

**ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION**

Adopted Amendment to the Ocean County Water Quality Management Plan

Public Notice

Take notice that on **FEB - 9 2015** 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 “Lacey Affordable Apartments”, submitted on behalf of Lacey Township, expands the Ocean County Utilities Authority (OCUA) sewer service area (SSA) by 3 acres to allow for the construction of an affordable housing apartment complex.

The proposed project site is located in Lacey Township, Ocean County on Block 1837, Lots 8.02 and 9 on the west side of Municipal Lane. This amendment allows for the construction of 70 apartment units with a total of 13 one-bedroom apartments, 43 two-bedroom apartments, 14 three-bedroom apartments; a maintenance building and a rental office/clubhouse on the above referenced parcels. This project has received a Coastal Area Facility Review Act (CAFRA) individual permit, No. 1512-03-0019.1, from the Department’s Division of Land Use Regulation (DLUR) on July 23, 2014. The projected wastewater flow for the proposed new development, calculated in accordance with N.J.A.C. 7:14A-23.3 is 16,091 gallons per day (gpd).

This proposed 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 preliminary notice represents the Department’s determination that the proposed amendment is in compliance with the regulatory criteria pursuant to N.J.A.C. 7:15.

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. Review of the proposed project site has determined that there are no ESA's identified on the portion of the parcels proposed to be included in the sewer service area.

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 property.

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 property.

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 Central Water Pollution Control Facility (WPCF) has adequate available capacity to treat the proposed wastewater flow from this project. The projected wastewater flow for the proposed new development, calculated in accordance with N.J.A.C. 7:14A-23.3 is 16,091 gallons per day (gpd). Currently the OCUA Central WPCF (NJ0029408) is permitted to discharge up to 32 Million Gallons per day (MGD) of treated wastewater to the Atlantic Ocean. Based on an average of the monthly average flow for the most recent twelve month period for which discharge monitoring data is available, the existing wastewater flow discharged from the OCUA Central WPCF was calculated to be 20.59 MGD. The addition of the proposed development's projected wastewater flow would not cause the wastewater generation potential of the expanded SSA to exceed the permitted capacity of the OCUA Central WPCF.

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 on the property will be provided by the Lacey Township Municipal Utilities Authority which is a public water system which withdraws water from the Kirkwood-Cohansey and Atlantic City 800 Foot Sands aquifer. It is currently permitted under PWSID No. 1512001. to allocate 112.7 million gallons per month (MGM) and has a water supply surplus of 13.766 MGM. The proposed water demand of the project, calculated in accordance with N.J.A.C. 7:15-5.25(f)1i, is 0.41 MGM; therefore sufficient water supply is available to serve the proposed development within the existing water allocation permit.

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. Lacey Township has an adopted stormwater management ordinance (No. 23-Jun) 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. 5.25(h)5, riparian zones are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-5.25(h)i –vii. 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. Review of the proposed project site has determined that no riparian zones exist on site.

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.

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.

Upon initial review of the proposed project site, the Department has determined that a portion of the site was identified as Barred Owl habitat. The habitat concerns were addressed during the review of the above mentioned CAFRA application. The Department concurred with the applicant's Environmental Compliance Report and Endangered or Threatened Wildlife Species Habitat Evaluation which cited "an absence of freshwater wetland communities; structural inadequacy of upland vegetation communities; absence of potentially suitable nesting cavities; fragmented suburban landscape; potential competitor/predator influences; and, a high level of human disturbance"; thereby concluding that the parcels in question do not provide suitable Barred Owl habitat.

The Department also reviewed Critical Wildlife Habitat (CWH) as part of their CAFRA permit review in accordance with N.J.A.C. 7:7E-3.39. CWH are specific areas known to serve an essential role in maintaining wildlife, particularly in wintering, breeding and migrating. Based on guidance received from the NJ Division of Fish and Wildlife's Endangered and Nongame Species Program (ENSP), the Department considers patches of woody vegetation along the Atlantic seaboard to serve a critical role in providing resting and foraging habitat for migratory birds. Within the coastal zone mainland, patches of woody vegetation equivalent to 20 acres in size, and greater, function as migratory bird stopover habitat.

The proposed project site is located within a large woodland complex identified by the Department's Land Use Land Cover (2007) mapping. Through an analysis of current aerial photography and Land Use Land Cover mapping, the

Department has determined that the extent of the woodland complex is greater than 139 acres. As a result, the woodland community associated with the parcel in question exceeds the minimum patch size identified as a characteristic of migratory songbird habitat. The applicant has submitted documentation which is in agreement with this finding.

As part of the CAFRA permit review, the Department determined that approximately 4.48 acres of forest (woodland community) could be cleared. The Department has taken into consideration the amount of tree preservation that will remain on site, however the CAFRA rule states that development that would directly, or through secondary impacts on the relevant site, or in the surrounding regions adversely affect CWH is “discouraged”, unless the proposal includes appropriate mitigation measures. To demonstrate compliance with N.J.A.C. 7:7E-3.39, the applicant submitted a proposal to mitigate for the loss of CWH by offering 5.21 acres of land off-site to be deed restricted in the future. The Department has determined that the proposal is acceptable for mitigation and therefore, a conditional compliance with Critical Wildlife Habitat is met. The CAFRA permit specifies that this mitigation proposal must be submitted to the Department for review and approval within 90 days of the issuance of the CAFRA permit. In addition, the CAFRA permit specifies that within 90 days of the issuance of the permit, the property owner shall sign a Department approved conservation restriction for an on site 1.89 acre tree preservation area. The tree preservation area, which will be located on the southern half of Block 1837, Lot 9, is identified on the applicant’s July 7, 2014 site plan submitted as part of their WQM Amendment application.

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 proposed project site has determined that no Natural Heritage Priority Sites exist on site.

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) through (h). Review of the proposed project site has determined that no wetlands or wetlands buffers exist on site.

This amendment proposal was noticed in the Department Bulletin on December 3, 2014, Volume 38 Issue 23, pages 9-12, 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.



Colleen Kokas, Director
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2-9-15

Date