



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SCOTT A. WEINER, COMMISSIONER  
CN 402  
TRENTON, N.J. 08625-0402  
(609) 292-2885  
Fax: (609) 964-3962

MEMORANDUM

TO: Robert Del Tufo  
FROM: Scott Weiner  
DATE: April 10, 1991  
RE: Request for Guidance Regarding Proposed Freshwater Wetlands Regulations

I am writing as a follow up to our recent conversations regarding the application of F.O.3-1990 upon regulations which have been proposed by the DEP pertaining to the administration of the Freshwater Wetlands Protection Act (the "Act").

As we have discussed, the staff of the DEP, in reaction to F.O.3-1990, have used the word "property" as opposed to "project" to describe the subject of exemptions from the Act. The proposed amendments to N.J.A.C. 7:7A-1 et seq include, for the first time, a definition of property as "...the area contained within the legal boundary as defined by municipal block and lot as set forth in the deed for that area." N.J.A.C. 7:7A-1.4. Such a change of language from the wording of the Act and prior department regulations represent an expansion of the scope of the statutory exemption from an articulated plan (a project) to merely a delineation of acreage (property).

Based upon our discussions, it is my opinion that we share the view that the proposed regulatory change in language is neither required nor appropriate under the Act and in fact, would represent an interpretation not intended by nor sustainable under F.O.3-1990.

Our discussions have also addressed the appropriate criteria to determine the factors which would describe or identify a particular project exempt from the



Act. Recent public comment suggests that a project can be little more than a conceptual design located within the boundaries of lot lines, thereby allowing a developer to maintain and utilize the exemption for any purpose for an extended period of time. We have discussed that such an interpretation misapplies both the Act and F.O.3-1990 and fails to reflect the significant actions and detail contemplated by the Municipal Land Use Law in order for a municipality to accept an application, let alone grant, preliminarily approval. See generally, N.J.S.A. 40:55D-38 through 49.

I want to take this opportunity to restate my belief that it would be most useful for you to provide additional, more detailed, guidance to the DEP regarding the requirements of the Municipal Land Use Law and their application in determining the limits of a project which qualifies for an exemption from the Act. Based upon our discussions, it is my intent to, among other revisions of the proposed regulations, to replace the word property with project. I would appreciate your advice with respect to this issue. The public comment period for the proposed regulations closes on April 22, 1991. I anticipate being in a position to act upon the proposed regulations in mid to late May 1991.

Accordingly, I would appreciate receiving any additional advice or guidance regarding the delineation of a project so that such guidance could be incorporated as part of the Department's regulations as criteria, examples, or illustrations as may be appropriate.

S.A.W.

cc: Larry Stanley, D.A.G.  
John Weingart

(c) Upon final approval by the planning board, the chairman and secretary shall affix their signatures to the final plat with a notation that it has received final approval, and copies shall be distributed to the municipal clerk, municipal engineer, development enforcement officer, construction official, tax assessor, county planning board and secretary of the planning board. (Ord. No. 866, § 2; Ord. No. 947, § 1.)

**Sec. 10B-156. Expiration of final approval; filing of final plat with county recording officer.**

(a) Final approval of a major subdivision shall expire ninety-five days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The planning board may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety days from the date of signing of the plat.

(b) No subdivision plat shall be accepted for filing by the county recording officer until it has been approved by the planning board as indicated on the instrument by the signature of the chairman and secretary of the planning board. If the county recording officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the municipality, the plat shall be expunged from the official records.

(c) It shall be the duty of the county recording officer to notify the planning board in writing within seven days of the filing of any plat, identifying such instrument by its title, date of filing and official number. (Ord. No. 856, § 2.)

**DIVISION 5. PLAT DETAILS.**

**Sec. 10B-157. Sketch plat.**

The sketch plat shall be based on tax map information or some other similarly accurate base at a scale (not less than four hundred feet to the inch and preferably two hundred feet or larger) enabling the entire tract to be shown on one sheet. The sketch plat shall show or include the following information:

(a) The location of that portion which is to be subdivided in relation to the entire tract.

Supp. # 12, 3-80

(b) All existing structures and wooded areas within the portion to be subdivided or within two hundred feet thereof.

