

WEST DEPTFORD TOWNSHIP

ORDINANCE 2021-04

ORDINANCE OF THE TOWNSHIP OF WEST DEPTFORD AUTHORIZING AND APPROVING THE EXECUTION AND FILING OF A GRANT OF CONSERVATION RESTRICTION (RIPARIAN ZONE MITIGATION) BETWEEN THE TOWNSHIP OF WEST DEPTFORD AND THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION (BLOCK 328, LOTS 7 & 7.09)

WHEREAS, the Township of West Deptford (hereinafter referred to as "Township") is the owner in fee simple of certain real property designated as Block 328/Lots 7 and 7.09 on the Township Tax Map (hereinafter referred to as the "Property"); and

WHEREAS, the Township has entered into an Administrative Consent Order pursuant to the Flood Hazard Area Control Act and the Flood Hazard Area Control Act Rules as settlement for the performance of unauthorized regulated clearing, cutting and removal of vegetation within the riparian zone; and

WHEREAS, the Administrative Consent Order is conditioned upon the Township recording an approved Conservation Restriction for the riparian zone mitigation area (hereinafter referred to as the "Restricted Area"); and

WHEREAS, the Township intends to enter into this Conservation Restriction in order to grant to the New Jersey Department of Environmental Protection a Conservation Restriction on the Property.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Township of West Deptford, County of Gloucester and State of New Jersey:

1. That the Township of West Deptford does hereby authorize and approve the execution of the attached Grant of Conservation Restriction (Riparian Zone Mitigation) between the Township of West Deptford and the New Jersey Department of Environmental Protection as to Block 328, Lots 7 & 7.09.
2. That the Mayor and/or Township Administrator be and is hereby authorized to execute the attached Grant of Conservation Restriction on behalf of the Township.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and publication as required by law.

TOWNSHIP OF WEST DEPTFORD



DENICE DICARLO, Mayor

ATTEST:



LEE ANN DEHART, Registered Municipal Clerk

INTRODUCED at a meeting of the Township Committee of the Township of West Deptford, held on February 17, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo	/			
Megan Kerr	/			
James Mehaffey	/			
Adam Reid	/			
James Robinson	/			
TALLY:	5			

ADOPTED at a meeting of the Township Committee of the Township of West Deptford, held on March 3, 2021. .

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo	/			
Megan Kerr	/			
James Mehaffey	/			
Adam Reid	/			
James Robinson	/			
TALLY:	5			

NJDEP File No.: NEA170001-0820-01-1002.1

GRANT OF CONSERVATION RESTRICTION
(Riparian Zone Mitigation)

THIS GRANT OF CONSERVATION RESTRICTION is made this 3rd day of March 2021, by West Deptford Township, its heirs, successors and assigns and all legal and equitable owners, and any and all current or successor holders of any interest in and to the property whose address is 400 Crown Point Road, West Deptford Township, County of Gloucester, State of New Jersey, hereinafter referred to as the "Grantor," in favor of and to the New Jersey Department of Environmental Protection, its successors and assigns, hereinafter referred to as the "Grantee".

WITNESSETH:

WHEREAS, the Grantor is the owner in fee simple of certain real property located in the Township of West Deptford, County of Gloucester, New Jersey, designated as Lot(s) 7 & 7.09, Block 328 on the official Tax Map of the Township of West Deptford, Gloucester County Clerk's Deed Book Number 02957, Page Number 00237, as Lot 7, and Deed Book Number 48250, Page Number 24900, as Lot 7.09 (hereinafter "the Property"); and

WHEREAS, the Grantor has entered into an Administrative Consent Order NJDEP NEA170001-0820-01-1002.1 (hereinafter "ACO"), pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58-16A-50 and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, as settlement for the performance of unauthorized regulated clearing, cutting and removal of vegetation within the riparian zone, attached hereto as **Exhibit 1**; and

WHEREAS, the ACO issued to the Grantor is conditioned upon the Grantor's recording of a Grantee approved Conservation Restriction, pursuant to N.J.A.C. 7:13-14, for the riparian zone mitigation area (hereinafter the "Restricted Area") as shown on plans entitled Riparian Conservation/Enhancement Zone at Block 328, Lots 7 & 7.09, West Deptford, Gloucester County, New Jersey, prepared by T&M Associates, dated January 20, 2020, attached hereto as **Exhibits 2, 2.1, 2.2, & 2.3**, and more particularly described on a legal description (metes and bounds) of the Restricted Area, attached hereto as **Exhibit 3**; and

WHEREAS, riparian zones play a significant role in the maintenance of water quality by reducing and removing nutrients and pollutants from surface water runoff, trapping sediments, and stabilizing soil; and

WHEREAS, riparian zones cumulatively play a significant role in moderating storm flows to streams thereby reducing downstream flooding, provide flood storage capacity and groundwater recharge, and provide shade to the water body providing a more stable aquatic habitat for a variety of aquatic and terrestrial species, for the benefit of the public; and

WHEREAS, the Grantee is authorized by N.J.S.A. 13:1D-9 to formulate comprehensive policies for the conservation of natural resources, to promote environmental protection, and prevent pollution of the environment of the State, and is authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions; and

WHEREAS, the Grantor, having the authority to do so, intends to enter into this Conservation Restriction in order to grant to the Grantee a Conservation Restriction on the Property to restrict subsequent development and unauthorized disturbance of the Restricted Area.

