



**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE REGULATION**

Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.state.nj.us/dep/landuse

PERMIT

Map on file in Clerks Office

*done 3/11/14
cc: Admin
DPA
Plan
Eng*



Approval Date
FEB 26 2014

Expiration Date
FEB 25 2019

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 limitations, terms and conditions 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.

Permit Number(s)
1427-09-0007.1 FWW100004
FWW 100003
FWW 100002
FWW 100001

Type of Approval(s)
FW transition area waiver for stormwater mgt.
FW transition area averaging plan
FWGP11 for stormwater outfalls/pipes
FWGP2 for utility lines

Enabling Statute(s)
NISA 13:9B FWW
NISA 58:16A FH
NISA 58:10A-1 POLLUTION

Permittee:
Mr. Richard Maser
Mt. Olive MC, L.L.C.
331 Newman Springs Road, Suite 203
Red Bank, N.J. 07701

Site Location:
Block: 6000; Lots: 5 and 6
Municipality: Mount Olive Township
County: Morris

RECEIVED
MAR 10 2014
Mount Olive Township Clerk's Office

Description of Authorized Activities

This permit authorizes the disturbance of freshwater wetlands and wetland transition areas associated with the construction of a residential development consisting of 227 single family age restricted units, and 57 affordable housing apartments in 3 multi-unit buildings, on Block 6000, Lots 5 and 6 (with proposed utility lines extending onto the adjacent Block 6208, Lot 24 and Block 6000, Lot 12). Specifically, the permit authorizes the following disturbances: a) 0.371 of an acre of wetlands and transition areas for proposed utility lines under a Freshwater Wetlands Statewide General Permit No. 2; b) 0.250 of an acre of wetlands and transition areas for the placement of stormwater outfall and conveyance structures under a Freshwater Wetlands Statewide General Permit No. 11; and c) 4.841 acres of transition area for the placement of a drainage swale under a Special Activity Transition Area Waiver for Stormwater Management. The permit also authorizes the reduction of the wetland transition area by 2.676 acres, with 2.767 acres of transition area compensation, under a Transition Area Waiver Averaging Plan. The authorization to conduct regulated activities in a wetland includes a Water Quality Certificate for these activities. The permit also revises the previously issued Flood Hazard Area Individual Permit (File No. 1427-09-0007.1, FHA 100002) for grading changes and the removal of an existing road crossing and culvert within Drakes Brook.

Prepared by:
Susan Michniewski
Susan Michniewski

Received and/or Recorded by
County Clerk

THIS PERMIT IS NOT EFFECTIVE AND NO CONSTRUCTION APPROVED BY THIS PERMIT, OR OTHER REGULATED ACTIVITY, MAY BE UNDERTAKEN UNTIL THE APPLICANT HAS SATISFIED ALL PRE-CONSTRUCTION CONDITIONS AS SET FORTH HEREIN.

This permit is not valid unless authorizing signature appears on the last page.

CONDITIONS APPLICABLE TO ALL LAND USE PERMITS:

1. In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this approval may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin. This request must include a completed copy of the Administrative Hearing Request Checklist. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the Checklist is available through the Division's website at <http://www.nj.gov/dep/landuse/forms/lurpaahr.pdf>. 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 for more information about this process;
2. The permittee, its contractors and subcontractors shall comply with all conditions of this permit, supporting documents and approved drawings; and
 - i. Plans and specification in the application and conditions imposed by this permit shall remain in full force and effect so long as the proposed development or any portion thereof is in existence, unless modified by the Department in writing;
 - ii. If this permit contains a condition that must be satisfied prior to the commencement of construction, the permittee must comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then within six months of the effective date of the permit, or provide evidence satisfactory to the Department that such condition(s) cannot be satisfied; and
 - iii. Any noncompliance with this permit constitutes a violation, and is grounds for enforcement action, as well as suspension and/or termination of the permit; This approval does not in any way affect the right of the State to seek and collect monetary penalties or to take other enforcement action, should it be determined that a violation has occurred onsite;
3. It shall not be a defense for this permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit;
4. 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;
5. The issuance of this 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, structure or structures. Neither the State nor the Department shall, in any way, be liable for the loss of life or property which may occur by virtue of the activity of development resulting from any 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 this permit.

