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STATE OF NEW JERSEY
WATERSHED PROPERTY REVIEW BOARD
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MINUTES OF REGULAR MEETING OF WATERSHED PROPERTY REVIEW BOARD

A regular meeting of the Watershed Property Review Board ("WPRB" or "Board") was held on March 26, 2024 at the New Jersey Board of Public Utilities' office at 44 South Clinton Avenue, Trenton, New Jersey pursuant to the Board's public notice and posted agenda.

Public notice was given pursuant to the Open Public Meetings Act ("OPMA") at N.J.S.A. 10:4-18 by posting notice of the meeting on the WPRB, Department of Environmental Protection ("DEP") Office of Transactions and Public Land Administration, Department of Community Affairs ("DCA") and Board of Public Utilities ("BPU") websites. Notice was also given in the DEP Bulletin and delivered to the Department of State and the following newspapers circulated in the State of New Jersey:

The Bergen Record
The Star Ledger

The following members of the Board were present:

President Christine Guhl-Sadovy, BPU
Assistant Director Judeth Yeany, DEP
Chief Regulatory Officer Donald Palombi, DCA

Deputy Attorney General ("DAG") Gersten opened the meeting with a call to order at 1:00 PM and a reading of the OPMA statement indicating that adequate public notice of the meeting was given including posting notice on the WPRB, DEP Office of Transactions and Public Land Administration, DCA and BPU websites. Notice was also posted in the DEP Bulletin and delivered to the Department of State, the Bergen Record and the Star Ledger.

DAG Gersten took roll call and welcomed the members of the Board. DAG Gersten asked for opening comments. Hearing no opening comments from the members of the Board, DAG Gersten began with the first item on the agenda.

II. Request for an Exemption from the Watershed Protection and Moratorium Act by New Jersey American Water Company, Inc. on behalf of Woodmont Properties, LLC for Sale of Watershed Property Located in the Township of Millburn, Essex County

Block 5302, Lot 5, located in the Township of Millburn, Essex County, is owned and operated by New Jersey American Water Company ("NJAWC"). This site is known as the Canoe Brook Water Treatment Plant. This parcel fronts John F. Kennedy Parkway (Essex County Route 649) and is generally located across John F. Kennedy Parkway from the Mall at Short Hills. This property is utilized for the treatment and distribution of drinking water to NJAWC's regional customers.

NJAWC filed an application with the Board for an exemption from the Act. Specifically, NJAWC seeks to convey, in fee, approximately eight acres of Block 5302, Lot 5 to Woodmont Properties, LLC ("Woodmont") to allow for "The Residences at Short Hills" development to be constructed which will include 156-market rate units and 39-affordable housing units along with landscaping, parking and various stormwater management facilities. Without the exemption, the conveyance of any interest in Block 5302, Lot 5 is prohibited by the Act.

The New Jersey Supreme Court ruled that NJ municipalities have an obligation under the New Jersey Constitution to fully satisfy their fair share of the regional need for low- and moderate-income housing. The New Jersey Superior Court has held that the 39 affordable housing units, 20% of the total units proposed in "The Residences at Short Hills" development, provide a material contribution to Millburn's affordable housing obligations. Therefore, there is a compelling public need for the proposed conveyance, given the constitutional obligations to provide affordable housing in New Jersey.

To mitigate for any adverse environmental impact (including the removal of a stand of 246 trees) which would result from receiving an exemption to the Act for this proposal, NJAWC and Woodmont propose a mitigation plan which includes placing conservation restrictions on nearby lands as well as extensive onsite tree planting. Woodmont proposes to convey a conservation easement to NJAWC on approximately 2.76 acres of the eight acres which will be conveyed from NJAWC and will remain undeveloped. The 2.76 acres to be preserved consists primarily of emergent wetlands. This permanent restriction will provide further assurance that watershed buffers will be retained next to the proposed development and the water supply will be protected.

In addition, NJAWC proposes to further restrict watershed land it owns across JFK Parkway from the Canoe Brook WTP at Block 5303, Lot 2 in the Township of Millburn. This 19.24-acre parcel is forested and includes a tributary to the Canoe Brook which is upstream of the Canoe Brook WTP Reservoir No. 1 surface water intake. While this property is already subject to the Act, NJAWC proposes to further restrict the activities that may take place on this parcel to only utility operations, including rehabilitating existing wells, installing new wells, repairing and replacing mains and allowing for accessory support structures, if required, in furtherance of its franchise obligations. This parcel consists primarily of wooded uplands and is contiguous with a 36-acre park owned by the Township of Millburn.

Woodmont further proposes to reforest the 2.76-acre conservation easement area mentioned above. The proposed tree planting plan calls for a mix of 437 trees to be planted throughout the easement area in two wetland planting areas and one upland planting area. Thirty additional trees will be planted throughout the "The Residences at Short Hills" development.

Woodmont and NJAWC must further obtain any and all federal, state and local permits and approvals, including but not limited to: DEP Treatment Works Approval, DEP Land Resource Protection Freshwater Wetlands Protection Act and Flood Hazard Area Control Act approvals, DEP Water Quality Management Plan Amendment approval and BPU approvals under N.J.S.A. 48:3-7. Woodmont and NJAWC must adhere to any and all tree clearing timing restrictions required by federal and state approvals in order to prevent adverse impacts to the Indiana bat.