NOW THEREFORE, in consideration for the issuance of the ACO, it and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the facts recited above and the terms, conditions and restrictions contained herein, the Grantor hereby agrees that the Property shall be subject in perpetuity to the following conveyances, covenants and restrictions in favor of the Grantee:

1. Grantor hereby conveys, transfers, assigns and grants to the Grantee a Conservation Restriction with respect to that portion of the Property as designated as the Restricted Area as shown in **Exhibits 2, 2.1, 2.2, & 2.3** and as described in **Exhibit 3**.
2. Riparian zone mitigation shall occur within the restricted areas as shown on the plans entitled Riparian Area Enhancement and Landscaping Plan – May 2018, RiverWinds, West Deptford, Gloucester County, New Jersey, prepared by T&M Associates, dated May 9, 2018, attached hereto as **Exhibit 4**. Any approved and amended Conservation Restriction Plan shall be recorded pursuant to the procedures set forth in paragraphs 25 and 26.
3. Specifically, including but not limited to, the following activities shall not occur within the Restricted Area with the exception of those activities that are expressly permitted and authorized by the New Jersey Department of Environmental Protection, that are specifically a construction or maintenance component of the Conservation Restriction Plan approved as part of the ACO, **Exhibit 1**, include normal property maintenance, provide for water access to the Delaware River and the man-made lagoon, and/or depicted on the Mitigation Plan, **Exhibit 4**, and/or except as provided in paragraphs 3(h) and 6(c) below:
 - a. Removal, excavation, or disturbance of the soil;

- b. Dumping or filling with any materials;
 - c. Installation of structures;
 - d. Placement of pavement or other impervious surface;
 - e. There shall be no removal, destruction or cutting of trees or plants, planting of trees or plants, introduction of non-native animals and plants, grazing of domestic animals, or disturbance or change in the natural habitat in any manner inconsistent with erosion and sedimentation control and riparian zone protection;
 - f. The use of fertilizers, herbicides or pesticides that are not specifically approved under the riparian zone mitigation plan, and except:
 - (1) where permitted by an approved planting and maintenance plan as provided at the Riparian Maintenance Schedule at **Exhibit 5**;
 - (2) for selective herbicide application by a qualified professional to control noxious weeds and invasive species of plants in riparian zone;
 - (3) for selective pesticide application by a qualified professional to control browsing wildlife in riparian zone;
 - g. Taking any action to alter the hydrology of the Restricted Area;
 - h. Any other activities, unless explicitly permitted as part of the Conservation Restriction, and/or provided at the Riparian Maintenance Schedule at **Exhibit 5**;
4. The boundaries of the Restricted Area shall be marked by an unobtrusive, semi-permanent visual marker in a manner of the Grantor's choosing, and to the Grantee's satisfaction, no less than 30 days prior to commencement of site preparation. Examples include survey markers, fence post, pipe in the ground, and a shrub or tree line.
5. This Conservation Restriction shall be a burden upon and shall run with the Property, and shall bind Grantor, its heirs, successors and assigns, in perpetuity. The Grantor shall give notice of this Conservation Restriction to all holders of any easements in the Restricted Area within 30 days of recording by the County Clerk.
6. It is the purpose of the Conservation Restriction to assure that the Restricted Area will be maintained as such and to prevent any disturbance or development to that portion of the Property, with the exception of those activities that are expressly

permitted and authorized by the New Jersey Department of Environmental Protection, and/or specifically a construction or maintenance component of the Conservation Restriction Plan approved as part of the ACO, **Exhibit 1**, and/or depicted on the Mitigation Plan, **Exhibit 4**, and/or provided at the Riparian Maintenance Schedule at **Exhibit 5**. To carry out this purpose, the following rights are granted to Grantee by this Conservation Restriction:

- a. Upon advance notice to enter upon the Property in a reasonable manner and at reasonable times so as to assure compliance with the provisions of this Conservation Restriction; and
 - b. In addition to the exercise of any other statutory or common law right, to enjoin any activity on, or use of, the Restricted Area that is inconsistent with the purpose of this Conservation Restriction and to enforce the restoration of such areas or features of the Restricted Area that may be damaged by inconsistent activity or use.
 - c. The right, but not the obligation, to monitor the condition of any rare plant and animal populations, plant communities, and natural and/or constructed habitats on the Restricted Area, and to manage them, if necessary, for their continued survival and quality on the Restricted Area. Such activities shall comply with the maintenance or monitoring obligations under the ACO, **Exhibit 1**, approving the mitigation, and/or depicted on the Mitigation Plan, **Exhibit 4**, and/or provided at the Riparian Maintenance Schedule at **Exhibit 5**.
7. Grantor shall provide the Grantee telephonic and written notice of any transfer or change in ownership of any portion of the Restricted Area, including but not limited to the name and address of the new owner, and including but not limited to any later-formed condominium association, at least one month prior to the day of the signing of those documents accomplishing the actual transfer or change in ownership.
 8. In addition to, and not in limitation of, any other rights of the Grantee hereunder or at law or in equity, if the Grantee determines that a breach, default or violation ("Violation") of this Conservation Restriction has occurred or that a Violation is threatened, the Grantee shall give written notice to Grantor of such Violation, setting forth the specifics thereof, and demand corrective action sufficient to cure the Violation. If the Grantor fails to cure the Violation after receipt of notice thereof from the Grantee, or under circumstances where the Violation cannot reasonably be cured within a time period dictated by the Grantee, fails to begin curing such Violation within the time period dictated by the Grantee, or fails to continue diligently to cure such Violation until finally cured, the Grantee may bring an action at law or in equity in a court of competent jurisdiction:

- a. To enjoin and/or cure such Violation,
 - b. To enter upon the Restricted Area and to take action to terminate and/or cure such Violation and or to cause the restoration of that portion of the Restricted Area affected by such Violation to the condition that existed prior thereto, or
 - c. To seek or enforce such other legal and/or equitable relief or remedies as the Grantee deems necessary or desirable to ensure compliance with the terms, conditions, covenants, obligations and purpose of this Conservation Restriction.
9. If the Grantee, in its discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Restricted Area, the Grantee may pursue its remedies under paragraph 8 above without prior notice to Grantor or without waiting for the period provided for cure to expire. The Grantee's rights under this paragraph shall apply equally in the event of either actual or threatened Violations of the terms of this Conservation Restriction. Grantor agrees that the Grantee's remedies at law for any Violation of the terms of this Conservation Restriction are inadequate and that the Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance. The above language shall in no event be interpreted to derogate or diminish the Grantee's rights and powers under the laws of the State of New Jersey for the protection of public health, safety and welfare.
10. Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantee and any forbearance by the Grantee to exercise its rights under this Conservation Restriction in the event of any Violation by Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent Violation or of any of the Grantee's rights under this Conservation Restriction. No delay or omission by the Grantee in the exercise of any right or remedy upon any Violation by Grantor shall impair such right or remedy or be construed as a waiver of such right or remedy.
11. Grantor agrees to reimburse the Grantee for any costs incurred by the Grantee in enforcing the terms of this Conservation Restriction against Grantor, and including, without limitation, the reasonable costs of suit and attorneys' fees.
12. The Grantee reserves the right to transfer, assign, or otherwise convey the Conservation Restriction to any other entity or person to facilitate the operation of and/or public use and enjoyment of the Restricted Area provided it is in accordance with N.J.S.A. 13:8B-1 et seq.

13. Any notice, demand, request, consent, approval or communication under this Conservation Restriction shall be sent by certified mail, return receipt requested or reliable overnight courier, addressed as follows:

To the Grantor:

West Deptford Township
West Deptford Municipal Building
400 Crown Point Road
West Deptford, New Jersey 08086

To the Grantee:

State of New Jersey
Department of Environment Protection
Division of Land Resource Protection
and its successors and assigns

As of this date of this Conservation Restriction, Grantee's address for the purposes of notice is:

501 East State Street
Mail Code 501-02A, P.O. Box 420
Trenton, NJ 08625-0420
Attention: Director, Division of Land Resource Protection
(609) 984-3444

In addition, any notice relating to paragraph 7 shall be addressed as follows:

To the Department:

State of New Jersey
Department of Environmental Protection
Coastal & Land Use Compliance & Enforcement
and its successors and assigns

401 East State Street
Mail Code 401-04C, P.O. Box 420
Trenton, NJ 08625-0420
Attention: Manager, Coastal & Land Use Compliance & Enforcement
(609)292-1240

14. A party may change the address or person to whom notices to it are required to be given by notice given in the manner above provided.
15. This instrument conveys no right of access by the general public to any portion of the Property.

16. The Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep and maintenance of the Restricted Area, including any required fencing of the Restricted Area, as stated or shown in **Exhibit 1, Exhibits 2, 2.1, 2.2, & 2.3, Exhibit 4, and Exhibit 5**. The Grantor shall be responsible for acts of its own negligence consistent with the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:8-1 et seq.
17. The Grantor agrees that the terms, conditions, restrictions and purposes of this Conservation Restriction will be inserted in any subsequent deed, subdivision deed, lease, sub-lease or other legal instrument by which the Grantor divests itself of any interest in any portion of the Property. Notwithstanding the failure of the Grantor to include the terms and restrictions of this instrument, this Conservation Restriction shall run with the land and be binding on all heirs, successors and assigns.
18. Reserved.
19. Notwithstanding anything contained herein to the contrary, any modification or termination of this Conservation Restriction shall require the prior written approval of the Grantee, its successor or assign.
20. This Conservation Restriction shall survive any merger of the fee and restriction interest in the Restricted Area.
21. In the event of a conflict between this Conservation Restriction and the ACO, **Exhibit 1**, plan(s) depicting the required Restricted Area, **Exhibits 2, 2.1, 2.2, & 2.3**, and/or Mitigation Plan, **Exhibit 4**, the Mitigation Plan shall govern over the approved plans, ACO, and Conservation Restriction; the ACO shall govern over the Conservation Restriction until the mitigation has been declared successful in accordance with the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, at which time the Conservation Restriction shall govern over the ACO.
22. Taxes, Insurance.
 - a. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property and Restricted Area. Grantor shall keep the Property and Restricted Area free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.
 - b. The Grantor agrees to pay any real estate taxes or other assessments levied on the Property and Restricted Area. If the Grantor becomes delinquent in payment of said taxes or assessments, such that a lien against the land is created, the Grantee, at its option, shall, after written notice to the Grantor,

have the right to purchase and acquire the Grantor's interest in said Property and Restricted Area or to take such other actions as may be necessary to protect the Grantee's interest in the Restricted Area and to assure the continued enforceability of this Conservation Restriction.

