



JON S. CORZINE
Governor

State of New Jersey

Highlands Water Protection and Planning Council
100 North Road (Route 513)
Chester, New Jersey 07930-2322
(908) 879-6737
(908) 879-4205 (fax)
www.highlands.state.nj.us



JOHN R. WEINGART
Chairman

EILEEN SWAN
Executive Director

June 16, 2008

PUBLIC NOTICE HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL DRAFT REDEVELOPMENT SITE DESIGNATION PROCEDURES

Please take notice that the New Jersey Highlands Water Protection and Planning Council is soliciting public comment on the Council's Draft Redevelopment Site Designation Procedures. **The Council will accept public comments on these draft procedures through July 16, 2008.** The Council will be considering the adoption of final Redevelopment Site Designation Procedures at a future meeting based upon the public comments received. Please send comments on the public release to chris.ross@highlands.state.nj.us.

While the Council prefers emailed comments, if you do not have access to a computer at home or at your library, you may mail your comments to:

New Jersey Highlands Council
100 North Road (Route 513)
Chester, New Jersey 07930
Attn: Christine Ross, Senior Resource Management Specialist

History of the Redevelopment Site Designation Procedures

The draft Redevelopment Site Designation Procedures were provided for public comment on May 4, 2007. A Draft Method for Determination of Impervious Surfaces for Redevelopment Waivers was subsequently released for public comment, with a close of the written comment period of Monday, March 3, 2008. The revised Draft Redevelopment Site Designation Procedures are attached for public review and comment.

Significant changes have been made to both the draft procedures of May 2007 and the draft impervious surfaces method of February 2008. These changes are summarized below.

1. Simplification of the Procedures: The May 2007 draft procedures included extensive information requirements. Public comments indicated that the requirements were onerous for a procedure that has, as its endpoint, the designation of a redevelopment area. Many of the information requirements were felt to be more appropriate for the purposes of site design and waiver review, both of which will only occur after designation of the redevelopment area. Upon review, the Highlands Council staff determined that some of the

PUBLIC NOTICE: REDEVELOPMENT SITE DESIGNATION PROCEDURES

June 16, 2008

Page 2

information requirements were appropriate to the designation process, while others were more appropriate to Highlands Project Review and NJDEP's regulatory review for a Highlands Resource Area Determination (HRAD) and Highlands Preservation Area Approval (HPAA) with redevelopment site waiver. The draft final procedures have a more condensed set of information requirements. However, the Highlands Council staff will conduct a preliminary review of available site information (similar to the checklists used for WQMP amendment reviews) to identify any major concerns that should limit the boundaries of redevelopment area designations or affect the extent to which the HPAA waiver should apply.

2. Clarification Regarding Eligible Sites: Public comments indicated concerns that redevelopment areas could be designated in lower density residential areas, especially with application of the draft impervious surface method. The proposed final procedures address changes to the impervious surface method (see #3), but proposed final procedures also include new language to clarify what types of properties will be eligible for designation of redevelopment areas. Most important is clarification that where a project is eligible for Highlands Act Exemptions #4 (reconstruction of buildings or structures within 125% of the footprint), #5 (improvement to a single family dwelling) and #6 (places of worship, schools, or hospitals), the site should not be the subject of a redevelopment site designation. This will eliminate the need for redevelopment area designations regarding all religious, school or hospital facilities, most if not all residential redevelopment, and "minor" improvement projects (within 125% of the existing impervious footprint and less than ¼ acres of new impervious surface). In addition, the designation of brownfields as redevelopment areas will be limited to those areas that involved disturbed lands; sites will not be eligible if they have ground water contamination but no land disturbance. It should be noted that one (1) percent of the Preservation Area is equivalent to 4,150 acres, sufficient to address a large number of potential redevelopment sites. The Highlands Council to date has received a limited number of inquiries. Based on these limitations and existing information, the Highlands Council estimates that only a very limited portion of the Preservation Area will be eligible for redevelopment site designation, and even less will actually be designated. This conclusion is drawn from the following analysis:
 - a. As of 2002, 84.2 percent of the Preservation Area was in agriculture (e.g., field crops, orchards), forest, water, wetlands and barren land, all of which do not qualify as impervious surfaces. While land development since 2002 may have reduced this value, new development is highly unlikely to be involved in a request for designation of a redevelopment area. Once the 2007 land use/land cover data are available, the Highlands Council will assess the status of land use for that year.
 - b. Of the remaining 15.8 percent that was residential, commercial, industrial or "other urban" in 2002, only 3.7 percent is commercial, industrial or other urban. These lands are the areas most likely to have greater than 70 percent impervious surface. Therefore, the amount of eligible land is likely much less than the full 3.7 percent, and some redevelopment potential for such lands will be addressed by Highlands Act Exemptions 4 and 6.
 - c. Residential lands in the Preservation Area range from very low density exurban and rural housing (which will never achieve 70 percent impervious surface, and further,

PUBLIC NOTICE: REDEVELOPMENT SITE DESIGNATION PROCEDURES

June 16, 2008

Page 3

will qualify for Exemptions 4 and 5 for redevelopment or replacement) to center-based and lake community small lot development, which could in some cases reach 70 percent impervious.

- d. Only six percent of total Highlands Region zoning is for high density residential or mixed use, and zoning usually reflects existing development to avoid creating nonconforming uses. Therefore, most residential development in the full Region will be insufficiently dense to be 70 percent impervious surface.
- e. Given that the delineation of the Preservation Area deliberately excluded most of the major urban centers (Planning Areas 1 and 2 with sewerage), the proportion of high density residential/mixed use in the Preservation Area is likely to be far lower than in the full Region.

Finally, being eligible for designation of a Redevelopment Area does not mean that the property owner will ever request such a designation or that redevelopment will actually occur.

