

## Highlands Preservation Area Approval Application Checklist Items

Borealis Compounds Block 1301, Lot 1 & Block 1307, Lot 6

See Highlands Council Review at: <http://www.highlands.state.nj.us/njhighlands/projectreview/>

**\*\*For advisory purposes only – please be advised that this checklist provides information to both the applicant and NJDEP from the analysis prepared by the Highlands Council. NJDEP may require additional information be required as part of the review of the HPAA application. \*\***

HPAA Checklist Item <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> Items deemed unnecessary highlighted	Submittal Status/ Highlands Council Analysis	Comments and Action Items Items in green, Applicant needs to supply
1. A completed copy of this checklist	Applicant will submit	Applicant to provide
2. A LURP-2 application form, completed in accordance with the directions on the form;	Applicant will submit	Applicant to provide
3. The appropriate fee, indicated in the Highlands Preservation Area Approval fee table, which can be found at <a href="http://www.state.nj.us/dep/highlands">www.state.nj.us/dep/highlands</a>	Applicant will submit	Applicant to provide. The base fee for the review of a HPAA with a completed HRAD shall be \$2,500 plus \$50.00 per acre, or any fraction thereof of Highlands resource areas to be affected (Highlands Council contends that its Consistency Determination and Recommendation Report serve as functional equivalent for HRAD.) For all projects requiring review of stormwater calculations: \$2,000
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.) Entire application must be sent to municipal clerk and Highlands Council. Notice letters to environmental commission, municipal planning board and construction official, county planning board, county environmental commission, all landowners within 200 feet of	Applicant will submit	Applicant to provide

<b>HPAA Checklist Item</b> <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> <b>Items deemed unnecessary highlighted</b>	<b>Submittal Status/ Highlands Council Analysis</b>	<b>Comments and Action Items</b> <b>Items in green, Applicant needs to supply</b>
boundary of site		
5. The approximate boundaries the project or activities clearly delineated on a USGS quadrangle Map	The project site can be readily viewed and analyzed using the Highlands Council interactive mapping. Aerial photograph with parcel identification has been provided by Highlands Council. See interactive mapping at <a href="http://maps.njhighlands.us/hgis/">http://maps.njhighlands.us/hgis/</a>	
6. Two copies of a recent county road map or local street map, with the site clearly marked	The project site can be readily viewed and analyzed using the Highlands Council interactive mapping. . See interactive mapping at <a href="http://maps.njhighlands.us/hgis/">http://maps.njhighlands.us/hgis/</a>	
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	The project site can be readily viewed and analyzed using the Highlands Council interactive mapping with <i>3-D Birds Eye View</i> at <a href="http://maps.njhighlands.us/hgis/">http://maps.njhighlands.us/hgis/</a>	
8. A copy of a Municipal tax map(s) delineation the project or activity site by lot(s) and block(s)	<b>Applicant will submit copy of Municipal tax map.</b>	Site plan identifies block and lot information. <b>Applicant will submit copy of Municipal tax map.</b>
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)	NA - No HAD as applicant stipulates that Highlands Act is applicable. Highlands CD and Recommendation report the functional equivalent of HRAD – meeting requirements 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	Based on applicant narrative of project, this requirement does not apply.	<b>Applicant to confirm status</b>
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 Highlands Council GIS data indicate that there is an area mapped as Critical Habitat in the southern portion of the tract. The southeastern tip of the proposed area of disturbance is adjacent to this area (however, review of aerial photography indicates that the portion of this mapped forest that is adjacent to the area of disturbance is actually	