(c) The name of the owner and of all adjoining property owners as disclosed by the most recent township tax records.

(d) The tax map sheet, block and lot numbers, including those for the proposed lots, which shall be obtained from the office of the township engineer.

(e) All streets or roads and streams within five hundred feet of the subdivision.

(f) General data concerning the slope and natural drainage of the land, where pertinent, such as can be secured from New Jersey or U.S. Geodetic Survey maps, and approximate location of water and sewer mains.

(g) Approximate location of existing and proposed streets and property lines and approximate lot sizes.

(h) In the case of minor subdivisions, when utility layouts do not show feasible connections to existing or proposed utility systems, the developer shall have percolation tests made and shall show the location and results of such tests on the plat. Any proposed individual water supply or sewage disposal system must be indicated and accompanied by the approval of the appropriate township, county and state health agencies.

(i) In the case of minor subdivisions, a certificate from the tax collector stating that all taxes are paid to date, and that all local improvement assessments against the tract being subdivided have been paid in full or that such local improvement assessments have been apportioned among the lots of the subdivision upon the application of the subdivider, pursuant to section 54:7-1 et seq. of the Revised Statutes of New Jersey, and in the event of such apportionment, that such local improvement assessments are paid to date. (Ord. No. 856, § 2.)

**Sec. 10B-158. Preliminary plat.**

The preliminary plat shall be legibly drawn or reproduced at a scale of not less than one inch equals one hundred feet. Preliminary plats shall be drawn by a land surveyor licensed by the state. The preliminary plat shall be designed in compliance

with the provisions of division 8 of this article and shall show or be accompanied by the following information:

(a) The tract name, tax map sheet, block and lot number, date, reference meridian, graphic scale and the names and addresses of the following:

- (1) The record owner.
- (2) The subdivider.
- (3) The person who prepared the map.

(b) The location of that portion which is to be subdivided in relation to the entire tract.

(c) Property lines of the land to be subdivided, the names of all owners of all immediately adjacent land and the location and right of ways widths of streets and roads within four hundred feet of any part of the property proposed to be subdivided.

(d) The location and elevation of a permanent bench mark, accessibly placed, together with a notation as to the datum from which it was established and sufficient elevations or five feet contours to determine the general slope and natural drainage of the land and high and low points; all existing watercourses; tree masses and isolated trees more than ten inches in diameter; existing buildings, sewers and water mains and all other significant features. However, elevations or contours need not be shown for land subdivisions with a gross area of less than ten acres or for land subdivisions containing no new streets or roads.

(e) All proposed streets and tentative center line profiles therefor, plans and profiles of proposed utility layouts and easements (sewers, storm drains, water, gas and electricity), parks, playgrounds and other public areas; suggested street names; proposed building setback lines for each street; lot lines and approximate dimensions of lots; and all streets and other areas proposed to be dedicated to the public or designed for public use.

(f) When utility layouts do not show feasible connections to existing or proposed utility systems, the developer shall have percolation tests made and shall show location and results of tests on the plat. For large tracts to be developed in sections, such tests shall be made for points of topographic or geologic change, but not less than one for each five acres. On small tracts, and on sections of larger tracts when proposed for final platting, tests shall be

made for each lot. The proposed individual water supply or sewage disposal system must be indicated and accompanied by the approval of the appropriate township, county or state health agency.

(g) Where the preliminary plat covers only a part of the entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished. The street system of the submitted part will be considered in the light of adjustments and connections with the future street system of the part not submitted.

(h) A key map showing the entire subdivision and its relation to surrounding areas.

(i) A certificate from the tax collector that all taxes are paid to date, and that any local improvement assessments against the tract being subdivided have been paid in full or that such local improvement assessments have been apportioned among the lots of the subdivision upon the application of the subdivider, pursuant to section 54:7-2, et seq., of the Revised Statutes of New Jersey, and in the event of such apportionment, that such local assessments are paid to date. (Ord. No. 856, § 2; Ord. No. 90-23, § 2.)