3. Redevelopment Procedures - In February 2008, the Council released a draft method for mapping impervious surface based on the definition of the Highlands Act, and received a number of public comments by the March 4th deadline. Most of the comments raised questions about the technical method or suggested refinements. Based on the review of these comments, it has become clear that the proposed method created concern and confusion. In accordance with the Highlands Act, there may be situations in which a site-specific analysis of “bare soil” areas (i.e., those areas that are not covered by a specified impervious surface but are not capable of supporting vegetation) may identify additional areas that should be considered “impervious” under the Act’s definition. Therefore, Council staff recommends that the Redevelopment Area Designation Procedure not include the proposed method, but rather require a case-by-case analysis of impervious surface based on a determination of surfaces that are paved, have a structure upon them, or are one of the specifically listed surfaces mentioned in the Highlands Act. Regarding the potential for additional impervious surfaces, Council staff will coordinate with NJDEP to draft a work plan that would lead to the identification of technical methods capable of making such determinations.

DRAFT FOR PUBLIC COMMENT

PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATIONS

June 16, 2008

1.1 Purpose and scope

The Highlands Act and New Jersey Department of Environmental Protection (NJDEP) Highlands Rules (N.J.A.C. 7:38) mandate the application of protection standards for Highlands resources in the Preservation Area. Any activities defined as major Highlands development but not exempted under the Act must meet these standards through a Highlands Preservation Area Approval (HPAA) from NJDEP. In certain instances, however, NJDEP can issue a HPAA with a waiver providing limited relief from specific standards.

One waiver provided by the Highlands Act allows certain brownfield sites and previously developed areas to be redeveloped, through NJDEP approval of an HPAA with Redevelopment Waiver. The Highlands Rules mandate that the Highlands Council must first designate an appropriate Redevelopment Area. This document outlines the procedures by which the Highlands Council will designate Redevelopment Areas. Following such a designation, an application may be submitted to NJDEP for the HPAA with Redevelopment Waiver.

(a) The following establishes the procedures for an applicant requesting a Highlands Redevelopment Area designation and the standards by which the Highlands Council determines that an area within the Preservation Area is appropriate for such a designation. It is intended to assist applicants with early identification of potential appropriate redevelopment areas.

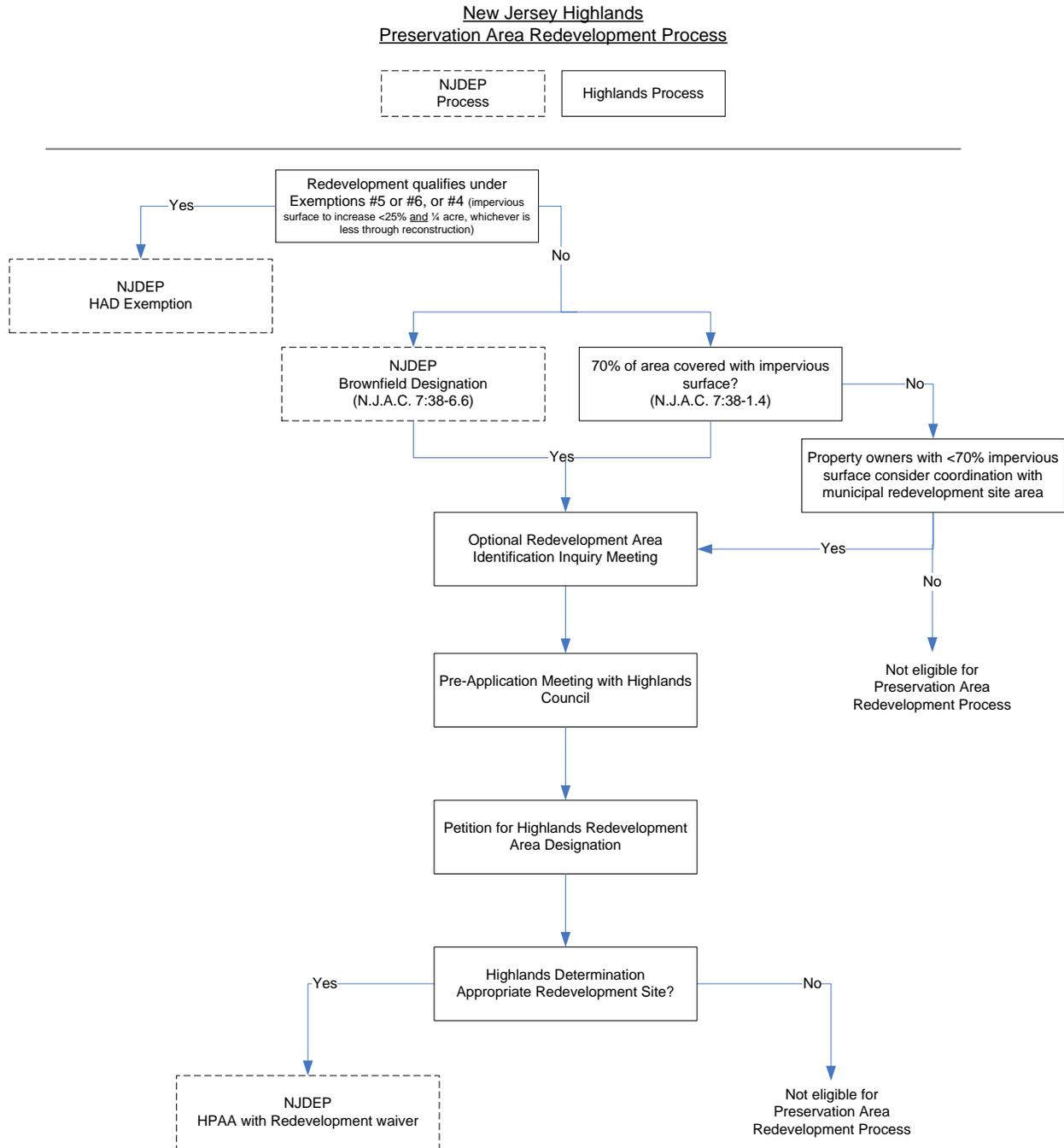
Applications may come before the Council via different means: 1) when one or more individuals are proposing a Redevelopment Area on one or more contiguous properties that they control; 2) when a municipality is proposing multiple contiguous properties for a proposed Redevelopment Area; and 3) when a municipality is partnering with a landowner or group of landowners to identify a Redevelopment Area. The Council staff will consult with County officials as deemed appropriate.

