



State of New Jersey

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DRAFT

Highlands Council Staff Recommendation Report Proposed Highlands Redevelopment Area Naughtright and Sand Shore Roads Mount Olive Township, Morris County

Date: July 9, 2024

Application Type: Proposed Highlands Redevelopment Area Designation
Name: Naughtright and Sand Shore Road Highlands Redevelopment Area
Applicant: Mount Olive Township
Location: Mount Olive Township, Morris County
Properties: Block 8300, Lots 5, 5.02, 6, 7, 8, 9, 11, 11.01; Block 8100, Lot 38; Block 8400, Lot 1
Highlands Act Area: Preservation Area
LUCZ Designation: Existing Community Zone (ECZ)/Existing Community-Environmentally Constrained Subzone (ECECZ)
Proposed Use: Retail and Light Industrial/Warehousing

1. PROJECT DESCRIPTION

Mount Olive Township is a municipality located at the western end of Morris County with lands in both the Highlands Planning and Preservation Areas. Mount Olive Township is conforming for only the Preservation Area, which accounts for 79% (15,861 acres) of the 19,992-acre municipality.

The Township has applied for a Highlands Redevelopment Area designation under the 70% existing impervious surface requirement (Highlands Act N.J.S.A 13:20-3). The proposed Highlands Redevelopment Area is located entirely within the Preservation Area and encompasses 47.61 acres. A plan for the proposed redevelopment is included as Appendix 1. Although the application incorporates 10 properties, only three (3) are proposed for additional development.

The details of the properties in the proposed Highlands Redevelopment Area are as follows:

Block 8300, Lots 11 and 11.01 (8.07 acres): These two vacant lots are located in an existing industrial zone. The properties are proposed to be included in the Highlands Redevelopment Area

to allow a developable footprint of 300,445 sq. ft. The properties are located in the Preservation Area – Existing Community Zone (ECZ) with a small area of Conservation Zone. Access is directly from Sand Shore Road. Development is currently proposed as a 92,000 sq. ft. warehouse/flex industrial building, with a total proposed impervious surface of 199,124 sq. ft. The project would be served by onsite wells and an onsite subsurface sewage disposal system.

Block 8100, Lot 38 (30.42 acres): The property is currently developed with a commercial shopping center with an existing impervious surface area of 575,731 sq. ft. A vacant area to the rear of the developed portion of property is proposed to be placed into a Highlands Redevelopment Area to allow for the future expansion of the existing shopping center of up to an additional 174,022 sq ft. of impervious surfaces. No plans currently exist for this potential expansion. Any expansion would be serviced by onsite water and public wastewater service. This property is located within the Preservation Area-ECZ, with the proposed build-out portion within the ECZ-Environmentally Constrained Subzone.

Block 8400, Lot 1 (5.33 Acres): Existing car dealership (Johnson Dodge). No expansion is proposed.

Block 8300, Lots 5, 5.02, 6, 7, 8 and 9 (25.28 Acres): Six existing industrial flex space buildings. No expansion is proposed.

2. ADMINISTRATIVE PROCESS

In accordance with the Highlands Council's adopted Redevelopment Area Designation Procedures (RMP Addendum 2019-1), the Township and Highlands Council staff held a Highlands Redevelopment Area pre-application meeting on December 2, 2022. The Township provided public notice of the Township's hearing on November 21, 2023, to property owners located within the proposed Highlands Redevelopment Area, at which time they adopted a resolution authorizing submission of the application to the Highlands Council. On February 12, 2024, Mount Olive Township submitted a complete Highlands Redevelopment Area Application. Highlands Council staff conducted a site visit on March 18, 2024, to document current conditions and examine the area proposed for development. Site photographs are included in Appendix 3.

The Highlands Council will present the Highlands Redevelopment Area application at a Council Meeting with public hearing following a 30-day public comment period. Should approval be granted by the Council, an application would be made to the NJDEP for a Highlands Preservation Area Approval (HPAA) with Highlands Redevelopment Area Waiver. The Highlands Council would consult with the NJDEP on that application. Either concurrently with the HPAA application or after its approval, the applicant would seek approval from the Township Planning Board. That application would be subject to review by the Highlands Council before any formal Planning Board action could take place. Any resolution of approval of the site plan by the Township Planning Board would need to include all conditions related to the Highlands Redevelopment Area Approval and Consistency Determination.

3. RESOURCE ASSESSMENT FOR LOTS PROPOSED FOR FUTURE DEVELOPMENT

Block 8300, Lots 11 and 11.01 (8.07 acres) Proposed for 92,000 sq. ft. warehouse/flex industrial building (300,445 sq. ft area of disturbance).

Block 8300, Lots 11 and 11.01 Highlands Zones/Resources	Total (Acres)	Percent of Tract
Conservation Zone (CZ)	1.4	17.0%
Existing Community Zone (ECZ)	6.7	82.9%
Agricultural Resource Area (ARA)	6.9	85.0%
Important Farmland Soils	7.7	95.9%
Wellhead Protection – Tier 2	4.8	59.48%
Wellhead Protection – Tier 1	2.7	33.45%
Open Water Protection Area (see below)	0.7	8.7%
Total Forest Area	1.4	16.7%

Important Farmland Soils and Agricultural Resources

The property is designated as an Agricultural Resource Area (ARA) and is primarily covered with Important Farmland Soils which cover 95.9% of the tract, though these soils have been disturbed or covered in areas of existing development. The property is not in active agricultural use. As the property is designated Existing Community Zone, mitigation for the loss of farmland soils is not required.

Other Highlands Environmental Resources

- Block 8300, Lots 11 and 11.01 are largely unconstrained by environmental resources:
 - The site contains no Critical Habitat.
 - The site contains no Steep Slope Protection Areas.
 - The site contains no Prime Groundwater Recharge Areas.
 - There are no historic resources present on or adjacent to the site.
- A small area of Total Forest Area is located to the rear (northern portion) of the property. Although the area is proposed to be disturbed, the site currently shows evidence of past disturbance, including a pile of fill material in the northern portion of the parcel. No onsite mitigation will be required for the disturbance. However, the landscaping plan must include native, drought-resistant plantings and stormwater management basins should be appropriately landscaped.
- The Open Water Protection Area mapped on the property results from the adjacent man-made retention pond. As this project is part of a proposed Highlands Redevelopment Area, the Highlands Council is exercising its discretion, under RMP Policy 1D4, to reduce the required Highlands Open Water Buffer on lot 11.01. The Highlands Council finds that the retention pond on lot 9 functions as part of stormwater management system and the development on lot 11.01 will not impact this system.

Water & Wastewater Service:

- The total water and wastewater usage will be an estimated 1,500 gallons per day (gpd) of wastewater generation and 1,666 gpd of potable water demand. Both limits are under any NJDEP Water Allocation Permit or Water Quality Management Plan amendment requirements.
- Wastewater will be handled through an onsite individual subsurface sewage disposal system (septic system-not public sewer). Nitrate dilution limits will be set at 6 mg/L in accordance with NJDEP NJPDES Discharge to Groundwater standards for the Preservation Area with an approved Highlands Redevelopment Area waiver.
- Water use will be provided through onsite wells. A 10% consumptive use coefficient is applied for industrial use.
- The selected area is within the Mine Brook (Morris Co.) subwatershed (HUC14 02040105150090), which has a calculated Net Water Availability of -0.076 million gallons per day (MGD).
- The water mitigation target is 208 gpd (10% consumptive use coefficient * 1,666 gpd of water demand * 125% mitigation target). This small target can be achieved through indoor and outdoor conservation measures such as incorporation of low-flow fixtures and native drought resistant plantings. No irrigation systems should be included in the development.
- In this case as the consumptive target is minimal and is expected to eliminate the consumptive use, therefore no Water Use and Conservation Management Plan is required due to the development.