23. Miscellaneous.

- a. The laws of the State of New Jersey shall govern the interpretation and performance of this Conservation Restriction.
- b. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- c. This Conservation Restriction and the ACO along with the approved plans set forth the entire agreement of the parties with respect to the Conservation Restriction and supersede all prior discussions, negotiations, understandings or agreements relating to the easement, all of which are merged herein. No alteration or variation of this Conservation Restriction shall be valid or binding unless contained in writing executed and recorded by the parties hereto.
- d. Should there be more than one Grantor, the obligations imposed by this Conservation Restriction upon each Grantor shall be joint and several.
- e. The covenants, terms, conditions and restrictions of this Conservation Restriction shall be binding upon, and inure to the benefit of, the parties hereto and all parties having or acquiring any right, title or interest in any portion of the Property, including holders of subdivision deeds, and shall continue as a servitude running in perpetuity with the Property.
- f. The captions in this Conservation Restriction have been inserted solely for convenience of reference and are not a part of this Conservation Restriction and shall have no effect upon construction or interpretation.
- g. Execution of this Conservation Restriction does not constitute a waiver of the rights or ownership interest of the State of New Jersey in public trust property.
- h. This Conservation Restriction shall be construed as if it were drafted by both parties. Both parties waive all statutory and common law presumptions which might otherwise serve to have the instrument construed in favor of, or against, either party as the drafter hereof.

- i. This Conservation Restriction may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument.
- 24. The Grantor reserves unto itself the right to undertake *de minimis* modifications of the Restricted Area that are approved in advance and in writing by the Grantee. The Grantee may approve the modification under the following conditions and with the following documentation:
 - a. The modification results in an increased level of protection of the regulated resource; or
 - b. The modification results in equivalent areas of resources protected; and
 - c. The modification does not compromise the original protected resource.
- 25. If the Grantee approves the Grantor's modification, the Grantor shall amend this instrument by preparing and submitting to the Grantee for prior review and approval:
 - a. A revised plan and metes and bounds description for the area to be preserved under the modified Conservation Restriction (hereinafter the "Modification Documents"); and
 - b. An Amended Conservation Restriction that reflects the modifications to the original Conservation Restriction, the justification for the modification and that also includes the deed book and page of the title deed for the property or properties subject to the modified Conservation Restriction set forth in the Modification Documents.
- 26. The Grantor shall record the documents listed in paragraph 25, above, in the same manner and place as this original Conservation Restriction was recorded.
- 27. This Grant of Conservation Restriction may be removed pursuant to N.J.S.A. 13:8B-1 et seq.
- 28. The Grantor reserves unto itself the right to abandon the project entitled Riparian Area Enhancement and Landscaping Plan, RiverWinds, West Deptford, Gloucester County, New Jersey, Administrative Consent Order NJDEP File Number NEA170001-0820-01-1002.1 (the "Project" as described on **Exhibits 1**,

3, 5, and depicted on **Exhibits 2, 2.1, 2.2, 2.3, and 4**), whereupon the Grantee shall execute an appropriate release of this Conservation Restriction without the need for a public hearing that might otherwise be required under N.J.S.A. 13:8B-1 et seq. Abandonment of the approved Project shall be in violation of the ACO. The right to this release of the conservation Restriction may only be undertaken prior to any site disturbance, pre-construction earth movement or construction within any regulated land and water areas governed by this instrument. Any such release shall be effectuated by the recordation of a Release of Conservation Restriction which has been duly executed by Grantor and Grantee.

TO HAVE AND TO HOLD unto the State of New Jersey, Department of Environmental Protection, its successors and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Restriction shall not only be binding upon the Grantor but also upon its agents, personal representatives, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, the Grantor has set its hand and seal on the day and year first above written and directs that this instrument be recorded in the office of the Gloucester County Clerk.

Denise D. Carlo (Grantor)

By: Denise DiCarlo, Mayor (Signature names and title)

ATTEST:

Lee Ann Deltart
Lee Ann Deltart, Registered Municipal Clerk
(Seal)

STATE OF New Jersey
COUNTY OF Gloucester

Be it remembered that on this 3rd day of March, 2021, before me, the subscriber, a Notary Public of New Jersey, personally appeared: Denice DiCarlo, and ^{she}he thereupon acknowledged that ^{she}he signed the foregoing instrument (*in such capacity, that the seal affixed to said instrument is the corporate seal of said corporation*), and that said instrument is the voluntary act of deed of said person (*or corporation, made by virtue of authority from its Board of Directors*).

