

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**WATER RESOURCES MANAGEMENT**

**DIVISION OF WATER MONITORING AND STANDARDS**

**Adopted Amendment to the Ocean County Water Quality Management Plan**

**Public Notice**

**Take notice** that on October 1, 2018, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Statewide Water Quality Management Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment (Program Interest No. 435448, Activity No. AMD170006) to the Ocean County Water Quality Management (WQM) Plan and the Ocean County Wastewater Management Plan (WMP). This amendment, submitted by Connell Foley LLP on behalf of Shapiro Development Company LLC, expands the sewer service area (SSA) of the Ocean County Utilities Authority (OCUA) Southern Water Pollution Control Facility by 0.74 acres to serve a proposed residential development identified as the "Shapiro Property".

The proposed project consists of four five-bedroom single-family homes on a portion of Block 1.61, Lot 1, Long Beach Township, Ocean County, west of South Long Beach Boulevard (County Route 607) and north of Rosemma Avenue. Preliminary notice was published in the New Jersey Register on June 4, 2018 at 50 N.J.R. 1382(a). No comments were received during the comment period.

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

This amendment has been reviewed pursuant to the Water Quality Management Planning rules at N.J.A.C. 7:15. This notice represents the Department's determination that the amendment is compliant with the regulatory criteria at N.J.A.C. 7:15-3.5 and 4.4 and serves as public notice of the Department's final decision pursuant to N.J.A.C. 7:15-3.5(g)11. Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), certain coastal planning areas, or areas subject to US Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

Pursuant to N.J.A.C. 7:15-4.4(e), ESAs are any contiguous area, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Rank 3, 4, or 5; areas mapped as Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300-foot riparian zone based upon the Flood Hazard Area Control Act Rules, N.J.A.C 7: 13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable

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

habitat for threatened and endangered wildlife species Ranks 3 (State threatened), Rank 4 (State endangered), or Rank 5 (Federal endangered or threatened) are not to be included in SSAs except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as threatened or endangered wildlife species habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.3, available at <http://www.nj.gov/dep/gis/listall.html> and determined that a portion of the proposed project site is mapped as habitat for Rank 3 Black-Crowned Night Heron, Rank 3 and Rank 4 Cattle Egret, and Rank 4 Least Tern, Osprey, and Yellow-Crowned Night Heron. N.J.A.C. 7:15-4.4(j)2 provides that an applicant may rebut the presumption that the Department's environmental data is accurate by providing a Habitat Suitability Determination (HSD) prepared pursuant to N.J.A.C. 7:15-4.6 demonstrating that an area is not suitable habitat for endangered or threatened wildlife species. On November 9, 2017, the applicant submitted a HSD prepared by EcolSciences, Inc. Department review of the HSD determined that the proposed project site does not presently function as a critical wildlife habitat nor does it provide all the necessary components to sustain endangered or threatened species for the following reasons:

- the site is primarily mapped as potential foraging habitat for the above referenced species with no critical nesting or rookery habitat identified;
- the expanded sewer service area contains a type of habitat is not commonly used for foraging by the above species; and

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

- due to the presence of nearby houses and roads and the overall property size, the entire proposed project site is not suitable habitat for the above species.

Therefore, the Department has determined that the habitat is not suitable for the identified species. To protect nearby off-site foraging habitat from the impacts of the proposed project, the Department will require the applicant to plant vegetation that will create a visual screen between the nearby foraging habitat and the human disturbance associated with the proposed development. The applicant agreed to provide such screening vegetation in a March 8, 2018 email from Michelle Tantalla of Connell Foley LLP.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as Natural Heritage Priority sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. Areas mapped as Natural Heritage Priority Sites are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and determined that there are no Natural Heritage Priority Sites located within the expanded SSA for this project.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3. Areas identified as Category One waters and their corresponding 300-foot riparian zones are not to be included in SSAs, except as provided at

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

N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and determined that there are no Category One waters or corresponding 300-foot riparian zones located within the expanded SSA for this project.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and determined that there are wetlands mapped on the project site. The proposed project site was previously mapped as coastal wetlands. On September 16, 2016, the Department approved the applicant's request for a coastal zone map amendment, after evaluating the impacts to the site from Hurricane Sandy, which removed the sandy upland area of property from Department's coastal wetlands mapping (see October 17, 2016 New Jersey Register at 48 N.J.R. 2130(a)).

