



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Division of Watershed Management  
Bureau of Watershed Regulation  
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JON S. CORZINE  
Governor



**Highlands Applicability and Water Quality Management Plan (WQMP) Consistency  
Determination Application Form**

**Notice of Technical Incompleteness**

JAN 20 2009

Certified Mail # 7005 0390 0001 8551 9056  
Return Receipt Requested

Jason Mandia, Esq  
A.V.N. Holdings, L.L.C.  
685 Neptune Boulevard  
Neptune, New Jersey 07753

Re: New Jersey CVS Pharmacy, L.L.C. - Preliminary and Final Major Site Plan  
Block: 3700, Lots: 1-4  
NJSH 46 and Woodsedge Avenue  
Mount Olive Township, Morris County  
Upper Raritan Water Quality Management Plan (WQMP)  
Program Interest No.: 435434  
Activity No.: CSD080035

Dear Mr. Mandia:

Your application dated December 12, 2008 and received on December 18, 2008 was deemed to be administratively complete on December 18, 2008. During the technical review of the application, it was determined that additional information will be necessary for the Department of Environmental Protection (Department), Bureau of Watershed Regulation to complete the Highlands Applicability and Water Quality Management Plan Consistency Determination review.

The application includes a request for an exemption under N.J.A.C. 7:38-2.3(a)#4, for the reconstruction for any reason of any building or structure within 125 percent of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction or development does not increase the lawfully existing impervious surface by one-quarter acre or more.

Please be advised that the reconstruction exemption has two criteria:

1. The reconstruction of any building or structure for any reason must be within 125% of the footprint of the lawfully existing (on August 10, 2004) impervious surfaces on the site; **and**
2. The reconstruction must not increase the lawfully existing (on August 10, 2004) impervious surface by one-quarter acre or more.

The first criterion above applies to new impervious surfaces that are proposed. Therefore, all portions of the proposed impervious surfaces that are new, i.e. to be placed upon existing pervious areas (not paved, not graveled, not structured, or having no impervious surface as defined in the Highlands Act), when added to the lawfully existing impervious surfaces, must be within 125% of the footprint of the lawfully existing impervious surfaces. The equation expressing this criterion is as follows:

$$(\text{proposed } \underline{\text{new}} \text{ impervious surface} + \text{lawfully existing impervious surface}) / (\text{lawfully existing impervious surface}) \leq 1.25$$

The second criterion applies to the net increase in impervious surface compared to that which existed lawfully on August 10, 2004. Hence, the area of future impervious surfaces minus the lawfully existing impervious surfaces must result in less than 0.25 acre. This would allow the project credit for removal of lawfully existing impervious surfaces in the calculation. The equation expressing this criterion is as follows:

$$(\text{proposed } \underline{\text{new}} \text{ impervious} - \text{any removal of lawfully existing impervious}) < 0.25 \text{ acre}$$

In summary, we do not credit any removal of existing impervious when calculating the first criterion, the percentage limit. The only factors to be considered are the lawfully existing impervious surface and proposed new impervious surface. Credit for removal of existing impervious only applies to the second criterion. An exemption under N.J.A.C. 7:38-2.3(a)4 requires that **both** criteria must be satisfied.

Therefore, the items required for further review are listed below:

- A revised site plan certified by the appropriate licensed New Jersey Professional showing all impervious surfaces, including all structures, that lawfully existed on the site on August 10, 2004; all proposed new development including all new structures, new impervious surfaces (i.e. currently pervious areas proposed to be impervious), clearing limits, and limits of disturbance (including grading); and all areas of lawfully existing impervious cover to be restored to pervious. Also include a breakdown of supporting calculated values for the lawfully existing and all proposed new impervious surfaces for the project/activity, as well as any areas of the lawfully existing impervious cover to be restored to pervious. Lastly, calculate the percent increase in impervious coverage that would result from the project. *The certified site plan submitted doesn't include calculations, including the existing impervious surface, the new impervious surface, and the existing impervious surface to be removed. In addition, it doesn't show the point of sewer connection (see below).*
- Section IV, Term 2 "Project or Activity WQMP Consistency Determination" of the Highlands Applicability and Water Quality Management (WQMP) Consistency Determination Application Form, requires that applicants check the proposed method of wastewater treatment and write in the name and location of the existing wastewater treatment facility (DGW or DSW), the existing NJPDES Permit # for this sewage treatment facility, and the


permitted capacity allowed. *In the application, you indicate the name of the waste water collection system (Mount Olive Twp. Dept of Water and Sewer), instead of the wastewater treatment facility.*

- Section IV, Terms 2 and 3 “Project or Activity WQMP Consistency Determination” of the Highlands Applicability and Water Quality Management (WQMP) Consistency Determination Application Form, requires that applicants proposing to convey wastewater to an existing wastewater treatment facility (DGW or DSW) must submit a letter from the referenced wastewater facility verifying the existence and extent of wastewater collection infrastructure on August 10, 2004, and that adequate capacity is available, with a written commitment to service the proposed project. This document was not included in the original submittal. For example, if the sewage treatment facility is the Musconetcong Sewage Authority, please submit a letter from the Musconetcong Sewage Authority verifying that they have adequate capacity to serve the proposed project, along with a letter from the Mount Olive Township Department of Water and Sewer, whom are responsible for conveying the wastewater to the Musconetcong Sewage Authority, verifying that the extent of the wastewater collection infrastructure was in existence on August 10, 2004.
- Section IV, Terms 2 and 3 “Project or Activity WQMP Consistency Determination” of the Highlands Applicability and Water Quality Management (WQMP) Consistency Determination Application Form, also requires that applicants proposing to convey wastewater to an existing wastewater treatment facility (DGW or DSW) must submit a copy of a certified site plan or other appropriately scaled map, showing the point of connection to the wastewater collection system as it existed on August 10, 2004. *The certified site plan submitted does not show a point of sewer connection.*
- Please provide a new re-signed Certification page (page 16).
- A copy of the submittal that you send in response to this letter, as well as supporting information, must also be sent to those parties listed at N.J.A.C. 7:38-9.2(b)5.

Please be advised that you have 30 days from the date of receipt of this letter to submit the information required above. If after 30 days the required information is not submitted or fails to satisfy the deficiencies listed above, you will be issued a determination based on the information included in your current application, which may result in a Not Exempt determination. Please include a copy of this letter with the additional required information that you submit.

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Division of Watershed Management. Should you have any questions regarding this matter, you may contact me at (609) 984-6888.

Sincerely,



Laura Eudell

Bureau of Watershed Regulation

c: Thomas Malman, Esq., Day Pitney LLP