

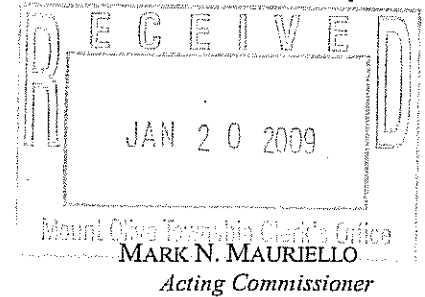


State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Watershed Management
Bureau of Watershed Regulation
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JON S. CORZINE
Governor



JAN 15 2009

Donald Witmond
Woodmont Capital Assets, LLC
119 Cherry Hill Road
Suite 110
Parsippany, New Jersey 07054

Re: Bennington Chase at Mount Olive
Block: 7102, Lot: 2
4 Donna Lane
Mount Olive Township, Morris County
Upper Raritan Water Quality Management Plan (WQMP)
Program Interest No.: 435434
Activity No.: CSD080018

Agency Determination: **Highlands Act – Exempt**
Exemption #2
Water Quality Management Plan – Consistent

Dear Mr. Witmond:

This letter is forwarded in reply to your recent request for a Highlands Applicability Determination and Water Quality Management Plan Consistency Determination. Based on the information submitted, it has been determined that your proposed project/activity is located within the Highlands Preservation Area. Therefore, your project/activity has been reviewed to determine the applicability of the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38 (Highlands Rules) as well as the requirements defined in the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15.

The project/activity subject of this review includes: the construction of a five-bedroom, single-family dwelling on a 1.01 acre lot identified as Block 7102, Lot 2, in Mount Olive Township, Morris County, New Jersey. The project proposes a total of 43,516 square feet of ultimate disturbance and proposes to increase the impervious covering on the property by 8,814 square feet. The project proposes to discharge 800 gallons per day to an individual subsurface sewage disposal system. The project is as shown on the

plan prepared by Marc G. Walker, licensed New Jersey Professional Engineer and Kenneth D. Dykstra, licensed New Jersey Professional Engineer and Land Surveyor, of Dykstra Walker Design Group, dated October 28, 2008, unrevised and titled "PLOT PLAN BLOCK 7102 LOT 2 DONNA LANE TOWNSHIP OF MOUNT OLIVE MORRIS COUNTY NEW JERSEY", sheet 1 of 1.

During the application review process, items of information appeared to be missing and/or inaccurate and, therefore, were requested in a Notice of Technical Incompleteness dated August 27, 2008. On October 2, 2008 a request for a 60-day extension to submit the requested information was received. Requested items of information were received on November 3, 2008. On December 15, 2008 additional information was requested in a phone call and received on December 23, 2008.

The Department of Environmental Protection (Department) reviewed the materials submitted to determine the applicability of the provisions of the Highlands Rules. As a result, the Department has determined that your project/activity is potentially affected because it meets the definition of "Major Highlands Development," as defined at N.J.A.C. 7:38-1.4, since it is a residential development that, as stated in the submitted application, would require a Department environmental land use or water permit. However, the Highlands Rules at N.J.A.C. 7:38-2.3 sets forth various exemptions. After a careful review of the information submitted, it has been determined that your project/activity qualifies for the following exemption:

Construction of a single family dwelling on a lot in existence on August 10, 2004 provided construction does not result in one or more acres of disturbance or one-quarter acre or more of new impervious surfaces.

Supporting documentation includes:

- The Deed for Block 7102, Lots 2 and 3, dated April 1, 1998, filed with Morris County April 14, 1998, listing GW&D Mt. Olive 107, L.P. (grantor) and Woodmont Capital Assets, L.L.C. (grantee).
- A letter signed by Donald Witmond, dated December 15, 2008, notarized by Kimberly A. Criscuolo, Notary Public of New Jersey, on December 15, 2008, and stating that Block 7102, Lot 2 has not been subdivided, merged or in other ways had its lot lines adjusted subsequent to the date of the submitted deed and survey.
- A survey prepared by Kenneth D. Dykstra, licensed New Jersey Professional Engineer and Land Surveyor, dated October 28, 2008, and titled "BOUNDARY AND TOPOGRAPHIC SURVEY PLAN BLOCK 7102, LOT 2 DONNA LANE TOWNSHIP OF MOUNT OLIVE MORRIS COUNTY NEW JERSEY", sheet 1 of 1.
- The aforementioned site plan prepared by Marc G. Walker, P.E. and Kenneth D. Dykstra, P.E. and L.S., dated October 28, 2008. Included on the plan were supporting calculated values for impervious surfaces and areas of disturbance for the project/activity.

