

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Adopted Amendment to the Atlantic County Water Quality Management Plan

Public Notice

Take notice that on **JAN 12 2018**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Statewide Water Quality Management Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment (Program Interest No. 435445, Activity No. AMD160001) to the Atlantic County Water Quality Management (WQM) Plan. This amendment, submitted by Ms. Tomra Vecere on behalf of VST Capital LLC, expands the sewer service area (SSA) of the Atlantic County Utilities Authority (ACUA) Sewage Treatment Plant (STP) by 0.1 acres to allow for the construction of a single-family home. The proposed project, entitled "Poplar Avenue Linwood", is in Linwood City, Atlantic County on a portion of Block 82/Lot(s) 7, which is located on the southbound side of Poplar Avenue west of Bartlett Drive. Preliminary notice was published in the New Jersey Register on December 5, 2016 at 48 N.J.R. 2625(a) and the Department received four comments during the public comment period. The Department's responses are below.

COMMENT 1: Disturbance of the wetlands, existing vegetation and wildlife along Patcong Creek to accommodate the proposed development will require the destruction of many trees, shrubbery and bushes within the wetlands buffer areas, which will also impair the aesthetics of the area and block visibility to the creek. (Poplar Ave Neighbors; Steven Douglas; Brandon Siang; Ray Siang, Richard DePamphilis, Mayor)

COMMENT 2: The proposed site is close to the Patcong Creek/Poplar Avenue Bridge. In every case of heavy rain, the road floods. The development of this property, along with the elimination of the buffer area, would not only subject the proposed property to flooding, but would also exacerbate the flooding risk to the neighboring homes. (Poplar Ave Neighbors; Ray Siang)

RESPONSE TO COMMENTS 1 AND 2: The WQMP rules at N.J.A.C. 7:15 recognize that determinations regarding the land use impacts of future development are better reserved for permit review and approval by the Division of Land Use Regulation, when detailed site-specific information is available regarding land use and flooding impacts. Specifically, N.J.A.C. 7:15-4.4(m) provides that an applicant seeking to construct a project in a sewer service area must still obtain any permit or approval applicable to the project and comply with all requirements applicable to other Department programs. Accordingly, the disturbance of wetlands and protection of areas from flooding are issues that would be addressed in the permitting phase of this project. At the WQMP planning stage, the consideration before the Department is delineation of sewer service areas in a manner that protects environmentally sensitive areas that encompass at least 25 acres. Therefore, for purposes of this review, this amendment avoids environmentally sensitive areas and satisfies N.J.A.C. 7:15.

COMMENT 3: The City of Linwood historically maintained that the land area along the Patcong Creek should be preserved and this goal is clearly detailed in the Master Plan, Master Plan Reexaminations and various land use policies including the Atlantic County Water Quality Management Plan. This development is inconsistent with the goals of the Linwood Master Plan. (Richard DePamphilis, Mayor; Linwood Environmental Commission)

COMMENT 4: The City and the County have consistently denied sewer service in this area by endorsing the existing SSA maps that were created in the 1970s and were recently re-adopted

in 2013. Restricting sewer service in an area is the ultimate land use control. There are many properties throughout Atlantic County that are zoned for development but cannot be developed because they are not included in a SSA. If the City were to change its position on this and other similar parcels, the amount of vacant developable land available for construction would increase, thereby potentially increasing the City's affordable housing obligation. (Richard DePamphilis, Mayor; Linwood Environmental Commission)

RESPONSE TO COMMENTS 3 AND 4: N.J.A.C. 7:15-4.4(h)1 and 2 provide that, for all site-specific amendments, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. While the 2001 Linwood Master Plan does not provide that this parcel is intended for sewer service, the Township's zoning ordinance includes this parcel within its R-10 Single-Family Residential zone. Further, the proposed project is consistent with the Atlantic County Master Plan, as the sewage-generating structure avoids the wetlands with at least a 50-foot buffer. As reflected in municipal zoning and county planning, the parcel is eligible for residential development, making it eligible for sewer service pursuant to these rules.

This amendment has been reviewed pursuant to the Water Quality Management Planning rules at N.J.A.C. 7:15. This notice represents the Department's determination that the amendment is compliant with the regulatory criteria at N.J.A.C. 7:15-3.5 and 4.4 and serves as public notice of the Department's final decision pursuant to N.J.A.C. 7:15-3.5(g)11.

Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as Environmentally Sensitive Areas (ESAs), certain coastal planning areas, or areas subject to US Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) – (l).

