



**TOWNSHIP of HOPEWELL
MERCER COUNTY**

**201 WASHINGTON CROSSING – PENNINGTON ROAD
TITUSVILLE, NEW JERSEY 08560-1410**

PROJECT / APPLICATION

BLOCK:

LOT:

ADDRESS:

PROJECT NAME:

**DEP LAND USE APPROVALS
LOI - WETLANDS PLAN**



State of New Jersey

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Watershed & Land Management Program
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.nj.gov/dep/landuse

SHAWN M. LATOURETTE
Commissioner

September 28, 2023
via email

Greg Kanter
Heritage at Hopewell, LLC
517 Route 1 South, Suite 2100
Iselin, NJ 08830

RE: **Administrative Modification** – Flood Hazard Area Individual Permit, Flood Hazard Area Verification, Freshwater Wetlands General Permit 2, Freshwater Wetlands General Permit 6, Freshwater Wetlands General Permit 7, Freshwater Wetlands General Permit 11, Transition Area Waiver Averaging Plan, and Water Quality Certificate.
File and Activity No.: 1106-08-0012.1 LUP230001
Applicant: Heritage at Hopewell, LLC c/o Greg Kanter
Block and Lot: [78, 17]
Hopewell Township, Mercer County

Dear Mr. Kanter:

Watershed and Land Management (Program) issued the above-referenced permit on September 22, 2023 under the subject File and Activity No. (original permit). This letter serves as an administrative modification to correct typographical errors identified within two of the Statement of Authorized Impact tables titled: “FHA-IP Riparian Zone” and “FWW-GP11 Outfalls/Intake Structures”, in accordance with N.J.A.C. 7:13-22.5(c)1 and N.J.A.C. 7:7A-20.6(c)1. The Program **hereby approves** the following administrative modification:

ADMINISTRATIVE MODIFICATION:

The section of the original permit entitled “STATEMENT OF AUTHORIZED IMPACTS” is **hereby amended** to include the following updated tables showing the modified impacts **bolded** and underlined:

FHA-IP Riparian Zone	Area of total disturbance
Permanent Disturbance	<u>5,172 square feet (0.119 acres)</u>
Temporary Disturbance	0

FWW-GP2 Underground Utility Lines	Permanent Disturbance	Temporary Disturbance
Freshwater wetlands	6,123 square feet (0.141 acres)	0
Transition areas	<u>3,752 square feet (0.086 acres)</u>	0
State open waters	94 square feet (0.002 acres)	0

FWW-GP6 Non-Tributary Wetlands	Permanent Disturbance	Temporary Disturbance
Freshwater wetlands	3,264 square feet (0.075 acres)	0
Transition areas	715 square feet (0.016 acres)	0

FWW-GP7 Human-made Ditches /Swales in Headwaters	Permanent Disturbance	Temporary Disturbance
Freshwater wetlands	1,181 square feet (0.027 acres)	0

FWW-GP11 Outfalls/Intake Structures	Permanent Disturbance	Temporary Disturbance
Freshwater wetlands	1,257 square feet (0.029 acres)	0
Transition areas	3,451 square feet (0.079 acres)	0
State open waters	157 square feet (0.004 acres)	0

Transition Area Waiver Averaging Plan at N.J.A.C. 7:7A-8.2	Modification	Area of modified transition area
	Transition Area Reduction	10,305 square feet (0.237 acres)
	Transition Area Compensation	10,956 square feet (0.252 acres)

Please be advised that all other conditions of the permit remain in effect and this administrative modification approval does not expand the permit beyond the expiration date of September 21, 2028. **This letter supersedes the original** and shall be appended to the original permit issued.

Appeal Process

In accordance with the applicable regulations, 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, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, 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 at www.nj.gov/dep/odr for more information on this process.

If you have any questions regarding this letter, please contact Ariana Tsiaitalos by email at Ariana.Tsiaitalos@dep.nj.gov or by phone at (609) 777-0454. Be sure to indicate the file number in all communication, Thank you.

