



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers, ATTN: CENAN-OP-RU
Upstate Regulatory Field Office
1 Buffington St., Building 10, 3rd Fl. North
Watervliet, New York 12189-4000

Upstate New York Section

August 17, 2020

SUBJECT: Permit Application Number NAN-2018-00514-UDE
by Liberty Affordable Housing, Inc.
City of Saratoga Springs, Saratoga County, New York

Randell J. Denton, Executive Director
Liberty Affordable Housing, Inc.
117 West Liberty Street, Suite 3
Rome, New York 13442

Dear Mr. Denton:

On April 6, 2018, the New York District of the U.S. Army Corps of Engineers received a request for a Department of the Army jurisdictional determination for a 30.28 acre site that is currently owned by BMHD, Inc., and Saratoga Harness Racing, Inc. This request was made by Quenzer Environmental, LLC, as consultant for Liberty Affordable Housing, Inc. The site is located in the Hudson River watershed, along the north side of Crescent Avenue, between Jefferson Street and Bunny Lake Drive, in the City of Saratoga Springs, Saratoga County, New York. The proposed project would involve the construction of a residential development.

In the correspondence received on April 6, 2018, your consultant submitted a proposed delineation of the extent of waters of the United States within the 30.28 acre property. A site inspection was conducted by a representative of this office on April 19, 2018, in which it was agreed that changes would be made to the delineation and that the modified delineation would be submitted to this office. On July 10, 2020, this office received the modified delineation.

Based on the material submitted and the observations of the representative of this office during the site visit, this site has been determined to contain jurisdictional waters of the United States based on: the presence of wetlands determined by the occurrence of hydrophytic vegetation, hydric soils and wetland hydrology according to criteria established in the 1987 "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1 that are either adjacent to or part of a tributary system.

These jurisdictional waters of the United States are shown on the drawing entitled "Army Corp Wetland Map for Tax Map #179.00-5-8, City of Saratoga Springs, County of Saratoga, State of New York", prepared by Hershberg & Hershberg Consulting Engineers and Land Surveyors, dated June 4, 2019, and last revised July 9, 2020. This drawing indicates that there is one (1) principal wetland area on the 30.28 acre site which is part of a tributary system, and is considered to be waters of the United

PLEASE USE THE ABOVE 18-CHARACTER FILE NUMBER ON ALL CORRESPONDENCE WITH THIS OFFICE

States. This wetland is identified as Wetland A, is located throughout the northern portion of the site and continues south through the west-central portion of the site, and consists of 9.09 acres within the property boundary.

This determination regarding the delineation shall be considered valid for a period of five years from the date of this letter unless new information warrants revision of the determination before the expiration date.

This determination was documented using the Approved Jurisdictional Determination Form (Interim) Navigable Water Protection Rule, promulgated by the Corps of Engineers in June 2020. As documented on that form, two wetlands on the site that are identified as Wetlands B and C on the above referenced drawing were determined to be excluded from Clean Water Act jurisdiction. These wetlands consist of a total of 0.31 acre on-site and are located in the southeast corner of the property. A copy of that document is enclosed with this letter, and will be posted on the New York District website at:

<http://www.nan.usace.army.mil/Missions/Regulatory/JurisdictionalDeterminations/RecentJurisdictionalDeterminations.aspx>

This delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed is a combined Notification of Appeal Process (NAP) and Request For Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the North Atlantic Division Office at the following address:

James Haggerty, Regulatory Program Manager, CENAD-PD-OR
North Atlantic Division, U.S. Army Engineer Division
Fort Hamilton Military Community
General Lee Avenue, Building 301
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **October 16, 2020**. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA

programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

It is strongly recommended that the development of the site be carried out in such a manner as to avoid as much as possible the discharge of dredged or fill material into the delineated waters of the United States. If the activities proposed for the site involve such discharges, authorization from this office may be necessary prior to the initiation of the proposed work. The extent of such discharge of fill will determine the level of authorization that would be required.

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

If any questions should arise concerning this matter, please contact Christine Delorier, of my staff, at (518) 266-6354

Sincerely,

Amy L. Gitchell
Chief, Upstate New York Section

Enclosures

cc: NYSDEC Region 5, Warrensburg
City of Saratoga Springs
N. Quenzer – Quenzer Environmental, LLC
G. Carlson – BMHD, Inc. (w/ appeals form)
G. Carlson – Saratoga Harness Racing, Inc. (w/ appeals form)