The flow chart on the following page identifies the process for an applicant requesting a Highlands Redevelopment Area designation in the Preservation Area. As depicted in the flow chart, if the proposed redevelopment does not meet the requirements of a Highlands Act Exemption, the next step is for an interested party to pursue a Redevelopment Area designation as per (b) below.

(b) The Highlands Council may identify an area as appropriate for redevelopment if the area satisfies the requirements presented herein and is either:

1. A Highlands brownfield site designated by the Department of Environmental Protection pursuant to N.J.A.C. 7:38-6.6;
2. A site at which at least 70% percent of the area is covered with impervious surface as that term is defined in N.J.A.C. 7:38-1.4.

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**
Draft For Public Comment, June 16, 2008



**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**
Draft For Public Comment, June 16, 2008

1.2 Definitions

Highlands Brownfield – Any 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 or contaminant that meets the designation of a brownfield site pursuant to N.J.A.C. 7:38-6.6. There are three tracks under which a site may serve as a Highlands Brownfield, provided that the contamination onsite is not the result of a current or previous agricultural use:

1. Track One addresses sanitary landfill sites;
2. Track Two addresses sites that may have already met the NJDEP remediation requirements and legally disturbed areas as of August 10, 2004; and
3. Track Three addresses sites with suspected or confirmed onsite contamination that have not yet received a No Further Action letter.

Highlands Redevelopment - A process to rebuild, restore or enhance a previously developed area that is appropriate for economic investment and community development in accordance with the Smart Growth principles of the Regional Master Plan. Redevelopment activities may include the removal and replacement of existing structures, adaptive reuse or infill of additional structures within areas which are substantially developed or surrounded by development, or conversion to recreational sites, parks, natural resources conservation, or other dedicated open space purposes.

Highlands Regional Master Plan – The Regional Master Plan (RMP) including all supporting technical documents, or any revisions thereof approved or adopted by the New Jersey Highlands Water Protection and Planning Council pursuant to N.J.S.A 13:20-8.

Highlands Area Resource - Those features of the Highlands that merit special protection pursuant to N.J.S.A. 13:20-1 et seq. and the protection policies and objectives of the Regional Master Plan including, but not limited to: Highlands open waters and buffers; flood hazard areas; steep slopes; forested areas; rare, threatened or endangered species habitat; rare or threatened plant habitat; areas with historic or archaeological features; and unique or irreplaceable land types.

Highlands Preservation Area Approval – A Highlands Preservation Area Approval (HPAA) means a permit from the NJDEP to engage in a regulated activity in the Highlands Preservation Area issued pursuant to the Highlands Act.

Highlands Preservation Area Approval with Redevelopment Waiver – The Highlands Act features a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the Preservation Area. A redevelopment waiver applies when a site is a NJDEP brownfield-designated site (N.J.A.C. 7:38-6.6) or when the Highlands Council identifies a site at which at least 70 percent of the area thereof is covered with impervious surface (N.J.A.C. 7:38-6.7). A request for a waiver must be submitted along with an HPAA application, as set forth in N.J.A.C. 7:38-6.1. Thus, an applicant must obtain a *Highlands Preservation Area Approval with Redevelopment Waiver*.

Highlands Redevelopment Area – The portion of a parcel or parcels of land for which a Highlands Redevelopment Area designation is approved by the Highlands Council.

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**

Draft For Public Comment, June 16, 2008

Highlands Redevelopment Area Designation – A Highlands Council designation that an area within the Preservation Area is appropriate for redevelopment under N.J.S.A. 13:20-9.b and 11.a(6)(h).

Highlands Resource Area Determination (HRAD) – A process to identify and/or verify the location of any Highlands resource area features that are subject to the protection requirements under N.J.A.C: 7:38. The HRAD is not a permit, but rather a process intended to confirm the presence, absence or location of a Highlands resource area on or adjacent to a site.

Impervious Surface – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes, but is not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

Interested Party – A person who owns or is under contract to purchase a property eligible for designation of a Redevelopment Area, or the municipality or county within which a proposed Redevelopment Area is located.

Preservation Area – That portion of the Highlands Region so designated by N.J.S.A 13:20-7b.

Smart Growth – A strategic approach that utilizes comprehensive planning to guide design, development, and revitalization of communities. Smart growth principles support sound land use decisions and serve as an advocate for informing future land management decisions that consider environmental protection needs in the context of efficient land development. In order to accommodate local and regional economic development of the Highlands Region, Goals 6J, 6K, 6L and 6N of the RMP encourage growth to occur in locations that have limited environmental constraints, represent existing developed areas that have access to infrastructure, encourage compatible redevelopment, allow the application of compact development concepts, and are in accordance with community character. The Highlands Act refers to the prohibition and limitation of construction and development within the Preservation Area and the revocation of previously approved water and sewer service areas that lack existing infrastructure, in support of this preservation goal. The Highlands Act recognizes the State Development and Redevelopment Plan goal to encourage development patterns that are consistent with existing infrastructure and land use development and discourages scattered piecemeal development patterns. Therefore, infrastructure investments in the Highlands serve to support public health and safety, environmental resource protection and efficient land development in support of local and regional conditions.

1.3 General Approach

As shown in the flow chart above, the first step is to determine if the proposed redevelopment would meet the requirements of Exemption #4, #5 or #6 of the Highlands Act (Section 30).

- Exemption #4 provides for: “The reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**

Draft For Public Comment, June 16, 2008

by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agriculture or non-horticultural use.”

- Exemption #5 provides for: “Any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.”
- Exemption #6 provides for: “Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.”

