



**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>		Approval Date September 1, 2023
		Expiration Date August 31, 2028
Permit Number(s): 0901-02-0008.13 LUP230001	Type of Approval(s): WFD IP-Commercial/Industrial/Public (Waterward) FHA Individual Permit-Other Verification-Method 2 (FEMA Tidal Method) WFD-IP-Commercial/Industry/Public (Landward) Water Quality Certificate	Governing Rule(s): N.J.A.C. 7:13-1.1(b) N.J.A.C. 7:7-1.1(a)
Permittee: Mike Davis 161 Washington Street Suite 1020 Conshokocken, PA 19428	Site Location: Site Location: 250 E 22 nd Street Block(s) & Lot(s): [465, 9] [466, 1] [466, 2] [466, 3] [466, 4] [478, 1] [478, 1.01] Municipality: Bayonne City County: Hudson	
<p>Description of Authorized Activities: The construction of a warehouse development with five (5) total buildings and an 8,000 SF maintenance and repair facility, stormwater management facilities, landscaping and lighting and other various improvements. The in-water portion of the project includes 424 linear feet (LF) of sheet pile bulkhead replacement and three (3) stormwater outfalls. As part of the bulkhead replacement, 385 LF of a raised concrete platform will be demolished, as well as a concrete platform within the eastern waterfront and a high-level platform with timber sheathing below on the western waterfront. The upland portion of the project is further described as follows:</p> <ul style="list-style-type: none"> • Building 1: 1,076,579 SF building, 170 loading docks, 5 knockout docks, 4 drive-in doors with ramps, 381 trailer stalls, 392 auto stalls (16 make-ready stalls). • Building 2: 151,613 SF building, 30 loading docks, 2 drive-in doors with ramps, 148 auto stalls (4 make ready stalls). • Building 3: 124,496 SF building, 29 loading docks, 2 drive-in doors with ramps, 104 auto stalls (4 make-ready stalls). • Building 4: 110,245 SF building, 11 loading docks, 1 drive-in door with ramp, 17 trailer stalls, 128 auto stalls (4 make-ready stalls). • Building 5: 219,947 SF building, 44 loading docks, 2 drive-in doors with ramps, 42 trailer stalls, 160 auto stalls (7 make- ready stalls). <p>This document verifies the limits of the riparian zone along Kill Van Kull at the above referenced site location, as shown on the approved plans.</p> <p>This project is authorized under and in conditional compliance with the applicable Coastal Zone Management Rules (N.J.A.C. 7:7-1.1 et seq.), as amended on October 5, 2021, and the Flood Hazard Area Protection Act Rules (N.J.A.C. 7:13), as amended July 7, 2023, provided that all conditions to follow are met.</p> <p><i>The Department has determined that the herein approved activities meet the requirements of the (FHACA/CZM) 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>		
Prepared by: Vivian Fanelli	Received and/or Recorded by County Clerk:	
<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>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 herein. 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. 7:13-2.18; N.J.A.C. 7:7-29.

Riparian Zone Vegetation	Area of riparian zone (Acres)
Permanent Disturbed	0.82
Temporary Disturbed	0

WFD IP- Commercial/Industrial/Public (Waterward)	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)
Shellfish habitat	0	0
Intertidal subtidal shallows (ISS)	0.089	0.055

PRE-CONSTRUCTION CONDITIONS:

1. No site disturbance, pre-construction earth movement or construction throughout the Property is allowed until the Department issues its written approval of the escrow agreement and the required funds are deposited in the attorney trust account of the permittee. In addition, and prior to any site disturbance as stated above, the permittee’s attorney shall confirm in writing to the Department that it has the requisite funds in their trust account.
2. Within 90 days of permit issuance, the permittee shall submit a draft escrow agreement (for review/approval by NJDEP) between NJDEP, the permittees and their attorney, for a monetary contribution towards an off-site, Department-approved, public access improvement project. The escrow agreement shall be executed and the monetary contribution placed in escrow within 30 days of execution of the escrow agreement.
3. Prior to the commencement of site clearing, grading, or construction onsite, the permittee shall install a sediment barrier at the limits of disturbance authorized herein, which is sufficient to prevent the sedimentation of the remaining freshwater wetlands and transition areas 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 shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized.
4. Records indicate that portions of the work authorized via this permit may be located within a grant. The permittee must read the terms and conditions of the grant carefully to ensure the permitted activities are compliant with the grant; within the boundaries of the grant; and, that the permittee has rights to the granted area. Questions may be directed to the Division’s Bureau of Tidelands Management at (609)292-2573.
5. Prior to the construction of any structures and/or the placement of fill within any tidelands areas authorized under this permit and located beyond the limits of a granted area; the permittee must apply to the Division’s Bureau of Tidelands Management for a tidelands instrument for the use and occupation of said tidelands. Tidelands staff will provide further guidance upon review for the timing of construction. All decisions concerning the issuance of any tidelands instrument is solely up to the