Sincerely,



Ariana Tsiaitalos, Environmental Specialist III
Watershed & Land Management

e-copy: Township Clerk
Agent

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERSHED & LAND MANAGEMENT
 Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
 Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.nj.gov/dep/landuse



PERMIT

<p>In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the terms, conditions, and limitations listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition, or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.</p>		<p>Approval Date September 22, 2023</p> <p>Expiration Date September 21, 2028</p>
Permit Number(s): 1106-08-0012.1 LUP230001	Type of Approval(s): Flood Hazard Area Individual Permit Flood Hazard Area Verification Freshwater Wetlands General Permit 2 Freshwater Wetlands General Permit 6 Freshwater Wetlands General Permit 7 Freshwater Wetlands General Permit 11 Transition Area Waiver Averaging Plan Water Quality Certificate	Governing Rule(s): N.J.A.C. 7:13-1.1(b) N.J.A.C. 7:7A-1.1(a)
<p>Permittee: Greg Kanter Heritage at Hopewell, LLC 517 Route 1 South, Suite 2100 Iselin, NJ 08830</p>		<p>Site Location: Block and Lot: [78, 17] Municipality: Hopewell Township County: Mercer</p>
<p>Description of Authorized Activities:</p> <p>This document authorizes the development of a townhome and affordable housing apartment community with associated roadways, parking areas, stormwater management features, and other appurtenances on the parcel referenced above. This authorization also verifies the flood hazard area, floodway, and riparian zone limits on the site.</p> <p>This authorization to conduct activities in wetlands and/or waters includes the issuance of a Water Quality Certificate.</p> <p><i>The Department has determined that the herein approved activities meet the requirements of the FHACA rules. This approval does not obviate the local Floodplain Administrator's responsibility to ensure all development occurring within their community's Special Flood Hazard Area is compliant with the local Flood Damage Prevention Ordinance, and minimum NFIP standards, regardless of any state-issued permits. FEMA requires communities to review and permit all proposed construction or other development within their SFHA in order to participate in the NFIP.</i></p> <p>This permit is not valid, and no disturbance of any regulated area is authorized until the conservation restriction as noted in Pre-Construction Condition No. 1 is recorded with the appropriate County officials and a record of said filing is submitted to the Division of Land Resource Protection.</p>		
<p>Prepared by: Erin Signor</p> <p>If the permittee undertakes any regulated activity, project, or development authorized under this permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the requirements of the permit and all conditions therein.</p>		<p>Received and/or Recorded by County Clerk:</p>
<p>This permit is not valid unless authorizing signature appears on the last page.</p>		

STATEMENT OF AUTHORIZED IMPACTS:

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:13-24 and N.J.A.C. 7:7A-22.

FHA-IP Riparian Zone	Area of total disturbance
Permanent Disturbance	5,091 square feet (0.117 acres)
Temporary Disturbance	0

FWW-GP2 Underground Utility Lines	Permanent Disturbance	Temporary Disturbance
Freshwater wetlands	6,123 square feet (0.141 acres)	0
Transition areas	3,752 square feet (0.086 acres)	0
State open waters	94 square feet (0.002 acres)	0

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Freshwater wetlands	51,257 square feet (0.029 acres)	0
Transition areas	3,451 square feet (0.079 acres)	0
State open waters	157 square feet (0.004 acres)	0

Transition Area Waiver Averaging Plan at N.J.A.C. 7:7A-8.2	Modification	Area of modified transition area
	Transition Area Reduction	10,305 square feet (0.237 acres)
	Transition Area Compensation	10,956 square feet (0.252 acres)

PRE-CONSTRUCTION CONDITIONS:

1. **Within 90 days of the permit issuance and prior to construction (whichever occurs first),** the property owner shall sign a Department-approved conservation restriction for the modified transition area and adjacent wetlands on the subject parcel(s) in accordance with N.J.A.C. 7:7A-8.1(e). The conservation restriction shall contain 144,279 square feet (3.312 acres) of freshwater wetlands, 75,654 square feet (1.737 acres) of modified transition areas, and 71,920 square feet (1.651 acres) of riparian zone, as shown on the approved plans, and shall preclude future disturbances within this protected footprint, unless said activity is permissible pursuant to the language of the deed restriction. The restriction shall be included on the deed and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the lands included in the waiver are located. Said restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved conservation easement boundaries and wetland and

modified transition area boundaries. Any regulated activities undertaken onsite before a copy of this recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act. The conservation restriction shall conform, verbatim, to the format and content of the model Conservation Restriction/Easement entitled "Transition Area Waiver Averaging Plan" on the Division's website at: http://www.nj.gov/dep/landuse/download/lur_036.pdf. A digital copy of the recorded conservation restriction shall be forwarded to the Division's project manager via email at Ariana.Tsiattalos@dep.nj.gov prior to the commencement of any regulated activities.

2. Prior to commencement of site clearing, demolition, grading, or construction onsite, the permittee shall install a sediment barrier at the limits of disturbance authorized herein and at the limits of the freshwater wetlands transition area as **modified herein**, which is sufficient to prevent the sedimentation of the remaining regulated areas and waters onsite and shall serve as a physical barrier protecting these areas from encroachment by construction vehicles or other soil-disturbing activities. All sediment barriers and soil erosion control measures, including haybales, shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized.
3. Prior to commencement of site clearing, grading, or construction onsite, all existing trees near the project area which are not to be removed shall be marked and a protective construction fence shall be placed around each tree for the duration of construction until the site is stabilized.
4. Prior to site preparation or construction onsite, the permittee shall obtain all necessary consent from affected offsite and easement property owners. No work shall occur without proper permissions.
5. Prior to the start of any construction onsite, the permittee/owner shall record a deed notice for all stormwater management measures authorized under this permit which shall be recorded in the Office of the County Clerk or the registrar of deeds and mortgages of the county in which the development, project, project site, or mitigation area containing the stormwater management measure is located. A form of deed notice shall be submitted to the Watershed and Land Management Program (Program) for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at N.J.A.C. 7:8-5.3, 5.4, 5.5, and 5.6 and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to N.J.A.C. 7:8-5.8(d). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the Program. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the Program is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the Program within 180 calendar days of the authorization granted by the Program.

SPECIAL CONDITIONS:

1. The Department has determined that the onsite riparian zone along the Stony Brook tributaries is 50 feet. Therefore, vegetation within 50 feet of top of the bank shall only be disturbed in the areas specifically shown on the approved drawings and upon completion of the project, all temporarily disturbed areas shall be replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).

2. This authorization is based upon a Letter of Interpretation Line Verification issued by the Division of Land Resource Protection on August 17, 2018 under File and Activity No. 1106-08-0012.1 FWW170001. The Department has determined that the freshwater wetlands affected by this permit authorization are of intermediate and ordinary resource value and the standard transition area or buffer required adjacent to intermediate resource value wetlands is 50 feet, and no standard transition area is required adjacent to ordinary resource value wetlands. This authorization includes a limited transition area waiver, which allows encroachment only in that portion of the transition area determined by the Division to be necessary to access and accomplish the regulated activities. Any additional regulated activities conducted within the standard transition area onsite shall require a separate transition area waiver from the Division. Regulated activities within a transition area are defined at N.J.A.C. 7:7A-2.3. Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing Rules (N.J.A.C. 7:7A) for additional information.
3. Regulated areas onsite feature documented and suitable habitat for the federally listed endangered species Northern long-eared bat (*Myotis septentrionalis*) and Indiana bat (*Myotis sodalis*). In order to prevent adverse impacts to these species, the clearing of trees is prohibited onsite between **April 1 to September 30** of each calendar year.
4. In order to protect warm water fish within the Stony Brook tributary from sediment generating activities, any grading, excavation, or construction activities within the channel or the banks of the channel are prohibited between **May 1 and July 31** of each year. In addition, any activity within the flood hazard area or riparian zone of these watercourses which does not minimize the introduction of sediment into said stream or which could cause more than a minimum increase in the natural level of turbidity, is also prohibited anytime but especially during this period. The Department reserves the right to require additional soil conservation measures if it becomes evident that additional measures are required to protect State regulated resources, or the right to suspend all regulated activities onsite should it be determined that the permittee has not taken proper precautions to ensure continuous compliance with this condition.
5. The permittee is responsible for removing an existing unpermitted gravel road from within 1,676 square feet (0.038 acres) of transition area and 425 square feet (0.010 acres) of riparian zone, including all other surrounding unpermitted structures and conditions, and restoring **7,845 square feet (0.180 acres)** of freshwater wetlands, **12,340 square feet (0.283 acres)** of transition area, and **8,800 square feet (0.202 acres)** of riparian zone with native, non-invasive woody and herbaceous vegetation, as shown on the approved plans. In addition, the permittee shall remove **2,167 square feet (0.050 acres)** of the existing access road from within the transition area onsite and restoring the area with a native, non-invasive seed mix. Planting and seeding shall commence simultaneously with site preparation, or during the next available growing season after site preparation begins. To ensure successful establishment and survival, all plantings shall be monitored for three years with any loss of trees or shrubs replaced during the next appropriate growing season. The restoration planting area shall be allowed to revert to a natural state and not be maintained as a lawn or landscaped area.
6. Following construction and prior to certificate of occupancy, the permittee shall install a split rail fence or equivalent along the limits of the modified transition area to ensure that subsequent activities onsite do not encroach into the conservation easement areas, as shown on the approved plans. The compensation transition areas and all protected areas shall remain undisturbed and allowed to revert to a natural state and not be maintained as a lawn or landscaped area.
7. Construction equipment shall not be stored, staged, or driven within any regulated areas onsite, unless expressly approved by this permit or described on the approved plans.