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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. This permit can be modified, suspended or terminated for cause. The filing of a request to modify an issued permit by the permittee, or a notification of planned changes or anticipated noncompliance does not stay any condition of this permit;
8. This permit does not convey any property rights of any sort, or any exclusive privilege;
9. A copy of the permit and other authorizing documents including all approved plans and drawings shall be maintained at the authorized site at all times and made available to Department representatives or their designated agents immediately upon request.
 - i. The permittee shall also furnish to the Department within a reasonable time any information that the Department requests to determine compliance with this permit or to determine whether cause exists for suspension or termination of this permit; and
 - ii. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permit;
10. The permittee shall allow an authorized representative of the Department, upon notification under current rule and upon the presentation of credentials, to:
 - i. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this 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 section shall be considered a violation of this chapter and subject the permittee to enforcement action;
 - iv. Sample or monitor at reasonable times for the purposes of assuring compliance with applicable rules;
11. No change in plans or specifications upon which this permit is issued shall be made except with the prior written permission of the Department;
12. The permittee shall provide reports to the Department as follows:
 - i. Monitoring results shall be reported at the intervals specified elsewhere in this permit;
 - ii. The permittee shall immediately report to the Department by telephone at (877) 927-6337 any noncompliance that may endanger health or the environment. In addition, the permittee shall report all noncompliance to Bureau of Coastal and Land Use Compliance and Enforcement, 401 E. State Street, 4th Floor, P.O. Box 420, Mail Code: 401-04C, Trenton, NJ 08625, in writing within five business days of the time the permittee becomes aware of the noncompliance. The written notice shall include: a description of

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- the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence 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;
- iii. 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;
13. Development which requires soil disturbance, the creation of drainage structures, or changes in natural contours shall conduct operations in accordance with the latest revised version of "Standards for Soil Erosion Sediment Control in New Jersey," promulgated by the New Jersey State Soil Conservation Committee, pursuant to the Soil Erosion and Sediment Control Act of 1975, N.J.S.A. 4:24-42 et seq. and N.J.A.C. 2:90-1.3 through 1.14. and must obtain any required approvals from the local Soil Conservation District;
14. If any condition of this permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect the public interest;
15. This permit is not transferable to any person unless the transfer is approved by the Department;
16. The permittee must obtain any and all other Federal, State and/or Local approvals. Authorization to undertake a regulated activity under these rules does not indicate that the activity also meets the requirements of any other rule, plan or ordinance. It is the applicant's responsibility to obtain all necessary approvals for a proposed project;
17. While the regulated activities are being undertaken, neither the permittee nor its agents shall cause or permit any unreasonable interference with the free flow of a regulated feature by placing or dumping any materials, equipment, debris or structures within or adjacent to the regulated area. Upon completion or abandonment of the work, the permittee and/or its agents shall remove and dispose of in a lawful manner all excess materials, debris, equipment, silt fences and other temporary soil erosion and sediment control devices from all regulated areas. Only clean non-toxic fill shall be used where necessary;
18. All excavated material and dredge 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/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area);

CONDITIONS APPLICABLE TO THE SPECIFIC PROJECT:

19. In order to protect the trout fisheries and general game fisheries resources within Drakes Brook, any proposed grading or construction activities within the banks of this watercourse is

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prohibited between March 15 and June 30 of each year. In addition, any activity that could introduce sediment into said watercourse or cause an increase in the natural level of turbidity is also prohibited during this period. The Department reserves the right to suspend all regulated activities on the site should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition. **This condition replaces condition number 24 of the Flood Hazard Area Individual Permit, File No. 1427-09-0007.1, FHA 100002.**

20. In order to avoid direct impacts to foraging/roosting Indiana bats, the clearing of trees may not occur within the entire project area from April 1 to September 30 of any year. Limited tree clearing during this time may be allowed subject to review and approval by the United States Fish and Wildlife Service (USFWS). You may call Carlo Popolizio, USFWS, at (609) 383-3938, Extension 32, to inquire about limited tree clearing.