Division's Bureau of Tidelands Management following the Tidelands Resource Council policy. Questions may be directed to the Division's Bureau of Tidelands Management at (609)292-2573.

6. This permit is not valid until such time as you have obtained a Department of the Army authorization. You are advised to contact the New York District at 212-264-3912.
7. Concurrent with construction, the following traffic mitigation measures shall be implemented:
 - Provide a shift in 1.5 seconds of green time from the EB/WB Approach to the NB/SB Approach at the Route 440 & East 22nd Street location.
 - Provide a shift in 1.0 seconds of green time from the NB/SB Approach to the EB/WB Approach at the Route 440 & and New Hook Road/Ramp C.

SPECIAL CONDITIONS:

1. Additional development or other related construction will require either a modification to Waterfront Development Permit No. 0901-02-0008.13 LUP230001 or, most likely a new Upland Waterfront Development permit depending on the size and scope of the proposed development as well as the activity status of the existing permit.
2. This permit to conduct a regulated activity includes the Division's approval of a Water Quality Certificate.
3. The replacement bulkhead must be reconstructed no more than 24 inches outshore of the existing structure for a timber bulkhead, as measured from the waterward face of the toe of the original alignment of the existing timber bulkhead sheathing to the waterward face of the new vinyl bulkhead sheathing.
4. All areas of the existing bulkhead that are currently bowed must be pulled back to the original bulkhead alignment before placement of new bulkhead sheathing.
5. The proposed bulkhead shall not extend beyond the limits of the lot's side property lines.
6. All backfill material for the proposed bulkhead shall be from an upland source and free of any toxic contaminants.
7. If the new bulkhead requires repair or replacement, this replacement shall be in the same location as the alignment shown on the above referenced plans pursuant to the rule on Coastal Engineering (N.J.A.C. 7:7-15.11(d)).
8. This permit does not authorize dredging activities. If dredging is required in the future, a new Waterfront Development application showing compliance with 7:7-12.7 New Dredging will be required to be submitted to this Division.
9. All future bulkheads must be constructed in place of the proposed bulkhead.
10. Consistent with Assembly Bill, No. 2804, P.L. 2007, CHAPTER 113, the use of creosote treated material (or other descriptive term from the law) in the construction of the permitted structure(s) is prohibited.
11. Landscaping of the property shall be done with native plants to maximum extent practicable. The use of plastic or other impervious material under newly landscaped or gravel areas is prohibited. All sub-surface liners must be made of filter cloth or other permeable material.