Each of these three exemptions addresses redevelopment of or improvements to specific classes of existing development – single family dwellings, religious facilities, schools, hospitals and non-agricultural buildings in general. In each case, designation of a Redevelopment Area by the Highlands Council is not necessary and would be inappropriate because no waiver is required from the NJDEP Preservation Area regulations or the Regional Master Plan, based on the exemption. Applicants for such projects should directly apply for a Highlands Applicability Determination regarding the exemption (N.J.A.C. 7:38-2.4).

If the proposed redevelopment project is not exempt, then a petition for Redevelopment Area designation may be submitted to the Highlands Council regarding either NJDEP-designated brownfields or existing impervious surfaces greater than 70 percent. These procedures include an informal process by which petitioners may receive guidance from the Highlands Council on the viability of a Redevelopment Area designation and the information requirements for a formal petition. The formal process involves submittal of a petition, staff review by the Highlands Council staff, staff recommendation to the Highlands Council, and final determination by the Highlands Council with provision for public review and comment. Upon approval of a Redevelopment Area designation, an application for Highlands Preservation Area Approval with Redevelopment Waiver may be submitted to the NJDEP for consideration under N.J.A.C. 7:38-6.1.

There are several critical implications regarding Redevelopment Area designation:

1. The “Redevelopment Area” may be part of a parcel, all of a parcel, part or all of multiple contiguous parcels in common ownership, or part or all of multiple parcels not in common ownership for which a combined Redevelopment Area petition has been submitted.
2. The Highlands Council anticipates that many Redevelopment Area designations will be defined as including less than entire parcels, with the remainder of the parcel restricted from further development due to environmental constraints. The NJDEP identification of a brownfields site and the extent of existing impervious surfaces both provide the basis for determining the maximum extent of a Redevelopment Area by the Highlands Council, but site constraints may result in designation of a smaller area.

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**

Draft For Public Comment, June 16, 2008

3. The Highlands Council may determine that a proposed Redevelopment Area is inappropriate despite meeting the initial criteria, based on the likelihood that the designation will promote redevelopment incompatible with the goals of the Highlands Act and the Regional Master Plan.
4. Within a Redevelopment Area designated by the Highlands Council, NJDEP may grant a waiver from strict application of the Highlands Preservation Areas Rules under N.J.A.C. 7:38-6.6 and 6.7. However, those rules provide for brownfields that “The proposed redevelopment meets the requirements at N.J.A.C. 7:38-6.2 to the maximum extent possible, taking into consideration cost and existing technology” (Section 6.6), and for sites meeting the 70 percent impervious surface threshold that “The proposed redevelopment meets the requirements at N.J.A.C. 7:38-6.2 to the maximum extent possible while still addressing the identified redevelopment need” (Section 6.7). Therefore, the NJDEP waiver will protect environmental resources wherever feasible.
5. NJDEP also may restrict aspects of a project to avoid secondary impacts, under N.J.A.C. 7:38-6.4(i), which provides: “In cases where the Department determines to approve a waiver in accordance with this chapter, the approval will include specific conditions to restrict any activities that might otherwise occur as a result of the waiver. These conditions include but are not limited to conservation restrictions, resolutions from a municipal utilities authority restricting sewage flows, physical limitations on sewer lines and/or pump stations and other mechanisms necessary to preclude secondary impacts that may otherwise result from the approved activities.” In general practice, NJDEP intends to require conservation restrictions on that part of an affected property that is not subject to redevelopment or remedy of contaminated areas.

1.4 Redevelopment Area Designation Inquiry Meeting

(a) For all parties seeking information about the potential for designation of an area as a Highlands Redevelopment Area, it is recommended that a *voluntary* informal redevelopment area inquiry meeting be convened with staff of the Highlands Council prior to proceeding with a more comprehensive pre-application meeting and petition for redevelopment. This meeting also serves as an opportunity to assist interested parties in the identification of Highlands Council and other data and technical resources that may be available in support of a petition application. An applicant requesting an inquiry meeting shall do so in writing and is encouraged to provide as much information regarding the proposed Highlands Redevelopment Area as possible, using Section 1.5 as a general guide.

1.5 Request for Pre-application Meeting

(a) For all applications requesting a Highlands Redevelopment Area Designation, a pre-application meeting with staff of the Highlands Council is required. (Please note that this pre-application meeting is not the same as required for an application to NJDEP for an HPAA with Redevelopment Waiver.) The Highlands Council may invite municipal and county planning representatives as appropriate. The applicant shall submit a request to the Highlands Council for a pre-application meeting and the following information in writing (with copies sent to the affected municipality and

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**

Draft For Public Comment, June 16, 2008

county) so that the Highlands Council staff may provide the greatest degree of guidance regarding the specific request for Redevelopment Area designation:

1. A description of the proposed Highlands Redevelopment Area including block and lot number designation of the properties, and street addresses where applicable;
2. A map showing the boundaries of the affected properties and the proposed Highlands Redevelopment Area;
3. Acreage of the proposed Highlands Redevelopment Area and of the affected properties;
4. Existing local zoning and land use of the properties;
5. A description of existing structures on the subject site, including historic structures;
6. A list of any encumbrances on the properties comprising the proposed Highlands Redevelopment Area, including but not limited to easements, deed restrictions, and covenants;
7. A description of the proposed redevelopment project to be located within the proposed Highlands Redevelopment Area;
8. A map from the Highlands Council Property Search Tool indicating the affected properties and any Highlands Resources on those properties, to the extent available from the Property Search Tool; and
9. A description of how the subject site conforms to Section 1.1(b) above. For areas other than brownfields, (i.e., a site which includes at least 70% impervious surface), and application must include a delineation of the existing impervious surface supporting the minimum 70% calculation. For brownfield sites, an applicant must obtain and provide a brownfield designation from the NJDEP.

