

**NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF WATER RESOURCES (WRM) MANAGEMENT  
COORDINATION**

**Adopted Amendment to the Northeast Water Quality Management Plan**

**Public Notice:**

**Glenmont Commons**

**Take notice** that on **DEC 01 2015**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4) and Public Law (P.L.) 2011, c.203, as amended and supplemented by P.L. 2013, c.188, an amendment to the Northeast WQMP was adopted by the Department of Environmental Protection (Department). This amendment, (PI# 435442; Activity #AMD140003), submitted on behalf of Glenmont Commons Developers LLC, expands the sewer service area (SSA) of the Rockaway Valley Regional Sewerage Authority (RVRSA) to include an approximately 3 acre portion of Block 10002, Lot 3, a 13.2 acre parcel within Denville Township, Morris County. This amendment provides for the Glenmont Commons Subdivision to create four new individual lots with one residential unit to be constructed on each lot.

This amendment was reviewed in accordance with the Water Quality Management Planning rules that set the environmental standards to be applied to an amendment at N.J.A.C. 7:15-5.18, N.J.A.C. 7:15-5.24 and N.J.A.C. 7:15-5.25(h), as modified by P.L. 2011, c. 203, as amended and supplemented by P.L. 2013, c. 188. This notice represents the Department's determination that this amendment complies with the regulatory criteria pursuant to N.J.A.C. 7:15-5.24 and 5.25.

In accordance with N.J.A.C. 7:15-5.24 environmentally sensitive areas (ESAs) are assessed to determine what areas of the property are appropriate for inclusion in the

proposed SSA. ESAs are defined based on a composite geographic information systems (GIS) analysis, as any contiguous area 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, ESAs are required to be excluded from the SSA except as provided in accordance with N.J.A.C. 7:15-5.24(e)-(h).

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, Landscape Project 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). A review of the Landscape Project Maps determined that the site location was identified as potential Rank 5 Forest Habitat for both Bobcat and Indiana Bat.

As a result of the above, pursuant to N.J.A.C. 7:15-5.24(e) and 5.26(a), the applicant submitted a Habitat Suitability Determination (HSD) application to refute the presumption that the parcel was in fact suitable and critical habitat for the identified species. A review of the HSD application and site investigation conducted by the Department's Endangered and Nongame Species Program determined that, site disturbance has been minimized to the maximum extent practicable, based upon the site plans for the proposed 4 lot subdivision. Therefore, the Department concluded that the 3 acre footprint of development within the 13.2 acre property would not adversely impact the suitability of the habitat of the local population of the species,

the Department determined that the requirement at N.J.A.C. 7:15-5.24(e) has been satisfied.

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). A site review of the property determined that no Natural Heritage Priority Sites exist on site.

In accordance with N.J.A.C. 7:15-5.24(b)3, Category One (C1) special water resource protection areas are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-5.24(e)-(h). The Department determined no classified C1 water bodies exist on or near the property. In addition, no portion of the proposed development on site is identified as within a riparian zone as established at N.J.A.C. 7:15-5.25(g)2-5.

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 proposed as SSA 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, a Letter of Interpretation (LOI) file No. 1408-05-0009.1, dated August 15, 2011 verified the presence and extent of the regulated wetlands and associated transitional buffers located within Block 10002, Lot 3. No area identified as a regulated wetland or buffer on the property is proposed as SSA as part of this amendment.

In accordance with N.J.A.C. 7:15-5.24(d)1, the site contains ESAs as defined under the Federal 201 grant limitations that prohibit the extension of sewers to these areas. The RVRSA Federal 201 Grant (#C-389-06), Findings of No Significant Impact, dated June 23, 1984, defines the specific ESAs as “mapped wetlands in accordance with the National Wetlands Inventory Maps” and/or areas within “the 100 year flood-plain (flood hazard area (FHA)) as defined by the federal Department of

Housing and Urban Development.” As described above, wetlands are excluded from the proposed SSA and this site is not within mapped FHA.

Furthermore, as noted as text on the adopted Morris County Future Wastewater Service Area map which states: “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 this amendment and compliance is required.” Compliance of this condition can only occur if and when an applicant requesting sewer service for any development on the subject property has obtained a USEPA grant mapping waiver. Such waivers are only issued through a formal request through the grantee (RVRSA). This request must include the submission of wetlands verification via a Department LOI confirming that ESAs will not be impacted if sewer conveyance systems are constructed to serve development. In addition, prior to any Department and/or RVRSA approvals for the extension of sewer infrastructure to serve any proposed development, the USEPA mapping waiver must first be issued. As the USEPA mapping waiver must be requested and issued before the grantee can serve the development, the stated grant condition will be satisfied at that time.

