



# State of New Jersey

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## Highlands Council Staff **Final** Draft Recommendation Report Proposed Highlands Redevelopment Area Designation Route 46 (Mount Olive Township) Highlands Redevelopment Area Mount Olive Block 8200 Lots 5 and 6 and Block 8100 Lots 49 and 50

Date: ~~December 20, 2011~~ January 12, 2011

Re:	Application Type:	<i>Proposed Highlands Redevelopment Area Designation</i>
	Name:	<i>Route 46 (Mount Olive Township) Highlands Redevelopment Area</i>
	Municipality:	<i>Mount Olive</i>
	County:	<i>Morris</i>
	Highlands Act Area:	<i>Preservation Area</i>
	LUCM Location:	<i>Conservation Zone and Conservation Zone – Environmentally Constrained Sub-Zone</i>
	Property:	<i>Block 8200 Lots 5 and 6 and Block 8100 Lots 49 and 50</i>
	Proposed Use:	<i>In addition to the existing development on Block 8100 Lots 49 and 50 and Block 8200 Lot 6, Debeck Associates, LLC (owner of Block 8200 Lot 5) proposes to construct an automobile dealership consisting of a commercial building of 13,000 square feet (sq ft) and attendant parking for the storage of vehicles for sale and for customers and employees on Block 8200 Lot 5.</i>

### 1.0 PROJECT DESCRIPTION

The proposed Route 46 (Mount Olive) Highlands Redevelopment Area consists of properties in the Preservation Area zoned as Commercial District located in portions of Block 8200 (Lots 5 and 6) and Block 8100 (Lots 49 and 50) along Route 46 in Mount Olive Township, Morris County. The proposed Highlands Redevelopment Area is mostly developed with the exception of Block 8200 Lot 5, which is vacant and is largely an open field with a wooded area to the north. The other parcels are fully built out as follows:

- Block 8200, Lot 6 is fully developed for an automobile dealership;
- Block 8100, Lot 49 is fully developed for a restaurant use; and
- Block 8100, Lot 50 is fully developed for a self-storage facility.

**FOR CONSIDERATION AT THE JANUARY 19, 2012 MEETING OF THE HIGHLANDS COUNCIL**

The maximum impervious cover under the Township ordinance is 60%. While one of the lots features slightly less than 60% impervious surface (Block 8100 Lot 50 has 54% existing impervious), the remaining developable areas are constrained by wetlands and open water buffers. Thus, future expansion of the three developed lots is foreclosed. The proposed Highlands Redevelopment Area incorporates the developed portions of those lots, and excludes any extensive portions that are lawn, field, and woodland.

The Township of Mount Olive is seeking a Highlands Redevelopment Area Designation from the Highlands Council. The entire proposed Highlands Redevelopment Area is 533,274 sq ft (approximately 12.24 acres), with an existing impervious surface of 377,847 sq ft (approximately 8.67 acres) (71% impervious surface). The vacant parcel, Block 8200 Lot 5, is approximately 3.45 acres. Debeck Associates, LLC (Debeck), the owner of Block 8200 Lot 5, proposes to construct an automobile dealership consisting of a commercial building of 13,000 square feet (sq ft) and attendant parking for the storage of vehicles for sale and for customers and employees on Block 8200 Lot 5. The construction of the automobile dealership was previously approved by the Township of Mount Olive Planning Board, which granted preliminary and final major site plan approval for Block 8200, Lot 5 for Debeck and amended preliminary and final major site plan approval in conjunction with the development of Block 8200 Lot 6 for Subaru of Mount Olive, approved on December 10, 2009, memorialized on February 18, 2010. Block 8200 Lot 6 is fully developed. The maximum occupancy of the proposed building will be 20 people and the proposed water usage would be 1,625 gallons per day. The site would be served by a new non-public (individual) well and a new individual subsurface disposal system (i.e., septic system).

Approval of Mt. Olive's request for a Highlands Redevelopment Area Designation is a prerequisite for an application by Debeck for a Highlands Preservation Area Approval (HPAA) with redevelopment waiver permit from the NJDEP. The Township of Mount Olive is aware that designation of the Highlands Redevelopment Area for these four properties will benefit the owner of Block 8200 Lot 5 to the exclusion of other landowners (all of which are in the Preservation Area) adjacent to the other three properties, based upon the existing local approvals, which approvals other parcels lack. However, the other parcels have developed to the extent approvable under the municipal ordinances and thus would not be adversely affected should this Highlands Redevelopment Area be approved.

## **2.0 ADMINISTRATIVE PROCESS**

The Township of Mount Olive's Petition for Plan Conformance has been approved by the Highlands Council (Highlands Council Resolution # 2011-1 adopted on January 20, 2011.) An important component of the Township's Petition is redevelopment planning for the Township using a phased approach. During the Petition process, through discussions with Highlands Council staff, Mount Olive identified areas along Route 46 and Sand Shore Road for potential designation as a Highlands Redevelopment Area. Phase II was proposed to include existing commercial properties located along Route 46 (the subject of this Staff Recommendation Report.) Phase I (already approved by the Highlands Council on May 19, 2011) includes existing industrial properties located on Block 8300 along the north side of Sand Shore Road. Additional Highlands Redevelopment Areas in the area of Goldmine Road, and on Route 206 in the area of Bartley Road will also be reviewed for potential future Highlands Redevelopment Area designation.