(b) After receipt of a request for a pre-application meeting and supporting information submitted in accordance with Section 1.5 above, the Highlands Council shall contact the applicant and the applicable constituent municipality (and county, as deemed appropriate) to schedule a pre-application meeting. As part of this meeting, the Highlands Council will identify any known Highlands Resources that may constrain the designation of a Redevelopment Area.

(c) Any statements or recommendations made by any representative of the Highlands Council in the context of a pre-application meeting shall be considered non-binding on the prospective applicant, the constituent municipality and county, and the Highlands Council, and shall confer no legal rights.

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**
Draft For Public Comment, June 16, 2008

1.7 Petitions for Highlands Redevelopment Area Designation

(a) Any interested party may petition the Highlands Council to approve designation of a Highlands Redevelopment Area, providing the site meets the requirements presented herein and having satisfied the requirements for a Pre-Application Meeting under Section 1.5, above.

(b) All petitions for a Highlands Redevelopment Area designation shall be submitted to the Highlands Council in writing, and signed by the Interested Party. Such petitions shall include the information required in Section 1.5 above and those items required by NJDEP as listed in NJDEP's Highlands Preservation Area Approval (HPAA) Pre-Application Checklist (NJDEP issues the HPAA with Redevelopment Waiver; but only after the Highlands Council issues the Redevelopment Area Designation). A copy of NJDEP's HPAA Pre-Application Checklist is located in Appendix A and can be downloaded from NJDEP's website at <http://www.nj.gov/dep/highlands/process.htm>.

1.8 Preliminary Determination

(a) Highlands Council staff shall determine if the Petition for a Highlands Redevelopment Area Designation is administratively complete in accordance with Section 1.5 above and will report those findings to the Council, the NJDEP Divisions of Land Use Regulation and Watershed Management, any directly affected municipality and county, and the public.

(b) For any petition that is deemed administratively complete, the Highlands Council shall review the proposed area for redevelopment against the Highlands RMP Resource Protection and Smart Growth standards and policies for each relevant LUCM Zone. All GIS data layers utilized in Highlands Council reviews are available at the Highlands Council website: http://www.highlands.state.nj.us/njhighlands/actmaps/maps/gis_data.html.

There are RMP goals, policies, and objectives related specifically to the issue of future land use within each LUCM Zone, that will further guide the Council's review of proposed redevelopment areas. It is the policy of the Council to promote compatible development and redevelopment within the Existing Community Zone and to promote the restoration and redevelopment of brownfields, particularly those located in or adjacent to transportation corridors or transit stations. In the Conservation Zone, it is the policy of the Council to limit the use and development of lands to agricultural use and development, redevelopment of existing developed areas, and environmentally-compatible low density land uses. It is the policy of the Council to limit new human development in the Protection Zone to redevelopment, exempt activities, and environmentally-compatible low density new land uses and to ensure that any future development or redevelopment is subject to standards and criteria which protect the land and water resources of the zone from any potential adverse impact.

(c) The Highlands Council staff shall present a draft report with recommendations to the Highlands Council to approve, deny, or approve with conditions the proposed Redevelopment Area, based on the criteria set forth below:

1. At least 70% percent of the proposed Redevelopment Area is impervious surface, or the site is a brownfield designated by NJDEP

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**

Draft For Public Comment, June 16, 2008

2. The proposed Highlands Redevelopment Area will not result or contribute to impairment of any Highlands resource located on or adjacent to the Highlands Redevelopment Area, either through exclusion of such areas or through conditions on the designation that ensures their protection, or will minimize through similar means the disturbance of those resources to which the waiver would specifically apply.
3. The proposed Highlands Redevelopment Area is found to be substantially consistent with the resource protection and smart growth standards of the Regional Master Plan and will advance the intent and purpose of the Highlands Act.
4. There is sufficient water supply and wastewater capacity to serve the proposed Highlands Redevelopment Area, from on-site systems, from adjacent areas already served by public water and wastewater systems, or through a limited extension of public water or wastewater systems that will not cause or contribute to secondary growth effects in the intervening area.
5. Such other unique or mitigating criteria as the Highlands Council staff deems appropriate based on policies and objectives of the RMP.
6. The proposed Redevelopment Area is compatible with existing municipal zoning or the Redevelopment Area designation is conditioned upon municipal rezoning.

(d) The Highlands Council staff may consult with the NJDEP Divisions of Land Use Regulation and Watershed Management regarding the draft recommendations.

(e) The Highlands Council staff may share with the applicant the draft recommendations prior to presenting the recommendations to the Council. This will afford the applicant an opportunity to provide additional data and information to the staff prior to a final Council determination.

(f) The Highlands Council staff shall present a final report with recommendations to the Highlands Council to approve, deny, or approve with conditions, with public notice on the Council's Web site at www.highlands.state.nj.us at least 10 business days before the Council meeting at which the recommendation will be considered.

1.9 Final Determination

(a) The Highlands Council shall approve, approve with conditions, or deny an application requesting a Highlands Redevelopment Area identification within 90 days of deeming the requirements of Section 1.7 above complete, or for good cause, within such additional period of time as the Highlands Council shall notify the applicant in writing is required to complete its review. The Highlands Council's final determination shall be based upon all information submitted to the Highlands Council, any site visit conducted, the criteria set forth in Section 1.7 above, and public comments received prior to or at the Highlands Council meeting at which the recommendation will be considered. The Highlands Council's final determination shall include written findings of fact

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**

Draft For Public Comment, June 16, 2008

and conclusions based thereon, and shall be considered effective 10 business days after delivery of the meeting minutes to the Governor, unless vetoed by the Governor pursuant to N.J.S.A. 13:20-5.j.

(b) In cases where the Highlands Council determines that a proposed Highlands Redevelopment Area is appropriate for redevelopment, the final determination may include specific conditions to restrict any activities that might otherwise occur as a result of the final determination. These conditions may include, but are not limited to, deed restrictions, resolutions from a municipal utilities authority restricting sewage flows, physical limitations on sewer lines and/or pump stations and other mechanisms necessary to preclude secondary impacts that may otherwise result from the identification of the Highlands Redevelopment Area.

