. The FHL-GMZ shall extend to any newly-created lot or map numbers created as a result of a subdivision within the defined area. This map as may be amended is hereby declared to be a part of this article.
- (2) The boundary of the FHL-GMZ shall be reviewed no less frequently than as required by the Permit or the NH-DES. Subsequent to such review, lots may be removed from or added to the FHL-GMZ after consultation with the NH-DES.
- (3) When the boundary of the FHL-GMZ is in dispute by any owner or abutter affected by said boundary, the City shall engage, at the owner or abutter's sole expense, a professional geologist or hydro-geologist to determine more accurately the precise boundary of the FHL-GMZ. The City shall consult with and receive approval from the NH-DES prior to any modification of the boundary of the FHL-GMZ.

D. Prohibited Uses.

In the FHL-GMZ any and all extraction and use of groundwater by any means and for any purpose whatsoever is prohibited unless the City and the NH-DES grant specific prior approval. No wells of any nature shall be dug, installed or otherwise created within the FHL-GMZ without prior approval from the City and the NH-DES. No groundwater shall be drawn or pumped by any means or for any use from within the FHL-GMZ without prior approval of the City and the NH-DES, unless it is for the specific and sole purpose of pumping groundwater out of a sump to keep a basement from flooding. No disturbance of wetlands within the FHL-GMZ shall be permitted without the prior approval of all authorities having jurisdiction, including but not limited to the City and the NH-DES.

E. Administration.

The provisions of the FHL-GMZ shall be administered by the Health Officer and the Department of Public Works.

Notice of any variances given from the provisions of the FHL-GMZ shall be forwarded to the NH-DES.

F. Enforcement.

The Health Officer be responsible for enforcement of the provision of the FHL-GMZ and may pursue all legal and equitable remedies to ensure compliance with this ordinance.

G. Effective Date.

This ordinance shall become effective upon passage.

The FHL-GMZ shall remain in effect until such time as the Ambient Groundwater Quality Standards (AGQS) are restored within the GMZ and the NH-DES approves release of the overlay prohibitions.

II That Part II “General Legislation”, Chapter 190 “Land Use”, Part 8 “Definitions and Submittal Requirements”, Article XLII “Definitions”, Section 190-264 be amended by adding the following new definition in the appropriate alphabetical order:

“GROUNDWATER – means “groundwater” as defined in RSA 485-C:2,VIII, namely “subsurface water that occurs beneath the water table in soils and geologic formations”.



