Highlands Preservation Area Approval Application Checklist Items for
HPAA with Redevelopment Waiver
Goldmine Partners, L.L.C. Block 4500 Lot 3, Mount Olive
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. ****

August 2010

HPAA Checklist Item (***All of the information required in N.J.A.C. 7:38-9.5***) **Items deemed unnecessary highlighted**	**Submittal Status/ Highlands Council Analysis**	**Comments and Action Items** **Items in green, Goldmine, L.L.C. 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;	**ALREADY COMPLETED FOR HIGHLANDS COUNCIL PRE-APPLICATION MEETING**	Applicant already completed LURP-2 application as part of *Pre-Application Meeting Checklist* (also required for Highlands Council Redevelopment Area Designation Petition). Applicant to include copy in NJDEP submittal package.
3. The appropriate fee, indicated in the Highlands Preservation Area Approval fee table, which can be found at www.state.nj.us/dep/highlands	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	Applicant will submit	Applicant to provide notice.

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environmental commission, municipal planning board and construction official, county planning board, county environmental commission, all landowners within 200 feet of boundary of site		
5. The approximate boundaries the project or activities clearly delineated on a USGS quadrangle Map	**ALREADY SUBMITTED FOR PETITION FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION**	Applicant to include copies in NJDEP submittal package.
6. Two copies of a recent county road map or local street map, with the site clearly marked	**ALREADY SUBMITTED FOR HIGHLANDS COUNCIL PRE-APPLICATION MEETING**	Applicant to include copies in NJDEP submittal package.
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	**ALREADY SUBMITTED FOR PETITION FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION.** Note: The project site can be readily viewed and analyzed using the Highlands Council interactive mapping with ***3-D Birds Eye View*** at http://maps.njhighlands.us/hgis/	Applicant to include copies in NJDEP submittal package.
8. A copy of a Municipal tax map(s) delineation the project or activity site by lot(s) and block(s)	**ALREADY SUBMITTED FOR HIGHLANDS COUNCIL PRE-APPLICATION MEETING**	Applicant to include copies in NJDEP submittal package.
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)	N/A - 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	N/A	
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	See Highlands Council project review at: http://www.highlands.state.nj.us/njhighlands/projectreview/ The Highlands Council GIS data (same as Natural Heritage Data) indicate that there is an area mapped as Critical Wildlife Habitat (i.e., habitat for rare, threatened or endangered species) in the western portion of the parcel. See attached mapping from Highlands Council project review. No change is	

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absence of any rare, threatened or endangered species or ecological communities listed in the Natural Heritage Database on or near the site	proposed to this area as part of the proposed redevelopment. 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)	N/A	
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	N/A. 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, the buffers that would be encroached upon are completely disturbed and are comprised of impervious surface. The review also shows encroachment into mapped wetlands shown from the Highlands Council GIS data. The applicant is in receipt of (and submitted to the Highlands Council as part of redevelopment area petition) an LOI from the NJDEP dated May 18, 1999 (LOI file # 1427-98-0014.1) which shows that the only wetlands/open waters on the site are the boundaries of the man-made pond. The verified LOI line does not show the wetland area that the GIS mapping indicates.	
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. A formal delineation report is not required. However, the application must include the data sheets and supporting	The applicant is in receipt of (and submitted to the Highlands Council as part of redevelopment area petition) an LOI from the NJDEP dated May 18, 1999 (LOI file # 1427-98-0014.1) which shows that the only wetlands/open waters on the site are the boundaries of the man-made pond. 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)	

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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 G. The amount of pre-development impervious coverage on the site and the total aggregate impervious coverage on the	The Highlands Council CD and Recommendation Report fulfill this requirement. See Highlands Council project review at: http://www.highlands.state.nj.us/njhighlands/projectreview/ The Highlands Council has provided copies to NJDEP. A. See Recommendation Report – Section 1. Project Description B. See Recommendation Report – Section 4. Findings and Recommendations – Resource Assessment C. See Recommendation Report – Section 1. Project Description D. N/A – schedule to be determined E. See Recommendation Report – Section 4. Findings and Recommendations – Resource Assessment and	.