8. The permanently maintained clearing over the utility line shall be no wider than 15 feet, as shown on the approved plans.
9. Any excavation within freshwater wetlands, transition areas, or State open waters shall be backfilled to preexisting elevations and with the uppermost 18 inches backfilled with original topsoil material. The permittee shall ensure that the backfilling activities do not interfere with the natural hydraulic characteristics of the freshwater wetlands, such as flow characteristics of the groundwater onsite. The wetlands and transition areas above the excavation shall be restored with an indigenous seed mix, as shown on the approved plans.
10. The trench into which the stormwater conveyance structure and utility line are placed shall be no wider than necessary to comply with the United States Occupational Safety and Health Administration safety standards for excavations set forth at 29 CFR Par 1926, Subpart P.
11. Any pipes laid through freshwater wetlands, transition areas, or State open waters which have been authorized by a Division permit shall be properly sealed to prevent leaking or infiltration and designed to not form a path for groundwater to be discharged or drained from the freshwater wetland. Pipes and backfilled materials shall be placed entirely beneath the preexisting ground elevation.
12. The transition area shall not be reduced to less than 23 feet in width at any location per the Transition Area Waiver Averaging Plan, as shown on the approved plans.
13. The permittee shall ensure that a low-flow channel is maintained throughout and after construction, and that no restriction of flow occurs as a result of the project. To reestablish low-flow aquatic passage, natural stream bed material shall be stockpiled and used for the restoration of the channel. All temporarily disturbed areas shall be immediately restored to replicate pre-construction conditions of the channel such as shape, width, thalweg, meander, ratio of shallow areas to deep areas, anticipated flow rate and velocity, and substrate type.
14. In order to minimize turbidity downstream of the project area and to maintain the water quality of the Stony Brook tributary, construction activities within the channel may only be performed during dry weather conditions or de-watered conditions. Access to the construction activities within the regulated waters onsite shall be conducted from the banks of the channel only where feasible.
15. The permittee shall prevent raw concrete from encountering the waters of the channel during all construction activities; raw concrete is toxic to aquatic biota.
16. In order to protect fish habitat within the channel onsite, no boulders or logs providing fish habitat shall be removed from the channel where feasible.
17. The permittee shall be responsible for preserving and minimizing vegetation disturbances within the freshwater wetlands and transition areas onsite. All temporary disturbances shall be restored to pre-existing elevations and replanted with native, non-invasive vegetation appropriate for the hydrologic conditions of the area.
18. The authorized activities shall comply with the applicable conditions set forth under N.J.A.C. 7:7A-5.7, 7.2, 7.6, 7.7, 7.11, 8.2, and 20.2. Failure to comply with these conditions shall constitute a violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et. seq.). Any additional unpermitted disturbance of freshwater wetlands, State open waters, or transition areas besides that

shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the disturbance.

