



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>		Approval Date July 29, 2020
		Expiration Date July 28, 2025
Permit Number(s): 1343-01-1003.1 LUP190001	Type of Approval(s): CAFRA Individual Permit-Commercial/Industry/Public	Governing Rule(s): N.J.A.C. 7:7-1.1(a)
Permittee: Sea Horse, LLC 1485 Ocean Ave Sea Bright, NJ 07760	Site Location: Block(s) & Lot(s): [4, 5] Municipality: Sea Bright Borough County: Monmouth	
<p>Description of Authorized Activities: This document authorizes beach maintenance activities conducted in accordance with Best Management Practices as found in the Rules on Coastal Zone Management at N.J.A.C. 7:7-10 and the placement of temporary seasonal structures, which includes 80 temporary framed cabanas with sundecks and handrails (60 on the beach and 20 upland), 4 temporary bathrooms, 24 lockers, 6 equipment sheds and walkways. All of these structures are to be temporary in nature. The document also legalizes four utility outposts, playground equipment, volleyball posts and the relocated footprint of an existing deck landward of its previous footprint. The existing bar/restaurant will be modified by the removal of the walls and windows and be converted to an open food concession/bar area built over the deck. The 19' by 39' deck/concession stand will include an awning. This document also authorizes the construction of temporary linear sand piles. These activities are to be conducted under the supervision of the Facilities Manager, who is responsible for all authorized and conducted work. The approved maintenance area is the beach within the Club's boundaries.</p> <p>This permit does not authorize work at or below the Mean High Water Line.</p> <p>All temporary structures authorized by this permit, other than the temporary linear sand piles, underground utilities, floor decking, and open drink and food concession stand shells, may only remain in place from May 1st through October 31st of each year and must be removed from the beach outside of this time period.</p> <p>The temporary linear sand piles authorized by this permit may only remain in place between September 15th and March 15th.</p> <p>This permit is authorized under, and in compliance with the Rules on Coastal Zone Management. (N.J.A.C. 7:7-1.1 <u>et seq.</u>), last amended February 20, 2020.</p> <p>Issuance of this permit in no way relinquishes and shall not be construed as a relinquishment by the State of New Jersey of any tidelands right, title, ownership/interest in the subject property or in any land surrounding same.</p>		
Prepared by: Kara Turner	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. 7:7-2.1.

PRE-CONSTRUCTION CONDITIONS:

1. Within 90 days, and prior to site preparation or construction, the permittee shall remove the windows and walls from the food concession stand, as shown on the approved plans.

SPECIAL CONDITIONS:

1. This permit does not authorize the construction of permanent windows or walls on the food concession stand or the deck areas, including adjacent to the awning.
2. 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.
3. 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/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.
4. For the purposes of this permit, the Department has determined that this project is not a Major Development as defined in the Stormwater Management rules at N.J.A.C. 7:8-1.2. Therefore, the Department did not review the proposed project for compliance with these rules.
5. The permittee shall adhere to the provisions of the *Sea Bright Borough Beach Management Plan For the Protection of Federally & State-Listed Species* (dated September 2015 or most current version adopted by the Borough and created in coordination with the United State Department of the Interior Fish & Wildlife Service New Jersey Field Office and the New Jersey Department of Environmental Protection Division of Fish and Wildlife Endangered and Nongame Species Program) as applicable.
6. If activity of rare beach-nesting shorebird species (i.e. State- or federally-listed threatened or endangered species, or migratory shorebird species of special concern) or Seabeach Amaranth is discovered at or near the permitted limit of disturbance, work and/or recreational use of the area shall cease until the permittee has coordinated with, and guidance on habitat management practices can be issued by the NJ Department of Environmental Protection and, potentially, the US Fish & Wildlife Service. Please note that this coordination may result in the need for the permittee's adherence to provisions as necessary to protect this sensitive habitat (e.g., seasonal restriction on regulated activities).

