State of New Jersey

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Highlands Council Staff Final Recommendation Report
Proposed Highlands Redevelopment Area Designation
Goldmine Partners, L.L.C. - Mount Olive Block 4500, Lot 3

Date: August 19, 2010

Re:	Application Type:	*Proposed Highlands Redevelopment Area Designation*
	Name:	*Goldmine Partners, L.L.C. – Mount Olive Block 4500 Lot 3*
	Municipality:	*Mount Olive*
	County:	*Morris*
	Highlands Act Area:	*Preservation Area*
	LUCM Location:	*Existing Community Zone with some Protection Zone*
	Property:	*Block 4500 Lot 3*
	Proposed Use:	*Construction of 12,240 sq ft two-story building for use as construction office and equipment repair facility*

1.0 PROJECT DESCRIPTION

The subject parcel is Block 4500 Lot 3 in the Township of Mount Olive, Morris County. The approximately 20-acre parcel abuts Gold Mine Road and there is commercial development to the west, north (International Trade Center) and east, with residential use to the south. The property formerly functioned as a stone quarry for many years, and much of the site features pavement, former quarry facility sites, bare rock and gravel, with weeds and grass growing through cracks and gravel. The northwest portion of the site is wooded and features an approximately one-acre man-made pond as well as mapped wetlands (according to the Highlands Council GIS data.) The pavement and gravel drives and site pads constitute impervious surfaces, while the bare rock, soil and vegetated areas do not. There are presently no existing buildings located on the site. There is an existing private well in the northeastern portion. The majority of the site is in the Existing Community Zone (the northwest corner, with the pond and wooded area, is in the Protection Zone, but the proposed Highlands Redevelopment Area and construction does not fall within this area and zone.)

The applicant proposes to construct a 12,240 sq ft two-story building in the northeast corner of the parcel for use as a construction office and equipment repair facility. In addition to the proposed building, the applicant proposes improvements to the lot including ingress/egress, paved and gravel

parking areas, walkways, lighting, landscaping, an infiltration basin, and a fenced dumpster with concrete pad. The proposed development site is within a proposed Highlands Redevelopment Area with over 70 percent existing impervious surface. The applicant proposes ecological enhancement of the remaining area within and outside of the proposed Highlands Redevelopment Area (i.e., that area not used for construction) by placing topsoil, a meadow seed mix, and tree plantings to replace areas of existing gravel and exposed bedrock. According to the applicant, the maximum occupancy of the proposed building will be between 8 and 10 people. The applicant estimates that the proposed water usage would be 520 gallons per day and states that the proposed redevelopment would by served by the existing on-site well and a proposed on-site septic system (with no other industrial uses required, as stated by the applicant).

2.0 ADMINISTRATIVE PROCESS

With respect to administrative process and history, a voluntary inquiry meeting was held between the applicant (property owner, attorney, and consultant) and Highlands Council staff on June 10, 2009 to discuss the parcel, potential opportunities for redevelopment, and the Highlands Preservation Area rules, exemptions, waivers, and procedures. It was determined that the applicant would seek a Highlands Redevelopment Area Designation from the Highlands Council and a subsequent Highlands Preservation Area Approval with redevelopment waiver from the NJDEP. The applicant stated that the municipally-approved site plan calls for commercial development and restoration of the parcel (placing soil layer and vegetating) and that approvals have been obtained from the Morris Soil Conservation District (SCD) and the Morris County Planning Board. Based on the consultant's recent experience with other projects, he expressed concern about how the NJDEP (and the Highlands Council) may interpret the definition of impervious surface with respect to the subject site. It was agreed that the best course of action was for the applicant to submit the requisite Pre-Application materials to the Highlands Council. The Council would then arrange a Pre-Application meeting with the applicant, the Highlands Council, and the NJDEP at the project site so that all parties could discuss the impervious surface issue.

