

NOTE: THIS IS A COURTESY COPY OF THIS PLAN AMENDMENT PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE FEBRUARY 20, 2024, NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATERSHED AND LANDMANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Proposed Amendment to the Northeast Water Quality Management Plan

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Northeast Water Quality Management (WQM) Plan in accordance with the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15. The proposed amendment, identified as the “Collins Brook Estates” (Program Interest No. 435442, Activity No. AMD230003) would expand the sewer service area (SSA) of the Livingston Water Pollution Control Facility (WPCF) (NJPDES No. NJ0024511) by 0.51 acres to serve a proposed residential development located on a portion of Block 2700, Lots 62 and 63, in Livingston Township, Essex County. Most of the 1.791-acre project site is located within the currently adopted SSA. Two existing homes on the site will be removed and replaced with 32 two- and three- bedroom townhouse/apartment units in five separate buildings (comprised of 3 two-bedroom apartments, 3 three-bedroom apartments, 18 two-bedroom townhouses and 8 three-bedroom townhouses). The portion of the property located outside of the currently adopted SSA is proposed to have 2 three-bedroom apartments, one two-bedroom apartment, 2 three-bedroom townhouses and 4 two-bedroom townhouses. The portion of the proposed project located outside of the SSA will

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generate 2,325 gallons per day (gpd) of the total 8,025 gpd based on flow calculated in accordance with N.J.A.C. 7:14A-23.3.

This notice represents the Department's determination that the proposed amendment is compliant with the applicable regulatory criteria at N.J.A.C. 7:15, as described below.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations to the eligible SSA needed to address a specific project or activity. N.J.A.C. 7:15-3.5(j)2 requires that site specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater flow shall include a proposed 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. The proposed project involves less than 100 acres of proposed SSA and will generate less than 20,000 gpd of wastewater flow; therefore, update of the wastewater treatment capacity analysis is not required.

Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSA, except as otherwise provided at N.J.A.C. 7:15-4.4(i), (j), (k), and (l): environmentally sensitive areas (ESAs) identified pursuant to N.J.A.C. 7:15-4.4(e), as any contiguous area of 25 acres or larger consisting of any of the following, alone, or in combination: endangered or threatened wildlife species habitat, Natural Heritage Priority Sites, riparian zones of Category One (C1) waters and their tributaries, or wetlands; coastal planning areas identified at N.J.A.C. 7:15-4.4(f), and; ESAs subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the project site using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <https://gisdata->

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nidep.opendata.arcgis.com and/or other information as noted below, to determine the presence of any such areas in accordance with N.J.A.C. 7:15-4.4(e), (f), and (g) and made the following findings:

- The Department determined that the expanded sewer service area contains areas mapped as threatened and endangered wildlife species Rank 4 Bald Eagle foraging habitat on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife based on the "Landscape Project Data" Version 3.3 GIS data layers, in accordance with N.J.A.C. 7:15-4.4(e)1. The applicant submitted a Habitat Suitability Determination/Habitat Impact Assessment (HSD/HIA), prepared by E2 Project Management LLC, prepared pursuant to N.J.A.C. 7:15-4.6 and-4.7. Based on review of the HSD/HIA and existing information, the Department determined that the project site is sufficiently distant from the Canoe Brook foraging habitat. That factor, combined with the level of development on adjacent parcels and quality of the overall habitat allowed the finding that the project would thus result in minimal or discountable impacts to the bald eagle foraging habitat.
- The Department determined that the proposed SSA does not contain any areas mapped as Natural Heritage Priority Sites based on the "Natural Heritage Priority Sites" GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)2.
- The Department determined that the proposed SSA does not contain any C1 waters or 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC-14 watershed of any C1 waters based on the "Surface Water Quality Standards" GIS data layer, in accordance with N.J.A.C. 7:13-4.1(c)1 and 7:15-4.4(e)3.

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- The Department determined that the proposed SSA does not contain wetlands based on the “Wetlands 2012” GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4. The applicant provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File # 0710-22-0007.1 confirming that there are no wetlands within the proposed sewer service area.
- The Department determined that the proposed SSA does not contain any areas mapped as Fringe Planning Areas, Rural Planning Areas, or Environmentally Sensitive Planning Areas within the Coastal Area Facility Review Act (CAFRA) zone based on the “CAFRA (polygon)” GIS layer and the “State Plan Data” GIS layer, in accordance with N.J.A.C. 7:15-4.4(f).
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project based on the U.S. Environmental Protection Agency (USEPA) list of New Jersey Grantees with ESA Grant Conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2> in accordance with N.J.A.C. 7:15-4.4(g).

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in adopted zoning ordinances, future land uses shown in adopted municipal and county master plans, and other local land use objectives. The proposed project received Planning Board approval, including Conditional Site Plan Approval on September 20, 2022, from the Township of Livingston Planning Board. As stated in the October 6, 2023, Letter from the Livingston Township Engineer, the proposed project received Planning Board Approval and is consistent with the Township Master Plan. The Essex County Department of Public Works Planning Board issued a letter dated November 5, 2023, stating the site plan was approved by the Essex County Planning

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Board on October 25, 2022, and the proposed project is consistent with the goals of the Essex County Plan and County planning objectives and goals.

This notice is to inform the public that a plan amendment has been proposed for the Northeast WQM Plan. All information related to this plan and the proposed amendment is located at:

New Jersey Department of Environmental Protection
Division of Watershed Protection & Restoration
Bureau of NJPDES Stormwater Permitting and Water Quality Management
Water Quality Management Planning Program
PO Box 420, Mail Code 501-02A
501 East State Street
Trenton, New Jersey 08625-0420

The Department's file is available for inspection between 9:00 A.M. and 4:00 P.M., Monday through Friday, upon request. An appointment to inspect the file must be arranged by calling the Bureau of NJPDES Stormwater Permitting & Water Quality Management (609) 633-7021.

Interested persons may submit written comments on the proposed amendment to the Department at the address cited above or at the email: wqmp.publiccomments@dep.nj.gov. Comments should reference Program Interest No. 435442, Activity No. AMD230003 and must be submitted within 30 days of the date of this public notice.

Interested persons may request in writing that the Department hold a nonadversarial public hearing on the amendment or extend the public comment period specified in this notice.

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Such requests should reference Program Interest No. 435442, Activity No. AMD230003 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined at N.J.A.C. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the Department address cited above. Should the Department decide to hold a public hearing, additional notice will be published in a future issue of the New Jersey Register and the comment period will be extended to 15 days after the public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department before making a final decision on the proposed amendment.

Sewer service is not guaranteed should this amendment be adopted as it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA 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.

1/19/2024
Date

Signed
Gabriel Mahon, Bureau Chief
Bureau of NJPDES Stormwater Permitting & Water
Quality Management
Division of Watershed Protection and Restoration
New Jersey Department of Environmental Protection