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Highlands Council Staff Draft Recommendation Report Proposed Highlands Redevelopment Area Designation Sand Shore Road Highlands Redevelopment Area Mount Olive Block 8300 (Lots 5, 5.01, 5.02, 6, 7, 8 and 9)

Date: April 15, 2011

Re:	Application Type:	<i>Proposed Highlands Redevelopment Area Designation</i>
	Name:	<i>Sand Shore Road Highlands Redevelopment Area</i>
	Municipality:	<i>Mount Olive</i>
	County:	<i>Morris</i>
	Highlands Act Area:	<i>Preservation Area</i>
	LUCM Location:	<i>Existing Community Zone, Existing Community – Environmentally Constrained Sub-Zone, and Conservation Zone</i>
	Property:	<i>Block 8300 Lots 5, 5.01, 5.02, 6, 7, 8 and 9</i>
	Proposed Use:	<i>In addition to the existing development in Lots 5, 5.02, 6, 7, 8 and 9, the Hackettstown Congregation of Jehovah’s Witness (owner of Lot 5.01) proposes to construct a 4,296 sq ft, one-story building (for use as the Congregation’s Kingdom Hall), an associated parking area, drainage, and a new individual subsurface septic disposal system (i.e., septic system).</i>

1.0 PROJECT DESCRIPTION

The proposed Sand Shore Road Highlands Redevelopment Area consists of properties in the Preservation Area zoned as Light Industrial and located in portions of Block 8300 (Lots 5, 5.01, 5.02, 6, 7, 8 and 9) along the north side of Sand Shore Road in Mount Olive Township, Morris County. The proposed Highlands Redevelopment Area is mostly developed and contains a commercial building on each lot with the exception of Lot 5.01, which is largely an open field with significant surface disturbance (compacted dirt surface). All lands north of the proposed Highlands Redevelopment Area are preserved open space. According to information provided by the Township of Mount Olive regarding maximum lot coverage and Floor Area Ratio (FAR) based on municipal zoning, future development on Lots 5, 5.02, 6, 7, 8, and 9 is highly constrained. The proposed Highlands Redevelopment Area incorporates the developed portions of those lots, and

excludes any extensive portions that are in lawn and field. The Hackettstown Congregation of Jehovah's Witness (owner of Lot 5.01) proposes to construct a 4,296 sq ft one-story building (for use as the Congregation's Kingdom Hall), associated parking area, drainage, and a new individual subsurface disposal system (i.e., septic system). The Congregation proposes to use an existing well on the lot. The Congregation also proposes to deed restrict approximately 1.65-acres (72,131 square feet) of Lot 5.01 as a Deed Restricted Conservation Easement, mostly to the western side of the parcel and adjacent to the existing preserved lands to the north. The area of proposed disturbance is approximately 2.03 acres. The total Highlands Redevelopment Area is 18.92 acres, with an existing impervious surface of 13.46 acres, or 71.17%. The Township of Mount Olive is seeking a Highlands Redevelopment Area Designation from the Highlands Council. The Congregation will subsequently apply for a Highlands Preservation Area Approval (HPAA) with redevelopment waiver permit from the NJDEP.

2.0 ADMINISTRATIVE PROCESS

The Township of Mount Olive's Petition for Plan Conformance has been approved by the Highlands Council (Highlands Council Resolution # 2011-1 adopted on January 20, 2011.) An important component of the Township's Petition is redevelopment planning for the Township using a phased approach. During the Petition process, through discussions with Highlands Council staff, Mount Olive identified areas along Route 46 and Sand Shore Road for potential designation as a Highlands Redevelopment Area. Phase I was proposed to include existing industrial properties located in Block 8300 along the north side of Sand Shore Road (the subject of this Draft Staff Recommendation Report.) Phase II will review a potential redevelopment area addressing developed properties along Route 46, which may or may not be linked to the current proposal. Additional Highlands Redevelopment Areas in the area of Goldmine Road, and on Route 206 in the area of Bartley Road will also be reviewed for potential future Highlands Redevelopment Area designation.