On July 16, 2009, the Highlands Council received an application for a Pre-Application meeting for the proposed Highlands Redevelopment Area Designation. An on-site Pre-Application meeting was held on September 10, 2009. At the on-site meeting, the attendees reviewed the applicant's site plan which included a delineation of what the applicant's engineer interpreted as impervious surface (to meet the requirement of 70 percent impervious surface of the proposed Highlands Redevelopment Area.) The site was walked and analyzed. The staff representatives from the Highlands Council and the NJDEP came to a general agreement as to which portions of the site met the definition of impervious surface and which did not (based mostly on the existence of gravel and paved surfaces and, in other areas, the robustness of vegetative growth or lack thereof.) While this interpretation differed somewhat from that of the applicant's engineer, the attendees discussed ways to revise the proposed site plan and the proposed Highlands Redevelopment Area in order to meet the applicant's needs and objectives for the site while ensuring that the potential Highlands Redevelopment Area met the 70 percent impervious surface criterion. In general, the concept would require that the proposed building and parking be reoriented to a location parallel to Gold Mine Road, rather than perpendicular to the road, so that the future development area overlapped with the existing impervious surface area to the maximum extent feasible. At the conclusion of the on-site meeting, the Highlands Council staff instructed the applicant to submit a revised Highlands

Redevelopment Area delineation and site plan to the Highlands Council. A summary of the issues discussed during the Pre-Application Meeting is attached to this staff recommendation report.

The applicant submitted the required application materials for a Petition for Highlands Redevelopment Area Designation on April 20, 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.

Highlands Council staff welcomed the opportunity to work with the applicant and staff from the NJDEP to revise the proposed site plan and the proposed Highlands Redevelopment Area in order to ensure that the potential Highlands Redevelopment Area met the 70 percent impervious surface criterion and maximized the potential for site restoration, while meeting the applicant's needs and objectives for the site. Further, the Highlands Council staff recognizes the written support of the proposed project expressed by Mayor Scapicchio during the public comment period. Finally, it should be noted that the revised orientation of the proposed project may result in a finding that the impervious surface proposed is within the constraints of Exemption #4 of the Highlands Act (reconstruction within 125% of the lawfully existing impervious surface on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more). The applicant has requested completion of the Highlands Redevelopment Area designation, to avoid a project delay should Exemption #4 not be applicable.

3.0 SMART GROWTH AND SUSTAINABLE ECONOMIC DEVELOPMENT CONSIDERATIONS

Redevelopment opportunities will be a major 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." These formerly developed sites provide the base where economic activity may continue to flourish and regional growth needs may be accommodated.

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…uses and opportunities within the framework of protecting the Highlands environment."

The subject site is currently vacant and surrounded by existing commercial and industrial development. Much of the land is previously disturbed and degraded, having been the former

location of a quarry operation. The proposed Highlands Redevelopment Area, in the northeast corner of the site, has greater than 82% impervious cover.

The proposed redevelopment project seeks to construct a building for use as a construction office and equipment repair facility. The proposed development would occur on what is currently impervious surface. The proposed project includes measures to revitalize the remaining land within the proposed Highlands Redevelopment Area by removing areas of existing gravel and grass and replacing with topsoil, a meadow seed mix, and tree plantings. Additional details should be provided during the NJDEP Highlands Preservation Area Approval (HPAA) permitting process to demonstrate the implementation of low impact development techniques as addressed in the Low Impact Development Program of the RMP.

Economic development policies advocate the creation and maintenance of jobs to benefit the local community and the region. The applicant indicates that there would be 8 to 10 employees working at the new facility. The proposed development will enhance the property owner's business capacity, thereby maintaining and potentially increasing jobs in the region. The proposed commercial development would benefit the local economy while utilizing a currently vacant, degraded, and under-utilized parcel.

The support and active participation of local governing bodies is encouraged for redevelopment projects. The applicant has indicated that the site plan has already been approved by the municipal governing body and by the Morris County Planning Board. During the public comment period for this project (July 2 – July 26, 2010), Mayor Scapicchio expressed support for the proposed Highlands Redevelopment Area Designation and stated that the proposed development will restore the vacant parcel to productive use. He also stated that the administration and the Planning Board identified this site along with adjacent properties situated on Gold Mine Road as one of several excellent candidates for a Highlands Redevelopment Area Designation.

With respect to smart growth, management of stormwater from the project area shall be addressed through the HPAA with redevelopment waiver permitting process (the applicant has already provided a detailed stormwater management plan to the Highlands Council). The project should be designed to incorporate low impact development techniques wherever possible, including stormwater management techniques used for mitigation. Any disturbance and construction activities should be managed to minimize impacts to the surrounding environment.

Redevelopment at this previously disturbed site represents economic investment and community development within the existing infrastructure. 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.

