

STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 DIVISION OF LAND RESOURCE PROTECTION
 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> | | <p>Approval Date 05/17/2021</p> |
| | | <p>Expiration Date 05/16/2026</p> |
| <p>Permit Number(s): 0233-20-0007.1 LUP210001</p> | <p>Type of Approval(s): FHA Individual Permit FWW GPI Maintenance/Repair of Existing Features Verification-Method 6 (Calculation Method)</p> | <p>Governing Rule(s): N.J.A.C. 7:13-1.1(b) N.J.A.C. 7:7A-1.1(a)</p> |
| <p>Permittee: Fyke Brook Estates, LLC 1 Sears Dr, Suite 104 Paramus, NJ 07652</p> | <p>Site Location: Block(s) & Lot(s): [21, 21] [21, 22] [21, 23] Municipality: Mahwah Township County: Bergen</p> | |
| <p>Description of Authorized Activities:</p> <p>This document authorizes the construction of a housing development and improvements to an existing stormwater management facility on the parcels referenced above.</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> | | |
| <p>Prepared by: Ashleigh Windawi</p> | <p>Received and/or Recorded by County Clerk:</p> | |
| <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> | | |

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STATEMENT OF AUTHORIZED IMPACTS:

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. 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. 7:13-21.8; N.J.A.C. 7:7A-19.11

| TWW/GPI Maintenance/Repair of Existing Features | Permanent Disturbance (Acres) | Temporary Disturbance (Acres) |
|--|--|--|
| Freshwater wetlands | 0.321 | 0 |
| Transition areas | 0 | 0 |
| State open waters | 0 | 0 |

| Riparian Zone Vegetation | Area of riparian zone (Acres) |
|-------------------------------------|--|
| Permanent Disturbed | 0.071 |
| Temporary Disturbed | 0.328 |

PRE-CONSTRUCTION CONDITIONS:

1. Prior to the commencement of any site preparation, clearing, grading or construction the applicant is responsible for installing and maintaining a silt fence sediment barrier around all soils disturbed by construction, which are sufficient to prevent the sedimentation of the wetlands, transition areas, and Fyke Brook. These fences shall serve as both a siltation and debris barrier as well as a physical barrier protecting the undisturbed regulated areas from encroachment by construction vehicles or activities. All sediment barriers and other soil erosion control measures shall be maintained on a daily basis in proper working condition throughout the entire duration of the project until such time that the site is stabilized.

FLOOD HAZARD AREA SPECIAL CONDITIONS:

1. The Department has determined that the required riparian zone adjacent to the regulated waters affected by the project is 150 feet from the top of the bank. **This permit authorizes 3,076 s.f. (0.071 acres) of permanent disturbance to riparian zone vegetation and 14,296 s.f. (0.328 acres) of temporary disturbance to riparian zone vegetation for the construction of a townhouse development and improvements to an existing stormwater management basin.** Any additional disturbance to the riparian zone shall be considered a violation of the Flood Hazard Area Control Act Rules (FHACAR) unless a permit is obtained, prior to the start of the disturbance, from the Division of Land Use Regulation.
2. In order to protect the general game fishery resources within Fyke Brook, no grading, excavation, or construction activity is permitted within the watercourse onsite from **May 1 through July 31**. In addition, any activity which could introduce sediment into State open waters, or which could cause an increase in the natural level of turbidity is also prohibited any time, but especially during this period.

The Department reserves the right to require additional soil conservation measures if it becomes evident that additional soil conservation measures are required to protect State regulated resources or to suspend all regulated activities on-site should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.

3. All riparian zone vegetation that is temporarily cleared, cut, and/or removed to conduct a regulated activity, access an area where regulated activities will be conducted, or otherwise accommodate a regulated activity shall be replanted immediately after completion of the regulated activity, unless prevented by seasonal weather, in which case the vegetation shall be replanted as soon as conditions permit. The vegetation to be replanted shall:
 - a. Consist of vegetation of equal or greater ecological function and value as the vegetation that was cleared, cut, or removed. For example, herbaceous vegetation may be replaced with the same type of vegetation or with trees, but the trees in forested areas must be replaced with trees of equal or greater density and ecological function and value;
 - b. Consist of native, non-invasive vegetation, except in an actively disturbed area. In an actively disturbed area, the vegetation may be replaced with the same type of vegetation that was cleared, cut, or removed, or with another kind of vegetation typical of an actively disturbed area. For example, lawn grass may be replaced with garden plants or agricultural crops; and
 - c. In cases where replanting would interfere with continued access to or maintenance of a structure that is required by Federal, State, or local law, the vegetation replanted shall meet the requirements to the extent feasible.
4. Construction equipment shall not be stored, staged or driven within any channel, freshwater wetland or transition area, unless expressly approved by this permit and/or described on the approved plans.
5. All excavated material and construction debris shall be disposed of in a lawful manner. The material shall be placed outside of any flood hazard area, riparian zone, regulated water, freshwater wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.

FRESHWATER WETLANDS SPECIAL CONDITIONS:

1. **The total amount of disturbance associated with this authorization shall not exceed 13,986 s.f. (0.321 acres) of freshwater wetland under a Freshwater Wetlands Statewide General Permit No. 1 for the maintenance of a lawfully existing stormwater management basin, as shown on the approved plans.** The wetland affected by this permit authorization is of Ordinary resource value and does not have a standard transition area or buffer associated with it. Any additional un-permitted disturbance of freshwater wetlands, State open waters and/or transition areas besides that shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the proposed disturbance.
2. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, Mail Code 401-04C, 401 East State Street, PO Box 420, Trenton, NJ 08625-0420, at least seven days prior to the commencement of site preparation, or of regulated activities, whichever comes first.
3. If the permittee, before or during the work authorized, encounters a possible historic property, as described at N.J.A.C. 7:7A-19.5(l), that is or may be eligible for listing in the New Jersey or National

Register, the permittee shall preserve the resource, and immediately notify the Department and proceed as directed.

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 Division of Land Resource Protection 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;
 - 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; and
 - iv. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by the Federal Act, by the Freshwater Wetlands Protection Act, or by any rule or order issued pursuant thereto, any substances or parameters at any location.
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 written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, PO Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
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 the Division of Land Resource Protection at the address listed on page one of this permit.

APPROVED PLAN(S):

The drawings hereby approved consists of five (5) sheets, prepared by Joseph F. Vince, P.E., P.L.S., of Schwanewede/Hals Engineering, dated July 31, 2020, last revised February 9, 2021, entitled:

"BLOCK 21, LOTS 21, 22, 23, FYKE BROOK ESTATES, TOWNSHIP OF MAHWAH, BERGEN CO., N.J.",

"GRADING PLAN", Sheet No. 3 of 15

"UTILITY PLAN", Sheet No. 4 of 15

"ENVIRONMENTAL PLAN" Sheet 6 of 15

"DETAILS", Sheet No. 9 of 15

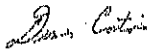
"FYKE BROOK STUDY PLAN", Sheet No. 10 of 15

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 the Division of Land Resource Protection 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 the Division of Land Resource Protection's Technical Support Call Center at (609) 777-0454.

Approved By:



Digitally signed by dennis contois
Date: 2021.05.17 09:52:54 -04'00'

Dennis Contois, Supervisor
Division of Land Resource Protection

- c: Municipal Clerk, Mahwah Township
- Municipal Construction Official, Mahwah Township
- Agent (original) – Joseph Vince, P.E. & L.S., Schwanewede/Hals Engineering