12. Upon completion of the project, all temporarily disturbed areas within 50 feet of the top of any stream bank, or edge of water, onsite shall be restored to original topography and replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).
13. Vegetation within 50 feet of the top of the bank, or edge of water shall only be disturbed in the areas specifically shown on the approved drawing/s. No other vegetation within 50 feet of the top of any stream bank, or edge of water, onsite shall be disturbed for any reason. This condition applies to all channels onsite regardless of the contributory drainage area.
14. All temporary disturbances must be permanently discontinued within six months after they are begun, and all temporary disturbed areas must be restored to their original condition.
15. All debris generated from the construction is to be disposed of at an approved disposal site.
16. In order to protect sensitive habitat for the State-listed osprey, the permittee shall adhere to a seasonal restriction on the use of heavy construction equipment/machinery within 300 feet of any active osprey nest along the project limit of disturbance from April 1 through August 31 of each calendar year.
17. The nest must be monitored during the active season to see if osprey react to work that is 300 feet, or more, from the nest. Nest observations must be reported to the Endangered and Non-game Species Program (Contact: Kathy Clark- Kathy.Clark@dep.nj.gov). Any signs of disturbance to nesting birds must be immediately reported to ENSP and work must stop until further instruction is given.
18. The previous location of the osprey nest must be monitored to ensure that the nest deterrents work, and that ospreys do not attempt to reconstruct a nest. Any signs of osprey attempting to reconstruct a nest must be immediately reported to the Endangered and Non-game Species Program (Contact: Kathy Clark- Kathy.Clark@dep.nj.gov).
19. In order to prevent adverse impacts to shortnose sturgeon and Atlantic sturgeon, no in-water work is permitted March 1 through June 30 of each calendar year.
20. The Site Remediation Program Interest number associated with the project is No. 005822. The Licensed Site Remediation Professional (LSRP) for this project is Peter D. Downham, license No. 628901. The remediation shall comply with the Remedial Action Workplan, and any amendments thereto. Any modification or changes to the construction activities authorized by this permit and/or the approved plans shall be approved by the Division of Land Resource Protection in writing.
21. All excavated material shall be disposed of in a lawful manner. For example, it should be placed outside of any flood hazard area, riparian zone, regulated water, freshwater wetland, and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
22. The decision to grant this permit did not include a structural review of the proposed activities with regard to the International Building Code; nor did it include a comparative review of any local flood ordinances which may apply. As such, the proposed structure/s may not fully comply with the provisions of the International Building Code or meet the requirements of the appropriate local flood ordinances. Consequently, the construction official for the municipality in which this project is located may reserve the right to modify the design of or deny the erection of those structures which do not meet the appropriate flood ordinances or construction codes which are within local jurisdiction.
23. All foundations, slabs, footings, and walls of the proposed structure/s shall be designed to resist uplift, flotation, collapse, and displacement due to hydrostatic and hydrodynamic forces resulting

from flooding up to an elevation of one foot above the flood hazard area design flood elevation. Furthermore, all structural components shall be designed to resist the same forces.

24. The floor elevation of 14 feet on the approved drawing(s) is the minimum elevation of the lowest finished floor of the proposed building(s). The construction of any habitable area below this elevation, such as a basement, is prohibited.
25. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8 without the construction of a Stormwater green infrastructure BMP. 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 site design, shall be reviewed and approved by the Department 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.
26. This portion of the permit verifies the regulatory Flood Hazard Elevation onsite along the Kill Van Kull of 11, 12 and 13 feet NAVD. This does not verify the floodway. This verifies the riparian zone onsite. This permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this project is located. Verified notice of this action shall be forwarded to the Division immediately thereafter. NOTE: The following information is to be submitted to the clerk for all Flood Hazard Area Verifications:
 - 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 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 & Land Management Program at (609) 777-0454 for more information prior to any construction onsite."
27. All future traffic studies prepared to make trip generation projections should be based on the 11th Edition of the ITE Trip Generation Manual.
28. All future traffic studies prepared to determine the Level of Service (LOS) at the nearby intersections, should be based on the Highway Capacity Manual 6th Edition (October 2016) and 7th Edition (January 2022).

INTERTIDAL AND SUBTIDAL SHALLOWS MITIGATION CONDITIONS:

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a mitigation proposal to mitigate for the loss of **0.089** acres of intertidal and subtidal shallows to the Division of Watershed Protection and Restoration (Division) for review and approval.
2. All mitigation shall be conducted prior to or concurrent with the construction of the approved project. 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.
3. The permittee shall mitigate for the loss of **0.089** acres of intertidal and subtidal shallows through the creation of intertidal and subtidal shallows, at a creation to loss ratio of 1:1, on the site where the filling occurred.
4. If mitigation for the filling of intertidal and subtidal shallows is not feasible onsite, then mitigation shall be performed offsite through the creation of intertidal and subtidal shallows at a ratio of 1:1 within the same

estuary as the site of the filling or through the purchase of in-kind credits from a mitigation bank with a service area that includes the site of the filling.

5. If mitigation for the filling of intertidal and subtidal shallows is not feasible onsite or offsite, then mitigation shall be in the form of restoration, creation, or enhancement of a wetland within the same estuary as the site of the filling in accordance with N.J.A.C. 7:7-17.13 or through the purchase of out-of-kind wetland credits from a mitigation bank with a service area that includes the site of the filling.
6. If the permittee is purchasing credits from a mitigation bank to satisfy a mitigation requirement (see N.J.A.C. 7:17.11(d)), the permittee shall submit proof of purchase for **0.089** 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.