6. The Beach Club must provide public access in accordance with the Consent Judgment between the State of New Jersey and Driftwood Beach Club, Docket No. C-296-06, filed January 13, 2010. Existing public access points shall be maintained.
7. This permit does not authorize any work at or waterward of the mean high-water line (MHWL) or dredging activities. If work is occurring at or waterward of the MHWL or if dredging is required in the future, a Waterfront Development application showing compliance with Coastal Zone Management rules and 7:7-12.9 New Dredging will be required to be submitted to this Division.
8. All proposed beach maintenance activities (with the exception of temporary sand pile activities described in conditions below) MUST be conducted in accordance with Best Management Practices as defined by the Department in the Rules on Coastal Zone Management, N.J.A.C. 7:7-10. Only those activities above the MHWL are authorized. Activities other than those outlined in Subchapter 10 shall require additional authorization from the Division of Land Resource Protection (DLRP). Failure to receive such additional authorization prior to activities may warrant enforcement action by the Bureau of Coastal and Land Use Enforcement (CLUE).
9. The transfer to sand from the lower beach profile to the upper beach profile, or along shore, is conditionally acceptable. The amount of sand transferred at any one time shall be limited to one-foot scraping depth at the borrow zone (area above the mean high water line and the inland limit of the berm). This borrow zone may not be re-scraped until the sand volume from the previous scraping activities has been fully restored.
10. With the exception of the regrading of the temporary sand piles, at no other time shall sand be transferred from the upper beach (berm) to the lower beach (beach face), for the purpose of increasing the berm width or flattening the beach profile in accordance with N.J.A.C. 7:7-10.2(a).
11. Sand transfers to or from wetland areas that may exist on a beach are **NOT** authorized by this permit.
12. DLRP reserves the right to require a monitoring program if DLRP believes there is a potential for adverse effects from the proposed maintenance activities or the temporary linear sand piles. If required, results of the monitoring program must be reported to DLRP within 30 days of the monitoring. Monitoring reports should include beach/dune profiles, discussion of change of sand volume, and include a history of substantial storm events from the past year.
13. Records of all sand transfer activities shall be maintained by the Permittee, and shall be available for inspection by the Department, upon request. These records shall include, but not be limited to dates of transfer, borrow area limits, fill area limits, estimates of the amount of sand transferred, and the name of the person supervising the transfer activities, and the engineering certification required (if appropriate) for all sand transfer activities.
14. Any temporary seasonal sand fencing shall be installed in a manner that does not prevent public access along the tidal water and does not restrict public access to the beach from the existing public access points.
15. Sand fencing shall be placed a minimum of 15 feet waterward of the seaward toe of any dune or from the waterward side of any structure.
16. Accumulated sand from temporary seasonal fencing sand shall be redistributed on the beach and shall not result in the grading of the beach below the beach berm design template and where feasible, shall not result in the grading of the beach face to a slope steeper than 10 horizontal to one vertical.

17. All temporary structures authorized by this permit, other than the temporary linear sand piles and underground utilities, floor decking, and open drink and food concession stand shells, may only remain in place from May 1st through October 31st of each year and must be removed from the beach outside of this time period.
18. On or prior to April 1st of each year for the duration of the permit, the permittee shall submit to DLRP, for its review and approval, three copies of a revised site plan, dated no more than 30 days prior to the submittal, including supplemental documents as appropriate, showing the location of all proposed temporary seasonal structures and documentation that the proposed temporary seasonal structures comply with the standards of N.J.A.C. 7:7-9.22.
19. No excavation, grading, or filling of the beach can be associated with the placement of the temporary seasonal structures.
20. All temporary seasonal structures authorized by this permit that are located on the beach shall be immediately removed from the beach and relocated to a secure place at any time that the National Weather Service issues a Severe Weather Alert for the municipality in which the development is located, for significant weather events, such as Coastal Flood Warning, Extreme Wind Warning, Hurricane Warning, Tornado Warning or Tropical Storm Warning, that would directly affect structures left on the beach, until the Sever Weather Alert is lifted.
21. Temporary seasonal occupations of the United States Army Corps of Engineers (USACE) federal beach project area require prior written approval from DCE or DCE and USACE, must be seasonal in nature and be removed annually. The area must be restored to pre-occupation conditions after the occupation ends seasonally.
22. Beach berm elevation and width shall not be modified by the temporary seasonal occupation of the federal beach project area.
23. No pilings or other permanent structures shall be placed within the federal beach project area.
24. Prior to beach nourishment and maintenance activities conducted by USACE or the State of New Jersey, all occupations of the federal beach project area, including utilities, must be completely removed by the owner/operator at no cost to USACE or the State of New Jersey.
25. All occupations of the federal beach project area shall maintain and not alter any public access without the pre-approval of all local, State, and Federal agencies including NJDEP-Division of Coastal Engineering (DCE), DLRP, and USACE.
26. If a geodetic control reference marker is found on site and the position of the survey marker or monument cannot be protected, the applicant shall coordinate with the New Jersey Geodetic Control Survey (NJGCS) at least 60 days prior to disturbance to relocate the geodetic control marker to an appropriate location prior to construction. The impacted areas shall be restored to original grade and condition. The applicant shall contact NJGCS with any questions at (609) 530-5654.

TEMPORARY LINEAR SAND PILE CONDITIONS:

1. The temporary linear sand piles authorized by this permit may only remain in place between September 15th and March 15th.

