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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATERSHED AND LAND MANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Proposed Amendment to the Upper Raritan Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Upper Raritan Water Quality Management (WQM) Plan in accordance with the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15. The proposed amendment, identified as the Errico Acres, also known as Residence at Overleigh, (Program Interest No. 435434, Activity No. AMD200009), would establish a new sewer service area (SSA) within a portion of Block 5, Lot 4, Far Hills Borough, Somerset County. The project parcel is approximately a total of 42 acres, of which 21.1 acres would be designated as SSA. The proposed development consists of 105 age-restricted townhouses and 29 non-age-restricted apartment units to be served by a proposed New Jersey Pollutant Discharge Elimination System (NJPDDES) permitted discharge to groundwater (DGW) wastewater treatment facility. As calculated in accordance with N.J.A.C. 7:9A-7.4, the proposed project will generate a projected wastewater flow of 62,650 gallons per day (gpd).

This notice represents the Department's determination that the proposed amendment is compliant with the applicable regulatory criteria at N.J.A.C. 7:15, as described below.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations to the eligible SSA needed to address a specific project or activity. N.J.A.C. 7:15-3.5(j)2 requires that site specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater flow shall include a proposed modification to the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b) to include the proposed project or activity. The proposed project involves less than 100 acres but will generate more than 20,000 gpd of wastewater flow. However, as the proposed project will be served by a new onsite DGW wastewater treatment plant specifically for this project, a wastewater treatment plant (WTP) capacity analysis is not required.

The proposed project is located in the Highlands Region, as defined in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7.a. Areas eligible for sewer service in the Highlands Region are defined at N.J.A.C. 7:15-4.4(c). The proposed project is located within in the Conservation Zone and Conservation-Environmentally Constrained Subzone of the Highlands Planning Area. Far Hills Borough has opted to not conform with the Highlands Regional Master Plan (RMP) for those portions of the Borough within the Highlands Planning Area. However, pursuant to Executive Order No. 114 (2008), as the property is located in the Conservation Zone and Conservation-Environmentally Constrained Subzone, the Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability provisions of the RMP and

issued a letter on May 20, 2020, stating that the subwatershed the proposed project is located in is not in deficit and, therefore, the project is not subject to Highlands review.

Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSAs, except as otherwise provided at N.J.A.C. 7:15-4.4(i), (j), (k), and (l): environmentally sensitive areas (ESAs) identified pursuant to N.J.A.C. 7:15-4.4(e), as any contiguous area of 25 acres or larger consisting of any of the following, alone or in combination: endangered or threatened wildlife species habitat, Natural Heritage Priority Sites, riparian zones of Category One (C1) waters and their tributaries, or wetlands; coastal planning areas identified pursuant to N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the project site using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <http://www.nj.gov/dep/gis/listall.html> and/or other information as noted below, to determine the presence of any such areas in accordance with N.J.A.C. 7:15-4.4(e), (f), and (g) and made the following findings:

- In accordance with N.J.A.C. 7:15-4.4(e)1, the Department determined that the proposed SSA contains areas mapped as endangered and threatened wildlife species habitat Rank 5 for Indiana Bat and Northern Myotis based on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife "Landscape Project Data" Version 3.3 GIS data layers. On September 17, 2020, the applicant submitted a Habitat Impact Assessment (HIA) (EcolSciences, Inc., September 16, 2020 HIA, Errico Acres, Block 5, Lot 4, Borough of Far Hills, Somerset, New Jersey) prepared pursuant to N.J.A.C. 7:15-

4.7. The Department reviewed the HIA and concluded that the absence of Indiana and northern long-eared bat during the survey is a strong indicator that a maternity roost for either species does not occur on or in proximity to the site. Therefore, the most likely bat impacts would be to transient male populations and solitary bats passing through the site. The Department determined that the impacts to bat habitat in the proposed sewer service area cannot be avoided and that implementation of conservation measures are necessary to minimize to the maximum extent practicable all adverse modification of suitable habitat and to mitigate for any such adverse modifications, in accordance with N.J.A.C. 7:15-4.4(k)3 and 4.7(e)1iii. To minimize potential impacts to a listed Federally protected bat species, the applicant will place a conservation easement and deed restrict the undeveloped portions of the project property that will memorialize the following steps to avoid, minimize, and mitigate impacts to potential transient bat habitat:

1. Adhere to the seasonal restrictions to clearing trees of three-inch greater Diameter Breast Height (DBH) from April 1 to September 30.
2. Reforestation at a ratio of 2:1 to areas impacted by the proposed SSA.
3. The tree planting plan will follow USFWS guidance as outlined in their “Characteristics of Indiana Bat Summer Habitat” and “Forest Management Recommendations” (2008). The replanting plan proposes approximately 658 trees on 20-foot centers. The applicant will monitor the survival of the tree mitigation area for a period of five years to assure at least 85 percent survival rate.