Jill S. Magill

JILL S. MAGILL
NOTARY PUBLIC OF NEW JERSEY
Comm. # 2436353
My Commission Expires 7/16/2023



A Notary Public of New Jersey

My Commission Expires: 7/16/2023

List of Attached Exhibits:

- Exhibit 1:** Administrative Consent Order NJDEP NEA170001-0820-01-1002.1, executed October 9, 2019 by NJDEP
- Exhibits 2, 2.1, 2.2, 2.3:** Riparian Conservation/Enhancement Zone at Block 328, Lots 7 & 7.09, West Deptford, Gloucester County, New Jersey, prepared by T&M Associates, dated JANUARY 20, 2020
- Exhibit 3:** Metes & Bounds Legal Description
- Exhibit 4:** Riparian Area Enhancement and Landscaping Plan – May 2018, RiverWinds, West Deptford, Gloucester County, New Jersey, prepared by T&M Associates, dated May 9, 2018
- Exhibit 5:** Riparian Maintenance Schedule, dated MARCH 3, 2021

Exhibit 1:

**Administrative Consent Order NJDEP NEA170001-0820-01-1002.1, executed
October 9, 2019 by NJDEP**

NOV 12 2019



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

Department of Environmental Protection
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street,
P.O. Box 420, Mail Code 401-04C
Trenton, New Jersey 08625-0420
Telephone: (609) 292-1240 Fax: (609) 633-6798

CATHERINE R. McCABE
Commissioner

October 11, 2019

CERTIFIED MAIL/RRR
7014 0510 0000 9079 8355

Hon. Denice DiCarlo, Mayor
Township of West Deptford
400 Crown Point Road
West Deptford, NJ 08086

CERTIFIED MAIL/RRR
7014 0510 0000 9079 8362

FHG Urban Renewal
c/o Helena Balis, Foptios Farmakis & George Drako
940 Mantua Pike
Woodbury Heights, NJ 08097

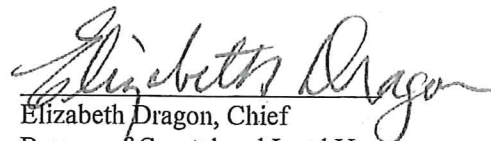
Re: Final Administrative Consent Order
NEA170001 - 0820-01-1002.1
Block(s) and Lot(s): [328, 7] [328, 7.01] [328, 7.02] [328, 7.03] [328, 7.04] [328, 7.05] [328, 7.06] [328, 7.08] [328, 7.09]
West Deptford Township, Gloucester County

Dear Mayor DiCarlo, Messrs. and Madam:

Please find enclosed a copy of the Final Administrative Consent Order (ACO). The ACO became final on October 9, 2019 and the required actions and payment of the penalty settlement is due as indicated in the ACO. Please ensure that the enclosed invoice for the penalty settlement is included with payment to the address indicated at the bottom of the invoice.

Should you have any questions regarding the enclosed ACO, you may contact Trent Todash, Environmental Specialist, at the address or telephone number at the top of this correspondence.

Sincerely,


Elizabeth Dragon, Chief
Bureau of Coastal and Land Use
Compliance and Enforcement

Enclosure

c: Chief, Bureau of Coastal and Land Use Compliance and Enforcement
NJDEP, Office of Legal Affairs
NJDEP, Land Use Regulation
Bureau File
Municipality



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

Department of Environmental Protection
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street,
P.O. Box 420, Mail Code 401-04C
Trenton, New Jersey 08625-0420
Telephone: (609) 292-1240 Fax: (609) 633-6798

CATHERINE R. McCABE
Commissioner

IN THE MATTER OF:

FHG Realty Urban Renewal, LLC
and
Helena Balis, individually, and
Fotios Farmakis, individually, and
George Drako, individually

and

Township of West Deptford

Block 328, Lots 7 and 7.09
West Deptford Township, Gloucester County

ADMINISTRATIVE CONSENT ORDER

NEA170001 - 0820-01-1002.1

The New Jersey Department of Environmental Protection ("Department" or "DEP") is authorized to enter into this Administrative Consent Order (ACO) and Withdrawal of Hearing Request pursuant to the authority vested in the Commissioner of the Department by N.J.S.A. 13:1D-1 et seq., and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., (the "FHA") and the rules promulgated at N.J.A.C. 7:13-1 et seq., and duly delegated to the Assistant Commissioner, Compliance and Enforcement and his assignees pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. FHG Realty Urban Renewal, LLC includes members Helena Balis, Fotios Farmakis and George Drako, (hereinafter individually and collectively "FHG"). FHG is responsible for conducting regulated activities on Block 328, Lots 7 and 7.09. FHG operates the "River Winds" Restaurant at the site. Tax records from the time of the violations indicate that the Township of West Deptford owns the properties designated as Block 328, Lots 7 and 7.09, hereinafter, the "site."
2. There has been significant history with NJDEP Bureau of Coastal and Land Use Enforcement ("CLUE") or the (Bureau") dating back to 2011.