As of the date of this permit, **there are no mitigation banks** serving your 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.

7. If mitigation for the filling of intertidal and subtidal shallows is not feasible, then mitigation shall be in the form of one or both of the following, as determined in consultation with the Department:
 - a. Upland preservation in accordance with the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-15.9; or
 - b. In-lieu fee payment in accordance with N.J.A.C. 7:7-17.16.
8. If mitigation for the filling of intertidal and subtidal shallows as described above is not feasible, then mitigation shall be in the form of a land donation in accordance with the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-15.19.
9. If the permittee is proposing to construct an on-site intertidal subtidal shallows creation project, (see N.J.A.C. 7:17.11(b)) one acre of creation must be performed for each acre disturbed. If the permittee is proposing to mitigate through off-site creation, restoration or enhancement project, or by purchasing credits from a mitigation bank serving the area an enhancement or creation project, the ratio of disturbance to mitigation required shall be in accordance with N.J.A.C. 7:7-17.11(c) through (g). If proposing onsite or offsite mitigation, provide the following:
 - a. Within 30 days of the issuance of this permit, submit for review and approval, a conceptual plan showing the location and proposed hydrology of the mitigation site; and
 - b. Within 30 days of receiving Division approval of the conceptual mitigation proposal, submit a final design of the mitigation project.
10. The following requirements will apply to an onsite or offsite intertidal subtidal shallows mitigation project:
 - a. Obtain a secured bond, or other financial surety acceptable to the Department, and in an amount consistent with the requirements at N.J.A.C. 7:7-17.
 - b. Complete, sign and file with the County Clerk (the Registrar of Deeds and Mortgages in some counties), a conservation restriction protecting the mitigation site that meets the requirements of N.J.A.C. 7:7-18.
 - c. 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.

- d. In accordance with N.J.A.C. 7:7-17.11(h), within 60 days following the completion of the mitigation project, 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. 7:7-17.11(h)). The Construction Completion Report shall contain, at a minimum, the following information:
 - i. A completed Wetland Mitigation Project Completion of Construction Form that certifies the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished. This form is located at on the Division's website at: <https://dep.nj.gov/wlm/forms/> in the Mitigation tab of Forms & Checklists.
 - ii. An as-built plan of the completed mitigation area showing grading and any structures included in the approved mitigation proposal;
 - iii. Photographs, both pre and post construction, of the intertidal and subtidal shallows mitigation project including a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983; and
 - (1) For ISS creation projects only, provide documentation that the mitigation site meets the definition of an intertidal and subtidal shallow as defined at N.J.A.C. 7:7-9.15; and
 - e. Monitor the mitigation site in accordance with N.J.A.C. 7:7-17.11(i), (j), and (k).
11. 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 (see N.J.A.C. 7:7-17.11(k)). This mitigation project will be considered successful if the permittee demonstrates all of the following:
- i. That the goals of the ISS mitigation project, including acreage as stated in the approved mitigation proposal and the permit, have been satisfied. The permittee shall submit a field delineation of the ISS mitigation project which shows the exact acreage of ISS in the mitigation area;
 - ii. The mitigation site is an intertidal and subtidal shallows area, as defined at N.J.A.C. 7:7-9.15, or tidal water. The documentation shall include tidal data, topography for the spring high tide line, photographs, and field observation notes collected throughout the monitoring period;
 - iii. The mitigation meets all applicable requirements of Subchapter 17 of the Coastal Zone Management Rules (N.J.A.C. 7:7-17);
 - iv. The mitigator has executed and recorded a conservation restriction that meets the requirements of N.J.A.C. 7:7-18.
12. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:7-17.13(h)). The Division will notify the permittee in writing if the mitigation project is a failure and the permittee shall submit a revised mitigation plan or alternative mitigation proposal to satisfy the mitigation requirement. No financial surety will be released until such time that the permittee satisfies the success criteria.

RIPARIAN ZONE MITIGATION CONDITIONS:

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a proposal to mitigate for the loss of 0.82 acres of forested riparian zone vegetation. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-13. 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. 7:13-13.2(b)).

2. **All mitigation shall be conducted prior to or concurrent with the regulated activity that causes the disturbance.** (N.J.A.C. 7:13-13.3(a)1). 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.
3. 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 0.82 of mitigation credits from an approved wetland mitigation bank to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Management and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

As of the date of this permit, there are no mitigation banks serving your 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.