Therefore, the proposed project/activity is deemed exempt from the provisions of the Highlands Rules, subject to the following limitation(s):

This exemption determination is limited to the land area and specific scope of the activities described herein or as shown on the referenced site plan above. This determination does not eliminate the need for any permits, approvals, or certifications required by the Department or any Federal, State, county or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include, but are not limited to: sewer extension and discharge approvals under the Water Pollution Control Act (N.J.S.A. 58:10A), water main extensions under the Safe Drinking Water Act (N.J.S.A. 58:12A), approval under the Realty Improvement Sewerage and Facilities Act (N.J.S.A. 58:11-23 et seq.), water allocation or registration pursuant to the Water Supply Management Act (N.J.S.A. 58:1A), approvals under the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B) and approvals under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.).

This determination is limited to the extent of activities shown on the referenced site plan and shall not result in one acre or more of land disturbance or an increase of impervious surface of one-quarter acre or more. Therefore, no additional impervious surfaces such as a shed, pool, deck, addition, or other improvement (see N.J.A.C. 7:38-2.3(a)5) may be added to the property in the future that would cause such threshold to be reached. Should additional disturbance beyond the metes and bounds area delineation (depicted on the above referenced site plan) or impervious covering occur that would reach or exceed either of these thresholds, this determination shall be null and void.

Prior to obtaining any building permits for the project, the applicant must modify the deed for the subject property to include the required Notice of Highlands Applicability language and submit a copy of the deed to the Department. Until such date that the above requirement is met, this exemption will not be considered to be final. Enclosed is an example of the Notice of Highlands Applicability that should be included in the referenced property deed.

It is permissible to slightly modify the above-cited plan to allow for additional impervious surface or ultimate disturbance or to slightly modify the metes and bounds disturbance area delineation without the need for separate concurrence of this Department as long as the required thresholds are not met or exceeded.

The Department also reviewed your project/activity for consistency with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15 and the provisions and recommendations of the Upper Raritan WQMP. Based on our review, the proposed project is consistent with the WQMP. This determination is made based on the following:

The project/activity will be served by an individual subsurface sewage disposal system with a discharge to groundwater less than 2,000 GPD.

A copy of this determination letter must be enclosed with any future permit application(s) filed with the Department.

This Highlands Applicability and Consistency Determination is subject to the following limitations:

- (1) This determination does not eliminate the need for any permits, approvals, or certifications required by the Department or any Federal, State, County or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include, but

are not limited to, sewer extension and water main extension approvals, a water allocation, approvals under the Freshwater Wetlands Protection Act Rules, (N.J.A.C. 7:7A) and approvals required under the Flood Hazard Area Control Act Rules, (N.J.A.C. 7:13).

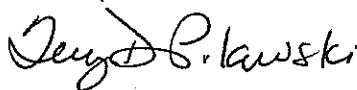
- (2) The issuance of this determination shall not obligate the Department to issue any other approvals, permits or certifications required for this project/activity.
- (3) This determination shall be considered null and void if changes are made to the project that would increase the scope or area disturbed by the project, or result in a change in the use or change the method of wastewater treatment; or if the information submitted to obtain this determination from the Department is later determined to be inaccurate.

Let it be noted that this project, Whispering Woods and or Bennington Chase, was published in the August 20, 2008 DEP Bulletin and no public comments were received.

If the applicant disputes the Department's factual findings or any of its conditions or if anyone is aggrieved by this determination, that person may request an adjudicatory hearing. A request for an adjudicatory hearing shall be submitted in writing by certified mail, or by other means which provides verification of the date of delivery to the Department, within 30 days of notice of this decision published in the DEP Bulletin in accordance with N.J.A.C. 7:38-1.5. The adjudicatory hearing request must be accompanied by a completed Adjudicatory Hearing Request Checklist and Tracking Form (form enclosed).

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Division of Watershed Management. If you have any questions or require further assistance, please call Rebecca Hill at (609) 984-6888.

Sincerely,



Terry Pilawski, Chief
Bureau of Watershed Regulation

Enclosure(s)

- c: Donald Witmond, Managing Member, Woodmont Capital Assets, LLC
Lisa Lashway, Mount Olive Township Clerk
Gary Lindsay, Mount Olive Township Construction Official
Catherine Natafalusy, Mount Olive Township Planning Board
Kathy Murphy, Mount Olive Township Environmental Commission
Ray Zabihach, Morris County Planning Board
Cindy Sopka, Morris County Environmental Commission
Chris Ross, Highlands Council
Michael Nystrom, NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (w/o encl.)
Dan Bello, NJDEP, Bureau of Inland Regulation (w/o encl.)

Barry Miller, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Rebecca Hill, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Abigail Amutah, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Bureau of Watershed Regulation – File

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