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Highlands Council Staff Draft Recommendation Report Proposed Highlands Redevelopment Area Designation West Milford Municipal Complex and Public Library

Date: ~~February 11~~ March 3, 2010

Re:	Application Type:	<i>Proposed Highlands Redevelopment Area Designation</i>
	Name:	<i>West Milford Municipal Complex and Public Library</i>
	Municipality:	<i>West Milford</i>
	County:	<i>Passaic</i>
	Highlands Act Area:	<i>Preservation Area</i>
	LUCM Location:	<i>Existing Community Zone</i>
	Property:	<i>Block 7903, Lots 13, 14, 15, 16</i>
	Proposed Use:	<i>Proposed 25,500 sq ft three story public library</i>

1.0 PROJECT DESCRIPTION

The subject properties are Lots 13, 14, 15, and 16 in Block 7903 located between Ridge Road and Union Valley Road in the Township of West Milford, Passaic County. The tract is mostly developed and contains the municipal building which houses the administrative offices and police station. The remainder of the tract includes the municipal ambulance squad building, a small public library, a cell tower site, a small retail store, a small dwelling, and maintained lawn areas. The Township of West Milford wishes to redevelop the western portion of the property with a 25,500-square foot three story public library, associated parking areas, and a new septic disposal system. Another element of the proposed project is the removal of the small retail building and its garage. The area of proposed disturbance is approximately 1.5 acres, within a proposed Highlands Redevelopment Area with 70 percent existing impervious surface. The majority of the tract is located in the Existing Community Zone of the Preservation Area (a narrow strip along the eastern border of the tract lies within the Lake Community Sub-Zone, but the proposed project location does not fall within this sub-zone.)

2.0 ADMINISTRATIVE PROCESS

With respect to administrative process and history, a voluntary inquiry meeting was held between the applicant (Township of West Milford and its representatives) and Highlands Council staff in August 2009 to discuss the tract, potential opportunities for redevelopment, and the Highlands Preservation Area rules, exemptions, waivers, and procedures. On December 14, 2009~~10~~, the

Highlands Council received an application for a Pre-Application meeting for the proposed Highlands Redevelopment Area Designation. The application was deemed to be administratively complete and a Pre-Application meeting date was held on February 1, 2010 at the Highlands Council office. A summary of the issues discussed during the Pre-application Meeting is attached to this staff recommendation report.

The applicant also submitted the required application materials for a Petition for Highlands Redevelopment Area Designation on February 1, 2010. The Highlands Council staff determined that the application was administratively complete (i.e., it met the submittal requirements outlined in the *Procedures for Highlands Redevelopment Area Designations*, October 2008) and sufficient for the staff to commence a technical review. The review information is posted on the Highlands Council Web site and is also available for public review at the offices of the Highlands Council; members of the public are asked to make an appointment with Council staff to review project files and all application materials. Public notice ~~will be~~was published by the ~~applicant Township~~ at least 10 days prior to this Highlands Council meeting ~~at which the proposal will be considered.~~

A meeting was held on March 2, 2010 between the applicant, Highlands Council staff, and staff from the NJDEP Division of Land Use Regulation at the NJDEP Trenton office. The purpose of the meeting was for the applicant to present the proposal for redevelopment to NJDEP staff (for the ultimate submittal of an application for an HPAA with Redevelopment Area permit). During the meeting, the applicant indicated that since the Highlands Council staff Pre-Application meeting on February 1, 2010, an on-site wetlands delineation was conducted. It was determined that there is an on-site wetland and that the original proposed development would be within the identified wetland boundary. The applicant noted that it has since relocated the proposed development outside of, and down gradient from the identified wetland boundary, within its 300-ft buffer. The applicant indicated that it will be obtaining a Letter of Interpretation/HRAD from the NJDEP. The applicant also noted that since the Highlands Council Pre-Application meeting, it had subsequently reviewed site-specific well survey data and determined that the well resulting in the Tier 1 WHPA that was discussed at the meeting is not at the location indicated by the Highlands GIS data, which modifies the location of the WHPA (the proposed bioretention basin is not located in the Tier 1 WHPA). On March 3, 2010, the applicant submitted a revised site plan to the Highlands Council staff, which shows the revised proposed development location, the delineated wetland boundary and buffer, and the correct location of the Tier 1 WHPA.