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

Prior to the initiation of regulated activities authorized by this permit, the permittee shall sign a Department approved conservation restriction to protect the mitigation area from future development that would remove the vegetation planted. (N.J.A.C. 7:13-13.2(g)). The conservation restriction shall conform to the format and content of the rules at N.J.A.C. 7:13-14 and the Riparian Zone Mitigation Area model located at <https://dep.nj.gov/wlm/forms/>. The restriction shall be included on the deed and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties) in the county wherein the lands of the mitigation project are located. A metes and bounds description shown on a map must be included within the recorded conservation restriction. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Watershed Management and Restoration at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

5. For creation and restoration projects, 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. 7:13-13.15).
6. The permittee shall monitor the riparian project for at least 5 years beginning the year after the riparian zone mitigation project has been completed (N.J.A.C. 7:13-13.12(c)). **The permittee shall submit monitoring reports to the Division of Watershed Management and Restoration, no later than December 31st of each full monitoring year.**
 - a. All monitoring reports except the final one should include the requirements and goals of the mitigation proposal and a detailed explanation of the ways in which the mitigation has or has not achieved progress toward those goals. If mitigation has not achieved progress, the report shall also include a list of corrective actions to be implemented and a timeline for completion.
 - b. The final monitoring report must include documentation and data demonstrating that:
 - i. The goals of the riparian zone mitigation as stated in the approved riparian zone mitigation proposal and the permit conditions have been satisfied.
 - ii. At least 85 percent of the mitigation plantings have survived and that at least 85 percent of the mitigation area is established with native species similar to ones identified on the mitigation planting plan. All plant species in the mitigation area must be healthy and thriving. All trees must be at least 5 feet in height; and
 - iii. The site is less than 10 percent occupied by invasive or noxious species; and
 - iv. The conservation restriction for the mitigation site has been executed and recorded.

7. If the riparian mitigation project does not meet the success criteria established above the project shall be considered a failure and the permittee shall submit a revised riparian mitigation plan. The revised plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian mitigation project was a failure.
8. If the Division determines that the riparian zone mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing by the Department and will have 60 days to submit a proposal to indicate how the project will be corrected.
9. For preservation projects, the application shall provide documentation showing that the proposed preservation area will fully compensate in accordance with N.J.A.C. 7:13-13.13 for the loss of functions and values caused by the disturbance.

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; and
 - 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.
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 are shown on a total of nine (9):

- Nine (9) sheets prepared by Joseph D. Hanrahan, NJPLS, of Hammer Land Engineering, dated March 18, 2022, last revised April 14, 2023, unless otherwise noted, and collectively entitled:

“PROLOGIS BAYONNE, NORTH ARROW, BLOCK 478, LOTS 1 & 1.01, BLOCK 466 LOTS 1, 2, 3 & 4, BLOCK 465 LOT 9, CITY TAX MAP SHEETS 137 -140, CITY OF BAYONNE, HUDSON COUNTY, NEW JERSEY”, consisting of:

- “EXISTING CONDITIONS & REMOVAL PLAN”, sheet 3 of 69.
- “OVERALL SITE PLAN”, sheet 10 of 69.
- “ENLARGED LAYOUT PLAN”, sheets 11 through 15 of 69.
- “OVERALL GRADING DRAINAGE UTILITY PLAN”, sheet 16 of 69.
- “ENLARGED LANDSCAPE PLAN”, sheets 39 through 43 of 69.
- “FHA PERMITTING PLAN”, sheet 67 of 71, revised August 1, 2023.

- Ten (10) sheets prepared by Jesse Herron, NJPE, of MidAtlantic Engineering Partners, LLC, dated 10/18/2022, last revised 8/22/2023 and collectively entitled:

“DUKE REALTY BAYONNE DEVELOPMENT, LLC DUKE BAYONNE BLOCK 478, LOTS 1 & 1.01; BLOCK 465, LOT 9 BLOCK 466 LOTS 1, 2, 3, & 4”.

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 at (609) 777-0454.

Approved By:

Janet Stewart, Bureau Chief
Watershed & Land Management

c: Municipal Clerk, Bayonne City
Municipal Construction Official, Bayonne City
Agent (original) – Kristin Wildman