<b>HPAA Checklist Item</b> <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> <b>Items deemed unnecessary highlighted</b>	<b>Submittal Status/ Highlands Council Analysis</b>	<b>Comments and Action Items</b> <b>Items in green, Applicant needs to supply</b>
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	an existing parking lot). No change is proposed to the area mapped as of Forest within a Forest Resource Area. The Highlands Council GIS data indicates that there are no historic or archaeological resources.	
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)	Applicant will submit	<b>Applicant to provide</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. In addition, the Department may require any information necessary to clarify whether an application meets State and/or Federal standards	The NJDEP shall determine if applicant is in compliance with the Federal rules governing the Department's assumption of the Federal 404 program	
<b>14. The following information on the location of special Highlands resources on the site:</b> 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. 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	The Highlands Council GIS mapping and CD checklist should substantially fulfill the requirements of this section.  The project will encroach into Highlands open water protection area related to a C1 stream. The applicant states that no wetlands are present around the stream. An LOI or Presence/Absence determination should be submitted.  Future work may encroach into the Highlands open water protection area of a wetland on an adjacent parcel, although the project site does not drain to the wetland and a municipal road separates the feature from the protection area. As proposed encroachment into protection area for this feature has been minimized, a waiver of further delineation of this wetlands by NJDEP would be appropriate, given that no water quality, water supply, or habitat impacts	<b>Applicant to provide to the extent not addressed through Highlands Council Analysis as discussed</b>

<b>HPAA Checklist Item</b> <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> <b>Items deemed unnecessary highlighted</b>	<b>Submittal Status/ Highlands Council Analysis</b>	<b>Comments and Action Items</b> <b>Items in green, Applicant needs to supply</b>
<p>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;</p> <p>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;</p> <p>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</p>	<p>are anticipated. The wetland is also situated on a private parcel not owned by the applicant.</p> <p>Critical habitat would be encroached upon, although the applicant may intend to rebut that finding. Based on this analysis, the Highlands Council recommends that sufficient information exists for the resource components of the HRAD. The Highlands Council believes that the Highlands Act process to allow a waiver of the Department's rules is intended to provide relief to applicants that have received redevelopment area approval from the Highlands Council.</p>	
<p><b>15. Six copies of a detailed project description including:</b></p> <p>A. The purpose and intended use of the proposed project;</p> <p>B. A description of the regulated activities necessary to complete and operate or occupy the proposed project;</p> <p>C. A description of any structures to be erected, and how they will be used;</p> <p>D. A schedule for the progress and completion of the proposed project;</p> <p>E. The total area of Highlands open waters and Highlands open water buffers proposed to be disturbed (if any);</p> <p>F. The total area of upland forest area on the site and the total area of upland forest area that will be disturbed</p> <p>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;</p> <p>H. A description of slopes between 10% and 20% and 20% or greater that are present on the site</p> <p>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;</p>	<p>The Highlands Council CD and Recommendation Report fulfill this requirement. See Highlands Council project review at: <a href="http://www.highlands.state.nj.us/njhighlands/projectreview/">http://www.highlands.state.nj.us/njhighlands/projectreview/</a></p> <p>A. See Recommendation Report – Section 1. Project Description</p> <p>B. See Recommendation Report – Section 4. Findings and Recommendations – Resource Assessment</p> <p>C. See Recommendation Report – Section 1. Project Description</p> <p>D. N/A – schedule to be determined</p> <p>E. See Recommendation Report – Section 4. Findings and Recommendations – Resource Assessment and Consistency Determination – Comments for Part 1 Subpart B – Highlands Open Waters and Riparian Areas</p> <p>F. See Consistency Determination – Comments for Part 1 Subpart A – Forest Resources</p> <p>G. See Recommendation Report – Section 4. Findings and Recommendations – Impervious Surface Requirement</p> <p>H. See Consistency Determination – Comments for Part 1</p>	<p>Applicant to provide the names, addresses and professional qualifications of those prepared submittal.</p> <p>Applicant to determine if any or all of the proposed project or activity is in a flood hazard area and will provide source of floodplain data.</p>