3.0 SMART GROWTH AND SUSTAINABLE ECONOMIC DEVELOPMENT CONSIDERATIONS

Given that redevelopment is one of the major opportunities for sustainable economic development and smart growth in the Highlands Region, the proposed redevelopment project was reviewed for policies and objectives relevant to smart growth and sustainable economic development. The RMP calls for economic development that is “sustainable over time,” and not dependent on “development of undeveloped lands.” The Highlands Act calls for the RMP to “promote compatible ... cultural uses and opportunities within the framework of protecting the Highlands environment.” The proposed redevelopment seeks to construct a new public library that will be designed to meet the State standards for a community the size of West Milford. The library will be constructed on the grounds of the existing municipal complex. According to the municipality, the existing library only has approximately one-third of the space it needs to house its expansive book and media collections. Further, it has been noted that due to the amount of books in the 3,000-square-foot public area of the existing library, there is little room for computers, reading desks and

even seating. The project replaces an existing, small library and enhances utility of the existing municipal complex on previously disturbed land.

With respect to smart growth, management of stormwater from the project area shall be addressed through the HPAA 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 should be managed to minimize impacts to the surrounding environment. The redevelopment of the site is a 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.

4.0 FINDINGS AND RECOMMENDATIONS

Council staff reviewed the complete application package. The site plan was analyzed to verify the reported sizes of the proposed Highlands Redevelopment Area and the areas of impervious surface. Findings include:

- **Impervious Surface Requirement:** The calculations were verified and the proposed Highlands Redevelopment Area was found to contain at least 70 percent impervious surface.
 - Existing Impervious Surface = 166,190 sq ft
 - Allowable Highlands Redevelopment Area = 237,414 sq ft
 - Proposed Highlands Redevelopment Area = 237,384 sq ft
- **Resource Assessment:** Based upon a review of the site plan and Highlands Council GIS data layers, it was determined that the proposed project entails encroachment into a Highlands Open Waters buffer for an off-site wetland, though it is noted that both the off-site wetland (actually an existing ball field) and the on-site buffer (an existing maintained lawn) are currently disturbed. During the Pre-Application meeting, the Highlands Council staff noted that the applicant would be required to obtain a Letter of Interpretation/HRAD from the NJDEP, which may be sufficient to resolve the inconsistency. Since that time, the applicant conducted a wetland delineation and determined that there is an on-site wetland and that the original proposed development would be within the identified wetland boundary. The applicant has since relocated the proposed development outside of, and down gradient from the identified wetland boundary, within its 300-ft buffer. The applicant indicated that it will be obtaining a Letter of Interpretation/HRAD from the NJDEP. As encroachment into the buffer is required, a waiver of this requirement by NJDEP would be required and would be appropriate, as the buffer is upgradient from the proposed development and is in an existing disturbed condition. ~~The applicant indicates that it will be obtaining~~ The proposed project is inconsistent with Regional Master Plan Objective 2B8b because the on-site well is located within a Current Deficit Area. Consistency would require that the applicant provide mitigation equal to 125% of the proposed consumptive water uses (approximately 220 gallons per day), which could be achieved through on-site recharge and retrofit of existing buildings on-site. The 125% mitigation would be approximately 275 gpd, or 0.1 million gallons per year, which should be achieved to the maximum extent feasible given on-site conditions, and otherwise would be subject to a waiver from the provisions of the RMP by the Highlands Council. The applicant proposes to construct a bioretention basin as part of the proposed project, which

may be used for recharge if necessary to meet recharge requirements. Review of the Highlands GIS data indicates that the location of this basin is within a Tier 1 Wellhead Protection Area, which is inconsistent with Objective 2H2a if it is to be used for recharge of potentially contaminated water. ~~However, the applicant has subsequently reviewed site-specific survey data and has provided mapping to the Highlands Council that indicates that the well is not at the location indicated by the Highlands GIS data, which modifies the location of the WHPA. It has been determined that the proposed recharge basin does not encroach into the Tier 1 WHPA. According to the applicant, they may show that basin will not be used for recharge, that the recharged water will be from an uncontaminated source (e.g., rooftop runoff), or the well is not at the location indicated by the Highlands GIS data, which would modify the location of the WHPA. If the proposed recharge basin does encroach into the Tier 1 WHPA, the applicant must design the basin to either avoid or minimize encroachment of the basin in Tier 1.~~