Board Staff received public comment, including six individually written objections via email and notice

that a Change.org petition was started to oppose the sale of the property, as soon as the exemption application was submitted. A 30-day written public comment period was held on this matter. Board Staff received four additional written comments during this period. The comments questioned whether the property is an appropriate location for affordable housing in Millburn and whether alternative locations could be identified. The comments also expressed concern for the long-term impacts of developing the property, which commenters assert currently acts as natural drainage for a flood prone area.

DAG Gersten asked if there were any comments. Assistant Director Yeany commended Staff for engaging many State program offices in its thorough review of this unique application. She indicated that the DEP was satisfied with the mitigation proposed. Hearing no further comments, DAG Gersten asked for a motion on this item. Chief Regulatory Officer Palombi moved to approve this project and Assistant Director Yeany seconded. All three members of the Board voted to approve the exemption request.

III. Request for an Exemption from the Watershed Protection and Moratorium Act by New Jersey American Water Company, Inc. on behalf of Monmouth County for Sale of Watershed Property in Support of the Replacement of County Bridge No. A-38, Phalanx Road (CR54) over Swimming River Reservoir Project Located in the Township of Colts Neck and Township of Middletown, Monmouth County

NJAWC filed an application with the Board for an exemption from the Act. Specifically, NJAWC requests an exemption to convey a permanent right-of-way easement over watershed property within and adjacent to the Swimming River Reservoir in the Township of Colts Neck and the Township of Middletown, Monmouth County to the County of Monmouth ("County") as part of the Replacement of County Bridge No. A-38, Phalanx Road (CR54) over Swimming River Reservoir Project ("Project"). Without the exemption, the conveyance of watershed property, even a permanent easement, is prohibited by the Act.

The County has jurisdiction over Phalanx Road (County Route 54) and Bridge No. A-38, both of which were constructed prior to the passage of the Watershed Protection and Moratorium Act. Although the County holds a right-of-way ("ROW") for Phalanx Road, the current road configuration does not align with the ROW. Therefore, the portions of the road and bridge that are located outside the ROW constitute an encroachment on NJAWC's property.

The County determined that both the configuration of Phalanx Road and the structural condition of Bridge No. A-38 are unsafe. The current road configuration restricts visibility causing vehicles to favor driving either closer or over the centerline and resulting in various vehicular accidents including fatalities. Overall, the bridge is structurally deficient. The County has decided to conduct the following construction activities to alleviate the existing unsafe conditions: mill and overlay of the existing roadway approaches, realign the roadway, regrading, replace the existing three-span bridge, install bridge sidewalks and guiderails, and relocate utility poles within the realigned ROW. To facilitate construction of the Project, the County is requesting a permanent, non-exclusive, right-of-way easement of approximately 1.436 acres over NJAWC's property.

The Project will resolve the existing roadway encroachment by establishing a ROW for the realigned Phalanx Road. Since the County will not be using portions of the existing ROW for the realignment, the County proposes to abandon these ROW areas and convey approximately 27,868 square feet (0.64 acres) of land, in fee, to NJAWC as new watershed property.

The County has identified 57 trees within the proposed permanent easement that may be removed as a result of the Project. To mitigate any tree removal resulting from the Project, the County is proposing a

tree planting plan to reforest portions of the County ROW where Phalanx Road will be removed and realigned. The tree planting plan will include 171 trees, resulting in a 3 to 1 replacement ratio.

A 30-day written public comment period was held on this exemption request and Board Staff did not receive any public comment on this application.

DAG Gersten asked if there were any comments. Hearing none, DAG Gersten asked for a motion on this item. Chief Regulatory Officer Palombi moved to approve this project and Assistant Director Yeany seconded. All three members of the Board voted to approve the exemption request.

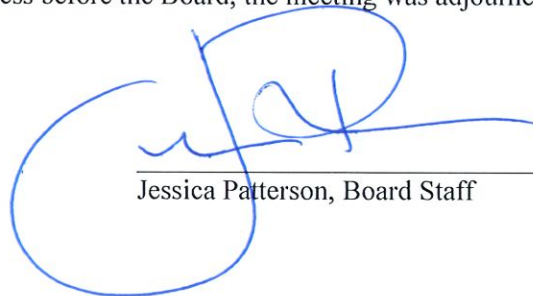
IV. Update on the Activities of the WPRB Staff Since the Previous Board Meeting in July 2023

DAG Gersten provided an update on Board Staff activities since the previous Board meeting in July 2023. Updates included Staff continuing the review of an exemption request the Board received from the City of Salem ("City") and NJAWC for a proposed conveyance of the City's water and wastewater system. NJAWC also recently approached Staff regarding a possible sale of property to the New Jersey Conservation Foundation in the Township of Clinton, Hunterdon County. Veolia recently notified Staff of a possible permanent easement conveyance to Bergen County to improve drainage facilities in the Borough of Woodcliff Lake, Bergen County. Staff will continue to work with these applicants and will bring forth any requests that are complete for review at the next Board meeting. There were no comments from the members of the Board on this agenda item.

Given the requirements of the OPMA regarding meeting minutes and the time lapse between Board meetings, DAG Gersten noted that the Board had designated Chief Regulatory Officer Palombi authority to review and approve meeting minutes. DAG Gersten recommended that this arrangement continue and no objections were raised by the Board.

DAG Gersten asked if there were any final comments or questions for Staff, hearing none, asked for a motion to adjourn the meeting. President Sadovy moved and Chief Regulatory Officer Palombi seconded. The Board unanimously voted to adjourn the meeting.

There being no further business before the Board, the meeting was adjourned at 1:20 PM.



Jessica Patterson, Board Staff

Dated: April 9, 2024