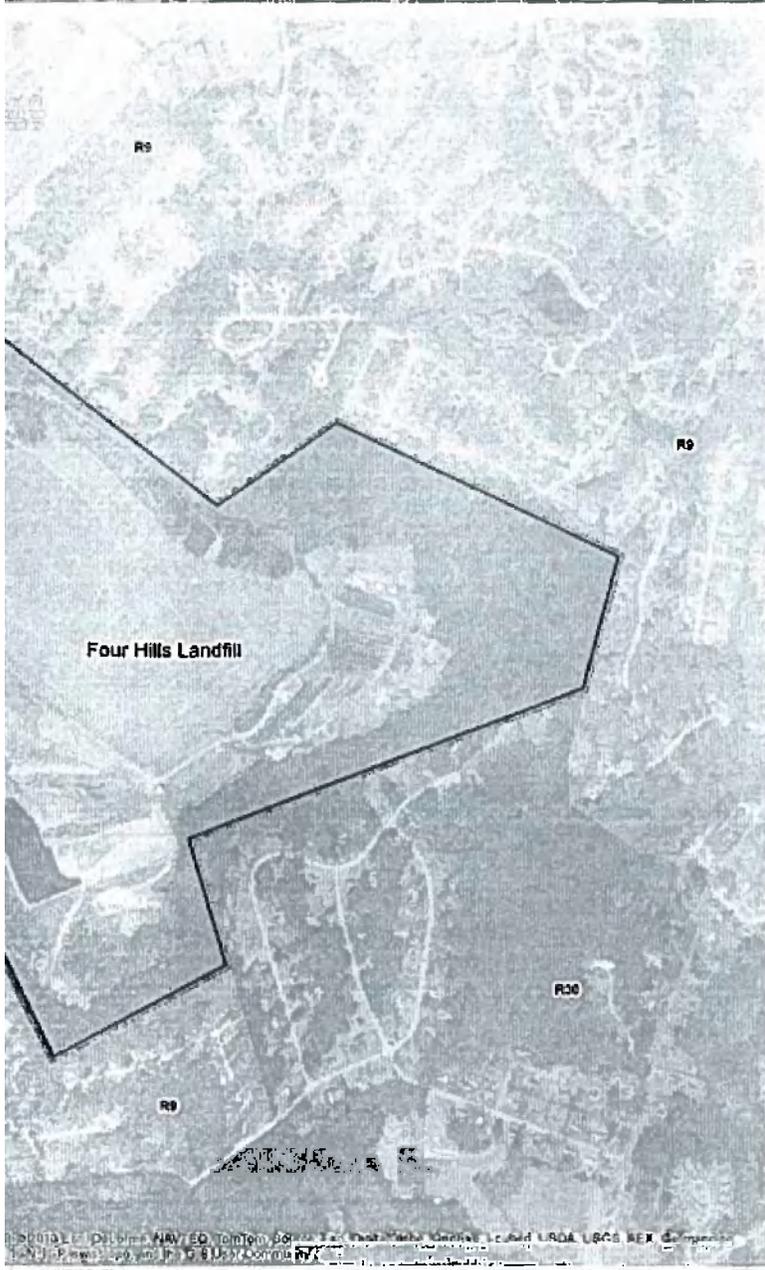


Figure 1
Proposed New Zoning
Boundaries, Groundwater
Overlay District

Four Hills Landfill and Gilson Road
 Superfund Site

Nashua Division of Public Works
 Solid Waste Department
 Nashua, New Hampshire

Drawn By: C. LaVack
 Designed By: A. Khandekar
 Reviewed By: N. Roy
 Project No: 3086.02
 Date: July 2013

Figure Narrative

This figure depicts the proposed new zoning boundary together with the existing zoning boundaries relevant to this area. As approved by the New Hampshire Department of Environmental Services (NHDES) the proposed new Groundwater Overlay District is designed to incorporate the proposed expanded boundaries of the Four Hills landfill and Gilson Road Superfund Site Groundwater Management Zones (GMZs), as well as the area between the two current GMZs. The zoning change is requested to allow the City to comply with NHDES regulations.

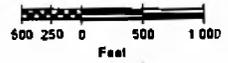
The zoning change is requested by the City of Nashua and has been submitted to the Board of Aldermen in August 2013.

The zoning overlay data was provided in the form of GIS shapefiles by the City of Nashua's GIS Department. Refer to the City of Nashua NH Zoning Map and Land Use Code for additional details.

DRAFT

Legend

- 1.) Existing Zoning Boundaries:
 - Suburban Residence Zoning District (R30)
 - Suburban Residence Zoning District (R9)
- 2.) Proposed Zoning Boundary:
 - Proposed Groundwater Overlay District
- 3.) Other:
 - Current Four Hills Landfill GMZ Boundary
 - Current Gilson Road Superfund Site GMZ Boundary



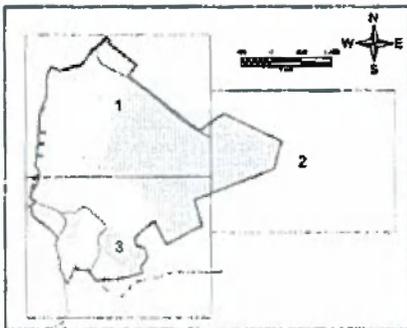
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Rodger's Mobile Home Park
Nashua River
Timber Ridge
Condominiums
Jensen's River Pines
Mobile Home Park

Jensen's River Pines
Mobile Home Park

Gilson Road
Superfund



Map 8025 (with 1000-foot scale) showing the location of the Superfund site in the Nashua River watershed, New Hampshire.