Transportation:

- The proposed concept plan for Block 8300, Lots 11 and 11.01 shows an ingress and egress onto Sand Shore Road, which is a local roadway. Sand Shore Road connects directly to State Route 46, and the proposed project is adjacent to the interchange that allows access from Sand Shore Road onto State Route 46. Sand Shore Road is a single lane roadway, despite its location in an industrial area.

Block 8100, Lot 38 (30.42 acres). The property is currently developed with a commercial shopping center with an existing impervious surface area of 13.22 acres. The total area within the existing shopping center demarcated for future development is 3.61 acres. Approximately 1.89 acres are existing impervious areas at the western part of the shopping center, adjacent to Naughtright Road. The remaining 1.91 acres, located towards the east of the shopping center, is undeveloped. No plans currently exist for this potential expansion.

The table below reflects the resources of the undeveloped area.

Block 8100, Lot 38 (future area) Highlands Resources	Total (Acres)	Percent of Future Development Area
Existing Community Zone (ECZ)	1.91	100%
Agricultural Resource Area (ARA)	1.91	100%
Important Farmland Soils	1.33	69.6%
Wellhead Protection – Tier 2	1.26	65.97%
Open Water Protection Area (see below)	0.7	36.65%
Total Forest Area	0.39	56.54%
Prime Groundwater Recharge Area	1.18	61.79%

Important Farmland Soils and Agricultural Resources

The property is designated as an Agricultural Resource Area (ARA) and is primarily covered with Important Farmland Soils (69.6% of the tract). The property is not in active agricultural use. As the property is designated as Existing Community Zone, mitigation for the loss of farmland soils is not required.

Other Highlands Environmental Resources

- Block 8100 Lot 38 is largely unconstrained by environmental resources:
 - The site contains no Critical Habitat.
 - The site contains no Steep Slope Protection Areas.
 - There are no historic resources present on or adjacent to the site.
 - The site contains no Open Water Protection Areas.
- A small area of Total Forest Area is mapped on the area set aside for future development. A site visit indicated that the forest area is not present. No mitigation will therefore be required for the potential future disturbance.
- There is an area of Prime Groundwater Recharge Area on the area set aside for future development. To mitigate for the disturbance, there will be a requirement that improvements be made to the stormwater management system for the existing shopping center to improve both water quality treatment and groundwater recharge. As the shopping center was constructed prior to 2004, it was not subject to the current more stringent stormwater management measures and significant opportunities exist for improving the currently existing stormwater management facilities.

Water & Wastewater Service:

- Wastewater will be handled by connections to the existing Hackettstown MUA public sewer system.
- Water service will be provided by the existing onsite water system.
- The total water and wastewater usage is currently not known and will be subject to review at the time a site plan application is submitted. Given the current scale of the existing shopping center in comparison to the limited size of the potential expansion, it is unlikely that capacity limitations will be an issue.
- The selected area is in the Raritan River SB subwatershed (HUC14 02030105010040) which has a calculated net water availability of -0.344 MGD.
 - As the site is in a deficit HUC14, depending on the consumptive use a Water Use and Conservation Management Plan may be required.
 - A site-specific water deficit mitigation plan may also be required to be submitted at time of site plan review.
 - Should the site-specific water deficit mitigation plan not completely address the consumptive use then the need for a Water Use and Conservation Management Plan will be triggered.

Transportation

- Block 8100, Lot 38 does not include any concept plan and is located at the rear of an existing commercial shopping center. If this site were to be developed in the future, it would either maintain access within the existing shopping center site or would need a connection to State Route 46 through Block 8100, Lot 39. No transportation issues are anticipated as the existing site is already adequately designed to handle truck and passenger vehicle traffic.

4.0 FINDINGS AND RECOMMENDATIONS

Highlands Redevelopment Area Procedures RMP Addendum 2019-1, Procedures for Highlands Redevelopment Area Designation, contain the following criteria that must be met for approval.

- 1) At least 70 % of the proposed Highlands Redevelopment Area is existing impervious surface.
 - a. Finding: Consistent.
 - b. The proposed Highlands Redevelopment Area was found to contain 70.0% impervious surfaces. (34.23 Acres existing impervious/48.90 Acres Highlands Redevelopment Area Boundary). The impervious surfaces within the proposed Highlands Redevelopment Area are included within the calculations and therefore cannot be used as the basis for an additional expansion of the Highlands Redevelopment Area in the future.
- 2) The proposed Highlands Redevelopment Area and proposed development will not result in or contribute to impairment of any Highlands Resource located on or adjacent to the Highlands Redevelopment Area. This may be accomplished either through exclusion of such areas, through conditions on the designation that ensures their protection, or substantial minimization of disturbance of those resources.
 - a. Finding: Consistent with Conditions.
 - b. Block 8300, Lots 11 and 11.01 and Block 8100, Lot 38: the 2 areas proposed for development contain very limited Highlands Resources
 - c. Mitigation for the loss of Prime Groundwater Recharge Area will be required for any future construction on Block 8100, Lot 38 and shall include improvements to the stormwater management system associated with the existing shopping center.
- 3) The proposed Highlands Redevelopment Area and proposed development are found to be consistent with the resource protection and smart growth standards of the Regional Master Plan and with the intent and purpose of the Highlands Act.
 - a. Finding: Consistent
 - b. The RMP includes the following as a goal: “Goal 6K: Concentrate residential, commercial, and industrial development, redevelopment, and economic growth in existing developed areas in locations with limited environmental constraints, access to existing utility, and transportation infrastructure.”
 - c. Redevelopment opportunities are an appropriate vehicle for economic development within the Highlands Region, particularly within the Preservation Area. Redevelopment goals within the Highlands Regional Master Plan (RMP) permit infill development as long as the area meets the designation requirements. In particular, infill development is appropriate, as long as it does not negatively impact environmental resources and is done so to promote smart growth and sustainability. As stated in the RMP, “appropriate patterns of compatible residential, commercial, and industrial development,

- redevelopment and economic growth...should be encouraged in certain areas of the Highlands, specifically in or adjacent to areas already utilized for such purposes.”
- d. Given that redevelopment is a significant opportunity for sustainable economic development and smart growth in the Highlands Region, this proposed redevelopment project was reviewed regarding consistency with RMP 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.” This proposed Highlands Redevelopment Area looks to redevelop areas that are adjacent to existing built uses and would be an extension of similar uses. Additionally, the proposed redevelopment would not negatively impact the Highlands environment due to the limited extent of resources on site. As the RMP intends to balance environmental protection with economic sustainability, this proposed redevelopment area promotes economic sustainability and vitality of the area, while limiting negative environmental impacts.
- 4) There is sufficient water supply and wastewater capacity to serve the proposed development.
- a. Finding: Consistent with Conditions. There is sufficient onsite water supply and either on-site or regional wastewater capacity to serve the proposed development.
- b. On-site mitigation of consumptive water losses associated with increased water demands are required.
- 5) Such other unique or mitigating criteria as required by the Highlands Council to comply with the Goals, Policies and Objectives of the Highlands Act and the RMP.
- a. Finding: Consistent
- b. The proposed development is of a similar scale to the surrounding properties. Despite being located in the Preservation Area, the resources on site are minimal and development would not result in excessive environmental degradation. Furthermore, the undeveloped commercial site would also extend, and most likely revitalize, an existing commercial shopping center.
- c. There is a proposed 15-foot easement for continued connection of the Patriot’s Path trail system. This supports the RMP in regard to preserving important lands and promoting recreation.
- 6) The proposed Highlands Redevelopment Area and proposed development are compatible with existing municipal zoning, or the Highlands Redevelopment Area designation is conditioned upon municipal rezoning.
- a. Finding: Consistent
- b. The proposed Highlands Redevelopment Area parcels are compatible with existing municipal zoning. Block 8300, Lot 11 and 11.01 are currently zoned for Light Industrial (LI) and are surrounded by other industrial type buildings. Based on the proposed concept plan of a 92,000 square foot industrial building, this would be compatible with the zoning standards and the surrounding area. Block 8100, Lot 38 is currently in the Commercial (C-2) district. While there is no concept plan currently, it is anticipated that the proposed development will be compatible with the adjacent shopping center.