With respect specifically to Phase II, the Highlands Council received a request on January 28, 2011 for a Redevelopment Area Designation Inquiry Meeting by Ferriero Engineers on behalf of their client (Debeck) regarding parcels in Mount Olive – Block 8200 Lots 5 and 6. On February 23, 2011, Highlands Council staff met with Debeck and Debeck's attorney and engineering consultant to discuss potential development opportunities of these parcels. The Highlands Council was informed that the construction of an automobile dealership on Block 8200, Lot 5 was previously approved by the Township of Mount Olive Planning Board, which granted preliminary and final major site plan approval for the parcel for Debeck Associates, LLC and amended preliminary and final major site plan approval in conjunction with the development of Block 8200 Lot 6 for Subaru of Mount Olive, approved on December 10, 2009, memorialized on February 18, 2010. Debeck was informed that a multi-parcel Highlands Redevelopment Area could only be considered by the Highlands Council if requested by the municipality, as discussed in the Final Consistency Review and Recommendations Report accompanying Highlands Council Resolution # 2011-1.

On June 20, 2011, Mayor David Scapicchio of Mount Olive Township forwarded a letter to the Highlands Council on behalf of the Township submitting a formal request for a Highlands Redevelopment Area Designation for Block 8200 Lots 5 and 6 and Block 8100 Lots 49 and 50. These contiguous parcels face each other across Route 46. Mayor Scapicchio noted that representatives of Debeck would be providing information for the proposed Highlands Redevelopment Area Designation to the Highlands Council. On November 4, 2011, the Highlands Council received a formal petition for a Highlands Redevelopment Area Designation. The petition was deemed administratively complete (i.e., it met the submittal requirements outlined in the *Procedures for Highlands Redevelopment Area Designations, October 2008*) on December 8, 2011 and the Township and Debeck were notified.

### **3.0 SMART GROWTH AND SUSTAINABLE ECONOMIC DEVELOPMENT CONSIDERATIONS**

Redevelopment opportunities will be an important 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 and infill properties 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 Highlands Redevelopment Area was reviewed for policies and objectives relevant to smart growth and sustainable economic development. The Highlands Act calls for the RMP to "promote compatible...uses and opportunities within the framework of protecting the Highlands environment."

As stated above, the proposed Route 46 (Mount Olive Township) Highlands Redevelopment Area consists of properties in the Preservation Area zoned as Commercial District located in portions of Block 8200 (Lots 5 and 6) Block 8100 (Lots 49 and 50) along Route 46 in Mount Olive Township. The proposed Highlands Redevelopment Area is mostly developed with the exception of Block 8200 Lot 5, which is vacant and is largely an open field with a small wooded area to the north. Block

8200 Lot 5 is entirely surrounded by developed parcels, including the three other parcels involved in this Highlands Redevelopment Area proposal. The proposed Highlands Redevelopment Area has approximately 71% impervious cover. The proposed use for Block 8200 Lot 5, as allowed by this proposed Highlands Redevelopment Area, is for an automobile dealership consisting of a commercial building of 13,000 sq ft and attendant parking for the storage of vehicles for sale and for customers and employees.

Management of stormwater from the project area shall be addressed through the HPAA with redevelopment waiver permitting process. The project shall be designed to incorporate low impact development techniques where feasible, including stormwater management techniques used for mitigation. Any disturbance and construction activities must be managed to minimize impacts to the surrounding environment. Designation of the proposed Highlands Redevelopment Area including Block 8200 Lot 5 provides for beneficial public use. By reusing and redeveloping previously disturbed and infill areas, economic investment and community development within the framework of smart growth is assured. The project promotes smart growth policies by a maintaining land use patterns, balancing economic development with resource protection, and providing an equitable distribution of the costs and benefits of redevelopment. The proposed use of Block 8200 Lot 5 does not create a substantial change to the existing development pattern of this area, as the surrounding parcels are currently developed. This is also consistent with the Highlands Act goal for the Planning Area to “encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way...”.

