

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF COASTAL AND LAND USE PLANNING

**Adopted Amendment to the Ocean County Water Quality Management Plan (WQMP)**

**Public Notice**

**Take notice** that on April 1, 2014 pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), the Department of Environmental Protection (Department) adopted an amendment to the Ocean County WQMP. This amendment, entitled “Freedom Village at Toms River”, submitted on behalf of Toms River Township, expands the Ocean County Utilities Authority (OCUA) sewer service area (SSA) to allow for the construction of an apartment complex. This amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and P.L 2013, c.188. This notice represents the Department’s determination that the amendment is in compliance with the regulatory criteria pursuant to N.J.A.C. 7:15.

The proposed project site is located in Toms River Township, Ocean County on Block 164/Lot 4. This amendment allows for the construction of 6 apartment buildings with a total of 14 one-bedroom apartments, 40 two-bedroom apartments, 18 three-bedroom apartments, and a clubhouse on the above referenced parcel. The projected wastewater flow for the proposed new development, calculated in accordance with N.J.A.C. 7:14A-23.3, is 16,574 gallons per day (gpd).

The currently adopted SSA excludes a significant portion of the above referenced property due to the presence of a Special Water Resource Protection Area (300-foot buffer) on the Slab Branch, a Category One Tributary to the Toms River, which had been mapped as being located on the property. A subsequent report dated August 14, 2013 prepared by Trident Environmental Consultants on behalf of the applicant determined that the Slab Branch does not, in fact, exist on the property and had been mapped incorrectly. The report found that the Slab Branch actually terminates approximately 115 feet south of the proposed project site. The Department’s Division of Land Use Regulation (DLUR) has conducted a site visit of the area and accepted the findings of the report. DLUR will be updating the stream mapping to reflect this new information.

While the newly mapped Slab Branch is no longer located on the property, a portion of its 300 foot buffer area still extends partially onto the proposed project site. This area will still remain excluded from the SSA. No sewage producing structures are proposed for this portion of the property.

Of Block 164, Lot 4's total of 10.02 acres, the portion proposed to be added to the SSA is 6.89 acres. 2.45 acres of a conservation easement and the remainder of the 300 foot buffer not included in the conservation easement will remain outside of the SSA.

As outlined at N.J.A.C. 7:15-5.24, sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), Coastal Fringe, Coastal Rural and Coastal Environmentally Sensitive Planning Areas, beaches, coastal high hazard areas, and dunes. Pursuant to N.J.A.C. 7:15-5.24, ESAs are defined as contiguous areas of 25 acres or larger consisting of habitat for threatened and endangered species as identified on the Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, Natural Heritage Priority Sites, Category One (C1) special water resource protection areas, and wetlands, alone or in combination. Aside from portion of the 300 foot buffer associated with the Slab Branch that extends partially onto the proposed project site, as noted above, there are no environmentally sensitive areas identified on the parcel.

Pursuant to N.J.A.C. 7:15-5.24(c), certain coastal planning areas, not applicable here, must also be excluded from SSA. Specifically, there are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas on the project site.

In accordance with N.J.A.C. 7:15-5.24(d)1, areas with Federal 201 grant limitations that prohibit the extension of sewers are excluded from the adopted SSA either where local mapped information exists delineating these areas, or through a narrative description where mapping does not exist, except as provided under N.J.A.C. 7:15-5.24(f)1. Where a narrative approach has been used, it is noted as text on the adopted FWSA map. Pre-existing grant conditions and requirements (from Federal and State grants or loans for sewerage facilities),

which provide for restriction of sewer service to environmentally sensitive areas, are unaffected by adoption of these amendments and compliance is required.

In addition to the environmentally sensitive areas with Federal 201 grant limitations that prohibit the extension of sewers identified under N.J.A.C. 7:15-5.24(d)1, there are other special restricted areas, not applicable here, which must also be excluded from SSA pursuant to N.J.A.C. 7:15-5.24(d)2 through 4. Specifically, there are no beaches, coastal high hazard areas, or dunes on the project site.

In accordance with N.J.A.C. 7:15-5.25(h)1, the projected wastewater flow of the project has been evaluated. The Department has determined that the OCUA Northern Wastewater Pollution Control Facility has adequate available capacity to treat the proposed wastewater flow from this project.