Highlands Council Warehouse Guidelines The Highlands Council released policy guidance on warehouse development in the Region in April 2023. These guidelines were adopted as an RMP amendment in April 2024. The guidance supplements the State Planning Commission's Warehouse Siting Guidance with RMP-based information and criteria for use in development of local transportation plans, land use plans, and governing ordinances on warehousing. This section provides recommendations only with respect to the consistency of the proposed warehouse project and the Highlands Redevelopment Area to the guidelines, as this application was deemed complete for review prior to adoption of the RMP amendment. The warehousing guidelines standards will be effective when a site plan is reviewed. Therefore, it is appropriate to include review of the Warehouse Guidelines during the redevelopment area designation stage. Based on the proposed size of the redevelopment area with a 92,000 square foot warehouse/industrial building, the site would be classified as a Last-Mile Fulfillment center, based on the Warehouse Guidelines. A last-mile fulfillment center is a smaller local or area fulfillment center/facility or station that primarily serves local markets, having a minimum gross floor area from 50,000 to 150,000 square feet.

- 1) Highlands Region Siting Locations – Designated Highlands Redevelopment Areas are appropriate for warehouse development, subject to compliance with the siting standards and criteria of the Warehouse Siting Guidance.
 - The site is a proposed Highlands Redevelopment Area within the Existing Community Zone (ECZ).
- 2) Proximity and Access to Transportation – Warehouse and distribution facilities should be sited in accordance with aspects such as proposed size, intensity of use, and anticipated truck traffic generation. Larger facilities should be located within a short distance of major state and interstate highways. Less intensive facilities may be suited to locations on county roadways.
 - The site meets the proximity standard of the guidance document as the closest access driveway is approximately 315 feet from State Route 46.
- 3) Watershed Impervious Coverage – Impervious coverage is recognized as the largest factor in degradation of water quality in most waterways. In accordance with the Warehousing guidance, warehousing shall be permitted in a designated Highlands Redevelopment Area only where it will not increase HUC 14 watershed impervious coverage beyond 3%. Block 8300, Lots 11 and 11.01 are located in HUC 14 0203015010040; the proposed development will increase the watershed impervious surface coverage to 8.46%. On Block 8100, Lot 38, located in HUC14 02030105010040, the watershed impervious surface coverage will increase to 7.29% if developed in the future to the full extent of the proposed Highlands Redevelopment Area. As both impervious surface levels will exceed 3% (Preservation Area standard), there will need to be mitigation for the increase, or a waiver from the provisions of the standards will require approval. Mitigation may be accomplished through various methods, including development of a mitigation plan to address stormwater management in the vicinity of the proposed Redevelopment Area.
- 4) Identifying Appropriate Sites - All Highlands Redevelopment Areas should consider the following parameters in identifying appropriate sites for warehousing facilities and associated development:
 - Water and Sewer Infrastructure- adequate service exists or is proposed.
 - Highlands Resources- This report outlines the various Highlands resources on the affected parcels and the impacts of the proposed development. Based on the analysis, impacts to resources would be minimal.

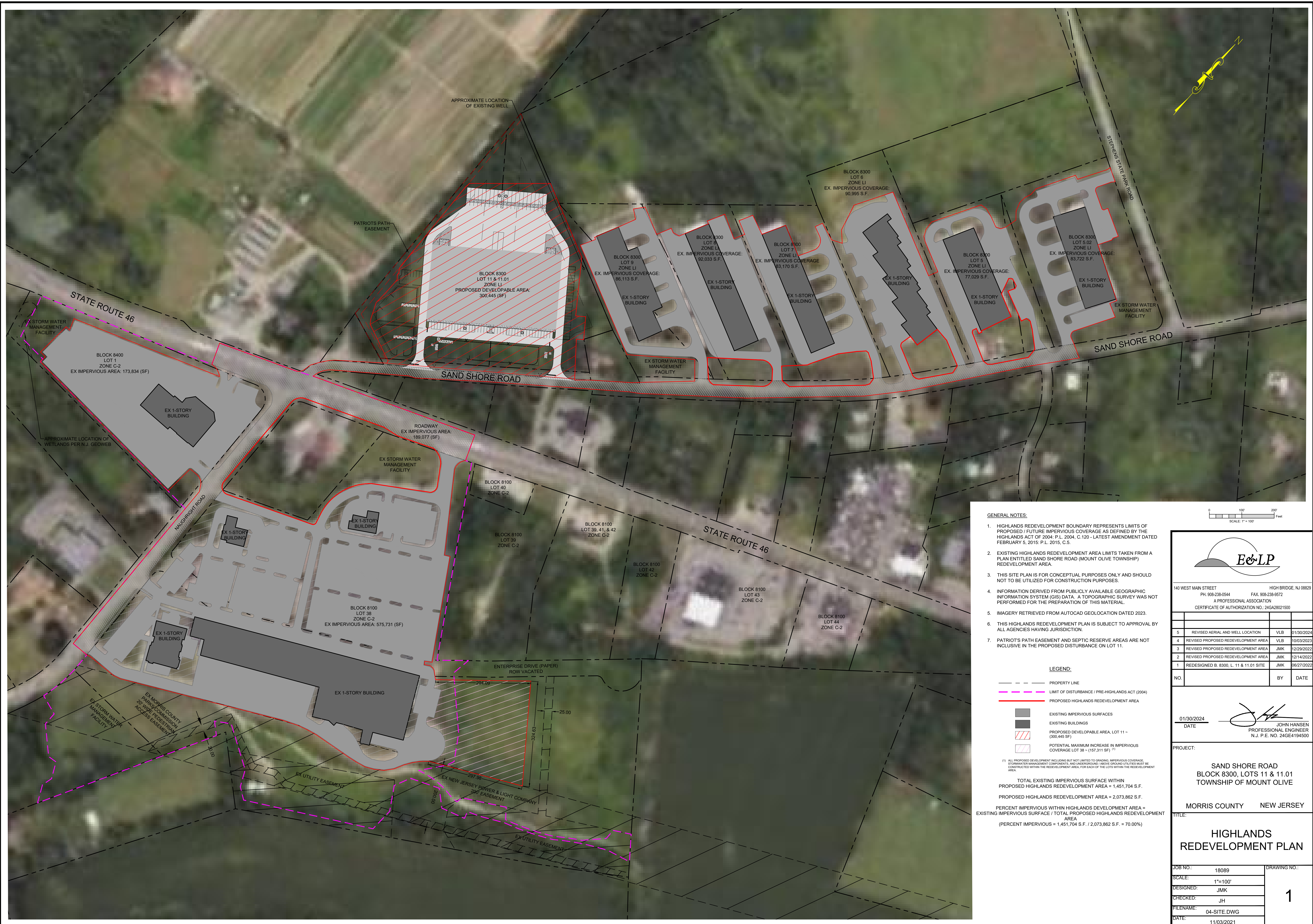
- Permitted Zoning Uses- The surrounding zoning of the proposed redevelopment area is for industrial use. Therefore, an industrial building at this location is consistent with surrounding zoning.
- Site Specific Considerations- During formal site design, the applicant should review the Highlands Council's Warehouse Guidance document and incorporate applicable design standards into the formal site plan to mitigate for any associated nuisances or other impacts.

RECOMMENDATION AND CONDITIONS: The approval recommended herein is only for the Highlands Redevelopment Area designation. The site plan review for the proposed new warehouse building will be conducted subsequent to the submission of an application for development to the local Land Use Board. All conditions noted herein shall be followed during that review.