<b>HPAA Checklist Item</b> <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> <b>Items deemed unnecessary highlighted</b>	<b>Submittal Status/ Highlands Council Analysis</b>	<b>Comments and Action Items</b> <b>Items in green, Applicant needs to supply</b>
<p>J. An architectural or Phase I archaeological survey for the applicants proposing work that will impact historic structures or archaeological resources</p> <p>K. A Phase II archaeological survey for applicants that discover archaeological features resources as a result of the Phase I archaeological survey</p> <p>L. The names, addresses and professional qualifications of those used to prepare the detailed project description</p> <p>M. If any or all of the proposed project or activity is in a flood hazard area</p> <p>N. Source of floodplain data</p>	<p>Subpart C – Steep Slopes</p> <p>I. See Consistency Determination – Comments for Part 1 Subpart D – Critical Habitat</p> <p>J. See Consistency Determination – Comments for Part 4 Historic, Cultural, Archaeological, and Scenic Resources</p> <p>K. See Consistency Determination – Comments for Part 4 Historic, Cultural, Archaeological, and Scenic Resources</p> <p>L. Will submit</p> <p>M. Applicant to determine</p> <p>N. Applicant to provide</p>	
<p>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:</p> <p>A. All existing structures on the site and on all immediately adjacent lots;</p> <p>B. All proposed structures, disturbances, and activities;</p> <p>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;</p> <p>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%, HRAD 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;</p> <p>E. A calculation of total existing and proposed percent impervious surface for the entire site</p> <p>F. The area which will be used for the proposed activity or</p>	<p>Will submit</p>	<p>Applicant to provide site plan and all features except for Highlands resources. Highlands Council GIS data should be used for resource boundaries mapping listed under section D</p>

<b>HPAA Checklist Item</b> <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> <b>Items deemed unnecessary highlighted</b>	<b>Submittal Status/ Highlands Council Analysis</b>	<b>Comments and Action Items</b> <b>Items in green, Applicant needs to supply</b>
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.		
<b>17. A mitigation proposal for all disturbances to Highlands open waters shall be submitted.</b>	Condition of Highlands Council resolution. Applicant to submit to NJDEP and Highlands Council approval.	<b>Applicant must submit</b> open water protection area mitigation plan to NJDEP and Highlands Council for approval.
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	N/A	The site drains to a tributary of the Musconetcong River, but requires no federal permits or action. Therefore, National Park Service approval is not required.
19. Stormwater management calculations in accordance with the Stormwater Management rules must be provided for all major developments	Will submit	<b>Applicant must prepare stormwater calculations and stormwater management plan.</b>
<b>20. A copy of all past Department approvals for activities on the site;</b>	No existing permits or approvals to be modified by project. Waiver from this requirement is warranted.	
21. The names and addresses of all consultants, engineers, and other persons providing technical assistance in preparing the application;	Will submit	<b>Applicant to provide names and addresses of all consultants, engineers, and other persons providing technical assistance in preparing the application.</b>
<b>This ends the HPAA Checklist if project not regulated pursuant to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13 – applicant/NJDEP to determine if regulated.</b> 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:		

<b>HPAA Checklist Item</b> <i>(All of the information required in N.J.A.C. 7:38-9.5)</i> <b>Items deemed unnecessary highlighted</b>	<b>Submittal Status/ Highlands Council Analysis</b>	<b>Comments and Action Items</b> <b>Items in green, Applicant needs to supply</b>
Please check all that apply: <input type="checkbox"/> A. The peak 100-year flow in the stream will be significantly increased or decreased; <input type="checkbox"/> B. The size, shape, skew, location and/or alignment of the stream channel will be altered; <input type="checkbox"/> C. A new bridge or culvert will be constructed where none currently exists; <input type="checkbox"/> 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; <input type="checkbox"/> 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; <input type="checkbox"/> 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 are required to demonstrate compliance with the flood hazard area rules.		

### 7:38-9.6 ADDITIONAL APPLICATION REQUIREMENTS FOR A HIGHLANDS PRESERVATION AREA APPROVAL WITH WAIVER

An administratively complete application for an HPAA with waiver shall contain:

1. All of the information required in N.J.A.C. 7:38-9.5:  
**Response:** See checklist above
  
2. An analysis describing all alternatives to the proposed project which would reduce each impact of the project as listed in N.J.A.C. 7:38-6.2(a) and the reasons the applicant did not adopt that alternative

**Response:** Applicant to provide

3. A description of the source of water or waste water disposal that would be used by development if the waiver is granted

**Response:** NA - The initial phase of the project (construction of the paved storage lot) does not require additional potable water and would not generate any additional wastewater. If future phases require additional water or wastewater, the applicant will provide the information.

