



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
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

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PLANNING BOARD

CATHERINE R. McCABE  
Commissioner

PB 20-03

June 22, 2020

K. Hovnanian North Jersey Acquisition, LLC.  
Attn.: John Caniglia  
110 Fieldcrest Ave  
Edison, NJ 08837

RE: Freshwater Wetlands Letter of Interpretation: Line Verification  
File No.: 0000-03-0015.2  
Activity Number: FWW190001  
Applicant: K. Hovnanian North Jersey Acquisition, LLC.  
Blocks: 208, Lots: 4, 10, 12 and 19, Warren Township, Somerset County  
Block: 2704, Lot: 3, Berkeley Heights Township, Union County

Dear Mr. Caniglia:

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 December 3, 2019, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: **“WETLANDS LOCATION PLAN, EMERSON LANE, BLOCK 208, LOTS 4, 10, 12, & 19, WARREN TOWNSHIP, SOMERSET COUNTY, NEW JERSEY, & BLOCK 2704, LOT 3, TOWNSHIP OF BERKELY HEIGHTS, UNION COUNTY, NEW JERSEY”**, consisting of one (1) sheet, dated December 30, 2019, last revised March 18, 2020, and prepared by John J. Dziemian, P.L.S. of Najarian Associates, 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 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:

**Intermediate:** All wetlands as shown on the approved plans referenced above. [50-foot wetland transition area]

**State Open Water:** Within wetland boundaries. [No wetland transition area]

In addition, the Department has determined that the following wetland boundary is considered isolated and not part of a tributary system: line segment L-1 through line segment L-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 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) 777-0454 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.

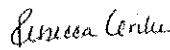
### **Appeal Process**

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, 7<sup>th</sup> 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](http://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](http://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](http://www.nj.gov/dep/odr) for more information on this process.

Please contact Monica Zabroski of our staff by e-mail at [Monica.Zabroski@dep.nj.gov](mailto:Monica.Zabroski@dep.nj.gov) or by phone at (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,



Digitally signed by Rebecca Grike

Date: 2020.06.22 10:34:22 -04'00'

Rebecca Grike, Environmental Specialist III  
Division of Land Use Regulation

c: Warren Township Municipal Clerk  
Berkeley Heights Municipal Clerk  
Berkeley Heights Municipal Construction Official  
Warren Township Municipal Construction Official  
Agent (original) -Amy Jones of Dubois Environmental Consultants, LLC.