The proposed Highlands Redevelopment Area was found to contain 70.0% impervious surfaces. (34.23 Acres existing impervious/48.90 Acres Highlands Redevelopment Area Boundary) meeting the minimum required 70% impervious surface standard as set forth in the Highlands Act (N.J.S.A. 13:20-9.b). Based on this standard and the findings herein, it is the Highlands Council staff's recommendation that the Highlands Council approve the proposed Highlands Redevelopment Area with the following conditions:

1. A Water Use and Conservation Management Plan (WUCMP) shall be a condition of approval. The WUCMP is a municipal-wide plan developed by the Township as part of plan conformance. Mount Olive Township had started the plan, but the process has slowed. The Township should re-engage with the consultant preparing the plan and move towards its adoption.
2. Mitigation for the loss of Prime Groundwater Recharge Area will be required for any future construction on Block 8100, Lot 38, and shall include improvements to the existing stormwater management system associated with the existing shopping center.
3. A master plan amendment shall be required to be adopted by the Township indicating the extent of the Highlands Redevelopment Area and the maximum build out per parcel to inform any future development. The Highlands Redevelopment Area designation shall inform the municipal approving authority that any site plan, any subdivision, and any variance relief sought for any property within the Redevelopment Area in question shall not result in land development that exceeds this limit.
4. The applicant is proposing a 15 ft. wide easement for Patriot's Path along the western edge of the property. The easement shall be filed prior to the issuance of a certificate of occupancy for the site.
5. At the time a site plan is submitted for review under the municipalities Highlands Land Use Ordinance, the applicant shall create a mitigation plan to address the increase in impervious surface coverage in the subwatershed. The plan shall be submitted to the Highlands Council staff for review prior to site plan approval.
6. The development of the site shall incorporate design standards included in the Highlands Warehousing Guidance document.
7. An application for a Consistency Review/Determination shall be submitted to the Highlands Council staff for the development of Block 8100, Lot 38 in accordance with proper procedures for such consistency reviews. At that time, Highlands staff may require certain conditions based on the specific proposed site development and impacts to mapped Highlands resources.

Appendix 1: Highlands Redevelopment Area Map



GENERAL NOTES:

- HIGHLANDS REDEVELOPMENT BOUNDARY REPRESENTS LIMITS OF PROPOSED / FUTURE IMPERVIOUS COVERAGE AS DEFINED BY THE HIGHLANDS ACT OF 2004, P.L. 2004, C.120 - LATEST AMENDMENT DATED FEBRUARY 5, 2015; P.L. 2015, C.5.
- EXISTING HIGHLANDS REDEVELOPMENT AREA LIMITS TAKEN FROM A PLAN ENTITLED SAND SHORE ROAD (MOUNT OLIVE TOWNSHIP) REDEVELOPMENT AREA.
- THIS SITE PLAN IS FOR CONCEPTUAL PURPOSES ONLY AND SHOULD NOT TO BE UTILIZED FOR CONSTRUCTION PURPOSES.
- INFORMATION DERIVED FROM PUBLICLY AVAILABLE GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA. A TOPOGRAPHIC SURVEY WAS NOT PERFORMED FOR THE PREPARATION OF THIS MATERIAL.
- IMAGERY RETRIEVED FROM AUTOCAD GEOLOCATION DATED 2023.
- THIS HIGHLANDS REDEVELOPMENT PLAN IS SUBJECT TO APPROVAL BY ALL AGENCIES HAVING JURISDICTION.
- PATRIOT'S PATH EASEMENT AND SEPTIC RESERVE AREAS ARE NOT INCLUSIVE IN THE PROPOSED DISTURBANCE ON LOT 11.

LEGEND:

- PROPERTY LINE
- LIMIT OF DISTURBANCE / PRE-HIGHLANDS ACT (2004)
- PROPOSED HIGHLANDS REDEVELOPMENT AREA
- EXISTING IMPERVIOUS SURFACES
- EXISTING BUILDINGS
- PROPOSED DEVELOPABLE AREA, LOT 11 - (300,445 SF)
- POTENTIAL MAXIMUM INCREASE IN IMPERVIOUS COVERAGE LOT 38 - (157,311 SF) ⁽¹⁾

(1) ALL PROPOSED DEVELOPMENT INCLUDING BUT NOT LIMITED TO GRADING, IMPERVIOUS COVERAGE, STORMWATER MANAGEMENT COMPONENTS, AND UNDERGROUND ABOVE GROUND UTILITIES SHALL BE CONSTRUCTED WITHIN THE REDEVELOPMENT AREA, FOR EACH OF THE LOTS WITHIN THE REDEVELOPMENT AREA.

TOTAL EXISTING IMPERVIOUS SURFACE WITHIN PROPOSED HIGHLANDS REDEVELOPMENT AREA = 1,451,704 S.F.
 PROPOSED HIGHLANDS REDEVELOPMENT AREA = 2,073,862 S.F.
 PERCENT IMPERVIOUS WITHIN HIGHLANDS DEVELOPMENT AREA = EXISTING IMPERVIOUS SURFACE / TOTAL PROPOSED HIGHLANDS REDEVELOPMENT AREA
 (PERCENT IMPERVIOUS = 1,451,704 S.F. / 2,073,862 S.F. = 70.00%)

0 100' 200' Feet
SCALE: 1" = 100'

E&LP

140 WEST MAIN STREET HIGH BRIDGE, NJ 08829
 PH: 908-238-0544 FAX: 908-238-6572
 A PROFESSIONAL ASSOCIATION
 CERTIFICATE OF AUTHORIZATION NO. 24GA28021500

NO.	REVISION	BY	DATE
5	REVISED AERIAL AND WELL LOCATION	VLB	21/30/2024
4	REVISED PROPOSED REDEVELOPMENT AREA	VLB	10/03/2023
3	REVISED PROPOSED REDEVELOPMENT AREA	JMK	12/29/2022
2	REVISED PROPOSED REDEVELOPMENT AREA	JMK	12/14/2022
1	REDESIGNED B. 8300, L. 11 & 11.01 SITE	JMK	06/27/2022

DATE: 01/30/2024
 JOHN HANSEN
 PROFESSIONAL ENGINEER
 N.J. P.E. NO. 24GE194500

PROJECT: SAND SHORE ROAD BLOCK 8300, LOTS 11 & 11.01 TOWNSHIP OF MOUNT OLIVE
 MORRIS COUNTY NEW JERSEY

TITLE: HIGHLANDS REDEVELOPMENT PLAN

JOB NO.: 18089	DRAWING NO.:
SCALE: 1"=100'	1
DESIGNED: JMK	
CHECKED: JH	
FILENAME: 04-SITE.DWG	
DATE: 11/03/2021	

Appendix 2: Concept Plan

TOWNSHIP OF MOUNT OLIVE - PARKING REQUIREMENTS - LOT 11

USE	NUMBER OF SPACES REQUIRED	REQUIRED SPACES	PROPOSED BANKED PARKING SPACES	PROPOSED SPACES TO BE CONSTRUCTED	TOTAL PROPOSED SPACES
OFFICE: 4,025 SF	(1)	N/A	7	21	28
WAREHOUSE: 44,936 SF	1 SPACE/5,000 S.F.	9			