19. Any new, reconstructed, enlarged, or elevated structure within a flood hazard area shall be secured to resist flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces from floodwaters.
20. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans.
21. All sediment barriers and other soil erosion control measures shall be installed prior to commencing any clearing, grading or construction onsite, and shall be maintained in proper working condition throughout the entire duration of the project.
22. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, which would affect water quality, increase the rate or volume of stormwater leaving the site, affect the infiltration capacity on the site, or alter the approved green infrastructure best management practices, shall be reviewed and approved by the Department by obtaining a modification or new permit as appropriate prior to construction. This includes any proposed changes to the discharge characteristics of any basin, the construction of new inlets or pipes that tie into the storm sewer network and/or the replacement of existing inlets or pipes with structures of different capacity.
23. The permittee shall make specific arrangements to ensure the continuous maintenance and efficient operation of all proposed stormwater management measures onsite. This includes the inspection (and cleaning where necessary) of any and all constructed swales, basins, inlets, and mechanical treatment devices at least four times per year and after every major storm totaling 1 inch of rainfall or more, the use of appropriate soil conservation practices onsite, and any other reasonable effort required to maintain the stormwater management system in good working order.
24. The applicant must adhere to the operations and maintenance plan for the stormwater management measures incorporated into the design of this major development in accordance with N.J.A.C. 7:8-5.8. Guidance set forth in the New Jersey Stormwater Best Management Practices Manual should be followed to the maximum extent practicable.
25. The riprap proposed within the channel must be carefully imbedded into the channel substrate and contoured to mimic the original physical characteristics of the channel (such as its shape, slope, thalweg and meander) in order to provide low-flow aquatic passage throughout the entire disturbed area. Furthermore, any void spaces within the riprap must be filled with native substrate from the channel.
26. Within 90 calendar days of the date of this permit, 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 Department that this information is recorded on the deed of each lot referenced in the verification:
 - a. The Department file number for the verification;
 - b. The approval and expiration dates of the verification;
 - c. A metes and bounds description of any flood hazard area limit and/or floodway limit approved under the verification;

- d. The flood hazard area design flood elevation, or range of elevations if variable, approved under the verification;
- e. The width and location of any riparian zone approved under the verification; and
- f. The following statement: "The State of New Jersey has determined that all or a portion of this lot lies in a flood hazard area. Certain activities in flood hazard 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 permit. Contact the Watershed and Land Management Program at (609) 777-0454 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 Department constitutes a violation of the Flood Hazard Area Control Act rules and may result in suspension or termination of the verification and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:13-24.

FRESHWATER WETLAND MITIGATION CONDITIONS:

1. The permittee shall mitigate for the permanent disturbance of **0.141** acres of forested wetlands and **0.002** acres of State open waters through an on-site or off-site creation, restoration or enhancement project or with the purchase of credits from a mitigation bank serving the appropriate watershed management area in accordance with the mitigation hierarchy. (N.J.A.C. 7:7A-11 et seq)
2. **At least 90 days prior to the initiation of regulated activities authorized by this permit**, the permittee shall submit a mitigation proposal to the Division of Watershed Protection and Restoration (Division) for review and approval. Activities authorized by this permit shall not begin until the permittee has obtained written approval of a mitigation plan from the Department (N.J.A.C. 7:7A-11.6(a)).
3. **All mitigation shall be conducted prior to or concurrent with the construction of the approved project** (N.J.A.C. 7:7A-11.3(a)). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.
4. If the permittee fails to perform mitigation within the applicable time-period the acreage of mitigation required shall be increased by 20 percent each year after the date mitigation was to begin (N.J.A.C. 7:7A-11.3(c)).
5. If the permittee is considering obtaining land to satisfy a mitigation requirement, the Department strongly recommends that the permittee obtain the Division's conceptual review and approval of any land being considered as a potential mitigation area.
6. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement, prior to the initiation of regulated activities authorized by this permit, the permittee shall submit proof of purchase for 0.143 mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Protection and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

At this time, the following bank(s) are approved to serve the project area; additional banks may be approved at any time, so please contact the Mitigation unit for the most up to date service area information if you would like additional options.