With respect to Phase I, the Hackettstown Congregation of Jehovah's Witness ("the Congregation," owner of Block 8300 Lot 5.01, adjacent to Sand Shore Road) proposes to construct a 4,296 sq ft one-story building (for use as the Congregation's Kingdom Hall), associated parking area, drainage, and a new individual subsurface disposal system. According to correspondence in the project file, the Congregation became interested in the property in 2003 and went into negotiations to purchase the property from Pierson Realty, LLC. This property originally was part of a three lot subdivision completed in 1986. Since the zoning did not allow religious institutions, the Congregation required a "D" Variance from the Township of Mount Olive. Concept plans were developed for the congregation building, associated parking, and septic system. The concept plan and various applications were submitted to Mount Olive Township on October 9, 2003 and received approval on December 1, 2003. The Congregation had drilled a well on the property in June 2003, purchased the property, and the deed was filed on February 27, 2004, prior to adoption of the Highlands Act. Over time, due to the passing of the Highlands Act and also due to financial constraints, the Congregation decided to scale back the building to half the size, which reduced the parking and impervious surface. The preliminary site plan was submitted to the Township on May 22, 2006 and received preliminary and final approval on September 11, 2006, after adoption of the Highlands Act.

On December 29, 2006, the Congregation submitted a Highlands Applicability Determination (HAD) application to the NJDEP for Highlands *Exemption #6 - Places of worship, schools, or a hospitals:*

“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.” On May 17, 2007 the NJDEP denied the Exemption #6 request noting that the project is proposed on a lot that does not currently contain an existing structure that is in use by the Hackettstown Congregation of Jehovah’s Witness for the purpose of worship and, therefore, the project does not fall under the exemption as an improvement to a place of worship in existence on the date of enactment of the Highlands Act. Exemption #3 (for major Highlands development that received local and NJDEP approvals prior to March 29, 2004) is also not applicable, and in any case this Exemption expired on August 4, 2007, as no construction beyond site preparation had occurred or was continuing as of that date. Therefore, the proposed project was not viable absent a waiver from strict application of the Highlands Rules, N.J.A.C. 7:38. One mechanism for a waiver would be based upon a determination by NJDEP that denial of the waiver was necessary to avoid a taking of private property without compensation. As part of the determination, NJDEP would examine whether other options, such as designation of a Highlands Redevelopment Area, were available. In this case, the lack of impervious surface on Lot 5.01 makes such a designation impossible with regard to the single lot, and the Congregation may not propose a Highlands Redevelopment Area for lands it does not own or control.

With approval of Plan Conformance for Mount Olive Township in 2011, an opportunity arose for the Township to provide leadership in the evaluation and designation of multi-parcel, multi-owner Highlands Redevelopment Areas. The Township identified a number of possible areas, and the Highlands Council approved planning funds for investigation of these. Based on discussions with the Township, the first proposal being pursued is the Sand Shore Road Highlands Redevelopment Area. As provided for in the Procedures for Highlands Redevelopment Area Designation, approved by the Highlands Council, proposed Highlands Redevelopment Areas involving multiple property owners must be sponsored by the municipality. The Township of Mount Olive is the applicant for the proposed Sand Shore Road Highlands Redevelopment Area.

3.0 SMART GROWTH AND SUSTAINABLE ECONOMIC DEVELOPMENT CONSIDERATIONS

Redevelopment opportunities will be an important vehicle for economic development within the Highlands Region, particularly within the Preservation Area. Redevelopment policies and objectives within the Highlands Regional Master Plan (RMP) envision the conversion of underutilized, previously disturbed lands into new economic contributors to the Region’s fiscal health. As stated in the RMP, “Redevelopment will help to meet the Region’s growth needs by optimizing the efficient use of previously settled areas with existing communities and available infrastructure, thus conserving natural resources.”