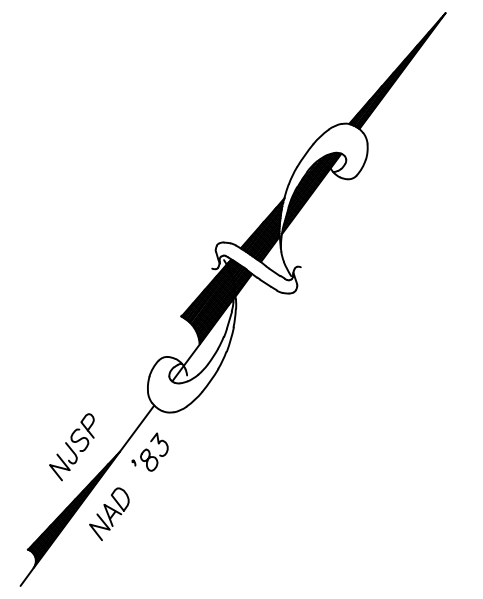
TOWNSHIP OF MOUNT OLIVE - PARKING REQUIREMENTS - LOT 11.01

USE	NUMBER OF SPACES REQUIRED	REQUIRED SPACES	PROPOSED BANKED PARKING SPACES	PROPOSED SPACES TO BE CONSTRUCTED	TOTAL PROPOSED SPACES
OFFICE: 4,025 SF	(1)	N/A	25	21	46
WAREHOUSE: 45,382 SF	1 SPACE/5,000 S.F.	9			

NOTE:
 (1) PER SECTION 550-56 OF THE TOWNSHIP OF MOUNT OLIVE ORDINANCE, BECAUSE THE PROPOSED OFFICE SPACE IS LESS THAN 20% OF THE GFA (GROSS FLOOR AREA), ADDITIONAL PARKING FOR THE OFFICE USE IS NOT REQUIRED.

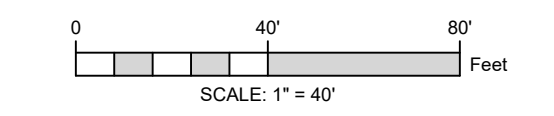
REFERENCE NOTE:

- BOUNDARY INFORMATION SHOWN HEREON WAS TAKEN FROM A PLAN TITLED "EXISTING CONDITIONS SURVEY FOR 438-440 SAND SHORE ROAD, BLOCK 9300, LOTS 11 & 11.01, LOCATED IN MOUNT OLIVE, MORRIS COUNTY, NEW JERSEY", DATED 12/13/2022.
- TOPOGRAPHIC INFORMATION SHOWN HEREON WAS FROM A PLAN ENTITLED "EXISTING CONDITIONS PLAN FOR LOT 11, BLOCK 8300, TOWNSHIP OF MOUNT OLIVE, MORRIS COUNTY, NEW JERSEY, PREPARED BY CIVIL ENGINEERING, INC., DATED 1/10/2003.
- TREE LOCATIONS SHOWN HEREON WERE FIELD-IDENTIFIED BY ENGINEERING & LAND PLANNING ASSOCIATES ON 08/02/2023.

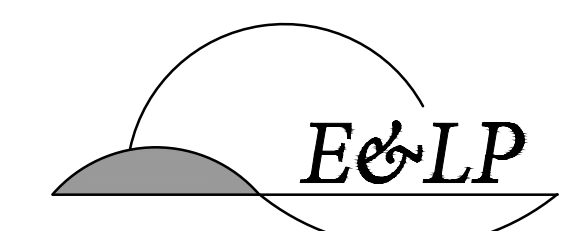


LEGEND

- PROPERTY LINE
- - - PROPOSED HIGHLANDS REDEVELOPMENT AREA
- - - SETBACK LINE
- [Hatched Box] PATRIOTS PATH EASEMENT
- [Diagonal Lines Box] PROPOSED BUILDING
- [Dark Grey Box] PROPOSED DOCK BAY DOORS
- [Light Grey Box] PROPOSED CONCRETE PAVEMENT
- [Dark Grey Box] PROPOSED HEAVY-DUTY CONCRETE PAVEMENT
- [Light Grey Box] PROPOSED ASPHALT PAVEMENT
- - - PROPOSED BASIN OUTLINE
- X PROPOSED SPLIT RAIL FENCING
- PROPOSED CONCRETE CURB



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 CERTIFICATE OF AUTHORIZATION NO.: 24GA28021500 EXP. 8/31/2024

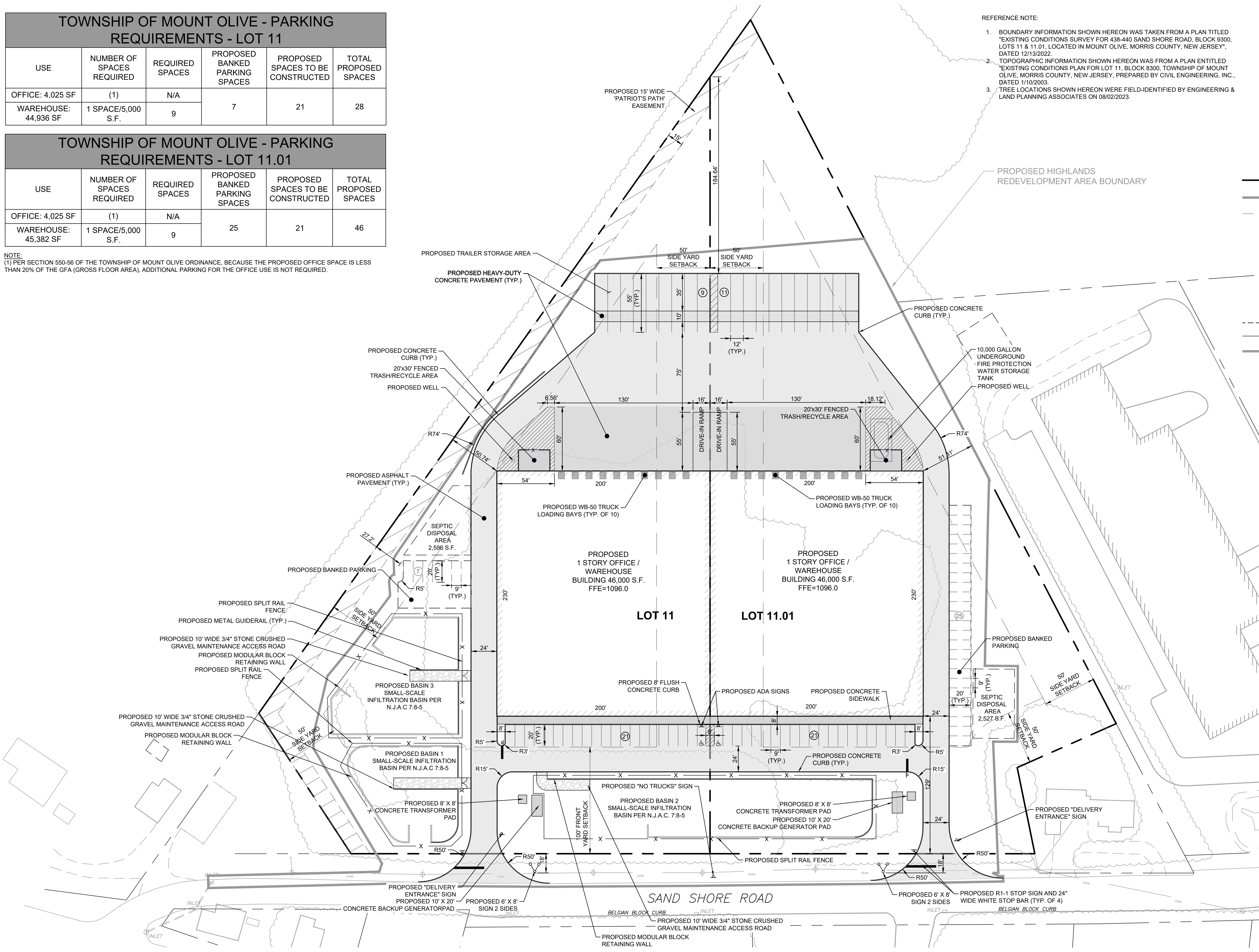
NO.	REVISION	BY	DATE

10/19/2023 DATE
 JOHN HANSEN PROFESSIONAL ENGINEER
 N.J. P.E. NO. 24GE4194500

PROJECT:
 SAND SHORE ROAD COMMERCE PARK
 BLOCK 8300, LOTS 11 & 11.01
 MOUNT OLIVE TOWNSHIP
 MORRIS COUNTY NEW JERSEY

CONCEPT PLAN

JOB NO.:	0118089-01	DRAWING NO.:	1
SCALE:	AS SHOWN		
DESIGNED:	VB		
CHECKED:	CE		
FILENAME:	CONCEPT PLAN.dwg		
DATE:	10/19/2023		OF 1