4. A request for a specific waiver in accordance with N.J.A.C. 7:38-6.4(a)

**Response:** Consistent with N.J.A.C. 7:38-6.4(a), is seeking a waiver from the Department under N.J.A.C. 7:38-6.4(a)2 regarding impervious surface limits, Highlands Open Water buffers and Critical Habitat. Redevelopment in a previously developed area in the preservation area identified by the Highlands Council pursuant to N.J.S.A. 13:20-9b or N.J.S.A 13:20-11

5. A detailed explanation why the proposed activity meets the criteria for a waiver in N.J.A.C. 7:38-6.4(a);

**Response:** The Highlands Council has issued a Highlands Redevelopment Area Designation pursuant to N.J.S.A. 13:20-9b or N.J.S.A 13:20-11

6. A detailed description of the specific HPAAs requirement for which a waiver is sought, and a comparison of the HPAAs standard with the level of compliance the proposed development provides (for example, “N.J.A.C. 7:38-3.5 limits a development to a maximum of three percent impervious coverage whereas the proposed project requires a total of four percent”);

**Response:** Three HPAAs standards:

1. N.J.A.C. 7:38-3.4 states that on a lot that does not contain forest, the applicant proposes no more than one individual subsurface disposal system or equivalent disposal unit for each 25 acres of the lot; however, the facility has existing NJPDES-DGW permits and the project does not propose an increase in wastewater generation. No septic system exists or is proposed, and no extension of wastewater service area is proposed beyond the existing property;
2. N.J.A.C. 7:38-3.5 limits a development to a maximum of three percent impervious coverage whereas the proposed project requires additional impervious surface;
3. N.J.A.C. 7:38-3.6 states that there shall be a 300-foot buffer adjacent to Highlands open waters in which no disturbance is permitted, except as provided in this chapter. The proposed project entails encroachment into a Highlands Open Waters protection area related to a C1 stream that is currently in agricultural use. A waiver for encroachment into this area is requested and appropriate with the condition of a buffer mitigation plan to be submitted for approval by the NJDEP and Highlands Council. Another Highlands Open Waters protection area may exist because of potential wetlands on an adjoining parcel. However, this area is already disturbed and the site does not drain to the wetlands. Furthermore, a municipal road separates the potential wetlands. Therefore, waiver from further delineation for the feature is requested and appropriate. Under condition of the Highlands Redevelopment Area approval by the Highlands Council, the applicant must submit an open water protection area mitigation plan for the stream buffer to NJDEP and Highlands Council for approval. Applicant to Provide
4. N.J.A.C. 7:38-3.9 requires delineation of upland forest areas. The site contains only ornamental trees which will not be disturbed. Therefore, a waiver from this standard is requested and appropriate.

5. N.J.A.C. 7:38-3.11 states that the Department shall not issue a HPAA unless it determines that the proposed activity will not jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of habitat for, any rare, threatened or endangered species of animal or plant, except as provided in this chapter. Part of the proposed project is located in an area identified as Critical Habitat through the Landscape Project mapping. The applicant may provide information to NJDEP rebutting presence of this habitat. In the alternative, the applicant must submit a critical habitat mitigation plan to NJDEP and Highlands Council for approval. **Applicant to Provide.**
  
7. An explanation how the proposed activity satisfies each of the remaining HPAA standards at N.J.A.C. 7:38-3  
**Response:** The Highlands Council approval of this Highlands Redevelopment Area demonstrates that the proposed activity satisfies each of the remaining HPAA standards at N.J.A.C. 7:38-3. The Highlands Council approval process includes: 1) A pre-application and application to the Highlands Council; 2) A Draft Consistency Determination, a Draft Staff Recommendation Report, and Mapping of Highlands resources; 3) A Public Notice, public comment period, and a Comments Summary and Response document; 4) A Public meeting held by the Highlands Council with additional opportunity for public comment and a vote by Council on a Resolution. Given this extensive process, the NJDEP should be able to rely upon the analysis and conclusions of the Highlands Council in considering an HPAA application for a redevelopment area waiver. In fact, NJDEP's Preservation Area rules specifically envision such a result for HPAA's at N.J.A.C. 7:38-1.1
  
8. A detailed explanation why the proposed activity satisfies the standards at N.J.A.C. 7:38-6.2(a);  
**Response:** That explanation can be found in the Highlands Council Recommendation Report.
  
9. Documents showing the conclusion of an applicant's legal challenges, if any, to the Department's decision on the application for an HPAA under the rules as strictly applied,  
**Response:** NA