(c) After receiving an approved Highlands Redevelopment Area identification from the Highlands Council, the applicant may submit an application for an HPAA with Redevelopment Waiver to the Department of Environmental Protection in accordance with N.J.A.C. 7:38-6.6 or N.J.A.C. 7:38-6.7.

**PROCEDURES FOR HIGHLANDS
REDEVELOPMENT AREA DESIGNATIONS**
Draft For Public Comment, June 16, 2008

APPENDIX A

NJDEP'S HPAA PRE-APPLICATION CHECKLIST

(Available at: <http://www.nj.gov/dep/highlands/docs/hpaachk.pdf>)



State of New Jersey
Department of Environmental Protection
Division of Land Use Regulation
PO Box 439
Trenton, NJ 08625-0439
Fax# (609)777-0456
www.nj.gov/dep/highlands



HIGHLANDS PRESERVATION AREA APPROVAL APPLICATION CHECKLIST

(updated 3/12/07)

A Highlands Preservation Area Approval means a permit to engage in a regulated activity in the Highlands preservation area issued pursuant to the Highlands Water Protection and Planning Act and Rules. This checklist should be used for all elements of a Highlands Preservation Area Approval. This includes any site that is regulated pursuant to the Highlands Water Protection and Planning Act and that has secured all other necessary elements of a Highlands Preservation Area Approval (i.e. Division of Watershed Management and Water Supply Administration elements). Please use only the sections of the checklist that apply to the proposed project.

NOTE: Please provide only one copy of each item listed below, unless the item specifically states that more copies should be provided.

NOTE: The person who signs the LURP-2 form as the applicant must be the owner of the site, or a person with sufficient legal authority over the site to carry out all requirements of any authorization issued. Others may assist the applicant in preparing the application, and may be identified in the application as the applicant's agent. For example, the applicant may be a person who is under contract to buy the site. However, the applicant may not be a consultant, engineer, attorney, or other person who has assisted in preparing the application but who does not have legal authority to carry out the project applied for. This person should be identified in the application as the agent.

NOTE: If any portion of this site is known or suspected to contain any contamination, the applicant shall provide any and all information regarding said contamination to this office together with the associated permit application.

APPLICATION REQUIREMENTS

To be deemed administratively complete, an application for a Highlands Preservation Area Approval must include all of the following items:

- ___ 1. A completed copy of this checklist;
- ___ 2. A LURP-2 application form, completed in accordance with the directions on the form;
- ___ 3. The appropriate fee, indicated in the Highlands Preservation Area Approval fee table, which can be found at www.state.nj.us/dep/highlands, paid as follows:
 - The fee shall be paid by personal check, certified check, attorney check, government purchase order, or money order;
 - The fee shall be made payable to "Treasurer, State of New Jersey";
 - Each check, purchase order, or money order must be marked with the name of the applicant;
- ___ 4. Proof that the public notice requirements below have been met. (Note: To prove that an item has been sent to a person, submit either the white postal receipt you receive when you send the item by certified mail, or the green certified mail return receipt card.) All of the following must be submitted (if a project is located in more than one municipality or county, the notice requirements below must be met for each municipality and county in which the site is located):
 - ___ A. Proof that the municipal clerk has been sent a copy of the entire application and supporting documents submitted to the Department;
 - ___ B. Proof that the Highlands Council has been sent a copy of the entire application and supporting documents to the Department;
 - ___ C. Proof that a completed copy of the notice letter found in the Highlands Attachment A has been sent to each of the following:
 - ___ 1. The municipal environmental commission (if one exists);
 - ___ 2. The municipal planning board;
 - ___ 3. The municipal construction official;
 - ___ 4. The county planning board;
 - ___ 5. The county mosquito control agency (if proposing stream encroachment or freshwater wetlands individual permit or open water fill activities);
 - ___ 6. The county environmental commission (if one exists);
 - ___ 7. All owners of land within 200 feet of the boundary of the site (see N.J.A.C. 7:7A-1.4 for a definition of "site"). If this option is chosen, the application must also include a certified list of landowners within 200 feet of the site, obtained from the municipality and less than 90-days old;
 - ___ D. For proposed projects in a Highlands open water that is also a flood hazard area as defined at N.J.A.C. 7:38-3.7(a), notification shall be provided to:
 - ___ i. The Municipal engineer;
 - ___ ii. The County engineer;
 - ___ iii. The local County Soil Conservation District;

- ___ iv. The municipal clerk, planning board, and construction official for the municipality on the other side of the watercourse from the site and within one mile downstream on both sides of the waterway;
- ___ E. For proposed activities in a Highlands open water that is also a freshwater wetlands in accordance with N.J.A.C. 7:7A:
 - ___ 1. Proof that a display advertisement has been published in the newspaper of record for the municipality in which the site is located. The advertisement shall be at least four column inches in size and shall include all of the information required in the notice letter in Highlands Attachment B. The applicant shall provide the Department with a copy of the advertisement and an affidavit from the newspaper, Identifying the dates on which the advertisement was published;
 - ___ 2. If the project involves more than ten acres of disturbance, an affidavit of publication proof that the notice in Highlands Attachment B has been published in a newspaper with regional circulation;
- ___ 5. The approximate boundaries the project or activities clearly delineated on a USGS quadrangle map, including title name of Quad, or GIS coverage and the State Plane coordinates in NAD 1983 for a point at the center of the site. The accuracy of these coordinates should be within 50 feet of the actual point. For linear projects, the applicant shall provide State plane coordinates for the endpoints of those projects, which are 1,999 feet or less, and for those projects which are 2,000 feet or longer, additional coordinates at each 1,000-foot interval. For assistance in determining the State plane coordinates for a site, see the IMAP webpage at nj.gov/dep/gis/depsplash.htm;
- ___ 6. Two copies of a recent county road map or local street map, with the site clearly marked;
- ___ 7. Two sets of original color photographs, mounted on 8½ by 11 inch paper, sufficient to show the conditions on the site, and immediately surrounding areas, as well as the area of disturbance for the proposed activities. A minimum of ten photographs is required;
- ___ 8. A copy of a Municipal tax map(s) delineation the project or activity site by lot(s) and block(s);
- ___ 9. A copy of the Highlands Applicability Determination issued by the Department, or, in the case where an applicant does not have an applicability determination because he or she stipulated under N.J.A.C. 7:38-2.4(a) that the proposed activity is subject to the Highlands Act, the information required at N.J.A.C. 7:38-9.2(b)3 and 4, and 9.2(c);
- ___ 10. If the proposed project or activity requires new or modified water supply allocation permits please visit the Highlands website for the checklists to apply for these permits;
- ___ 11. Information and/or certifications regarding the presence or absence of rare, threatened or endangered species habitat, ecological communities, historic or archaeological resources, or other features on the site relevant to determining compliance with the requirements of this chapter. This information shall include but not be limited to a letter from the Natural Heritage Program indicating