Appendix 3: Site Photos

Block 8300, Lot 11 & 11.01



Block 8300, Lot 9 Retention Pond



Lot 11.01 from edge of Lot 9



Block 8300, Lot 11 & 11.01



Proposed Industrial/Warehouse Site

Block 8300, Lot 11 & 11.01



Entrance to proposed industrial/warehousing site

Block 8100, Lot 38



Edge of site- Existing Shopping Center Parking Lot

Block 8100, Lot 38



Potential Future Expansion Area

Appendix 4: Comment Response

Comment 1: The commenter describes their farm as a preserved 69-acre property adjacent to the area proposed for inclusion in the Highlands Redevelopment Area. The commenter criticizes Mount Olive Township's stormwater management decisions, citing damage caused by a trench dug by the Department of Public Works in 2018 without their consent. This trench, intended to alleviate a failing stormwater basin on a neighboring property, led to potential contamination of her certified organic farm and violated her easement rights.

The farm serves 350 customers through an organic vegetable program and donations to food charities. She purchased the farm with hopes of participating in a preservation incentive area, but instead faced ongoing challenges with township officials regarding stormwater mismanagement. She accuses the township of hypocrisy for now petitioning to increase impervious cover in the area without addressing existing issues.

The commenter urges scrutiny of the township's previous stormwater management decisions and proposes stringent requirements for any new developments to ensure water quality protection. The commenter calls for accountability and maintenance of stormwater structures to prevent future environmental and agricultural damage.

Overall, the commenter emphasizes her frustration with Mount Olive Township's handling of stormwater issues and advocates for responsible development practices that prioritize environmental stewardship and regulatory compliance.

Response 1: The area related to the previous stormwater management issues appears to be from Block 8300, Lot 5.02 (424 Sandshore Road). No modifications to this area are proposed under the Highlands Redevelopment Area. The new construction proposed would be located at 438 Sandshore Road, approximately 1800 ft. from the area in question. Any new stormwater management system related to the new development will be required to meet the new stormwater regulations and will be reviewed by the Highlands Council, NJDEP and the Township.

Comment 2: See attached. The commenter has provided documentation to the Highlands Council as of May 31, 2024. The comments are in regards to ongoing litigation between the Township and a neighboring property owner.

Response 1: The Highlands Council is tasked with the review and decision making of the submitted Highlands Redevelopment Area Designation as provided by Mount Olive Township on February 12, 2024. The Highlands Council will review and make a decision on the submitted application. It is outside the scope of the Highlands Redevelopment Designation Procedures for the Highlands Council to amend an application to include additional properties. Should the ongoing litigation establish any substantial changes to the application, the Highlands Council again will review any amended application and proceed accordingly.

Reply to:

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May 31, 2024

Via email & FedEx

State of New Jersey
Highlands Water Protection and Planning Council
100 North Road (Route 513)
Chester, New Jersey 07930

**Re: Highlands Council Staff Recommendation Report
Proposed Highlands Redevelopment Area
Naughtright and Sand Shore Roads
Mount Olive Township, Morris County**

Dear Sir / Madam:

This firm represents, Stephens Park Holdings, LLC (“Stephens Park”)¹, a contiguous property owner to the “Proposed Highlands Redevelopment Area” referenced above. This public comment is being submitted to the Highlands Water Protection and Planning Council (the “Highlands Council”) pursuant to the Public Notice dated May 2, 2024, wherein the Highlands Council seeks written public comment on the designation of the “Proposed Highlands Redevelopment Area” referenced therein. Due to Stephens Park’s legal challenge to the alleged unlawful actions of the Mount Olive Township Council (the “Town Council”) on or about December 19, 2023, at which time the Town Council passed the arbitrary, capricious, unreasonable, and unlawful adoption of a Resolution of the Township of Mount Olive, titled

¹ Stephens Park Holdings, LLC, is a New Jersey limited liability company, and owner of property located at 11 Stephens Park Road, Mount Olive, New Jersey, and designated on the Official Tax Map of the Township of Mount Olive as Block 8300, Lot 5.01 (the “Stephens Park Property”).

“Authorizing Submission of a Petition to the Highlands Council for designation of Highlands Redevelopment Area for Block 8300, Lots 5, 5.02, 6, 7, 8, 9, 11, & 11.01; Block 8100, Lot 38; and, Block 8400, Lot 1 (the “Property”)” (hereinafter, the “Resolution”), Stephens Park respectfully requests that any determination by the Highlands Council as to this proposed Redevelopment Area be carried or adjourned until a later date when said legal challenge has been resolved.

As you are likely aware, Stephens Park and the Stephens Park Property were part of the Sand Shore Redevelopment Area, which has since been abandoned by the Township of Mount Olive, only to be replaced by the proposed “Naughtright and Sand Shore Roads” Highlands Redevelopment Area referenced above. As the owners of the Property seek to develop Block 8300, Lots 11 and 11.01, which is located within a Highlands Preservation and Planning Area and governed by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1, *et seq.* (the “Highlands Act”), and due to the fact that multiple properties with multiple property owners are involved, the Township is the “sponsor” for the submission of a petition to the Highlands Council for the designation of these Properties as the Highlands Redevelopment Area referenced above. Pursuant to same, on or about February 2, 2024, Stephens Park filed a Complaint in Lieu of Prerogative Writs titled Stephens Park Holdings, LLC v. Township of Mount Olive, Docket No. MRS-L-000202-24, challenging the Resolution.

At this time, the parties to said litigation (including the owner of Block 8300, Lots 11 and 11.01) are involved in discussions in order to resolve any issues regarding the designation of a redevelopment area so that all parties hereto may pursue the development of their respective properties under the terms of the Highlands Act. As the proposed Redevelopment Area may necessitate modification to achieve the necessary 70% minimum impervious surface area,

Stephens Park respectfully requests that any action on this proposed Redevelopment Plan be adjourned to a later date so that the respective property owners can attempt to resolve this issue amicably.

The Resolution and the Amended Redevelopment Plan

In or around 2022 or 2023 (if not earlier), the owner of Lots 11 and 11.01 (not included in the Sand Shore Redevelopment Area) approached the Township requesting that its property be located within a Highlands Redevelopment Area. Thereafter, the Township sought to submit an application to the Highlands Council seeking designation of a newly proposed Highlands Redevelopment Area, with said Redevelopment Area to include the Property only, forming a contiguous area along the northerly side of Sand Shore Road between Stephens Park Road and the westerly terminus of Sand Shore Road, combined with the Johnson automotive dealership and the Mount Olive Parkade retail shopping center located on the southerly side of Route 46 and Naughtright Road. This newly proposed Highlands Redevelopment Area sought to replace the previously approved Sand Shore Redevelopment Area, removing the Stephens Park Property, only to add in Lots 11 and 11.01 for future development, along with Block 8100, Lot 38; and Block 8400, Lot 1 for the impervious surface coverage thereon, to meet the required 70% impervious coverage requirement for a waiver to develop the properties.

On or about December 19, 2023, the Town Council held a public hearing regarding the Resolution and adoption of same, authorizing the Township, as the sponsor, to submit an application to the Highlands Council for the designation of said newly proposed Redevelopment Area.