Given that redevelopment is one of the major opportunities for sustainable economic development and smart growth in the Highlands Region, the proposed Highlands Redevelopment Area was reviewed for policies and objectives relevant to smart growth and sustainable economic development. The Highlands Act calls for the RMP to “promote compatible...uses and opportunities within the framework of protecting the Highlands environment.”

The proposed Sand Shore Road Highlands Redevelopment Area consists of properties in the Preservation Area zoned as Light Industrial located in portions of Block 8300 (Lots 5, 5.01, 5.02, 6, 7, 8 and 9) along the north side of Sand Shore Road in Mount Olive Township. The proposed Highlands Redevelopment Area is mostly developed and contains a commercial building on each lot with the exception of Lot 5.01, which is largely an open field with significant surface disturbance (compacted dirt surface). The proposed Highlands Redevelopment Area has approximately 71% impervious cover. The intended use for Lot 5.01, as supported by this proposed Highlands Redevelopment Area, is as a Kingdom Hall for the Hackettstown Congregation of Jehovah's Witness. According to the Congregation, their existing facility is located in a residential zone and cannot be expanded based on the Township of Mount Olive's zoning requirements. The intent is to have the congregation in a better location for its services.

Management of stormwater from the project area shall be addressed through the HPAAs with redevelopment waiver permitting process. The project should be designed to incorporate low impact development techniques where feasible, including stormwater management techniques used for mitigation. Any disturbance and construction activities must be managed to minimize impacts to the surrounding environment. Designation of the proposed Highlands Redevelopment Area including Lot 5.01 provides for beneficial public use. By reusing and redeveloping previously disturbed areas, economic investment and community development within the framework of smart growth is assured. The project promotes smart growth policies by a maintaining land use patterns, balancing economic development with resource protection, and providing an equitable distribution of the costs and benefits of redevelopment. The proposed use of Lot 5.01 does not create a substantial change to the existing development pattern of this area.

4.0 FINDINGS AND RECOMMENDATIONS

Council staff reviewed the complete application package. Findings include:

- **Impervious Surface Requirement:** The total Highlands Redevelopment Area is 18.92 acres, with an existing impervious surface of 13.46 acres, or 71.17%. This exceeds the 70% impervious surface Highlands Redevelopment Area requirement.
- **Resource Assessment:** Based upon a review of the Highlands Council GIS data layers, it was determined that the proposed construction activities entail encroachment into Highlands Open Waters buffers, related to a wetland located across the street (Stephens Park Road) from Lot 5.01. This buffer is currently disturbed (open field with considerable compacted dirt surface.) The entire tract lies within a Moderate Integrity Highlands Riparian Area. The proposed construction activities would encroach upon the Riparian Area, which as previously described, is currently disturbed. The proposed project is inconsistent with Objectives 2B8a and 2B8b because the on-site water demand represents new consumptive uses within a Current Deficit Area. Consistency would require that the applicant provide mitigation equal to 125% of the proposed consumptive water uses benefiting the project (approximately 165 gpd, or 60,334 gallons per year), in addition to requirements of N.J.A.C. 7:8, which could be achieved with enhanced on-site ground water recharge through the project's stormwater management plan.

Construction of the proposed facilities on Lot 5.01 within the disturbed HOW buffer and Riparian Area, and consumptive water use in a Current Deficit Area must be addressed through the redevelopment waiver process under N.J.A.C. 7:38. Stormwater regulations also must be followed in the project design upon HPAA with redevelopment permitting. The project should be designed to incorporate low impact development techniques where feasible, including stormwater management techniques used for mitigation. Any disturbance and construction activities should be managed to minimize impacts to the surrounding environment.

- Smart Growth and Sustainable Economic Development:** The proposal is consistent with the RMP regarding smart growth and sustainable economic development; however, details should be provided as part of the NJDEP HPAA permitting process to demonstrate the implementation of low impact development techniques as addressed in the Low Impact Development Program of the RMP. Designation of the proposed Highlands Redevelopment Area including Lot 5.01 (which is a currently vacant, degraded, and under-utilized parcel) provides for beneficial public use. By reusing and redeveloping previously disturbed areas, economic investment and community development are assured within the framework of smart growth. The project promotes smart growth policies by maintaining land use patterns, balancing economic development with resource protection, and providing an equitable distribution of the costs and benefits of redevelopment.