3. On May 16, 2018; CLUE sent an email to West Deptford's consultant approving the latest revised version of the restoration planting plan.
4. On July 6, 2018, a CLUE representative conducted an inspection to confirm that the planting work had been completed as approved. The inspector observed that the planting plan had not been satisfactorily completed. It was also observed that approximately 50 percent of the trees and shrubs previously planted along the cove area of this site, were now dead.
5. On July 18, 2018, CLUE received an email from West Deptford's consultant requesting a time extension to complete all phases of the riparian zone restoration project.
6. On July 26, 2018, CLUE issued a letter to West Deptford's consultant approving the extension request contingent on the following requirements:
 - a) "The Department will receive updated written communication related to the pole mounted surveillance cameras by no later than August 1, 2018,
 - b) The planting work will be completed on site by no later than September 28, 2018,
 - c) Written communication will be sent to the Department once the restoration work has been completed on site, along with a planting progress by August 20, 2018."
7. On September 14, 2018, a CLUE representative conducted an inspection of the restoration areas. The inspector observed that many tree sapling and shrub plantings had been recently installed within Riparian Enhancement Areas A and B. Three saplings appeared to be dead. Also observed was metal fencing erected around some of the saplings, to prevent animal browsing damage.
8. On September 24, 2018, West Deptford's consultant sent an email to CLUE advising that 36 trees and 40 shrubs had been installed on September 12 and 14, 2018. In addition, installation of security cameras was anticipated to be completed "in the next couple weeks."
9. On October 4, 2018, a CLUE representative conducted an inspection and site meeting with representatives of the Township of West Deptford and their consultant. The purpose of this meeting was to walk the site and check on current conditions, including the recent plantings within Riparian Enhancement Areas A and B. Conditions were relatively the same as on September 14th. In addition, the inspector noted that as had been previously agreed upon, much of the riparian zone was no longer being mowed and the four signs indicating "PROTECTED AREA - no disturbance of any plant beyond this point" had recently been installed.
10. On November 20, 2018, a CLUE representative conducted an inspection of the restoration areas. The inspector observed that a number of the newly-planted trees had deer browse protection fencing installed, but that many of the remaining unprotected trees were being heavily browsed. The inspector also noted that installation of the surveillance camera had been completed.
11. By letter dated December 21, 2018 ("RE: Restoration Status Report"), the Bureau followed up the most recent inspections and communications with a summary of findings and concerns. The Bureau found that the restoration work had been implemented as required. The Bureau continued to be concerned with future survivability of the non-protected shrub plantings because of the apparent heavy animal browsing and recommended that additional protective barriers be installed.

12. By letter dated January 8, 2019, West Deptford's consultant replied to the Bureau's concerns about wildlife browsing of the recently-planted shrubs. The consultant indicated that the Township was considering several options including application of a spray deterrent to the shrub plantings. There was also an acknowledgement that "supplemental plantings to achieve the appropriate success rate may be required in the future."

13. As a result of the investigations and site inspections described in paragraphs 2 through 51 above, the Department has determined that FHG and the Township of West Deptford failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:13-2.1(a), no person shall engage in a regulated activity in a regulated area without a flood hazard area permit as required by this chapter, or a coastal permit as required by N.J.A.C. 7:7.

Description of Noncompliance: The performance of unauthorized regulated activities within a regulated area without the required permit authorization. The regulated activities include clearing, cutting and removal of vegetation including trees and shrubs within a regulated riparian zone. The total riparian zone disturbances at the site, is estimated at approximately 47,800 square feet.

14. The Signatories wish to resolve this matter without further adjudication and therefore have entered into this ACO to settle the violations referenced in the above Findings without admission of fault or liability according to the terms set forth herein.

**COMPLIANCE REQUIREMENTS AND SCHEDULE
NOW THEREFORE IT IS HEREBY ORDERED AND AGREED THAT FHG AND WEST
DEPTFORD TOWNSHIP SHALL:**

15. Upon this document becoming final, FHG and the Township of West Deptford shall continue to monitor and maintain the riparian zone restoration planting areas to ensure 85% survival of the plantings and 85% areal coverage after four (4) complete growing seasons per the approved plan entitled "Riverwinds Township of West Deptford, Gloucester County, NJ Riparian Area Enhancement And Landscaping Planting Plan – May 2018" Dated 5/2/2018. Should the restoration activities fail to achieve this, the Bureau will require corrective actions such as supplemental plantings and/or additional wildlife browsing prevention measures.
16. The Township will prepare monthly monitoring reports for four (4) growing seasons. The Township will be required to submit one (1) yearly report with photographs and will be required to notify the Department if there are any changes to the subject area.
17. The above referenced reporting requirement will commence November 1, 2019 and will result in a total of five (5) reports to be submitted to the NJDEP.
18. Within 30 calendar days of this document becoming final, FHG and the Township of West Deptford shall submit a draft conservation restriction, using the Department's template to CLUE for review and approval. The conservation restriction shall preserve in perpetuity, the riparian zone located along the Delaware River and Cove areas of the site.

19. Should revisions or corrections to the draft conservation restriction be required, the Department will provide FHG and the Township of West Deptford with comments. Within 30 calendar days of receipt of the Department's comments, FHG and the Township of West Deptford shall submit a revised conservation restriction that incorporates the CLUE's comments.
20. Within 20 calendar days of receipt of the Department's approval of the draft conservation restriction, FHG and the Township of West Deptford shall file the conservation restriction with the County Clerk's Office for recording onto the property deed.
21. FHG and the Township of West Deptford shall submit to the Department proof of the recording by the County Clerk's within 20 calendar days of the County Clerk's filing.