In accordance with N.J.A.C. 7:15-5.25(h)3 the water supply need for the proposed project has been evaluated. Water supply for the proposed development will be provided by the United Water Toms River which is a public water system which withdraws water from the Kirkwood Cohansey, Middle PRM, Upper PRM, and Piney Point Aquifers. The location of the diversion is Toms River and the water allocation permit number is WAP1000002, permit # 5000X. The existing water allocation permit will not require modification to serve the proposed project

In accordance with N.J.A.C. 7:15-5.25(h)4, a project or activity's stormwater management is to be evaluated. However, P.L. 2013, c. 188 directs that there is a presumption that an engineered subdivision or site plan is not required. Without such information a review and determination of compliance with the Stormwater Management rules (N.J.A.C. 7:8) is not possible. The county and local governments are responsible for review and implementation of the Stormwater Management rules during their review and approval of proposed development. Toms River Township has an adopted stormwater management ordinance (No. 4060-06) which complies with the performance standards of the Stormwater Management Rules at N.J.A.C. 7:8.

In accordance with N.J.A.C. 7:15-5.25(h)5, the proposed project is not located in the riparian zone. As noted above, a portion of the 300 foot buffer associated with the Slab Branch still extends partially onto the proposed project site. This area will still remain excluded from the SSA. No sewage producing structures are proposed for this portion of the property.

In accordance with N.J.A.C. 7:15-5.24(b)1, to determine areas designated as threatened or endangered species habitat, the Department utilized the Division of Fish and Wildlife's Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, version 3.1. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species Ranks 3 (State threatened) , 4 (State endangered), and 5 (Federal endangered or threatened) are not to be included in proposed SSAs except as provided under N.J.A.C. 7:15-5.24(e) – (h), or unless a site has undergone a site specific Habitat Suitability Determination prepared in accordance with N.J.A.C. 7:15-5.26 that found the site to be not suitable habitat, or pursuant with N.J.A.C. 7:15-5.24(g)2, the Department determined the ESA is not critical to a population of endangered or threatened species the loss of which would decrease the likelihood of the survival or recovery of the identified species. Review of the project site has determined that no threatened or endangered species habitat exists on site.

In accordance with N.J.A.C. 7:15-5.24(b)2, areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-5.24(e) – (h). Review of the project site has determined that no Natural Heritage Priority Sites exist on site.

A Riparian buffer zone, as described above has been identified on the property. Riparian zones or buffers are established along all surface waters, based on the surface water body's classification designated at N.J.A.C. 7:9B, under the following regulations: the Flood Hazard Area Control Act Rules, the Stormwater Management rules, and the Water Quality Management Planning rules.

To become compliant, and in accordance with N.J.A.C. 7:15-5.25(h)5i, the Riparian Corridor Analysis has been satisfied by applying the 300 foot buffer to the applicable portions of the Slab Branch, and the exclusion of the buffer area from the proposed SSA.

In accordance with N.J.A.C. 7:15-5.24(b)4, areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-5.24(e) – (h). In accordance with N.J.A.C. 7:15-5.24(e)2, Letter of Interpretation: Presence/Absence Determination File # 1507-09-0006.1, FWW090001 issued by DLUR on March 11, 2009 was submitted to the Department, confirming that freshwater wetlands and waters are not present on the property and that no part of the above referenced property occurs within a transition area or buffer as designated in N.J.A.C. 7:7A-2.59(d) and (e).

In accordance with N.J.A.C. 7:15-5.25(h)6, proposed development disturbance is not to be located in areas with steep slopes, defined as any slope greater than 20 percent. There are no steep slopes on the subject site.

This amendment proposal was noticed in the Department Bulletin on February 19, 2014, Volume 38 Issue 4, pages 8-10, and no comments were received during the comment period.

Additional issues which may need to be addressed for any new or expanded wastewater treatment facility proposal include, but are not limited to, compliance with stormwater regulations, antidegradation, effluent limitations, water quality analysis, and exact locations and designs of future treatment works. Additionally, sewer service to any particular project is subject to contractual allocations between municipalities, authorities and/or private parties, and is not guaranteed by this amendment.

Approval of this amendment does not eliminate the need for any permits, approvals or certifications required by any Federal, State, County or municipal review agency with jurisdiction over this project/activity.

SIGNED

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Elizabeth Semple, Acting Director  
Office of Coastal & Land Use Planning  
Department of Environmental Protection

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4/1/14  
Date