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSA, except, as provided under N.J.A.C. 7:15-4.4(f)1 and

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

2, to abate an existing imminent public health and safety issue, to accommodate infill development or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/install.html> and determined that, while the proposed project site is located within a Coastal Environmentally Sensitive Planning Area, it qualifies for the infill exemption provided under N.J.A.C. 7:15-4.4(f)2. N.J.A.C. 7:15-1.5 defines infill development as the development of undeveloped or underdeveloped land in an area that is contiguous to and substantially surrounded by developed land served by a wastewater treatment facility as of November 7, 2016, and that will generate less than or equal to 8,000 gallons per day (gpd). N.J.A.C. 7:15-4.4(f)2 provides that Coastal Environmentally Sensitive Planning Areas shall not be identified as eligible for SSA unless documentation is provided demonstrating that their inclusion is necessary to accommodate infill development or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in Department GIS coverages. The western, eastern, and southern boundaries of the expanded SSA are substantially and significantly developed, are served by the OCUA Southern Water Pollution Control Facility and will generate only 1,200 gpd of wastewater flow based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. Therefore,

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

the Department has determined that the expanded SSA will accommodate infill development as provided under N.J.A.C. 7:15-4.4(f)2.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from SSA, unless documentation can be provided demonstrating that a mapping waiver has been obtained from EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSA to ESAs, the Department reviewed the EPA list of New Jersey Counties with ESA Grant Conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2> and determined that there are no 201 Facilities Plan grant conditions applicable to the expanded SSA for this project.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. On November 20, 2017, the Long Beach Township Engineer issued a letter stating that the proposed project is consistent with the Township's zoning ordinances and master plan. On November 17, 2017, the Ocean County Planning Board issued an email stating that the Board would not advance a position regarding the consistency of the proposed amendment with the county master plan.

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

Pursuant to N.J.A.C. 7:15-3.5(j)2, applicants for projects that propose to add 100 or more acres to the SSA, or where the additional SSA would generate 20,000 gpd or more of wastewater must perform a wastewater treatment capacity analysis to include the proposed project or activity, pursuant to N.J.A.C. 7:15-4.5(b). The proposed project would add 0.74 acres to the SSA and generate a projected wastewater flow of 1,200 gpd to be received by OCUA Southern Water Pollution Control Facility. Therefore, no wastewater treatment capacity analysis is required for this amendment.

N.J.A.C. 7:15-3.5(g)6 requires the applicant to request a written statement of consent from all identified governmental entities, sewerage agencies, and BPU-related sewer and water utilities that may be affected by, or otherwise have a substantial interest in, adoption of this amendment. Accordingly, the Department instructed the applicant to request written statements of consent from OCUA, the Long Beach Township Board of Commissioners, and a resolution from the Ocean County Board of Chosen Freeholders. OCUA stated, in a letter dated May 25, 2018, that it would not take a formal position in support or opposition to the proposed amendment. On July 2, 2018, the Long Beach Township Board of Commissioners adopted Resolution 18-0702.06 in support of the proposed amendment. On July 18, 2018, the Ocean County Board of Chosen Freeholders adopted Resolution 2018000849 in support of the proposed amendment.

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

Sewer service is not guaranteed by this amendment. This amendment represents only one part of the permit process and other issues may need to be addressed. Inclusion in the sewer service area 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.

October 1, 2018

SIGNED

Date \_\_\_\_\_

\_\_\_\_\_

Bruce S. Friedman, Director

Division of Water Monitoring and Standards