- Smart Growth and Sustainable Economic Development:** The proposal is consistent with the RMP regarding smart growth and sustainable economic development, as a public institutional improvement to an existing municipal complex. Management of stormwater from the project area shall be addressed through the HPAA 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 should be managed to minimize impacts to the surrounding environment.

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 (29% of 765 gpd, or 224 gpd) consumptive uses. Mitigation equal to 125% of the proposed depletive water uses could be achieved through enhanced on-site recharge or retrofit of the existing buildings to the maximum extent feasible. No expansion of a public water supply system is proposed, and no expansion of the existing service area is proposed.
2) would cause minimal feasible interference with the natural functioning of animal, plant and other natural resources;	The proposed project would not encroach into areas of the tract that feature Forest in a Forest Resource Area, Critical Wildlife Habitat, and Prime Ground Water Recharge Area.
3) will result in minimum feasible alteration or	The proposed project entails encroachment

Requirement	Staff Analysis
impairment of the aquatic ecosystem;	into a Highlands Open Waters buffer that for an off site wetland, though it is noted that both the off site wetland (actually an existing ball field) and the on site buffer (an existing maintained lawn) are <u>is</u> currently disturbed <u>and upgradient from the proposed development.</u> The applicant indicates that it will be obtaining a Letter of Interpretation/ HRAD from the NJDEP. 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;	See response to #2
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 site is located in the Existing Community Zone, consistent with the policy of the RMP to promote compatible development and redevelopment within the Existing Community Zone.
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 HPAAs 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 NJDEP Letter of Interpretation/HRAD determines that ~~the proposed action would not encroach into a Highlands Open Waters buffer or that the~~ encroachment into a Highlands Open Waters buffer will occur down gradient from the buffer. Further, the encroachment shall be entirely within a previous disturbed area that 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 applicant commits to 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;
3. ~~the applicant demonstrates that the location of the bioretention basin will not recharge, or that the recharged water will be from an uncontaminated source, that the public non-community well associated with the Tier 1 WHPA either is inaccurate and actual location does not result in an inconsistency regarding Objective 2H2a, or that the location of the~~

~~bioretention basin avoids or minimizes incursion into the Tier 1 WHPA. In the latter case, the Highlands Council would waive Objective 2H2a for the remaining incursion;~~

4.3. the remainder of the property outside of the proposed Redevelopment Area be protected through a conservation restriction, with recognition of the existing septic system and any utility structures such as stormsewers and wells that may periodically need maintenance or replacement. Regarding the existing septic system, if replacement requires a new location within the conservation restriction area, this should be recognized as eligible for a separate HPAA with public health and safety waiver, with the original septic system area restored; and

5.4. the stormwater regulations must be followed in the project design upon HPAA with redevelopment permitting, as part of the NJDEP permitting process. The Highlands Council expects 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

- Pre-application meeting notes
- Consistency Determination
- ~~Maps~~

Highlands Redevelopment Area Designation Pre-Application Meeting

Date: February 1, 2010
 Time: 9:30 am
 Location: Highlands Council Office in Chester, NJ
 Re: Application for Highlands Redevelopment Area Designation
 West Milford Municipal Complex – Block 7903 Lots 13, 14, 15, 16

Attendees:

Highlands Council Staff	Applicant Representatives
Eileen Swan Tom Borden Dan Van Abs Chris Ross	Bettina Bieri – West Milford Township Mayor Douglas Ott – Library Board, Environmental Commission Gillian Hemstead – Library Board, Environmental Commission Fred Semrau – Township Attorney Mark Denisiuk – Ferriero Engineering Inc. Paul Ferriero – Ferriero Engineering Inc., Township Engineer