Stephens Park Proposed Development

The Stephens Park Property was previously owned by the Hackettstown Congregation of Jehovah's Witness (the "Congregation"), who originally proposed to construct a 4,296 square foot, one-story building to be used as the Congregation's Kingdom Hall, associated parking area, drainage, and a new individual subsurface disposal septic system.² Since the Township's zoning ordinance did not allow religious institutions in the Township's Industrial Zoning District, the Congregation was required to obtain a use variance pursuant to N.J.S.A. 40:55D-70(d)(1) from the Township's Zoning Board of Adjustment. The concept plan and various applications were submitted to Mount Olive Township on October 9, 2003 and received approval on December 1, 2003.

Thereafter, the Congregation drilled a well on the Property in June 2003, purchased the Property, with the deed having been recorded on February 27, 2004, prior to adoption of the Highlands Act. Over time, due to the passing of the Highlands Act and other financial constraints, the Congregation made the decision to scale back the building to half the originally proposed size, which reduced the parking and impervious surface coverage. As such, a new site plan application was submitted to the Township on May 22, 2006 and received preliminary and final approval on September 11, 2006, after adoption of the Highlands Act.

On December 29, 2006, the Congregation submitted a Highlands Applicability Determination application to the New Jersey Department of Environmental Protection (the "NJDEP") for Highlands Exemption #6 - Places of worship, schools, or hospitals:

² The Congregation became interested in the Stephens Park Property in 2003 when it began negotiations to purchase the property from its previous owner, Pierson Realty, LLC.

Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.

On May 17, 2007 the NJDEP denied the Exemption #6 request noting that the project is proposed on a lot that does not currently contain an existing structure that is in use by the Hackettstown Congregation of Jehovah's Witness for the purpose of worship and, therefore, the project does not fall under the exemption as an improvement to a place of worship in existence on the date of enactment of the Highlands Act. Exemption #3 (for major Highlands development that received local and NJDEP approvals prior to March 29, 2004) was also not applicable to the Congregation's proposal. Nevertheless, had either exemption been applicable to Stephens Park's proposal, said exemption would have expired on or about August 4, 2007, as no construction beyond site preparation had occurred or was continuing as of that date. As such, the Congregation's proposed project was not viable, absent a waiver from strict application of the Highlands Rules, located at N.J.A.C. 7:38.

The Sand Shore Road Highlands Redevelopment Area

The Township of Mount Olive is located in the Highlands Region with lands lying within both the Preservation and Planning Area, as defined by the Highlands Act. The Township Council determined that a Highlands Redevelopment Area designation of the portion of the Township in and or around Sand Shore Drive (Block 8300, Lots 5, 5.01, 5.02, 6, 7, 8, and 9), designating same as the "Sand Shore Road Highlands Redevelopment Area", would be appropriate. As provided for in the Procedures for Highlands Redevelopment Area Designation, approved by the Highlands Council, proposed Highlands Redevelopment Areas involving multiple property owners must be

sponsored by the municipality. As such, the Township was the proper entity to seek a Highlands Redevelopment Area Designation from the Highlands Council.

The Highlands Council released the Highlands Council Staff Draft Recommendation Report regarding the proposed Sand Shore Redevelopment Area, dated April 15, 2011 (the “Sand Shore Report”). As stated therein, the proposed Sand Shore Redevelopment Area consists of properties in the Preservation Area zoned as Light Industrial, and located in portions of Block 8300 (Lots 5, 5.01, 5.02, 6, 7, 8 and 9) along the north side of Sand Shore Road in Mount Olive Township, Morris County, with an area consisting of 18.92 acres, and an existing impervious surface of 13.46 acres, or 71.17%. After Highlands Council staff review of the proposal, the Highlands Council staff recommended that the Highlands Council approve the proposed Sand Shore Redevelopment Area designation, with the Highlands Council Staff Final Recommendation Report dated May 10, 2011 (the “Final Sand Shore Report”).

The proposed Sand Shore Redevelopment Area was mostly developed at that time, containing commercial buildings on each lot, with the exception of Stephen Park’s Property, which is largely an open field with significant surface disturbance (compacted dirt surface). According to the information provided by the Township to the Highlands Council regarding maximum lot coverage and Floor Area Ratio (“FAR”) based on the Township’s Zoning Ordinance, future development on Lots 5, 5.02, 6, 7, 8, and 9 is “highly constrained”. Therefore, the Township’s Petition for Plan Conformance of the Sand Shore Redevelopment Area was approved by the Highlands Council by Resolution # 2011-1 adopted on January 20, 2011.

Redevelopment policies and objectives within the Regional Master Plan (“RMP”) envision the conversion of underutilized, previously disturbed lands into new economic contributors to the Region’s fiscal health. As stated in the RMP, “Redevelopment will help to meet the Region’s

growth needs by optimizing the efficient use of previously settled areas with existing communities and available infrastructure, thus conserving natural resources.” Given that redevelopment is one of the major opportunities for sustainable economic development and smart growth in the Highlands Region, the proposed Sand Shore Redevelopment Area was reviewed for policies and objectives relevant to smart growth and sustainable economic development.

As the proposed Sand Shore Redevelopment Area had approximately 71% impervious coverage, and the Township petitioned the Highlands Council for the designation of the proposed Sand Shore Redevelopment Area, including Lot 5.01, the Highlands Council found the proposal to provide a beneficial public use, and that by reusing and redeveloping the previously disturbed areas, economic investment and community development within the framework of smart growth was assured. The Highlands Council also found that the project promoted smart growth policies by maintaining land use patterns, balancing economic development with resource protection, and providing an equitable distribution of the costs and benefits of redevelopment.

The Highlands Council found that the proposed use of Lot 5.01 would not create a substantial change to the existing development pattern of this area. Council staff reviewed the complete application package for the Sand Shore Redevelopment Area, the staffs’ findings included, *inter alia*:

- a. Impervious Surface Requirement: The total Highlands Redevelopment Area is 18.92 acres, with an existing impervious surface of 13.46 acres, or 71.17%. This exceeds the 70% impervious surface Highlands Redevelopment Area requirement.
- b. Resource Assessment: Based upon a review of the Highlands Council GIS data layers, it was determined that the proposed construction activities entail encroachment into Highlands Open Waters buffers, related to a wetland located across the street

(Stephens Park Road) from Lot 5.01. This buffer is currently disturbed (open field with considerable compacted dirt surface.) The entire tract lies within a Moderate Integrity Highlands Riparian Area. The proposed construction activities would encroach upon the Riparian Area, which as previously described, is currently disturbed. The proposed project is inconsistent with Objectives 2B8a and 2B8b because the on-site water demand represents new consumptive uses within a Current Deficit Area. Consistency would require that the applicant provide mitigation equal to 125% of the proposed consumptive water uses benefiting the project (approximately 165 gpd, or 60,334 gallons per year), in addition to requirements of N.J.A.C. 7:8, which could be achieved with enhanced on-site ground water recharge through the project's stormwater management plan. Construction of the proposed facilities on Lot 5.01 within the disturbed HOW buffer and Riparian Area, and consumptive water use in a Current Deficit Area must be addressed through the redevelopment waiver process under N.J.A.C. 7:38. Stormwater regulations also must be followed in the project design upon HPAAs with redevelopment permitting. The project should be designed to incorporate low impact development techniques where feasible, including stormwater management techniques used for mitigation. Any disturbance and construction activities should be managed to minimize impacts to the surrounding environment.

- c. 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 HPAAs permitting process to demonstrate the implementation of low impact development techniques as addressed in the Low Impact Development Program of the RMP. Designation of the proposed Highlands Redevelopment Area including Lot 5.01 (which is a currently vacant, degraded, and under-utilized parcel) provides for beneficial public use. By reusing and redeveloping previously disturbed areas, economic investment and community development are assured within the framework of smart growth. The project promotes smart growth policies by maintaining land use patterns, balancing economic development with resource protection, and providing an equitable distribution of the costs

and benefits of redevelopment. The Highlands Act allows a waiver of any provision of a Highlands.