Source: U.S. Geological Survey

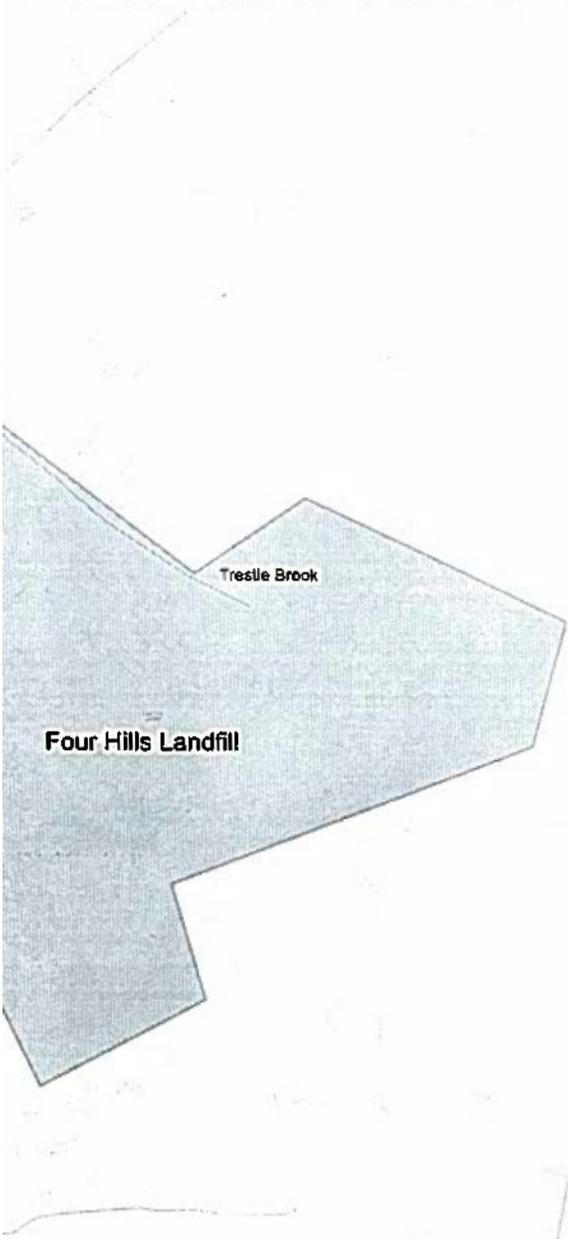


Figure 2
Current and Proposed
Land Use, Groundwater
Overlay District

Four Hills Landfill and Gilson Road
 Superfund Site

Nashua Division of Public Works
 Solid Waste Department
 Nashua, New Hampshire

Drawn By: C. LeVack
 Designed By: A. Khendekar
 Reviewed By: N. Roy
 Project No: 3066 02
 Date: July 2013

Figure Narrative

This figure depicts the existing land use within and adjacent to the proposed zoning area. This map also portrays topography principal man-made features, and property lines as required by the City of Nashua Zoning Ordinance 190-278 (C). The pattern of development is not anticipated to be influenced by the adoption of the proposed zoning area, therefore this map is intended to meet the requirements of 190-278 (D), as well.

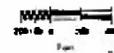
The zoning change is requested by the City of Nashua and has been submitted to the Board of Alderman in August 2013.

The zoning overlay data and land use information was provided in the form of GIS shapefiles by the City of Nashua's GIS Department. Refer to the City of Nashua, NH Zoning Map and Land Use Code for additional details.