the presence or absence of any rare, threatened or endangered species or ecological communities listed in the Natural Heritage Database on or near the site;

- 12. When an applicant intends to rebut the presumption of rare, threatened or endangered species habitat on the applicant's site as set forth at N.J.A.C. 7:38-5.1(a), all habitat evaluation information pursuant to N.J.A.C. 7:38-5.1(b);

- 13. Any other information not listed herein, that the applicant or the Department deems necessary to demonstrate compliance with this rule or the Federal rules governing the Department's assumption of the Federal 404 program at 40 CFR §233.30. In addition, the Department may require any information necessary to clarify information previously submitted, to ensure compliance with State and/or Federal law, or to determine whether an application meets State and/or Federal standards;

- 14. The following information on the location of special Highlands resources on the site:
 - A. A Highlands Area Resource Determination (HRAD) if one has been issued for the site;
or
 - B. If no Highlands LOI has been issued, and the site is larger than one acre, the application must include all of the information required for an application for a line verification HRAD. The delineation of Highlands open waters with 300-foot buffers, forests, slopes between 10% and 20% and those greater than or equal to 20% required by the HRAD application checklist shall be drawn onto the site plan required in item 12 below. A formal delineation report is not required. However, the application must include the data sheets and supporting information used to record the information on soils and vegetation which formed the basis for the boundary determination
 - C. If the applicant has a currently valid approved Freshwater Wetlands letter of interpretation (LOI), issued by the Department for the site under N.J.A.C. 7:7A-3, this may be submitted instead of an HRAD so long as the applicant also provides information regarding any additional HRAs not previously identified in the LOI;
 - D. If no Freshwater wetlands LOI or HRAD has been issued and the site does not contain Highlands open waters, no delineation or other information is required;
 - E. If no Freshwater or HRAD has been issued, and the site is one acre or smaller, no delineation or other information is required, except if indicated otherwise in this checklist;

- 15. Six copies of a detailed project description including:
 - A. The purpose and intended use of the proposed project;
 - B. A description of the regulated activities necessary to complete and operate or occupy the proposed project;
 - C. A description of any structures to be erected, and how they will be used;
 - D. A schedule for the progress and completion of the proposed project;
 - E. The total area of Highlands open waters and Highlands open water buffers proposed to be disturbed (if any);

- ___ F. The total area of upland forest area on the site and the total area of upland forest area that will be disturbed or destroyed as a result of the proposed activities;
- ___ G. The amount of pre-development impervious coverage on the site and the total aggregate impervious coverage on the site following completion of the proposed project;
- ___ H. A description of slopes between 10% and 20% and 20% or greater that are present on the site and all proposed activities that will disturb these slopes;
- ___ I. An evaluation of whether and how rare, threatened or endangered animals or plant species or ecological communities will be affected by the proposed activities;
- ___ J. An architectural or Phase I archaeological survey for the applicants proposing work that will impact historic structures in accordance with N.J.A.C. 7:38-3.10(c) or Archaeological resources in accordance with N.J.A.C. 7:383.10(d);
- ___ K. A Phase II archaeological survey for applicants that discover archaeological features resources as a result of the Phase I archaeological survey as described at N.J.A.C. 7:38-3.10(e);
- ___ L. The names, addresses and professional qualifications of those used to prepare the detailed project description or any other portion of the application;
- ___ M. If any or all of the proposed project or activity is in a flood hazard area the following is required:
 - A description of all anticipated access points along trout-associated waters and subsequent near-stream disturbance, as well as all in-channel soil erosion measures;
 - Adverse effects of any stormwater management basins on the stream's biota and on mosquito breeding;
 - An evaluation and mitigation plan if acid-producing soils will be exposed;
- ___ N. In most cases the extent of the floodplain must be known. Please check one of the following:
 - Floodplain was taken from a State flood hazard area delineation. (State flood hazard area maps are available at (609) 292-2296);
 - Floodplain was taken from a non-tidal FEMA map that shows flood elevations in a fully developed watershed. (FEMA flood maps are available at (800) 358-9616);
 - Floodplain is unknown and calculations have been submitted to delineate it;
 - Floodplain is unknown and does not need to be delineated for the project. (Explain why);
- ___ 16. Six folded copies of a site plan or subdivision map, signed and sealed by a NJ licensed professional surveyor and, where appropriate, a NJ licensed professional engineer, showing the entire site and indicating the following:
 - ___ A. All existing structures on the site and on all immediately adjacent lots;
 - ___ B. All proposed structures, disturbances, and activities;
 - ___ C. Distances and dimensions of areas, structures and lots, including the boundaries of freshwater wetlands, state open waters, flood hazard areas, uplands, roads, and utility lines;