2. During the effective period of this permit, no temporary linear sand piles shall be created or re-created without PRIOR written approval from DLPR and DCE. DLPR and DCE will not approve grading or excavation activities that would lower the elevation of the beach below the federal project design template or compromise the federal construction template of recently replenished beaches as described by (a), (b) and (c) below or otherwise lower the level of protection provided by the project:
 - a. Sand shall not be harvested below elevation + 10.0' NAVD88 from the upper limit of work/project reference line (to be provided by the DCE) easterly to a point 125 feet seaward of the upper limit of work/project reference line.
 - b. Sand shall not be harvested along the beach slope steeper than 1 on 20 from the point 125 feet seaward of the upper limit of work/project reference line easterly to elevation + 3.9' NAVD88, and no steeper than 1 on 10 from elevation + 3.9' NAVD88 easterly to MHWL.
 - c. On recently nourished beaches where the elevation + 10.0' NAVD88 beach exceeds the 125-foot width, the amount of sand transferred seaward of that 125-foot beach shall be limited to one-foot scraping depth at the borrow zone (area between the mean high water line and the seaward limit of the 125-foot wide + 10.0' NAVD88 beach). This borrow zone may not be re-scraped until the sand volume from the previous scraping activities has been fully restored.
3. No sand can be harvested for temporary linear sand piles from outside of the limits of the properties identified in this CAFRA permit.
4. The temporary linear sand piles must be linear and contiguous.
5. The landward limit of the temporary linear sand piles must be on the upper one-third of the width of the beach at or above elevation + 10' NAVD88.
6. The use of sand fence along the landward toe of the temporary linear sand piles is encouraged for the entire length of the sand pile apart from the public access points to lessen the effects of windblown sand deposition on upland structures.
7. If the existing beach profile meets 2 (a) and (b) above (the design template) or has a sufficient amount of sand in the overall profile to re-create this design template profile first (including the provisions in 2 (c) above) and then be able to create the temporary linear sand piles, surveys, no older than 14 days, must be provided to DLPR and DCE for review and written approval PRIOR to the creation or re-creation of temporary linear sand piles in the fall.
8. Upon creation of the temporary linear sand piles, surveys, no older than 14 days, must be provided to DLPR and DCE for review to verify consistency with 2 (a), (b) and (c) above.
9. Surveys shall be performed by a Professional Licensed Surveyor or Professional Engineer, shall include appropriate profile locations and limits (to be provided by DCE), and shall depict the location/extent of the proposed temporary linear sand piles. Survey data shall be provided to DLPR and DCE as:
 - a. Raw, x,y,z data (NJ State Plane and NAVD88 coordinate systems), and
 - b. PDF outputs of the beach profile overlaid with the design template and the appropriate upper limit of work/project reference line.
10. After the regrading of the temporary linear sand piles in the spring, surveys, no older than 14 days, must be provided to DLPR and DCE for review. All temporary linear sand piles shall be re-graded

back in a manner that reestablishes 2 (a) and (b) above (the design template) no later than the date established within the NJDEP CAFRA permit. If the available material is not sufficient to re-establish 2 (a) and (b) above (the design template), then a profile with a beach at elevation of + 10' NAVD88 should be established as far easterly as the available sand will allow with a 1-on-10 slope from the seaward edge of this beach at + 10.0' NAVD88 down to MHWL.

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; 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 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.

Additionally, the permittee shall notify the Department in writing (at the address listed on page one of this permit) within five working days prior to commencement of operation of a CAFRA individual permit. At this time, the permittee shall certify that all conditions of the permit that must be met prior to operation of the development have been met.

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 drawing(s) hereby approved consist of three (3) sheets, prepared by Maser Consulting, PC, dated May 1, 2019, last revised July 29, 2020, entitled:

“CAFRA PERMIT PLAN FOR DRIFTWOOD CABANA CLUB, BLOCK 4, LOT 5, BOROUGH OF SEA BRIGHT, MONMOUTH COUNTY, NEW JERSEY”

“CAFRA PERMIT PLAN (SUMMER OPERATIONS EFFECTIVE FEMA), sheet 1 of 3,
“CAFRA PERMIT PLAN (SUMMER OPERATIONS PRELIMINARY FEMA), sheet 2 of 3,
“CAFRA PERMIT PLAN (WINTER OPERATIONS EFFECTIVE FEMA), sheet 3 of 3.

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:

Joanne B. Davis, Supervisor
Division of Land Resource Protection

Attachment: Subchapter 10 Standards for Beach and Dune Activities

c: Municipal Clerk, Sea Bright Boro
Municipal Construction Official, Sea Bright Boro
Agent (original) – Raymond Walker Ph,D