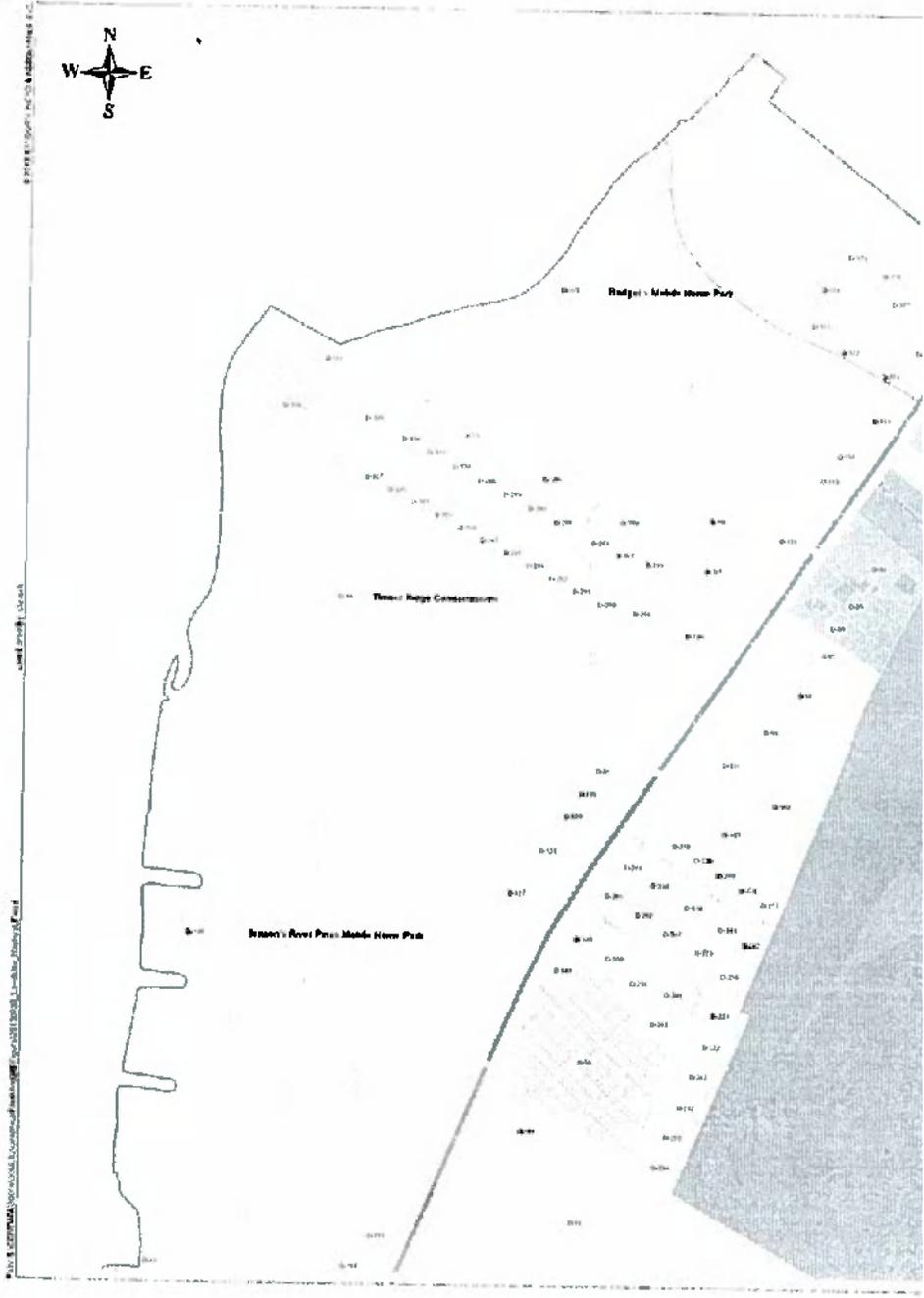
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Legend

- 1.) Existing Land Use Classifications:
 - Commercial
 - Industrial
 - Residential
 - Undeveloped Land
- 2.) Proposed Zoning Boundary:
 - Proposed Groundwater Overlay District
- 3.) Other:
 - Parcel Boundary
 - Streams