The Highlands Act allows a waiver of any provision of a Highlands permitting review on a case-by-case basis for a redevelopment proposal, conditioned upon the finding by NJDEP that it meets the requirements of the narrative criteria described in Section 36 of the Act (N.J.S.A 13:20-34). To assist NJDEP, the Council staff concludes that the proposed project meets the waiver criteria, which are addressed as follows:

Requirement	Staff Analysis
1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters;	The applicant is using an on-site well for water supply and discharging treated wastewater back to ground water with minimal consumptive uses. Mitigation equal to 125% of the proposed depletive water uses will be achieved through enhanced on-site recharge. This will be ensured through a coordinated review of the mitigation plan by staff of the Highlands Council and NJDEP during the permitting process. No expansion of a public water supply system is proposed, and no expansion of the existing service area is proposed. The site is smaller than the minimum acreage required by NJDEP rules for septic systems in the Preservation Area and therefore will require a waiver for this purpose.
2) would cause minimal feasible interference with the natural functioning of animal, plant and	The proposed project would not adversely affect the natural functioning of animal,

Requirement	Staff Analysis
other natural resources;	plant, and other natural resources, as all other parcels are fully developed, the area in Lot 5.01 to be developed is disturbed, and the remaining area in Lot 5.01 will be a deed restricted easement.
3) will result in minimum feasible alteration or impairment of the aquatic ecosystem;	The proposed project entails encroachment into a Highlands Open Waters buffer that is currently in a disturbed condition. Stormwater regulations must be followed in the project design upon permitting (see response to #7).
4) will not jeopardize the continued existence of endangered animal or plant species;	The proposed project would not adversely affect endangered animal or plant species, as all other parcels are fully developed, the area in Lot 5.01 to be developed is disturbed, and the remaining area in Lot 5.01 will be a deed restricted easement.
5) is located or constructed as to neither endanger human life or property nor otherwise impair public health, safety and welfare;	The proposed Highlands Redevelopment Area is compatible with existing municipal zoning. The construction of the Congregation's proposed Kingdom Hall would not endanger human life or property nor otherwise impair public health, safety and welfare.
6) would result in minimal practicable degradation of unique or irreplaceable land types, historical or archaeological areas, and existing public scenic attributes; and	No resources of this type are known to be affected by the project.
7) meets all other applicable NJDEP standards, rules, and regulations and State laws.	Compliance with all remaining NJDEP standards will be addressed through the HPAA with redevelopment waiver permit process.

It is the Highlands Council staff's draft recommendation that the Highlands Council approve the proposed Highlands Redevelopment Area designation with the conditions that:

1. The encroachment into a Highlands Open Waters buffer shall be entirely within a previous disturbed area, which would not result in a net impact to the functional value of the buffer (in conformance with Policy 1D4) and therefore qualifies for a waiver;
2. The Township of Mount Olive commits to ensuring that the proposed use of Lot 5.01 provide mitigation equal to 125% of the proposed consumptive water uses through on-site recharge or water conservation practices within the same site or HUC14 subwatershed to the maximum extent feasible, with a waiver allowed for any remaining portion. There shall be a coordinated review between the staff of the Highlands Council and the NJDEP to ensure that this condition is met;

3. The remainder of Lot 5.01 outside of the proposed development area shall be protected through a conservation restriction, specifically authorizing ecological restoration and maintenance, with recognition of any existing utility structures such as storm sewers that may periodically need maintenance or replacement.
4. The stormwater regulations must be followed in the project design upon HPAAs with redevelopment permitting, as part of the NJDEP permitting process. There shall be a coordinated review between the staff of the Highlands Council and the NJDEP such that under the NJDEP waiver, the applicant shall supply a stormwater management plan that incorporates low impact development techniques and a construction implementation plan that minimizes disturbance during and after construction.

Attachments

- Consistency Determination