



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Commissioner

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Lt. Governor

Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.nj.gov/dep/landuse

OCT 30 2019

Randy Csik
American Properties at West Windsor, LLC
517 Route 1 South
Suite 2100
Iselin, NJ 08830

RE: Freshwater Wetlands Letter of Interpretation: **Line Verification**
File and Activity No.: 1113-04-0011.3 FWW190001
Applicant: American Properties at West Windsor, LLC
Block and Lots: [28; 15 and 21]
West Windsor Township, Mercer County

Dear Mr. Csik:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Use Regulation (Division) staff verify the boundary of the freshwater wetlands 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 Division 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 July 31, August 27, and September 10, 2019, the Division has determined that the wetlands and waters boundary lines as shown on the plan maps entitled: **"WETLANDS SURVEY PREPARED FOR AMERICAN PROPERTIES REALTY SITUATED IN THE LOTS 15 & 21 IN BLOCK 28 IN THE TOWNSHIP OF WEST WINDSOR MERCER COUNTY, NEW JERSEY"**, consisting of five sheets, dated January 23, 2019, last revised **September 30, 2019**, and prepared by Nancy J. Scott, P.L.S. of Ensurlan, Inc., is accurate as shown.

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-referenced 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:

Intermediate: All freshwater wetlands shown on the approved plans [50-foot wetland buffer]

State Open Water: Within the wetland boundaries [No wetland buffer]

The Division has determined that the following delineated wetlands are isolated and not part of a surface water tributary system: [W2-1/7 through W2-6] and [W4-1 to W4-5]. RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-9 and 10), the types of Statewide General Permits by Certification or Statewide General Permits available for the property (see N.J.A.C. 7:7A-5, 6 and 7) and any modification available through a transition area waiver (see 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 Department. 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.

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 wetland, wetland transition area or water area, as defined by 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 and 2.5. The approved plan 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 on-site. 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 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 lot lies in a freshwater wetland and/or transition area. Certain activities in wetlands and transition 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 Use Regulation at (609) 292-0060 or <http://www.nj.gov/landuse> for more information prior to 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 Legal Affairs, Attention: Adjudicatory Hearing Requests, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/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 see the website www.nj.gov/dep/odr for more information on this process.

Please contact Ariana Tsiattalos of our staff by e-mail at Ariana.Tsiattalos@dep.nj.gov or by phone at (609) 633-6563 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,



Tina Wolff, Environmental Specialist 3
Division of Land Use Regulation

c: West Windsor Township Municipal Clerk
West Windsor Township Municipal Construction Official
Agent (original) – Edward A. Kuc