Pursuant to N.J.A.C. 7:15-4.4(e), ESAs are any contiguous area, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife as Rank 3, 4, or 5 (Landscape Maps); areas mapped as Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9b, based on the Department's maps of such waters and their corresponding 300 foot riparian zones based upon the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as threatened and endangered wildlife habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. To evaluate areas mapped pursuant to N.J.A.C. 7:15-4.4(e)1 as threatened or endangered wildlife species habitat, the Department utilized its Landscape Maps, version 3.1 at <http://www.nj.gov/dep/gis/listall.html>. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered wildlife species Ranks 3 (State threatened), Rank 4 (State endangered), and Rank 5 (Federal endangered or threatened) are not to be included in proposed SSAs except as provided under N.J.A.C. 7:15-4.4(i) – (l). There is no mapped threatened or endangered wildlife species habitat mapped within the proposed sewer service area.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as Natural Heritage Priority sites identified pursuant to N.J.A.C. 7:15-4(e)2. To evaluate areas mapped as Natural Heritage Priority Sites pursuant to N.J.A.C. 7:15-4.4(e)2, the Department utilized its GIS data at

<http://www.nj.gov/dep/gis/listall.html>. Areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) – (l). Review of the project site has determined that no Natural Heritage Priority Sites exist on the site.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as Category One waters and their corresponding 300 foot riparian zones pursuant to N.J.A.C. 7:15-4(e)3. To evaluate the existence of Category One waters and their corresponding 300 foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. Areas identified as Category One waters and their corresponding 300 foot riparian zones are not to be included in SSA's, except as provided under N.J.A.C. 7:15-4.4(i) – (l). The Department has determined that there are no Category One waters or their corresponding riparian zones on the site.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. 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. 7:15-4.4(i) – (l). There are no wetlands in the proposed SSA.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4(f). To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/listall.html>. Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be

included in SSA, except to abate an existing imminent public health and safety issue, to accommodate infill development or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage as provided under N.J.A.C. 7:15-4.4(f)1 and 2. There are no such coastal planning areas on the site. Therefore, the conditions of N.J.A.C. 7:15-4.4(f), have been satisfied.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4(g). The Department evaluated the presence of 201 Facilities Plan grant conditions that prohibit the expansion of SSA into ESAs. The Department evaluated mapped wetlands utilizing its GIS data at <http://www.nj.gov/dep/gis/listall.html> and flood plains using the Federal Emergency Management Agency (FEMA) flood plain mapping at <https://msc.fema.gov/portal>. Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from the SSA, unless documentation can be provided demonstrating that a mapping revision or waiver has been obtained from EPA, as provided under N.J.A.C. 7:15-4.4(g). There are no 201 Facilities Plan grant conditions that provide for the restriction of SSA into ESAs.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. The Township of Linwood's zoning ordinance includes this parcel within its R-10 Single-Family Residential zone. However, the 2001 Linwood Master Plan does not provide that this parcel is intended for sewer service. However, the proposed project is consistent with the Atlantic County Master Plan, as the sewage-generating structure avoids the wetlands with at least a 50-foot buffer. Accordingly, the Department finds that inclusion of the subject site in SSA is consistent with local zoning and county planning.

Pursuant to N.J.A.C. 7:15-3.5(j)2, projects that propose to add 100 or more acres to the SSA or where the additional SSA would generate 20,000 gpd or more to the wastewater treatment capacity analysis, a 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 is required. The proposed project plans to add 0.1 acres to the SSA and the projected wastewater flow for the proposed project, anticipated to be received by the Atlantic County Utilities Authority, is 300 gallons per day (gpd) based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. Therefore, no wastewater capacity analysis is required for this amendment.

N.J.A.C. 7:15-3.5(g)6 requires the applicant to request a written statement of consent from all identified governmental entities, sewerage agencies, and BPU related sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the amendment proposal. Accordingly, the Department instructed the applicant to request written statements of consent from the City of Linwood, the Atlantic County Utilities Authority, and the Atlantic County Board of Chosen Freeholders. On December 15, 2016, the Atlantic County Utilities Authority adopted Resolution 16-12-239 in support of the proposed amendment. On July 12, 2017, the City of Linwood adopted Resolution 133, 2017 in opposition to the proposed amendment, on grounds that, while the property is zoned for residential development, the City has continually excluded the parcel from development as a matter of policy. On October 5, 2017, the Atlantic County Board of Chosen Freeholders adopted Resolution 25-2017 in support of the proposed amendment. As the proposed project is consistent with local zoning and county master planning, the Department has chosen to adopt this amendment.

Sewer service is not guaranteed by this amendment. This amendment represents only one part of the permit process and other issues may need to be addressed. These issues may include,

but are not limited to, obtaining all permits for the proposed projects; meeting all regulatory requirements for needed permits, compliance with stormwater regulations; antidegradation; effluent limitations; water quality analysis; exact locations and designs of future treatment works; development in wetlands and flood prone areas, or other environmentally sensitive areas which are subject to regulation under Federal or State law or to any contractual arrangements between municipalities, authorities and/or private parties. Inclusion in the sewer service area 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.



Alan Miller, Manager
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Department of Environmental Protection

1/12/18
Date