



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Land Resource Protection
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SHAWN M. LATOURETTE
Commissioner

TAHESHA L. WAY
Lt. Governor

February 19, 2025

Mark S. Calabro
NJ Communities, LLC
1625 Route 10
Morris Plains, NJ 07950

RE: Freshwater Wetlands Letter of Interpretation: **Line Verification**
File and Activity No.: 1418-04-0003.1 FWW230001
Applicant: NJ Communities, LLC
Block and Lot: [1801, 5]
Mendham Borough, Morris County
Watershed: Raritan River NB (above Lamington)
Sub-watershed: Raritan R NB(incl McVickers to India Bk)

Dear Mr. Calabro:

This letter is in response to your request for a Letter of Interpretation to have the Division of Land Resource Protection (Division) staff verify the boundary of the freshwater wetlands, transition areas, and/or State open waters on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the NJDEP is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The USEPA and/or USACOE retain the right to reevaluate and modify the jurisdictional determination at any time should the information prove to be incomplete or inaccurate.

Based upon the information submitted, and upon site inspections conducted by Division staff on September 13 and October 4, 2023, and February 5 and November 21, 2024, the Division has determined that the wetlands and waters boundary line(s) are accurate as shown on the survey plan entitled: **“WETLAND SURVEY WEICHERT DEVELOPMENT COMPANY BLOCK 1801, LOT 5 80-88 WEST MAIN STREET (A.K.A. COUNTY ROUTE 24) BOROUGH OF MENDHAM MORRIS COUNTY, NEW JERSEY”**, Sheet No. 1 of 1, prepared by Bowman Consulting Group LTD, dated December 2, 2022, and last revised **February 6, 2025**.

The freshwater wetlands and waters boundary line(s), as determined in this letter, must be shown on any future site development plans. The line(s) should be labeled with the above File and Activity number and the following note:

“Freshwater Wetlands/Waters Boundary Line as verified by NJDEP.”

Wetlands Resource Value Classification (“RVC”)

In addition, the Division has determined that the resource value and standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Exceptional: Line Segments L-6 to L-34 and L-35 to L-40. [150-foot transition area]

Intermediate: Line Segments L-1 through L-5. [50-foot transition area]

State Open Water: Line Segments L-41 to L-49, and within the wetland boundaries. [No transition area]

The Division has determined that the wetlands identified above as exceptional resource value are due to the presence of documented and suitable habitat for endangered and/or threatened species and due to discharging into FW-1 or FW-2 trout production waters and their tributaries. Additionally, the Division has determined that the following freshwater wetlands onsite are isolated and not part of a surface water tributary system: [Line Segments L-1 through L-5]. Please be advised that there are wetlands on the subject site which may meet the definition of a “vernal habitat” under N.J.A.C. 7:7A-1.3. RVC and all other designations may affect requirements for wetland, State open water, and/or transition area permitting, such as the requirements for an Individual Wetlands Permit (N.J.A.C. 7:7A-9 and 10), the types of General Permits by Certification or General Permits available (N.J.A.C. 7:7A-5, 6 and 7), and any modification available through a Transition Area Waiver (N.J.A.C. 7:7A-8). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 *et seq.*) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Division. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

Under N.J.S.A. 13:9B-7a(2), if the Division has classified a wetland as exceptional resource value, based on a finding that the wetland is documented habitat for threatened and/or endangered species that remains suitable for use for breeding, resting or feeding by such species, an applicant may request a change in this classification. Such requests for a classification change must demonstrate that the habitat is no longer suitable for the documented species because there has been a change in the suitability of this habitat. Requests for resource value classification changes and associated documentation should be submitted to the Division at the address at the top of this letter.

General Information

Pursuant to the Freshwater Wetlands Protection Act rules, you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a freshwater wetland, State open water, or transition area, as defined under N.J.A.C. 7:7A-2.2 and 2.3 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.4. The approved plan(s) and supporting jurisdictional limit information are now part of the Division's public records.

Please be advised that any surface water features on the site or adjacent to the site may possess flood hazard areas and/or riparian zones and development within these areas may be subject to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. The Department can verify the extent of flood hazard areas and/or riparian zones through a flood hazard area verification under the application procedures set forth at N.J.A.C. 7:13-5.1.

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred onsite. This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are “isolated” or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

Recording

Within 90 calendar days of the date of this letter, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Division that this information is recorded on the deed of each lot referenced in the letter of interpretation:

1. The Department File and Activity number for the letter of interpretation;
2. The approval and expiration date of the letter of interpretation;
3. A metes and bounds description of the wetland boundary approved under the letter of interpretation;
4. The width and location of any transition area approved under the letter of interpretation; and
5. The following statement: “The State of New Jersey has determined that all or a portion of this site lies in a freshwater wetland, State open water, and/or transition area. Certain activities within these areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a freshwater wetland permit. Contact the Division of Land Resource Protection at (609) 777-0454 or visit <https://dep.nj.gov/wlm/lrp> for more information prior to the commencement of any construction onsite.”

Failure to have this information recorded in the deed of each lot and/or to submit proof of recording to the Division constitutes a violation of the Freshwater Wetlands Protection Act rules and may result in suspension or termination of the letter of interpretation and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:7A-22.

Appeal Process

In accordance with N.J.A.C. 7:7A-21, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Administrative Hearings and Dispute Resolution, Attention: Adjudicatory Hearing Requests, 401 E. State Street, Mail Code 401-07A, P.O. Box 420, Trenton, NJ 08625-0420. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.dep.nj.gov/wlm/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available at www.dep.nj.gov/bulletin. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please visit the website www.nj.gov/dep/odr for more information on this process.

If you have any questions regarding this letter, please contact Scarlett Simpson of our staff by e-mail at Scarlett.Simpson@dep.nj.gov or by phone at (609) 777-0454. Be sure to indicate the Department's file number in all communication.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ariana Tsiattalos", with a stylized flourish at the end.

Ariana Tsiattalos, Environmental Specialist 3
Division of Land Resource Protection

e-copy: Municipal Clerk
Agent – David Krueger, Environmental Technology, Inc.