PENALTY SETTLEMENT

22. In settlement of the violations identified in the Findings of this ACO, FHG, its successors and/or assignees shall pay the sum of \$24,000.00 to the Department within thirty (30) days from the date of this ACO becoming final. Payments shall be made by certified check payable to the Treasurer, State of New Jersey, and shall be sent with the appropriate invoice to the Department of Treasury, at the address indicated on the invoice.
23. If FHG fails to pay the above penalty in accordance with the terms and conditions of this ACO, then the Department may take additional enforcement action as appropriate.

WITHDRAWAL OF REQUEST FOR A HEARING

24. Upon signature, any pending administrative hearing request for the above AONOCAPA is hereby withdrawn with prejudice.

STIPULATED PENALTIES

25. Stipulated penalties shall be paid to the Department as set forth below for the failure to comply with any requirement of this ACO, unless the Department has notified FHG and the Township of West Deptford in writing that a stipulated penalty will not be assessed for the violations pursuant to the force majeure provisions of this ACO. Each deadline or schedule not complied with shall be considered a separate violation. Payment of stipulated penalties shall be made according to the following schedule.

<u>Calendar Days After Due Date</u>	<u>Stipulated Penalties</u>
1 - 7	\$100.00 per calendar day
8 - 14	\$200.00 per calendar day
15 - over	\$500.00 per calendar day

26. Any such penalty for failure to comply with this ACO shall be due and payable thirty (30) calendar days following receipt of a written demand from the Department. Payment of stipulated penalties shall be made by a cashier's or certified check payable to the "Treasurer, State of New Jersey" and shall be submitted to the address on the enclosed payment invoice provided in the demand letter.

27. For the failure to timely pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70 or assess civil administrative penalties for violations of this ACO.
28. The payment of stipulated penalties does not alter the responsibility to complete all the requirements of this ACO.

FORCE MAJEURE

29. If any event occurs which is believed will or may cause delay in the achievement of any provision of this ACO, the Department shall be notified in writing to the contact address below within seven (7) calendar days of the delay or anticipated delay, as appropriate, referencing this paragraph and describing the anticipated length of the delay, the precise cause or causes of the delay, any measures taken or to be taken to minimize or prevent the delay, and the time required to take any such measure to prevent or minimize any such delay. All necessary actions shall be taken to prevent or minimize any such delay.
30. If the Department finds (a) that the notice requirements of the preceding paragraph have been fully complied with and; (b) that any delay or anticipated delay has been or will be caused by fire, flood, riot, strike or other circumstances beyond the control of FHG and the Township of West Deptford; and (c) that all necessary actions to prevent or minimize the delay have been taken, the Department shall extend the time for performance hereunder for a period no longer than the delay resulting from such circumstances. If the Department determines that the above notice requirements of the preceding paragraph have not been complied with, the event causing the delay is not beyond the control of FHG and the Township of West Deptford, or that all necessary actions to prevent or minimize the delay have not been taken, failure to comply with the provisions of this ACO shall constitute a violation of the requirements of the ACO. The burden of proving that any delay is caused by circumstances beyond the control of FHG and the Township of West Deptford, that all necessary actions were taken to prevent or minimize the delay, and the length of any such delay attributed to those circumstances, shall rest with FHG and the Township of West Deptford. Increase in the cost or expenses incurred in fulfilling the requirements of this ACO shall not be a basis for an extension of time. Delay in an interim requirement shall not automatically justify or excuse delay in the attainment of subsequent requirements. Force majeure shall not automatically include contractor's breach.

RESERVATION OF RIGHTS

31. The Department reserves the right to require that any and all additional measures should the Department determine that such measures are necessary to protect human health and/or the environment. Nothing in this ACO constitutes a waiver of any statutory right or enforcement powers of the Department to require such additional measures should the Department determine that they are necessary nor a waiver of any defenses thereto.

32. The Department reserves the right to unilaterally terminate this ACO in the event its terms are violated. However, before the Department terminates this ACO pursuant to this paragraph, the Department will provide notice in writing of its obligations, and shall provide reasonable time under the circumstances as determined by the Department, but not to exceed thirty (30) calendar days, to perform said obligations.

DEPARTMENT CONTACT

33. All submissions of information required by this ACO (except payment of penalty) shall be mailed to:

Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
Mail Code 401-04C
P.O. Box 420
Trenton, New Jersey 08625-0420

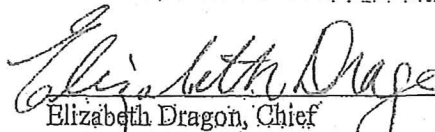
GENERAL PROVISIONS

34. This ACO and compliance therewith represents the full and final settlement and resolution of the matters identified in the underlying above NOV(s) and AONOCAPA(s).
35. This ACO represents the complete and integrated agreement of, and shall be binding upon, and/or inure to the benefit of, the State of New Jersey, the Department, and their divisions, agencies and respective successors, and the Signatories and its respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.
36. This ACO shall not relieve FHG and the Township of West Deptford from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rule, regulations and orders, including but not limited to the statutes and regulations cited herein.
37. The Signatories agree not to contest the terms or conditions of this ACO in any action to enforce its provisions.
38. No obligations of this ACO or penalties imposed by this ACO are intended to constitute a debt or debts that may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.
39. Nothing in this ACO shall preclude the Department from taking immediate action or seeking injunctive relief to protect the public health safety or welfare or from taking enforcement action for matters not set forth in the Findings referenced in this ACO.
40. This ACO shall be binding, jointly and severally, on the Signatories, their respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or in equity.