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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 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 or archaeological resources K. A Phase II archaeological survey for applicants that discover archaeological features resources as a result of the Phase I archaeological survey L. The names, addresses and professional qualifications of those used to prepare the detailed project description M. If any or all of the proposed project or activity is in a flood hazard area N. Source of floodplain data	Consistency Determination – Comments for Part 1 Subpart B – Highlands Open Waters and Riparian Areas F. See Consistency Determination – Comments for Part 1 Subpart A – Forest Resources G. See Recommendation Report – Section 4. Findings and Recommendations – Impervious Surface Requirement H. See Consistency Determination – Comments for Part 1 Subpart C – Steep Slopes I. See Consistency Determination – Comments for Part 1 Subpart D – Critical Habitat J. See Consistency Determination – Comments for Part 4 Historic, Cultural, Archaeological, and Scenic Resources K. See Consistency Determination – Comments for Part 4 Historic, Cultural, Archaeological, and Scenic Resources L. See site plan M. No floodplain N. Highlands GIS data	
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%, HRAD issued by the Department	Applicant will submit	Applicant to provide

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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 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.		
17. A mitigation proposal for all disturbances to Highlands open waters shall be submitted.	N/A – 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, the buffers that would be encroached upon are completely disturbed and are comprised of impervious surface. Thus, the Highlands Council staff maintains that no mitigation is required.	
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	N/A	

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Park Service		
19. Stormwater management calculations in accordance with the Stormwater Management rules must be provided for all major developments	Applicant did supply stormwater management plan as part of petition to Highlands Council – NJDEP to determine suitability of those material for their review. ****Note – there should be a coordinated review of the stormwater plan between the Highlands Council and the NJDEP to ensure that the conditions of the Highlands Council's recommendation are met. Related to stormwater is the condition that 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.**	Applicant will provide
20. A copy of all past Department approvals for activities on the site;	Applicant will provide LOI and any other Department approvals	Applicant will provide LOI and any other Department approvals
21. The names and addresses of all consultants, engineers, and other persons providing technical assistance in preparing the application;	**ALREADY SUBMITTED FOR PETITION FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION**	Applicant to include copies in NJDEP submittal package.
Remainder 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., and thus, NA	N/A	

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*:** The applicant's original site plan had the proposed office and parking area located outside of the Highlands Open Waters buffer; however, with that configuration, the proposed Redevelopment Area did not meet the requirement of 70 percent impervious surface of the proposed Redevelopment Area. Further, the new construction would be on surfaces that did not meet the definition of impervious surface. When the original site plan was reviewed at an on-site meeting with the applicant and staff of the Highlands Council and the NJDEP, the staff from both agencies 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 required 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 that time, staff from the Highlands Council and NJDEP recognized that with the new orientation, the buffer for the on-site man-made pond would be encroached. However, it was agreed that the buffer is completely disturbed, is impervious surface, and is not functioning as a buffer. Further, the applicant indicated that the plan was to conduct ecological restoration of the site, including the buffer area, which would likely improve some of the functional value of the buffer. Thus, staff from the Highlands Council and NJDEP agreed that the new alternative discussed at the on-site meeting was the appropriate alternative.

3. A description of the source of water or waste water disposal that would be used by development if the waiver is granted
   ***Response*:** Water usage would be 520 gallons per day and 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.)

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 Highlands Open Water buffers and septic density for 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 and N.J.S.A 13:20-11

6. A detailed description of the specific HPAA requirement for which a waiver is sought, and a comparison of the HPAA 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: Two HPAA 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, whereas the lot for the proposed project is less than 25 acres
2. 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 construction activities entail encroachment into Highlands Open Waters buffers for the on-site man-made lake. However, the buffers that would be encroached upon are completely disturbed and are comprised of impervious surface. No additional impact to the Highlands Open Water would occur.

7. An explanation how the proposed activity satisfies each of the remaining HPAA standards at N.J.A.C. 7:38-3
Response: *T*he 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 accordance with NJDEP's Preservation Area rules 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 (table on page 4).

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*:** N/A

****Note – there should be a coordinated review of the HPAA with redevelopment waiver application between the Highlands Council and the NJDEP to ensure that the conditions of the Highlands Council's recommendation are met as follows:**

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;
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. 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.