#### 4.0 FINDINGS AND RECOMMENDATIONS

Council staff reviewed the complete application package. Findings include:

- **Impervious Surface Requirement:** The calculations were verified and the proposed Highlands Redevelopment Area was found to contain approximately 71% impervious surface, in excess of Highlands Act requirements for at least 70 percent impervious surface.
  - Existing Impervious Surface = 377,847 sq ft
  - Allowable Highlands Redevelopment Area = 539,781 sq ft
  - Proposed Highlands Redevelopment Area = 533,274 sq ft
- **Resource Assessment:** The proposed construction would entail encroachment into forest outside of a Forest Resource Area which would be inconsistent with Objective 1A2e and Policy 1B7. However, the forested is fragmented, is surrounded by commercial development, and the area to be disturbed is roughly 0.6 acres. It is inconsistent with Policy 1D4 and Objectives 1D4b and 1D5b as it entails encroachment into a Highlands Open Waters buffer. The on-site buffer on Block 8200 Lot 5 (the only lot on which development is proposed) is previously agricultural (old field/shrub-scrub habitat), which is not considered “disturbed” per Objective 1D4b but does not represent a high value buffer, especially as the buffer is related to Highlands Open Waters on the opposite side of Route 46. Approximately 0.2 acres of this buffer would be disturbed. There is a mapped area of

Potential or Limited Constrained Slopes in the north central portion of Block 8200 Lot 5 that would be encroached by the proposed development. In accordance with Policy 1E9, the use of Low Impact Best Development Practices would be required for the proposed land disturbance within an area which features Limited Constrained Slopes. The applicant shall provide for enhanced ground water recharge through stormwater management to meet the Low Impact Best Development Practices requirement. The proposed development would entail encroachment into a Tier I and a Tier II Wellhead Protection Area (WHPA). Both the septic system and the bioretention facility area are proposed in a Tier 1 WHPA, which is inconsistent with Objective 2H2a. However, there is no viable alternative location available for either facility. Therefore, a waiver is necessary for both facilities (and any other inconsistencies related to the Tier I WHPA), with both facilities being located and designed in such a manner as to minimize the potential for ground water contamination. An Operations and Contingency Plan approved by the Township and the Highlands Council will be required to ensure that no volatile organic contaminants are introduced by the facility. 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 an estimated total daily water demand including uses that might be highly consumptive, such as lawn irrigation or non-recycled car washing. If the total water demand consists of no lawn irrigation or car wash facility, then a consumptive use coefficient of 10% shall be applied. Mitigation of either 125% or 150% shall be required, depending on whether the consumptive use exceeds 1,000 gpd. Consistency shall be achieved with on-site enhanced ground water recharge through the site's stormwater management, or through water conservation or recharge within the same subwatershed.

- **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. Designation of the proposed Highlands Redevelopment Area including Block 8200 Lot 5 (which is a currently vacant infill parcel) provides for beneficial public use. By reusing and redeveloping previously disturbed and infill 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 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;	An Operations and Contingency Plan is required to ensure that no volatile organic contaminants are introduced to ground water by the facility, to protect the nearby Public Non-Community Water Supply well. The applicant proposes construction of an on-site well for water supply and discharging treated wastewater back to ground water with minimal consumptive uses. Mitigation equal to 125 - 150% of the proposed consumptive 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.
2) would cause minimal feasible interference with the natural functioning of animal, plant and other natural resources;	While construction on Block 8200 Lot 5 would encroach into a small area of upland forest, it is expected that the proposed project would not adversely affect the natural functioning of animal, plant, and other natural resources. The forested area is fragmented and is surrounded by commercial development. The area to be disturbed is roughly 0.6 acres.
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 formerly agricultural (old field/shrub-scrub habitat). The buffer is related to a Highlands Open Water located across Route 46, and therefore provides minimal if any protective value. 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;	The proposed construction does not encroach upon Critical Wildlife Habitat

Requirement	Staff Analysis
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 construction of the auto dealership would not endanger human life or property nor otherwise impair public health, safety and welfare.
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 recommendation that the Highlands Council approve the proposed Highlands Redevelopment Area designation with the conditions that:

1. A waiver from NJDEP will be required for the project on Block 8200 Lot 5 regarding the Preservation Area rules (N.J.A.C. 7:-38) for upland forest, Highlands Open Waters buffer, septic system density and the maximum 3% impervious surface;
2. The Township of Mount Olive commits to permanent protection and stewardship of a forested buffer between Block 8200 Lot 5 and the residential development to the north of the parcel. This would protect the residents from any visual impact and maintain habitat.
3. The proposed encroachment into a Highlands Open Waters buffer is entirely within the buffer that was previously agricultural (currently old field/shrub-scrub habitat) 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;
4. An Operations and Contingency Plan is required to ensure that no volatile organic contaminants are introduced to ground water by the facility.
5. The Township of Mount Olive commits to ensuring that the proposed use of Block 8200 Lot 5 provides mitigation equal to 125% to 150% of the proposed consumptive water uses (to be determined after the applicant provides an estimate of total water use) through on-site recharge or water conservation practices within the same site or HUC14 subwatershed, in addition to NJDEP requirements for maintenance of pre-development recharge under N.J.A.C. 7:8. There shall be a coordinated review between the staff of the Highlands Council and the NJDEP to ensure that this condition is met; and
6. 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

- Consistency Determination

**FOR CONSIDERATION AT THE JANUARY 19, 2012 MEETING OF THE HIGHLANDS COUNCIL**

Summary of Public Comments

The Draft Consistency Determination and Staff Recommendations Report were posted for public comment from December 20, 2011 to January 6, 2012. No public comments were received.