4. Place wetlands and wetland buffers not impacted by development and all remaining wooded portions of the site into a conservation easement to permanently preserve its current forested condition.
5. Conduct tree girdling of certain trees to encourage habitat enhancement in the short-term for roosting bats while newly planted trees mature.
6. The current white ash trees will be preserved to provide a transitional natural habitat.
7. Minimize any potential lighting impacts with downward facing lights, shields, and/or timers.
8. Avoid application of fertilizers or pesticides within 100 feet of wetlands and waterbodies.

Pursuant to N.J.A.C. 7:15-4.4(k)3, the conservation restriction must be executed, filed and recorded with the Somerset County Clerk and proof of recordation of the deed restriction must be provided to the Department prior to adoption of the proposed amendment.

- The Department determined that the proposed SSA does not contain any areas mapped as Natural Heritage Priority Sites based on the “Natural Heritage Priority Sites” GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)2.
- The Department determined that the proposed SSA does not contain any C1 waters or 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC-14 watershed of any C1 waters based on the “Surface Water Quality Standards” GIS data layer in accordance with N.J.A.C. 7:13-4.1(c)1 and 7:15-4.4(e)3.

- The Department determined that the proposed project location does not contain wetlands based on the “Wetlands 2012” GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)4. However, in accordance with N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands LOI/Line Verification File #1807-19-0001.1/ FWW190001. The LOI confirmed that wetlands were present on the project property, but not within the proposed SSA.
- The Department determined that the proposed SSA does not contain any areas mapped as Fringe Planning Areas, Rural Planning Areas, or Environmentally Sensitive Planning Areas within the Coastal Area Facility Review Act (CAFRA) zone based on the “CAFRA (polygon)” GIS layer and the “State Plan Data” GIS layer, in accordance with N.J.A.C. 7:15-4.4(f).
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project based on the U.S. Environmental Protection Agency list of New Jersey counties with ESA grant conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2> in accordance with N.J.A.C. 7:15-4.4(g).

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in adopted zoning ordinances, future land uses shown in adopted municipal and county master plans, and other local land use objectives. On December 23, 2019, the Borough of Far Hills passed Ordinance No. 2019—08, which rezoned the proposed project property as TH-6-IAR for Townhouse Inclusionary Age-Restricted Residents. The Somerset County Planning Department

issued a letter dated November 20, 2020, stating that the proposed project is not consistent with the Somerset County Master Plan, specifically the Land Use and Housing Elements, as the project is located in the Priority Preservation Investment Area (PPIA). The Board's practice has been only to support minimal amendments in the PPIA to address the water quality and public health issues associated with failing septic systems as documented by the Municipal Health Officer. However, recognition of the Court rulings on the Borough's Settlement Agreement dated October 15, 2018, entitled, Agreement to resolve issues between the Borough of Far Hills, Melillo Equities and Fair Share Housing Center concerning the Borough's Mount Laurel Fair Share Obligations and the Means by Which the Borough Shall Satisfy Same, the county planning board will not object to this proposed amendment. This notice is to inform the public that a plan amendment has been proposed for the Upper Raritan WQM Plan. All information related to this plan and the proposed amendment is located at:

New Jersey Department of Environmental Protection
Division of Watershed Protection and Restoration
Bureau of NJPDES Stormwater Permitting & Water Quality Management
Water Quality Management Planning Program
PO Box 420, Mail Code 401-041
401 East State Street
Trenton, New Jersey 08625-0420

The Department's file is available for inspection between 9:00 A.M. and 4:00 P.M., Monday through Friday, upon request. An appointment to inspect the file must be arranged by calling the Bureau of NJPDES Stormwater Permitting & Water Quality Management at (609) 633-7021.

Interested persons may submit written comments on the proposed amendment to the Department at the address cited above or at the email: wqmp.publiccomments@dep.nj.gov. Comments should reference Program Interest No. 435434, Activity No. AMD200009 and must be submitted within 30 days of the date of this public notice.

Interested persons may request, in writing, that the Department hold a nonadversarial public hearing on the amendment or extend the public comment period specified in this notice. Such requests should reference Program Interest No. 435434, Activity No. AMD200009 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined at N.J.A.C. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the Department address cited above. Should the Department decide to hold a public hearing, additional notice will be published in a future issue of the New Jersey Register and the comment period will be extended to 15 days after the public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department before making a final decision on the proposed amendment.

Sewer service is not guaranteed should this amendment be adopted as it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA as a result of the approval of this amendment does not eliminate the need to obtain all necessary

permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over this project/activity.

8/20/2021
Date

SIGNED

Gabriel Mahon, Bureau Chief
Bureau of NJPDES Stormwater Permitting and Water Quality Management
Division of Watershed Protection and Restoration
NJ Department of Environmental Protection