



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

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.		Approval Date November 23, 2022
		Expiration Date November 22, 2027
Permit Number(s): 1225-02-0014.6 LUP220002	Type of Approval(s): WFD Individual Upland Permit	Governing Rule(s): N.J.A.C. 7:7-1.1(a)
Permittee: Vito Cimilluca Woodbridge Township 1 Main Street Woodbridge, NJ 07095	Site Location: Block(s) & Lot(s): [753, 1] [753, 7] [756, 1.02] Municipality: Woodbridge Twp County: Middlesex	
Description of Authorized Activities: This document authorizes Woodbridge Township to redevelop 80,150 SF (1.840 acres) of the upland portions of Smith Creek Marina, in association with a public recreational park on the parcel(s) referenced above. The authorized redevelopment activities include the construction of open gazebo like structure approximately 2,900 SF to serve as a new "Tiki Bar", designated spaces for 3 food trucks, a portable bathroom trailer, outdoor seating and recreation areas, 67 new off street parking spaces and 20 new on street parking spaces to replace the existing deteriorated parking areas, a new 700 linear foot pedestrian trail spanning the waterfront area, two sets of public benches along the waterfront area overlooking the dock and waterways, and two additional sets of benches within the fenced food/bar area, improved vehicular access and egress into the park, and new stormwater management facilities. 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 through October 5, 2021, and Flood Hazard Area Control Act Rules (N.J.A.C. 7:13-1.1 et seq.) as amended through October 5, 2021, provided that all conditions to follow are met. <i>The Department has determined that the herein approved activities meet the requirements of the FHACA and 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>		
Prepared by: Matthew Resnick, Environmental Specialist II		Received and/or Recorded by County Clerk:
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.		
This permit is not valid unless authorizing signature appears on the last page.		

PRE-CONSTRUCTION CONDITIONS:

1. 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.
2. In order to protect anadromous fish species within Smith's Creek, no grading, construction or clearing is permitted within the water onsite between March 1st through June 30th of each calendar year. Furthermore, any activity outside the Creek, which would likely introduce sediment into the river and/or increase its turbidity, is also prohibited during this period. The Department reserves 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. If sediment control structures are installed prior to the timing restrictions stated above, construction behind the sediment control structures may proceed during the restricted period.
3. Prior to the construction of any structures and/or the placement of fill within any tidelands areas authorized under this permit, the permittee must apply to the Division's Bureau of Tidelands Management for a tidelands instrument (e.g., a license or lease) 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.

SPECIAL CONDITIONS:

1. This permit is issued subject to compliance with N.J.A.C. 7:7-27.2 Conditions that apply to all coastal permits.
2. The permittee shall maintain all existing public access on site following the construction of the approved improvements to the Smith's Creek Marina and public recreational park.
3. All excavated material shall be disposed of in a lawful manner. The material shall be placed outside of any flood hazard area, riparian zone, regulated water, freshwater/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
4. 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.
5. 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.
6. For the purposes of this permit, the Department has determined this project did not require the use of any structural best management practices (BMP) to demonstrate compliance with the Stormwater Management rules at N.J.A.C. 7:8. Therefore, the Department did not review any proposed BMP for consistency with the design criteria referenced within the New Jersey Stormwater Best Management Practices Manual.
7. In accordance with N.J.A.C.7:13-12.6(e)4, the permittee must provide signs in the proposed roadways and parking areas indicating that the lot will be subject to inundation during flood events.

8. In accordance with N.J.A.C. 7:13-12.6(f), the deed for each lot on which the private roadway or parking area is constructed, as well as any lot served by the private roadway or parking area, and each lease or rental agreement for a unit within the multi-residence building served by a private roadway or parking area that lies below the flood hazard area design flood elevation shall be modified to:
 - a. Explain that the private roadway or parking area is likely to be inundated by floodwaters, which may result in damage and/or inconvenience; and
 - b. Disclose the depth of flooding that the private roadway or parking area would experience during the FEMA 100-year flood, if available, and the flood hazard area design flood; and
 - c. The modified deeds are recorded in the Office of the County Clerk or the registrar of deeds and mortgages of the county in which the building is located, and proof that the modified deed has been recorded is provided to the Department prior to the sooner of either:
 - (1) The start of any site disturbance (including pre-construction earth movement, removal of vegetation or structures, or construction of the project); or
 - (2) The date that is 90 calendar days after the issuance of the permit.

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 PLAN(S):

The drawing(s) hereby approved consist of ten (10) sheet(s) prepared by Douglas A. White, P.E., dated 8/19/22, unrevised unless otherwise noted, and entitled:

“PROPOSED PERMITTING AND SITE PLANS FOR UP SMITH’S CREEK COMMUNITY COMPLEX, MARINA SOUTH AREA, BLOCK 753, LOTS 1 & 7, BLOCK 756, Lot 1.02, WOODBRIDGE, MIDDLESEX COUNTY, NJ, PROJECT NO: WOOD-00524”

- “EXISTING CONDITIONS & DEMOLATION PLAN”, sheet no. 3 of 17,
- “CONSTRUCTION PLAN”, sheet no. 4 of 17,
- “GRADING PLAN”, sheet no. 5 of 17,
- “CONSTRUCTION DETAILS”, sheet nos. 7 through 9 of 17,
- “LANDSCAPING PLAN”, sheet no. 10 of 17,
- “WATERFRONT PUBLIC ACCESS PLAN”, sheet no. 17 of 17
- “UP SMITH CREEK COMMUNITY OMPLEX – MARINA SOUTH AREA, SUBCHAPTER 13 EXHIBIT”, sheet 1 of 1.

- “FRAMING CONCEPT FLOOR PLAN, TYPICAL ELEVATION, BAR PLAN, SHUTTER DETAIL”, sheet A-1b, last revised 10/26/22.

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:

Janet Stewart, Manager
Bureau of Coastal Permitting
Division of Land Resource Protection

c: Municipal Clerk, Woodbridge Twp
Municipal Construction Official, Woodbridge Twp
Agent (original) – Ericka Naklicki