#### **Sec. 10B-159. Final plat.**

The final plat shall be drawn in ink on tracing cloth at a scale of not less than one inch equals one hundred feet. It shall meet all statutory requirements for map filing with the county recording officer and shall be designed in compliance with the provisions of division 8 of this article. The final plat shall show or be accompanied by the following information:

(a) The tract name, tax map sheet, block and lot number, date, reference meridian, graphic scale and the names and addresses of the following:

- (1) The record owner.
- (2) The subdivider.
- (3) The person who prepared the map.

## SUBDIVISION CHECKLIST

(Preliminary Major Application)

The following checklist is designed to assist applicants in preparing preliminary Major Subdivision plans for Board review. Applicant should check off each item to ensure that it is included with the application. **ITEMS OMITTED MAY RESULT IN APPLICATION BEING DEEMED INCOMPLETE AND THEREFORE DELAY CONSIDERATION BY THE BOARD.** Utilities, details, profiles, etc., may be shown on separate sheets. This checklist must be submitted with the application.

## I. General Requirements:

- Completed application form (14 copies).
- Overall subdivision plat in reduced form (8 1/2 x 14" - 14 copies). Information to be provided on one sheet.
- Complete subdivision plan and construction drawings signed and sealed by an appropriate professional pursuant to State licensing requirements (8 sets).
- Application and Escrow Fees.
- Completed checklist.

## II. Subdivision Plat:

- Tract name.
- Tax map sheet, lot and section number.
- Date, north arrow and graphic scale (min. 1"=100' or larger).
- Name, and address of applicant (if other than the owner).
- Key map at a scale of 1"=400', showing the following information within 1500 feet of the property.
  - a. Zoning districts and boundary delineations.

- b. Streets and Roads.
- c. Streams, water courses, bodies of water, property lines.
- d. Master Plan designations.
- e. Property owners in schedule form.
- f. Block and Lot numbers.

- Suggested street names.
- Acreage of the entire tract as well as the acreage of proposed new lots, and open space areas.
- Zoning regulations for district in schedule form.
- Proposed Block, Lot numbers, property lines and dimension of lots.
- All required building setback lines for each lot, as well as the shortest dimension from existing buildings on the tract to new or existing property lines.
- Master Plan designations for right-of-way, open space, recreation, community facilities, etc.
- Letter from Tax Collector stating that all taxes on the property are paid to date.

Existing and Proposed features:

- Bench mark and data from which it was derived.
- Location of streams, stream corridors, water courses, flood hazard and flood plain areas, and bodies of water.
- Rock outcroppings and/or boulder fields.
- Right-of-way dedications with acreage and boundary information.

- Steep slope locations of grades in excess of 25 per cent.
- Size, shape and location of buildings on the tract, adjoining property and on both sides of adjacent streets.
- Location of hedgerows, and/or screening, fences, walls, etc.
- Location of public/private sidewalks and bicycle paths.
- Location of scenic, historical, archeological and landmark sites.
- Location of tree masses including type and approximate height.
- Location of individual specimen trees greater than eight inches caliper along proposed utility easements, road right-of-ways extending 50 feet on each side of said right-of-way, and public/private pedestrian/bicycle access easements.
- Monumentation along existing and proposed right-of-way lines in accordance with the "Map Filing Law", standards.

III. Drainage and Utility Plan:

- Contours of site at 2 foot intervals.
- Center line profile and cross sections at 25 foot intervals, for all proposed streets.
- Plans and profiles of proposed utility lines and easements for sewers, storm drains, water, gas, electric and CATV.
- Plan of proposed utility layout for sanitary and storm sewers, electric, telephone, CATV, gas and street lighting.
- Location and type of inlets, storm and sanitary sewer pipes, swales, berms, storm detention facilities, etc.

- Location of off-sites/adjacent electric, telephone, gas, water, storm and sanitary sewers, and CATV servicing mains and service line connections.
- Utility easements with owner entity identification.
- Plan, profile and grades of existing adjacent roads/streets which provide direct access into the proposed development.
- If applicable, location of proposed percolation and soil logs and results of such test on the plan for on-site private septic systems.
- Construction details of on-tract improvements, including street cross sections, drainage structures, curbs, sidewalk/bicycle paths, pipe beddings, etc.