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 82.4% impervious surface, in excess of Highlands Act requirements for at least 70 percent impervious surface.
  - Existing Impervious Surface = 117,956 sq ft
  - Allowable Highlands Redevelopment Area = 168,509 sq ft
  - Proposed Highlands Redevelopment Area = 143,185sq ft
- **Resource Assessment:** Based upon a review of the site plan and Highlands Council GIS data layers, it was determined that the proposed construction activities entail encroachment into Highlands Open Waters buffers for the on-site man-made lake. However, it is noted that the buffers that would be encroached are completely disturbed and are comprised of impervious surface. Further, the man-made lake is upgradient from the proposed development. As encroachment into the buffers is required for the project, a waiver of this requirement by NJDEP would be required and would be appropriate, as the buffers are in an existing disturbed condition. With respect to water availability, 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 520 gallons per day), which could be achieved through on-site recharge. The 125% mitigation would be approximately 640 gpd, 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. Given the ecological enhancement proposed for much of the site, consisting of the removal of existing impervious surface, placement of soil in those areas and areas of exposed bedrock, and creation of meadow cover, meeting this requirement entirely on-site should be feasible. Review of the Highlands GIS data indicates that the location of the proposed development is within a Tier 3 Wellhead Protection Area, however the proposed project is consistent with Objective 2H2c as it would not have a significant potential to result in major discharges of persistent organic or toxic pollutants to ground water or the land surface.
- **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. The proposed commercial development would benefit the local economy while utilizing a currently vacant, degraded, and under-utilized parcel. Management of stormwater from the project area shall also be addressed through the HPAA with redevelopment waiver permitting process. The project should be designed to incorporate low impact development techniques wherever possible, 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 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. During the coordinated review of the HPAA application between the staff of the Highlands Council and the NJDEP, it will be ensured that wastewater that will be discharged to the proposed on-site septic system is managed such that it is free of persistent organic or toxic pollutants that may degrade ground water quality within the designated Tier 3 Wellhead Protection Area.
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 parcel 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 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;	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 proposed development is located in the Existing Community Zone, consistent with the policy of the RMP to promote compatible development and

Requirement	Staff Analysis
	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 HPAA with redevelopment waiver permit process.

It is the Highlands Council staff's final 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 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. 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 the property outside of the proposed Highlands Redevelopment Area 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 HPAA 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

- Pre-Application Meeting notes
- Consistency Determination

JON S. CORZINE
Governor

State of New Jersey

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JOHN R. WEINGART
Chairman

EILEEN SWAN
Executive Director

Redevelopment Area Designation Pre-Application Meeting

Date: September 10, 2009
Time: 2:00 pm
Location: At subject parcel – Mount Olive Block 4500 Lot 3
Re: Potential Redevelopment Area Designation – Mount Olive Block 4500 Lot 3

Attendees:

Highlands Council Staff	Applicant	NJDEP Staff
Dan Van Abs	Mark Skoda (property owner)	Rick Reilly
Chris Ross	Larry Kron (attorney)	Changi Wu
Jim Hutzelmann	Jim Glasson (engineer)	

Subsequent to the informal meeting held between the applicant and the Council staff (on June 10, 2009), the Highlands Council staff recommended holding the requisite Pre-Application meeting at the subject site and to invite representatives from the NJDEP. This decision was made because at the informal meeting, the applicant's engineer (Jim Glasson) expressed concerns about potential differences of interpreting the definition of "impervious surface" at this site.

At the on-site meeting, the attendees reviewed the applicant's site plan which included a delineation of what the applicant's engineer interpreted as impervious surface (to meet the requirement of 70 percent impervious surface of the proposed Redevelopment Area.) The site was walked and analyzed. The representatives from the Highlands Council staff and the NJDEP came to a general agreement as to which portions of the site met the definition of impervious surface and which did not (based mostly on the existence of gravel and paved surfaces and, in other areas, the robustness of vegetative growth or lack thereof.) While this interpretation differed somewhat from that of the applicant's engineer, the attendees discussed ways to revise the proposed site plan and the proposed Redevelopment Area in order to meet the applicant's needs and objectives for the site while ensuring that the potential Redevelopment Area met the 70 percent impervious surface criterion. In general, the concept would require that the proposed building and parking be reoriented to a location parallel to Gold Mine Road, rather than perpendicular to the road, so that the future development area overlapped with the existing impervious surface area to the maximum extent feasible.

At the conclusion of the on-site meeting, the Highlands Council staff instructed the applicant and his representatives to submit a revised Redevelopment Area delineation and site plan (hard copy and electronic file) to the Highlands Council. The Council staff noted that the revised proposal for a

Redevelopment Area delineation must include an amended delineation of impervious surface, as agreed to on-site, as well as calculations demonstrating that this impervious surface meets the 70 percent criterion.