21. General Permits and Special Activity Transition Area Waiver for Stormwater Management:

i. This portion of the permit authorizes the following disturbances: a) a total of 0.371 of an acre (0.082 of an acre of wetlands, and 0.289 of an acre of transition areas) for proposed utility lines under a Freshwater Wetlands Statewide General Permit No. 2; b) a total of 0.250 of an acre (0.025 of an acre of wetlands, and 0.225 of an acre of transition areas) for the placement of stormwater outfall and conveyance structures under a Freshwater Wetlands Statewide General Permit No. 11; and c) 4.841 acres of transition area for the placement of a drainage swale under a Special Activity Transition Area Waiver for Stormwater Management. The authorization of activities under the Freshwater Wetlands Statewide General Permits includes a transition area waiver which allows encroachment only in that portion of the transition area which has been determined by the Department to be necessary to accomplish the authorized activities. In addition, this permit to conduct a regulated activity in a wetland or open water includes the Department's approval of a Water Quality Certificate for these activities. Any additional disturbance of freshwater wetlands, State open waters or transition areas shall be considered a violation of the Freshwater Wetlands Protection Act unless a permit is obtained from the Division of Land Use Regulation prior to the start of the disturbances.

ii. Excavation within a wetland or transition area associated with the placement of utility lines under General Permit No. 2, and stormwater pipes under General Permit No. 11, shall be backfilled to the preexisting elevation and the uppermost 18 inches of the excavation shall be backfilled with the original topsoil material, where feasible. In addition, the disturbed areas shall be replanted with indigenous species, where feasible.

22. Transition Area Waiver Averaging Plan:

i. This portion of the permit authorizes a Transition Area Waiver Averaging Plan to accommodate the proposed residential development. As shown on the approved plans, the transition area shall be reduced by 2.676 acres and compensated by 2.767 acres.

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- ii. As shown on the approved plans, the transition area shall not be reduced to less than 75 feet in width at any location.
- iii. Prior to the commencement of site clearing, grading or construction within proposed Reduction Areas #1, #2, and/or #3, the permittee shall have a silt fence, as needed, and construction fence, such as an orange construction fence, erected at the limits of these reduction areas. These fences shall serve as siltation and debris barriers as well as physical barriers protecting the modified transition area from encroachment by construction vehicles or activities. These fences shall remain in place and be maintained throughout the duration of construction, and until such time as the site is stabilized. Similar fences shall be used elsewhere within the project area as needed. No regulated activities, including clearing or grading, may occur outside of the reduced transition area without the prior approval of the Department.
- iv. Following construction and stabilization of the site, a permanent split rail, or similar, fence shall be placed and maintained along the fence limits depicted on the approved plans (consisting of areas along or adjacent to reduction areas #1, #2, #3, and #5, and compensation areas #1, #2, and #4). In addition, either a permanent split rail or vegetated fence (consisting of a thick shrub and/or tree row) shall be placed along the remainder of the boundary at reduction area #5. These permanent fences shall serve to prevent encroachment into the modified transition areas.
- v. **Within 90 days** of the date of this permit, the permittee shall sign a Department approved conservation restriction for the wetlands and modified transition areas on the subject parcels in accordance with N.J.A.C. 7:7A-6.1(e). The conservation restriction shall apply to the entire wetlands and modified transition areas as depicted on the approved Conservation Easement Plan. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the lands included in the waiver are located. Said restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetland and transition area boundaries. Any regulated activities undertaken on the site before a copy of this recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act. The conservation restriction should conform to the format and content of the model "Transition Area & Adjacent Wetlands Conservation Restriction/Easement" located on the Division's website at www.state.nj.us/dep/landuse. The Division of Land Use Regulation reviewed the draft conservation restriction document dated January 29, 2014 and hereby approves that document for executing and filing. No site preparation or construction authorized by this permit shall commence until the approved conservation restriction is recorded with the property deed in the office of the County Clerk. Please submit a copy of the recorded restriction to Susan Michniewski of this office.
- vi. The permittee shall be responsible for notifying all potential purchasers of lots with regulated areas on or adjacent to such lots, of the significance of the conservation restriction. This includes informing such persons that activities prohibited in modified transition areas include dumping or filling with any materials, clearing of vegetation, and erection of any structures.

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vii. The approved freshwater wetland and transition area boundary lines must be shown on all future site development plans, and shall be labeled with the following note:

“Freshwater Wetlands/Waters Lines as Verified by NJDEP on October 7, 2010, File No. 1427-09-0007.1, FWW 090001, and Transition Area Boundary as Approved on (date of this permit), File No. (TAW file no.)”