Introduction

The subject properties are Lots 13, 14, 15, and 16 in Block 7903 located between Ridge Road and Union Valley Road in the Township of West Milford, Passaic County. The tract is mostly developed and contains the municipal building which houses the administrative offices and police station. The remainder of the tract includes the municipal ambulance squad building, a small public library, a cell tower site, a small retail store, a small dwelling, and maintained lawn areas. The Township of West Milford wishes to redevelop the western portion of the property with a 25,500-square foot three story public library, associated parking areas, and a new septic disposal system. Another element of the proposed project is the removal of the small retail building and its garage. This area of proposed disturbance is approximately 1.5 acres. The applicant is seeking a Highlands Redevelopment Area Designation from the Highlands Council, and will then apply for a Highlands Preservation Area Approval (HPAA) with redevelopment waiver permit from the NJDEP.

On December 14, 2010, the Highlands Council staff received an application for a Pre-Application meeting for the proposed Highlands Redevelopment Area Designation. The Council staff deemed the application to be administratively complete and a Pre-Application meeting date was mutually agreed upon for February 1, 2010 at the Highlands Council office.

Summary of Meeting

Highlands Council staff used the Highlands Interactive Mapping tool to present the project location on-screen and to assess Highlands resources. The applicant presented the site plan and briefly described the proposed project. The applicant has calculated that the Highlands Redevelopment Area would meet the 70% impervious requirement. Potential resource issues were discussed:

- Encroachment into a Highlands Open Waters Buffer – buffer exists for an off-site wetland in the proposed project area, which is inconsistent with Preservation Area rules (N.J.A.C. 7:38-3.6) and the Highlands Regional Master Plan (RMP). It was noted that the off-site wetland is disturbed (aerial mapping shows that the area is an existing ball field). Applicant stated they will be seeking a Letter of

Interpretation/HRAD from NJDEP. If it the wetlands is determined to not exist or have a different delineation than as mapped, the result would be a deletion or modification to the buffer.

- Development in Tier 2 Wellhead Protection Area (WHPA) –Not expected to be an inconsistency with the Regional Master Plan, as the discharge of sanitary wastes through a septic system is permitted in Tier 2.
- Tier 1 WHPA – A discussion ensued about a related Tier 1 Wellhead Protection Area. It was noted that an existing septic system is within Tier 1 – this facility is not inconsistent with the RMP unless it is enlarged to accept additional flow. In that case, a waiver would be required. Any conservation restriction imposed through an HPAA should note the potential need for replacement or upgrade of the septic system in the future. At the time of replacement, a separate HPAA with public health and safety waiver may be needed if the replacement septic system is within the Tier 1 WHPA.

In addition, the site plan indicates construction of a bioretention/recharge facility, and it appears that the facility would encroach into the Tier 1 Wellhead Protection Area, which is inconsistent with the RMP. The applicant was not familiar with the well that would be associated with that Tier 1 Wellhead Protection Area – they indicated that they will consult their survey. (Subsequent to the meeting, Highlands Council staff consulted NJDEP data. The well is a listed as a public non-community water supply well – NJDEP well ID 4782.) The applicant may show that the well is not at the location indicated by NJDEP, which would modify the location of the WHPA). If the recharge facility does encroach into the Tier 1 WHPA, the applicant should move the facility out of Tier 1 to the maximum extent feasible, provide justification for any remaining encroachment due to lack of alternatives, and request a waiver from RMP standards. Finally, the new septic system is outside of Tier 1, which is consistent.

- Conservation restriction language – should acknowledge the existence of the septic system (as discussed above), well and stormsewers, and provide for the ability to repair them as necessary.
- Other Required Waivers:
 - Impervious surface of greater than three percent of the land area of a lot (N.J.A.C. 7:38-3.5)
 - On a lot that does not contain forest, no more than one individual subsurface disposal system or equivalent disposal unit for each 25 acres of the lot (N.J.A.C. 7:38-3.4(b)(2)).

Next steps for the project were discussed. The applicant indicated that they had already submitted a Pre-Application meeting application to NJDEP to expedite the process. Highlands Council staff indicated that it would be beneficial for there to be Highlands Council presence at that meeting to facilitate a coordinated review.