- ___ D. A complete delineation of the boundaries of all Highlands open waters, transition areas, forest and slopes 10% to 20% and slopes greater than 20% in accordance with the requirements of HRAD line verification. A Highlands Area Resource Determination issued by the Department that shows the Highlands open water boundary, forest boundary slopes 10% to 20% and slopes greater than 20% may be submitted to satisfy this requirement. Include a copy of a map or plan, which depicts the approved lines;
 - ___ E. A calculation of total existing and proposed percent impervious surface for the entire site (Highlands open waters can be deducted from total land area). "Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements;
 - ___ F. The area which will be used for the proposed activity or discharge;
 - ___ G. The location of the site in relation to development in the region;
 - ___ H. The scale of the plan and a north arrow;
 - ___ I. Soil erosion/sediment control details;
 - ___ J. The name of all persons who prepared the plan and the date of preparation;
 - ___ K. The name of the applicant, and municipal lot(s) and block number(s) of the project site;
 - ___ L. For projects in a flood hazard area plans must also:
 - ___ 1. Reference 1929 NGVD;
 - ___ 2. Provide all cross sections, profiles and all relevant details referenced in the engineering report (see item 28).
- ___ 17. A mitigation proposal for all disturbances to Highlands open waters shall be submitted. This proposal may be submitted with the application or it may be submitted later. However, no permitted activities may begin until the Department has approved a mitigation proposal;
- ___ 18. If the site is located in an area designated a Wild and Scenic River, or under study for such designation, this approval will not be granted until a letter is received from the National Park Service approving the proposed activities. In the Highlands Preservation Area, the Musconetcong River is under study for wild and scenic river designation as of August 1, 2001. Contact the Department for more detailed information on wild and scenic rivers;
- ___ 19. Stormwater management calculations in accordance with the Stormwater Management rules must be provided for all major developments as defined at N.J.A.C. 7:8-1.2. See www.njstormwater.org for more information. All calculations must:
- Be signed and sealed by a NJ licensed PE;
 - Explain how the groundwater recharge, runoff quantity and water quality standards at N.J.A.C. 7:8 are met (as described below); and
 - Detail how TSS removal is achieved, provide detention, retention and infiltration calculations for all basins, and compare existing and proposed recharge and discharge rates;
- ___ A. Check (and explain) if project is:
- ___ 1. Exempted at N.J.A.C. 7:8-5.2(d) (if so skip remainder of 21); or
 - ___ 2. Waived at N.J.A.C. 7:8-5.2(e);

- ___ B. Enter the total amount of land that will be disturbed on site: _____ ft² or acres (circle one). If at least 1 acre (43,560 ft²) of land will be disturbed on site, submit the following:
 - ___ 1. One completed Low Impact Design checklist (see Appendix A of BMP manual at www.njstormwater.org);
 - ___ 2. One copy of a USGS map, showing the site and its HUC-14 watershed, and indicating any 300-ft buffers on site;
 - ___ 3. Proof that the groundwater recharge standards at N.J.A.C. 7:8-5.4(a)2 are met (unless exempted at 5.4(a)2ii);
 - ___ 4. Proof that the runoff quantity standards at N.J.A.C. 7:8-5.4(a)3 are met;
- ___ C. Enter the total amount of impervious area proposed on site: _____ ft² or acres (circle one). Include all proposed new impervious areas, as well as existing impervious areas from which stormwater currently sheet flows, but which will now be collected into a basin and/or storm sewer system. Use impervious area as defined in the stormwater management rules (which generally includes only pavement, buildings and concrete and does not include gravel or dirt surfaces). If at least ¼ acre (10,890 ft²) of such impervious area is proposed, submit all material in item 21B above and also the following:
 - ___ 1. Proof that the water quality standards at N.J.A.C. 7:8-5.5 are met;

___ 20. A copy of all past Department approvals for activities on the site;

___ 21. The names and addresses of all consultants, engineers, and other persons providing technical assistance in preparing the application;

This section of the checklist is to be used for any project that proposes activities regulated pursuant to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13.

NOTE: The Highlands Act establishes a zero net fill requirement for flood hazards areas pursuant to the “Flood Hazard Area Control Act,” P.L. 1962, c.19(C. 58:16A-50 et seq.)

For stream encroachment activities pursuant to N.J.A.C. 7:13, the following additional information is required:

- ___ 22. Hydrologic and hydraulic calculations are generally required if any of the following occur. Please check all that apply:
 - ___ A. The peak 100-year flow in the stream will be significantly increased or decreased;
 - ___ B. The size, shape, skew, location and/or alignment of the stream channel will be altered;
 - ___ C. A new bridge or culvert will be constructed where none currently exists;
 - ___ D. A replacement bridge or culvert will be constructed that is different in size, length, shape, material, skew, location and/or alignment from the existing structure;
 - ___ E. The floodplain limits are unknown and need to be delineated in order to demonstrate compliance with the requirements of the rules, such as for net-fill calculations or determining lowest floor elevations;

___ F. The floodplain limits are unknown and need to be delineated to establish stream encroachment lines;

___ 23. An engineering report must be submitted if detailed calculations (described below) are required to demonstrate compliance with the flood hazard area rules. This report must:

- Be signed and sealed by a NJ licensed professional engineer;
- Detail all regulated activities on site and clearly explain how the submitted calculations demonstrate compliance;
- Detail the remedial or alternate techniques and measures that are proposed in compensation if any rule is not satisfied;
- Include complete printouts (and electronic copies if possible) of all calculations.

Check all that apply:

___ A. Net-fill calculations if any fill is proposed within the flood hazard area (unless it is evident upon inspection of the site plans - and without review of calculations - that the project meets the 0% net-fill requirements). Explain the methodology used to demonstrate compliance. Include existing/proposed flood fringe volumes and depict all cross-sections;

___ B. Stormwater management calculations (see item 19 above);

___ C. Hydrologic and hydraulic calculations (see item 27 above). Include any State or FEMA flood maps and profiles that were utilized (with site clearly marked to scale). If flow rates were determined for a stream, depict the contributory drainage area on USGS maps and provide a hydrologic description of the watershed;

___ D. Stability analysis for any retaining wall that is over 4 ft high. Include both sliding and overturning analyses;