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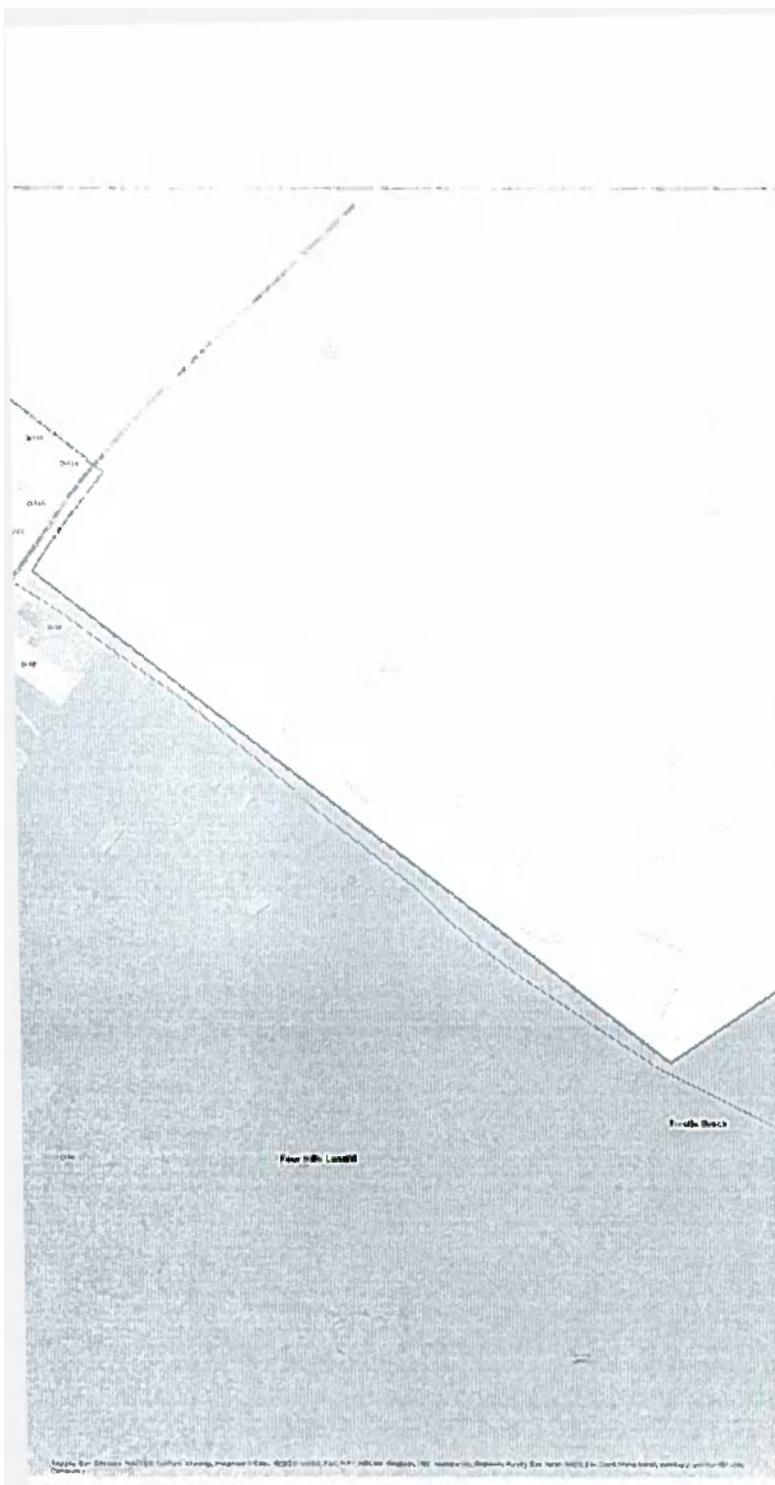


Figure 2 - 1
**Current and Proposed
 Land Use, Groundwater
 Overlay District**

Four Hills Landfill and Gilson Road
 Superfund Site

Nashua Division of Public Works
 Solid Waste Department
 Nashua, New Hampshire

Designed By: C. LaVaca
 Drawn By: A. Khendekar
 Reviewed By: M. Roy
 File No: 3068.02
 Date: July 2013

Figure Narrative

This figure depicts the existing land use within and adjacent to the proposed zoning area. The map also portrays topography, principal man-made features, and property lines, as required by the City of Nashua Zoning Ordinance 90-276 (C). The pattern of development is not anticipated to be influenced by the adoption of the proposed zoning area; therefore this map is intended to meet the requirements of 190-276 (D), as well.

The zoning change is requested by the City of Nashua and has been submitted to the Board of Aldermen in August 2013.

The zoning overlay data and land use information was provided in the form of GIS shapefiles by the City of Nashua's GIS Department. Refer to the City of Nashua, NH Zoning Map and Land Use Code for additional details.

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Legend

1.) Existing Land Use Classifications

-  Commercial
-  Industrial
-  Residential
-  Undeveloped Land

2.) Proposed Zoning Boundary

-  Proposed Zoning Boundary
-  Proposed Groundwater Overlay District

3.) Other

-  Parcel Boundary
-  Streams



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