23. This permit does not authorize any planned trails within regulated areas. Therefore, additional approvals in accordance with the Freshwater Wetlands Protection Act and Flood Hazard Area Control Act rules will be required prior to the start of construction of any trails, including any proposed trail located within the northwest portion of the property.

24. Flood Hazard Area Individual Permit Revision: This portion of the permit revises the Flood Hazard Area Individual Permit (FHAIP) issued on June 17, 2010 (File No. 1427-09-0007.1, FHA 100002) as follows:

i. Proposed grading in the area adjacent to the proposed Rosewood drainage swale, and the area of outfall number #2, is modified to that shown on the herein approved plans.

ii. A trail, and an existing road crossing of Drakes Brook, will be removed in addition to the previously identified trails/roads to be removed.

iii. Drakes Brook is a trout stocked and general game fishery waterway. As such, condition number 24 of the FHAIP is hereby superseded by condition number 19 above.

iv. The plans approved by this permit supersede the previously approved plans of the same titles.

v. Aside from the revisions noted above, no further changes to the conditions, expiration, or terms of the FHAIP are proposed or approved, and those items remain valid.

25. Historic Resource Conditions: The project site is located within an area of archaeological sensitivity. Therefore, the following is required in order for the Department's Historic Preservation Office (HPO) to determine if the project has the potential to affect historic and archaeological resources:

i. No project ground disturbing activities will commence on the project site within areas of archaeological sensitivity until the completion of the archaeological program to identify, evaluate, avoid, and/or mitigate project impacts on archaeological resources.

ii. The archaeological consultant will submit a draft Phase IB/II archaeological survey report to the HPO and Division of Land Use Regulation (DLUR) for review and comment. The project permittee shall ensure a **complete draft Phase IB/II reports** shall be submitted to the HPO for review and approval **within 30 days of permit issuance**. Please contact Mr. Vincent Maresca of the HPO at (609) 633-2395 with any questions (refer to HPO project number 13-1800).

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- iii. If the HPO and DLUR determine that no archaeological deposits eligible for listing on the National Register of Historic Places are identified by the draft Phase IB/II archaeological surveys, no additional survey work will be necessary.
- iv. If the draft Phase IB/II survey report results in a determination by the HPO and DLUR that any archaeological site(s) is eligible for inclusion on the National Register of Historic Places, recommendations for avoidance of impact shall be provided to the HPO and DLUR **within 30 days of notification of National Register eligibility**. It will be determined through consultation with the HPO if archaeological sites avoided by project impacts shall be preserved in place through a preservation easement.
- v. If impacts cannot be avoided, analysis must be provided which explores alternatives to minimize and/or mitigate impacts. Any minimization and/or mitigation plan(s) shall be approved by the HPO and DLUR prior to implementation. A mitigation plan involving Phase III archaeological data recovery shall include an HPO approved research design, work plan, any archaeological site buffer zone(s) protecting resources during on-site construction activities, collection repository, and public outreach component. The mitigation and/or archaeological data recovery plan shall be submitted and approved by the HPO and DLUR prior to the commencement of the data recovery fieldwork.
- vi. The permittee shall ensure the HPO and DLUR approved Phase III archaeological data recovery survey(s) are implemented.
- vii. The HPO will release the data recovery project site for construction once the fieldwork component of the archaeological data recovery is completed and the HPO and DLUR have received: A) an approved data recovery work plan; B) notification of the completion of the data recovery fieldwork; and C) an HPO approved data recovery management summary of the data recovery fieldwork. The project permittee shall ensure that the HPO receives a copy of the data recovery management summary **within one month of the completion of the data recovery fieldwork**.
- viii. The project permittee shall ensure any **draft Phase III report** shall be submitted to the HPO for review and approval **within six months after fieldwork is completed**. **Final archaeological survey reports** for each phase of survey shall be **submitted to the HPO within two months** after comments are received on the respective draft reports. Other timelines (for example, for public outreach) shall be established in consultation with the HPO and DLUR, as necessary, based on the findings of the archaeological survey.
- ix. The project permittee shall notify the HPO and DLUR **within three days** of the completing of each phase of archaeological fieldwork.
- x. The project permittee shall ensure that all artifacts from SR/NR eligible archaeological sites will be analyzed, catalogued, and curated in accordance with the National Park Service Standards, codified as 36 CFR Part 79.

