



State of New Jersey

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



MARK N. MAURIELLO
Acting Commissioner

Reza Manesh
167 South Street
Morristown, New Jersey 07960

JUN 01 2009

Re: ITC Phone Center
Block: 8301, Lot: 18
400 Route 46 West
Mount Olive Township, Morris County
Upper Delaware Water Quality Management Plan (WQMP)
Program Interest No.: 435437
Activity No.: CSD080017

Agency Determination: Highlands Act - Not Exempt
Exemption # 4
Water Quality Management Plan - Consistent

Dear Mr. Manesh:

This letter is forwarded in reply to your recent request for a Highlands Applicability Determination and Water Quality Management Plan Consistency Determination. Based on the information submitted, it has been determined that your proposed project/activity is located within the Highlands Preservation Area. Therefore, your project/activity has been reviewed to determine the applicability of the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38 (Highlands Rule) as well as the requirements defined in the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15.

The project/activity subject of this review includes a proposal to demolish and reconstruct two existing abandoned buildings into a new 1,728 square foot retail and office building with associated parking. The total area of the property is 0.132 acres. The existing conditions of the site are depicted on a certified survey by James G. Baker, New Jersey P.L.S., and James G. Glasson, New Jersey P.E. with Civil Engineering, Inc., dated August 22, 2008, unrevised, titled "EXISTING CONDITIONS PLAN FOR: LOT 18 BLOCK 8301 MOUNT OLIVE TOWNSHIP MORRIS COUNTY, NEW JERSEY," sheet number 3 of 11. The proposed project is depicted on the certified site plan by James G. Glasson, New Jersey P.E. with Civil Engineering, Inc., dated August 22, 2008, unrevised, titled "SITE LAYOUT PLAN FOR: LOT 18 BLOCK 8301 MOUNT OLIVE TOWNSHIP MORRIS COUNTY, NEW JERSEY," sheet 4 of 11.

The Department of Environmental Protection (Department) reviewed the materials submitted to determine the applicability of the provisions of the Highlands Rules. As a result of this review, the Department has determined that your project/activity is not exempt because it meets the definition of "Major Highlands Development," at N.J.A.C. 7:38-1.4 since the proposal is a non-residential development, and does not meet the requirements for any of the exemptions in the Highlands Rules at N.J.A.C. 7:38-2.3. Therefore, your project/activity is subject to the requirement of obtaining a Highlands Preservation Area Approval and the applicable provisions of the Highlands Rules.

This determination is based on the following reason(s):

The exemption applied for is the reconstruction of a building or structure for any reason. This exemption requires that the reconstructed building or structure be located within 125% of the lawfully existing impervious surface on the site provided that the impervious surface is not increased by one-quarter acre or more. The proposed reconstruction exceeds 125% of the footprint of the lawfully existing impervious surfaces. Please be advised that the "existing gravel" areas, as indicated on the site plan mentioned above, are not considered lawfully existing impervious surfaces and, therefore, credit towards the total existing impervious surface cannot be given for them. There was no official documentation submitted indicating the "existing gravel" areas lawfully exist. Furthermore, photographs of the site and aerials taken in 2004 and 2007 indicate that in these areas there is vegetation growing around each of the existing buildings and that the cleared areas appear to be dirt.

Should you decide to revise the proposed project to be considered for an exemption to the Highlands Act, you must resubmit a complete application for a new Highlands Applicability and Water Quality Management Plan Consistency Determination. Additionally, please include a copy of this determination letter as part of your new application.

Otherwise, in order to apply for your Highlands Approval you should submit the required information for the applicable review components to the New Jersey Department of Environmental Protection, Division of Land Use Regulation, P. O. Box 439, Trenton, New Jersey 08625-0439. The information requirements and forms for each component can be found and downloaded at [www.state.nj.us/dep/highlands](http://www.state.nj.us/dep/highlands).

The Department also reviewed your project/activity for consistency with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15 and the provisions and recommendations of the Upper Delaware WQMP. Based on our review, the proposed project/activity appears to be consistent with the applicable WQMP and Water Quality Management Planning Rules. This determination is made based on the following:

The project/activity will be served by an individual subsurface sewage disposal system with a discharge to groundwater less than 2,000 GPD.

This Highlands Applicability and Consistency Determination is subject to the following limitations:

- (1) This determination does not eliminate the need for any permits, approvals, or certifications required by the Department or any Federal, State, County or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include,

but are not limited to, sewer extension and water main extension approvals, a water allocation, approvals under the Freshwater Wetlands Protection Act Rules, (N.J.A.C. 7:7A) and approvals required under the Flood Hazard Area Control Act Rules, (N.J.A.C. 7:13).

- (2) The issuance of this determination shall not obligate the Department to issue any other approvals, permits or certifications required for this project/activity.
- (3) This determination shall be considered null and void if changes are made to the project that would increase the scope or area disturbed by the project, or result in a change in the use or change the method of wastewater treatment; or if the information submitted to obtain this determination from the Department is later determined to be inaccurate.

A copy of this determination letter must be enclosed with any future permit application(s) filed with the Department.

Let it be noted that this project, ITC Phone Center, was published in the September 17, 2008 DEP Bulletin and no public comments were received.

If the applicant disputes the Department's factual findings or any of its conditions or if anyone is aggrieved by this determination, that person may request an adjudicatory hearing. A request for an adjudicatory hearing shall be submitted in writing by certified mail, or by other means which provides verification of the date of delivery to the Department, within 30 days of notice of this decision published in the DEP Bulletin in accordance with N.J.A.C. 7:38-1.5. The adjudicatory hearing request must be accompanied by a completed Adjudicatory Hearing Request Checklist and Tracking Form (form enclosed).

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. If you have any questions or require further assistance, please call Laura Eudell at (609) 984-6888.

Sincerely,



Terry Pilawski, Chief  
Bureau of Watershed Regulation

Enclosure

- c: James Glasson, P.E., Civil Engineering, Inc.  
Lisa Lashway, Mount Olive Township Clerk  
Gary Lindsay, Mount Olive Township Construction Official  
Mount Olive Township Planning Board  
Mount Olive Township Environmental Commission  
Morris County Environmental Commission  
Morris County Planning Board  
Christine Ross, Highlands Council  
Barbara Baus, NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (w/o encl.)

Armand Perez, NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (w/o encl.)  
Dan Bello, NJDEP, Division of Land Use Regulation (w/o encl.)  
Barry Miller, NJDEP, Bureau of Watershed Regulation (w/o encl.)  
Laura Eudell, NJDEP, Bureau of Watershed Regulation (w/o encl.)  
Abigail Amutah, NJDEP, Bureau of Watershed Regulation (w/o encl.)  
Bureau of Watershed Regulation - File