All other ESAs as defined at N.J.A.C. 7:15-5.24(c)1-3; lands within certain coastal planning areas (Coastal Fringe, Coastal Rural, and Coastal Environmentally Sensitive Planning Areas) are not applicable to this amendment location nor are any ESAs as defined at N.J.A.C. 7:15-5.24(d)1-4; beaches, coastal high hazards area or dunes as defined under N.J.A.C.7:7E.

In accordance with N.J.A.C. 7:15-5.25(h)4, a project or activities stormwater impact must be evaluated. Denville Township, Morris County, New Jersey has adopted “Land Use Ordinance Chapter XIX, Sub-Chapter No. §19-4.16, which contains stormwater control and design measures. The Department has determined that this

sub-chapter/ordinance complies with the water quality and quantity standards in accordance with N.J.A.C. 7:8. Consequently, the requirements of N.J.A.C. 7:15-5.25(h)4ii for stormwater control have been satisfied.

N.J.A.C. 7:15-5.25(h)6 does not permit new disturbance in areas with a gradient equal to or greater than 20 percent, except as provided by N.J.A.C. 7:15-5.25(g)6ii. As identified on the submitted approved subdivision site plans, the project proposes minimal disturbance of steep slopes with a gradient of equal to or greater than 20 percent. In accordance with N.J.A.C. 7:15-5.25(g)6ii new disturbance located in areas of steep slopes can occur if it is necessary “to prevent extraordinary hardship on the property owner, peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment”. To that effect, as part of this proposed amendment, the applicant supplemented their application with additional information including an economic analysis to demonstrate that the steep slope disturbance meets this hardship exception.

In support of the assertion that the applicant incurred significant aggregated monetary investment towards the proposed development of the site, expenditures were submitted that included the cost for land acquisition and taxes, site survey, environmental assessments, engineering and site plan design, obtaining local preliminary major subdivision approval, Department freshwater wetlands and Individual Flood Hazard Area permits and Morris County Soil Conservation District soil erosion plan approval.

To demonstrate that the hardship was peculiar to the property and not created by the property owner, the applicant provided evidence that the approved site plans met Denville Township’s Land Use Ordinance Chapter XIX, Sub-Chapter No. 19-4.508

which regulates development within steep slopes, defined as greater than or equal to fifteen percent. This ordinance allows for disturbance within a steep slope gradient between 20 percent and 30 percent, however, only up to 30 percent of the total area of these onsite steep slopes can be impacted. The applicant indicated that, as shown on the approved subdivision site plans, titled "Preliminary Major Subdivision, Block 10002 - Lot 3 Township of Denville, Morris County, NJ", minor impacts are proposed within steep slope areas greater than 20 percent on less than the allowable 30 percent of the total area of the steep slopes on site. This approved disturbance is mainly for the centralized roadway to gain access to the four units within the 13.2 acre property. The applicant noted that the parcel, an oblong, pie-shape lot, is constrained by the onsite steep slopes and wetlands. The applicant contends that the final alignment for the access road minimized, to the greatest extent possible, disturbance to the onsite constraints, while providing for the least minimum residential units necessary to obtain a viable return in the applicant's total financial investments.

Furthermore, the applicant stated that, at the time the Preliminary Major Subdivision Approval was originally granted on December 9, 2009, the property was within approved SSA. Therefore, the applicant acquired the property with the intentions to develop the parcel within the site constraints; as permissible under the residential zoning and applicable land use ordinances. The applicant then sought and was issued Department freshwater wetlands and Individual Flood Hazard Area permits necessary for the construction of the approved 4 dwelling units on individual lots.


Based on the above, the Department determined that the proposed minimum disturbance within the steep slopes, as approved on the Preliminary Major Subdivision Plan, was necessary to avoid additional ESA impacts due to the constraints peculiar to the site. Furthermore, the Department concurred that the proposed disturbance within these steep slopes was necessary in order for the

property owner to obtain a viable return to the overall financial investments made from the purchase to the property and gaining all obligatory local and Department approvals. As a result, pursuant to N.J.A.C. 7:15-5.25(g)6ii, in order to prevent an extraordinary hardship, not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment, has been met.

This amendment proposal was noticed in the Department Bulletin, Volume 39; Issue 16, on August 19, 2015 and no comments were received during the comment period.

This amendment represents only one part of the permit process and other issues may need to be addressed prior to final permit issuance. These issues may include, but are not limited to, the following: 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 statutes or rules. 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.

Sewer service to any particular project is subject to contractual arrangements between municipalities, authorities and/or private parties, and is not guaranteed by this amendment.

  
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Colleen Kokas, Director  
Office of WRM Coordination  
Department of Environmental Protection

12-1-15  
Date