The Highlands Council found that the proposed project on the Stephens Park Property would not adversely affect the natural functioning of animal, plant, and other natural resources, as all other parcels are fully developed, the area in Lot 5.01 to be developed is disturbed, and the remaining area in Lot 5.01 will be a deed restricted easement. The Highlands Council further found that the proposed project entailed encroachment into a Highlands Open Waters buffer that is currently in a disturbed condition, it is compatible with existing municipal zoning, and that the construction of the Congregation's proposed Kingdom Hall would not endanger human life or property nor otherwise impair public health, safety and welfare.

Stephens Park's Legal Challenge

Pursuant to the Complaint in Lieu of Prerogative Writs filed on behalf of Stephens Park, the following legal issues were raised, *inter alia*:

1. Whether the Resolution constitutes illegal spot zoning depriving Stephens Park of its Constitutionally protected property rights pursuant to the New Jersey Constitution, N.J.S.A. 10:6-1, *et seq.*, – an equal protection violation;
2. Whether the adoption of the Resolution was the equivalent of a decision to rezone a specific parcel of property for a private developer, to the detriment of Stephens Park, and further constitutes spot zoning;
3. Whether or not this type of rezoning is “in accordance with a comprehensive plan” and in effect is “a special exception or variance from the restrictive residential regulation ...”;
4. Whether the designation of the subject properties is supposed to represent sound judgment based on the policy of the statute “to advance the common good and welfare”, and is not arbitrary and unreasonable, nor furthers “purely private interests”;
5. Whether or not a municipality may capitulate to the demands of nearby residents by “hastily enact[ing]” a change in the zoning to preclude the proposed development of one parcel, without considering the zoning change on the overall plan;

6. Whether zoning changes affecting a parcel property that were not in furtherance of sound comprehensive zoning demonstrates that no real consideration was given to how the property would fit into an integrated and comprehensive zone plan, but rather that the various enactments were designed to affect only the use of a private developer's property;
7. Whether this "land-use decision which arbitrarily singles out a particular parcel for different, less favorable treatment than the neighboring ones" is reverse or inverse spot zoning;
8. Whether the zoning designation of this parcel of undeveloped land can be changed, either as part of a reexamination of a Master Plan or through the statutorily-authorized enactment of a zoning ordinance inconsistent with the Master Plan;
9. Whether the actions of the Township and its respective officials, officers, employees, and agents, were logically or legally supportable, were arbitrary, capricious and unreasonable, were an abuse of discretion, constituted a deprivation of Stephens Park's due process and property rights under color of state law, contrary to the Constitution of New Jersey, the NJCRA, the Act and the MLUL, and demonstrate egregious government misconduct that shocks the conscience as not conducted in good faith;
10. Whether the Township refused to consider, in an unbiased and fair manner, Stephens Park's objections to the adoption of the Resolution;
11. Whether the Resolution improperly treats certain Township property owners in Mount Olive Township more favorably than the Stephens Park Property, violating Stephens Park's constitutional equal protection rights;
12. Whether the adoption of the Resolution violates Stephens Park's constitutionally protected property rights, as Stephens Park has invested significant amounts of money in reliance on the development restrictions as they pertained to the Stephens Park Property, as the adoption of the Resolution created a significant adverse impact on Stephens Park's property rights and property values;
13. Whether, having acted without lawful warrant under color of state laws to deprive Stephens Park of its Constitutional rights, the Township is liable to Stephens Park under the MLUL, NJCRA, the Act and the New Jersey Constitution;
14. Whether the actions of the Township Council in rendering its findings in the Resolution was invalid, arbitrary, capricious, and contrary to law, and renders the Stephens Park Property as "undevelopable";

15. Whether the re-designation of Stephens Park's undevelopable property is the equivalent of a statutory taking;
16. Whether or not there was a zoning or planning justification set forth to adopt the Resolution, which effectively eliminated the original Sand Shore Redevelopment Area and rezoned the Stephens Park Property, precluding any further development of same;
17. Whether, in adopting the Resolution, the Township provided adequate reasons for removing the Stephens Park Property from the Sand Shore Redevelopment Area (or eliminating the Sand Shore Redevelopment Area all together), and was not designed to effectuate the purposes or goals of the Township's Master Plan, the Regional Master Plan, or the Township's MPE;
18. Whether or not the Resolution contains a valid explanation about why the Stephens Park Property suddenly became inappropriate to be included in the Township's Highlands Redevelopment Area and/or the Sand Shore Redevelopment Area itself;
19. Whether or not the Township failed to explain why or how it became appropriate to remove the Stephens Park Property from the Sand Shore Redevelopment Area with unique planning characteristics, suggesting that the choice was entirely arbitrary;
20. Whether the Township failed to consider testimony presented by members of the public prior to approving the Resolution;
21. Whether the Township made sufficient findings of fact or conclusions of law as to why it considered the newly proposed Highlands Redevelopment Area, without the Stephens Park Property, as opposed to the Sand Shore Redevelopment Area;
22. Whether the Township's actions in adopting the Resolution were arbitrary, capricious, unreasonable, contrary to law, and unsupported by the record;
23. Whether or not the Resolution advances the health, safety and welfare of the Township's residents and property owners in any manner not present with the designation of the Stephens Park Property in the Sand Shore Redevelopment Area;
24. Whether or not the Resolution took into consideration the character of the Property and its particular suitability for particular uses or to encourage the most appropriate use of land;
25. Whether, as a result of the above, the Township's approval of the Resolution, as memorialized, was arbitrary and capricious, unreasonable, contrary to law, thereby rendering the Resolution null and void, and of no effect;

26. Whether the presentation of evidence, *inter alia*, documentary and testimonial evidence, or lack thereof, was inadequate, rendering the Township's approval and Resolution inadequate and thus, null and void; and,
27. Whether the Board's inadequate findings of facts and conclusions of law renders the Township's approval and the Resolution memorializing same as inadequate and thus null and void.

Pending Litigation

Based upon the actions of the Township Council, the policies and procedures of the Highlands Act regarding the designation and development of land in a Highlands Redevelopment Area and waivers as to same, *see* N.J.A.C. 7:38-6.1 to -6.9, and the probability of success of Stephens Park's claims against the Township as set forth in the Complaint (or, in the alternative, making a successful statutory taking claim should Stephens Park be denied the opportunity to develop the Stephens Park Property, *see* N.J.A.C. 7:38-6.8), Stephens Park respectfully submits this public comment to advise the Highlands Council as to the outstanding legal challenge to the actions of the Township Council passing the Resolution. Stephens Park's likelihood of a successful legal challenge to the Township Council's arbitrary, capricious and unreasonable actions must preclude any further action taken by the Highlands Council on behalf of this proposed Highlands Redevelopment Area, as any action taken at this time will require future revisions and amendments should a recommendation be made to the New Jersey Department of Environmental Protection as to the approval of same.

Conclusion

Due to the number of outstanding issues raised in Stephens Park's Complaint and the question as to the validity of the Township Council's actions relating to the proposed redevelopment of the Property being called into question in the New Jersey Superior Court, Stephens Park respectfully requests that any determination made pursuant to the proposed

Highlands Water Protection and Planning Council

May 31, 2024


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“Naughtright and Sand Shore Roads” “Highlands Redevelopment Area” be adjourned or carried until such time when Stephens Park’s legal challenge to the Resolution can be resolved.

Respectfully Submitted,

HEROLD LAW, P.A.

Attorneys for Stephens Park Holdings, LLC

By: 
Robert F. Simon, Esq.

RFS:jpk