Cranbury Mitigation Bank – Contact Doug Lashley, GreenVest. Phone: (410) 987-5500 ext. 102. Email: Doug@greenvestus.com; or Brian Cramer, GreenVest. Phone: (732) 902-6644. Email: Brian@greenvestus.com.

7. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:

- a. **Prior to the initiation of regulated activities** authorized by this permit the permittee shall submit a final design of the mitigation project for approval and include all of the items listed on the checklist entitled [Checklist for Completeness: Creation, Restoration or Enhancement for a Freshwater Wetland Mitigation Proposal](#) located at <https://dep.nj.gov/wlm/forms/>.
- b. The permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:7A-11.17)
- c. **Prior to the completion of the mitigation project**, the permittee shall complete, sign and file with the County Clerk (the Registrar of Deeds and Mortgages in some counties), a conservation restriction that meets the requirements of N.J.A.C. 7:7A-12.1. The conservation restriction shall include the wetland and required transition area and conform to the format and content of the Wetlands Mitigation Area model conservation restriction that is available at: <https://dep.nj.gov/wlm/forms/>. The permittee is required to include a metes and bounds description shown on a map. Within 180 days of the issuance of the mitigation approval, the recorded conservation restriction shall be provided to the Mitigation Unit, Division of Watershed Protection and Restoration for verification. (N.J.A.C. 7:7A-12.1 et. seq.)
- d. The permittee shall notify the Mitigation Unit at the Division of Watershed Protection and Restoration in writing **at least 30 days prior to the start of construction of the wetland mitigation project** to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.
- e. To ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape, the mitigation designer shall be present on-site during all critical stages of mitigation construction and during the restoration of any temporarily impacted areas. Critical stages of construction include but are not limited to herbicide applications, earthmoving activities, planting, and inspections.
- f. The permittee shall be responsible for ensuring that best management practices are used throughout construction to control the spread and colonization of highly invasive plants. Specifically, all equipment, especially tracks and tires, must be thoroughly cleaned every time equipment or vehicles move from an area containing invasive plants or from off-site to the mitigation area. In addition, soil containing root fragments and above-ground vegetative material from invasive plants shall be carefully managed during earthmoving activities and disposed of at a suitable off-site location rather than mulched and reused or stockpiled elsewhere on the site.
- g. If changes to the mitigation design are necessary to ensure success of the project as a result of on-site conditions, the mitigation designer shall immediately notify the Division in writing and submit an alternative plan which achieves the proposed wetland conditions. The Division shall review the plan in accordance with N.J.A.C. 7:7A-11.7. Any modifications to the plan that are reviewed and approved by the Division must be shown on a signed and sealed revised plan. The As-Built plans required as a part of the Construction Completion

Report may serve as the signed and sealed revised plan required to be submitted as part of the construction modification process described above if time constraints warrant such action and have been approved by the Division in writing.