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- xi. The Permittee shall ensure that **within two months** of the submission of the final Phase II report, and any final Phase III data recovery report, to DLUR and the HPO, the artifacts, field records (including the artifact catalogue), and copies of all phases of survey from the excavation sites that the HPO provides opinions of National Register eligibility shall have been turned over to the New Jersey State Museum or other institution meeting the Secretary of the Interior's Standards for Curation. A copy of the New Jersey State Museum Deed of Gift Form (or a Deed of Gift Form from another suitable curation facility) shall be submitted to the HPO at that time as an indicator of the final transmission of the artifact collection. All archaeological reports shall identify the repository where the project records and artifacts will be located.
- xii. The Permittee shall ensure that the individual(s) conducting the work will need to meet the Secretary of the Interior's Professional Qualifications Standards for archaeology and historic architecture (48 FR 44738-9).
- xiii. The Permittee shall ensure that all phases of the archaeological survey and reporting shall be in keeping with the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* and the archaeological survey and report rules at N.J.A.C. 7:4-8.4 through 8.5. Evaluations to determine the National Register eligibility of archaeological sites should be in keeping with the National Park Service's 2000 National Register Bulletin, *Guidelines for Evaluating and Registering Archaeological Properties*. The *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* are available on the National Park Services web site: http://www.nps.gov/history/local-law/arch_stnds_0.htm)
- xiv. The permittee shall ensure that work that does not meet the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation* and the requirements of the Freshwater Wetland Protection Act rules as determined by the HPO in consultation with DLUR, will be rectified by the project cultural resource consultant(s).
- xv. If potential human burials or human skeletal remains are encountered, all ground disturbing activities in the vicinity shall cease immediately and the HPO and DLUR shall be contacted, as well as any appropriate legal officials, as proceed as directed. The potential burials shall be left in place unless imminently threatened by human or natural displacement.
- xvi. If, for any reason the phased archaeological surveys are not accomplished prior to construction within the defined project area site limits, the permittee shall be responsible for all investigations, evaluation, survey, salvage, mitigation, and/or stabilization deemed necessary by the Department of Environmental Protection pursuant to the implementing regulations.
26. The Department has approved this freshwater wetlands permit because the project satisfies the requirements of the Freshwater Wetlands Protection Act rules. The issuance of this permit does not in any way indicate that any other required permits shall be approved. Approvals from the following agencies may be necessary prior to construction: a) Department of Environmental Protection (for sewer lines; application of herbicides in freshwater wetlands); b)

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The Morris County Soil Conservation District; and c) Mount Olive Township (including for activities on adjacent Township property or easements).

27. The drawings hereby approved are twenty (20) sheets, prepared by Maser Consulting P.A., dated October 18, 2013 and last revised January 13, 2014, unless noted otherwise below, and entitled:

“Final Major Subdivision and Site Plan, for Marveland Estates, Lots 5 & 6, Block 6000, Township of Mount Olive, Morris County, New Jersey”

“N.J.D.E.P. Permitting Plan”, Sheet Nos. 1 and 2 of 2, dated February 11, 2010, last revised January 29, 2014;

“Conservation Easement Plan”, Sheet No. 1 of 1, dated February 24, 2012, last revised November 15, 2013;

“Existing Conditions/Demolition Plan/Tree Removal Plan”, Sheet No. 2 of 56, dated October 18, 2013, unrevised;

“Overall Grading Plan”, Sheet No. 20 of 56, dated October 18, 2013, unrevised;

“Grading Plan”, Sheet Nos. 23, 24, 25, 26, and 27 of 56, dated October 18, 2013, unrevised;

“Landscape and Lighting Plan”, Sheet Nos. 38, 39, 40, 41, 42, 43, and 44 of 56;

“Riparian Zone Landscaping”, Sheet No. 44A of 56;

“Rosewood Drainage Swale Plan & Profile”, Sheet Nos. 52 and 53 of 56.

If you need clarification on any section of this permit or conditions, please contact our Technical Support Call Center at (609) 777-0454.



Lou Cattuna, Supervisor
Division of Land Use Regulation

2-26-14
Date

- C: Agent (original with plans)
- Municipal Construction Official (with plans)
- Municipal Clerk
- Morris County Planning Board
- Vincent Maresca, NJDEP - Historic Preservation Office
- Tanya Hatten, Bureau of Coastal & Land Use Compliance & Enforcement