IV. Landscape and lighting plan:

- Location, height and types of proposed plantings and/or screenings.
- Location of existing trees greater than eight inch caliper with specie identification.
- Location of existing shrubs, hedgerows, and screening.
- Location of street lighting, height, type and illuminance standard.

V. Soil Map:

- Location of steep slopes in excess of 7 per cent.
- Location of soil group type boundaries with soil identification.
- Location of buildings and/or storm water detention basin facilities.
- Location of streams, wetlands and approximate areas of aquifer recharge and discharge.
- Location of highly acid or highly erodible soils.



Location of areas of high water table and/or bedrock.

VI. Soil Erosion and Sedimentation Control Plan:

Existing and proposed contours at 2 foot intervals.

Location of present and proposed drains and culverts with their discharge capacities and velocities and supporting computations and identification of conditions below outlets.

A site grading plan showing proposed cut and fill areas together with existing and proposed profiles of these areas.

Delineation of any area subject to flooding from the 100 year storm in compliance with the Flood Plains Act or applicable Municipal Zoning.

Delineation of streams within the project area.

Location of all proposed soil erosion and sediment control facilities.

Proposed sequence of development.

Proposed starting date of each phase in the sequence.

Identification of land areas to be disturbed and length of time the soil in each area will be unprotected.

Proposed date to complete each phase of development.

Planned soil erosion and sediment control measures and facilities with supporting computations based upon standards promulgated by the New Jersey Conservation Soil Committee.

Soil erosion control details.

Plans for maintenance of permanent soil erosion and sediment control measures and facilities during and after construction, including responsibility for maintenance of facilities after the development is completed.

VII..Requirements for Residential Cluster only:

- Location and extent of Common Open Space.
- Statement of the nature of the owning entity (e.g., Homeowners' Association), and a description of the documentation which will provide for the maintenance of the Open Space in perpetuity.
- An outline of the covenants and restrictions describing the rights, limitations and obligations of the owners and occupants of the dwelling units relative to the Common Open Space.
- For developments involving zero lot line units or structures, a plan showing imaginary lot lines to demonstrate compliance with lot line standards.
- Schematic plans and elevation drawings for all buildings (except for single-family lots proposed to be sold as vacant land to individual purchases).

VIII.Required notes for all plans:

- If the extension of water mains is required, the spacing and location of hydrants will comply with the standard of the Elizabethtown Water Company and approved by the Township Engineer and Fire Prevention Official.
- Electric, Telephone, CATV and all other wire served utility extensions and services shall be installed underground with standards established by the servicing utility company and approved by the Township Engineer.
- All drainage and sewer easements for public purpose shall be dedicated to the Township, unless otherwise noted.
- All construction to be in accordance with the final construction plans and profiles as approved by the Township Engineer.

- All areas where natural vegetation and/or specimen trees are to remain shall be protected by the erection of fencing and no disturbance of, shall occur prior to inspection by the Township Engineer and the issuance of written authorization to proceed with construction. These protective measures shall not be altered or removed without the approval of the Township Engineer.

IX.. Required Contents of Environmental Information Statement:

- Map, list and description of soil types on the site, derived from the Mercer County Soil Survey.
- Brief description of the surficial geology of the area.
- Estimated potable water demand in gallons per day and the source of water supply.
- Estimated sewage to be generated in gallons per day and a general description of proposed method of sewage disposal.
- Character, estimated tonnage and method of solid waste disposal and storage.
- Impacts on ambient air quality.
- Information and calculations regarding proposed drainage including total area to be paved or built upon, estimating volume and rate of runoff, proposed changes to existing drainage, drainage plans, and details in accordance with Section 10B-227.
- Soil Erosion and Sedimentation Control Plan, together with report.
- Traffic study including widths, and conditions of existing roads in the area and impacts of the proposed developments on traffic volumes.
- Required governmental licenses, permits and approvals and the status of each.

Applications filed which include a waiver request for any of the above items, shall be accompanied by a written statement in support of each request.

The undersigned (applicant) (owner) hereby acknowledges that the information contained herein is true and complete to the best of its knowledge.

Dated: This \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

---

---