- h. **Within 30 days of final grading of the mitigation site and prior to planting**, the permittee shall notify the Mitigation Unit at the Division of Watershed Protection and Restoration in writing to arrange a post-grading construction meeting among the permittee, contractor, consultant and the Division.
- i. **Within 30 days following the final planting of the mitigation project**, the permittee shall submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction (N.J.A.C. 7:7A-11.12). The Construction Completion Report shall contain, at a minimum, the following information:
 - i. A completed [Wetland Mitigation Project Completion of Construction Form](#). This form is located at <https://dep.nj.gov/wlm/forms/> and certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished;
 - ii. As-Built plans which depict final grade elevations at one-foot contours and include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes; and
 - iii. Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983.
- j. **Within 30 days following final planting of the mitigation project**, the permittee shall post the mitigation area with permanent signs which identify the site as a wetland mitigation project and that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials is prohibited and that violators shall be prosecuted and fined to the fullest extent under the law. The signs must also state the name of the permittee, a contact name and phone number, and the Department's permit number.
- k. The permittee shall monitor **all freshwater wetland and transition area projects** for a minimum of 5 years, unless otherwise stipulated within the approved mitigation proposal, beginning the first full growing season after the mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Watershed Protection and Restoration no later than December 31st of each full monitoring year (N.J.A.C. 7:7A-11.12(g)). All monitoring reports must include the standard items identified in the checklist entitled, "Wetland Mitigation Monitoring Project Checklist", which can be found at <https://dep.nj.gov/wlm/forms/>.
- l. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:
 - i. That the goals of the wetland mitigation project, including acreage and the required transition area, as stated in the approved wetland mitigation proposal and the permit have been satisfied. The permittee shall submit a field wetland delineation of the

wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows the exact acreage of State open waters, emergent, scrub/shrub and/or forested wetlands in the mitigation area;

- ii. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes, which are species native to the area and similar to ones identified on the mitigation planting plan. All plant species in the mitigation area must be healthy and thriving and all trees must be at least five feet in height;
- iii. The site has less than 10 percent coverage by invasive or noxious species.
- iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,
- v. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied.

m. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:7A-11.12(i)). The Division will notify the permittee in writing if the mitigation project is considered a failure. Within 30 days of notification, the permittee shall submit a revised mitigation plan to meet the success criteria identified above for Division review and approval. The financial surety, if required, will not be released by the Division until such time that the permittee satisfies the success criteria as stipulated above.

STANDARD CONDITIONS:

- 1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
- 2. The issuance of a permit does not convey any property rights or any exclusive privilege.
- 3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
- 4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee having jurisdiction over the site.
- 5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
- 6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.

7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the environment. The permittee shall inform the Watershed & Land Management by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
 - i. A description of the noncompliance and its cause;
 - ii. The period of noncompliance, including exact dates and times;
 - iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.
9. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
10. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
11. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;
 - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
 - iii. Inspect, at reasonable times, any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action; and
 - iv. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by the Federal Act, by the Freshwater Wetlands Protection Act, or by any rule or order issued pursuant thereto, any substances or parameters at any location.
14. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris or structures within or adjacent to the channel while the regulated activity, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, the permittee shall remove and dispose of in a lawful manner all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.

15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.
16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.
17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.
18. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.
20. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.
22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.
23. A permit can be modified, suspended, or terminated by the Department for cause.
24. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
25. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
26. The permittee shall submit email notification to the Bureau of Coastal & Land Use Compliance & Enforcement at CLU_tomsriver@dep.nj.gov at least 3 days prior to commencement of site preparation and/or regulated activities, whichever comes first. The notification shall include proof of completion of all pre-construction conditions, including proof of recording of permits, approved plans and/or conservation easements, if required. The permittee shall allow an authorized Bureau representative on the site to inspect to ensure compliance with this permit.
27. The permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the

recorded permit shall be forwarded to Watershed & Land Management at the address listed on page one of this permit.

APPROVED PLANS:

The drawings hereby approved consist of fourteen (14) sheets prepared by MidAtlantic Engineering Partners, LLC, dated March 28, 2023, last revised September 20, 2023, unless otherwise noted, and entitled:

“NJDEP PERMITTING PLAN; BLOCK 78, LOT 17; TAX PLATE 20; 2500 PENNINGTON ROAD; SITUATED IN HOPEWELL TOWNSHIP, MERCER COUNTY, NEW JERSEY”:

“EXISTING FLOOD HAZARD VERIFICATION PLAN”, Sheet 2 of 7,

“STREAM PROFILE & CROSS SECTIONS”, Sheet 3 of 7,

“STREAM CROSS SECTIONS”, Sheet 4 of 7,

“PROPOSED FLOOD HAZARD AREA & INDIVIDUAL PERMIT PLAN”, Sheet 5 of 7,

“WETLANDS RESTORATION PLAN”, Sheet 6 of 7,

“OVERALL PROPOSED WETLANDS PERMITTING PLAN”, Sheet 7 of 7, and

“PREMILINARY/FINAL MAJOR SITE PLAN; HERITAGE AT HOPEWELL; BLOCK 78, LOT 17; 2500 PENNINGTON ROAD; SITUATED IN HOPEWELL TOWNSHIP, MERCER COUNTY, NEW JERSEY”:

“GRADING PLAN”, dated August 31, 2023, last revised September 21, 2023, Sheet 7 of 23,

“GRADING PLAN”, dated August 31, 2023, last revised September 21, 2023, Sheet 8 of 23,

“OVERALL UTILITY PLAN”, dated March 28, 2023, last revised July 13, 2023, Sheet No. 9 of 23

“UTILITY PLAN”, dated March 28, 2023, last revised July 13, 2023, Sheet No. 10 of 23

“UTILITY PROFILES”, dated March 28, 2023, last revised July 13, 2023, Sheet Nos. 12 and 13 of 23

“LANDSCAPE & TREE REPLACEMENT PLAN”, dated March 28, 2023, last revised July 13, 2023, Sheet No. 14 of 23

“CONSTRUCTION DETAILS”, dated August 31, 2023, last revised September 21, 2023, Sheet 23 of 23.

APPEAL OF DECISION:

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at www.nj.gov/dep/bulletin). If a person submits the hearing request after this time, the Department shall deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at www.nj.gov/dep/landuse/forms.html). A person requesting an

adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. Additionally, a copy of the hearing request shall be submitted to the Director of Watershed & Land Management at the address listed on page one of this permit. 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 www.nj.gov/dep/odr for more information on this process.

If you need clarification on any section of this permit or conditions, please contact Watershed & Land Management's Technical Support Call Center at (609) 777-0454.

Approved By:

Dhruv Patel, Environmental Engineer 3
Bureau of Flood Hazard and Stormwater Engineering
Watershed & Land Management

e-copy: Municipal Clerk, Hopewell Township
Municipal Construction Official, Hopewell Township
Agent – Ian Burton



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

CATHERINE R. McCABE
Commissioner

Mitchell Newman
2465 Kuser Road, 3rd Floor
Hamilton, NJ 08690

AUG 17 2018

RE: Freshwater Wetlands Letter of Interpretation: Line Verification
File No. & Activity No.: 1106-08-0012.1 FWW170001
Applicant: US Home Corporation
Block and Lot: [78, 17]
Hopewell Township, Mercer County

Dear Mr. Newman:

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 NJDEP 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 a site inspection conducted by Division staff on January 30, 2018 and May 17, 2018, the Division has determined that the wetlands and waters boundary lines as shown on the plan map entitled: "**WETLANDS PLAN BLOCK 78 – LOT 17 TAX MAP SHEET #20 LAND SITUATE IN HOPEWELL TOWNSHIP MERCER COUNTY, NEW JERSEY**" consisting of one sheet, dated October 16, 2017, last revised June 25, 2018, and prepared by Robert R. Stout, P.E., P.L.S., of Stout & Caldwell Engineers, LLC, is accurate as shown.

The freshwater wetlands and waters boundary lines, as determined in this letter, must be shown on any future site development plans. The lines should be labeled with the above file 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 the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Ordinary: RR2 through RR5. [No wetland buffer] The wetlands have been determined to be a “swale”.

Intermediate: All other freshwater wetlands shown. [50 foot wetland buffer]

The Department has determined that the following wetland area has been considered by the Department to be an isolated wetland and not part of a surface water tributary system: B1 through B5. 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 available for the property (see N.J.A.C. 7:7A-5 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 Division. 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. 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 Division 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/dep/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, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, 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 Max Dolphin of our staff by e-mail at maxwell.dolphin@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,



Stacey MacEwan, Environmental Specialist 3
Division of Land Use Regulation

c: Hopewell Township Municipal Clerk
Hopewell Township Municipal Construction Official
Maurice Nelson – NJDEP Coastal and Land Use Enforcement
Agent (original)