41. The Signatories hereby agree to comply with this ACO, which shall be fully enforceable as a final agency order in the Superior Court of New Jersey.
42. In addition to the Department's statutory and regulatory rights to enter and inspect, the Department and its authorized representatives shall be allowed unannounced access to all areas of the site at all reasonable times for the purpose of monitoring compliance with this ACO or other access as permitted by law.
43. If any provision of this ACO is found to be invalid or unenforceable, the remainder of this Administrative Consent Order shall not be affected thereby and each provision of this Administrative Consent Order shall be valid and enforced to the fullest extent permitted by law. The Department does however retain the right to terminate the remainder of this ACO if after such finding, it determines that the remaining ACO does not serve the purpose for which it was intended.
44. No modification or waiver of this ACO shall be valid except as authorized by the Department or by the Department's modification in writing pursuant to the force majeure provisions herein above.
45. Nothing contained in this ACO restricts the ability of the Department to raise the above Findings in any other proceeding.
46. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
47. This ACO shall become final upon signature of all parties.
48. The undersigned warrant that they are authorized to sign this ACO and bind themselves, their successors, assignees, and/or trustees to comply with the terms and provisions of this ACO.
49. Written notice of this ACO shall be given to any successor in interest thirty (30) calendar days prior to transfer of ownership or control of the facility or site which is /are the subject of this ACO and shall simultaneously notify the Department that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of the site, property or facility identified herein. In addition, the parties agree that any contract, lease, deed or any other agreement that enters into to convey the property/facility that is the subject of this ACO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume all the obligations imposed by this ACO.

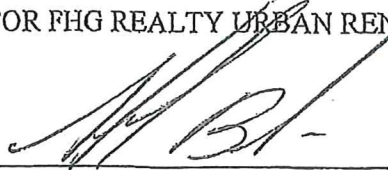
FOR NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Dated: 10/9/2019


Elizabeth Dragon, Chief
Bureau of Coastal and Land Use
Compliance and Enforcement

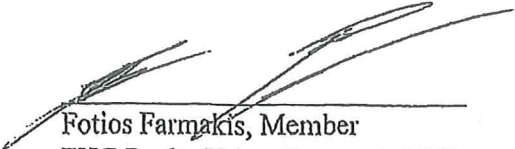
FOR FHG REALTY URBAN RENEWAL, LLC

Dated: 9.18.19



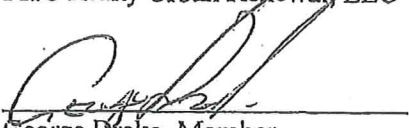
Helena Balis, Member
FHG Realty Urban Renewal, LLC

Dated: 9-12-19



Fotios Farmakis, Member
FHG Realty Urban Renewal, LLC

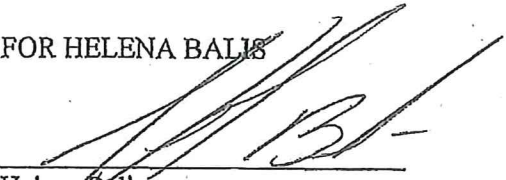
Dated: 9.18.19



George Drako, Member
FHG Realty Urban Renewal, LLC

FOR HELENA BALIS

Dated: 9.18.19



Helena Balis

FOR FOTIOS FARMAKIS

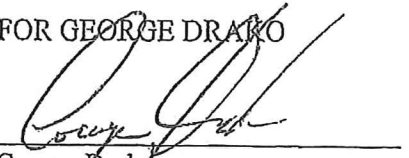
Dated: 9-12-19



Fotios Farmakis

FOR GEORGE DRAKO

Dated: 9.18.19



George Drako

FOR TOWNSHIP OF WEST DEPTFORD

Dated: 9.4.19


Township of West Deptford

Exhibits 2, 2.1, 2.2, 2.3:
Riparian Conservation/Enhancement Zone at Block 328, Lots 7 & 7.09, West
Deptford, Gloucester County, New Jersey, prepared by T&M
Associates, dated JANUARY 20, 2020

DELAWARE RIVER

RIPARIAN PRESERVATION/
ENHANCEMENT ZONE B
(NJDEP NEA 170001-0820-01-1002.1)

RIPARIAN PRESERVATION/
ENHANCEMENT ZONE C
(NJDEP NEA 170001-0820-01-1002.1)

BLOCK 328
LOT 7

MEAN
LOW WATER
LINE

MEAN HIGH WATER LINE

BLOCK 328
LOT 7.09
10,000 sq. ft.
200,000.00

RIPARIAN PRESERVATION/
ENHANCEMENT ZONE A
(NJDEP NEA
170001-0820-01-1002.1)

BLOCK 328
LOT 7

EXHIBIT 2: RIPARIAN
PRESERVATION/ENHANCEMENT ZONES
AT
BLOCK 328, LOTS 7 AND 7.09
WEST DEPTFORD, GLOUCESTER COUNTY,
NEW JERSEY

SCALE: 1"=150'
DATE: 1/20/2020



200 CENTURY PARKWAY, SUITE B
WEST LAUREL, NJ 08090
TEL: 856-722-6700
FAX: 856-722-6710
WWW.ANDM.COM

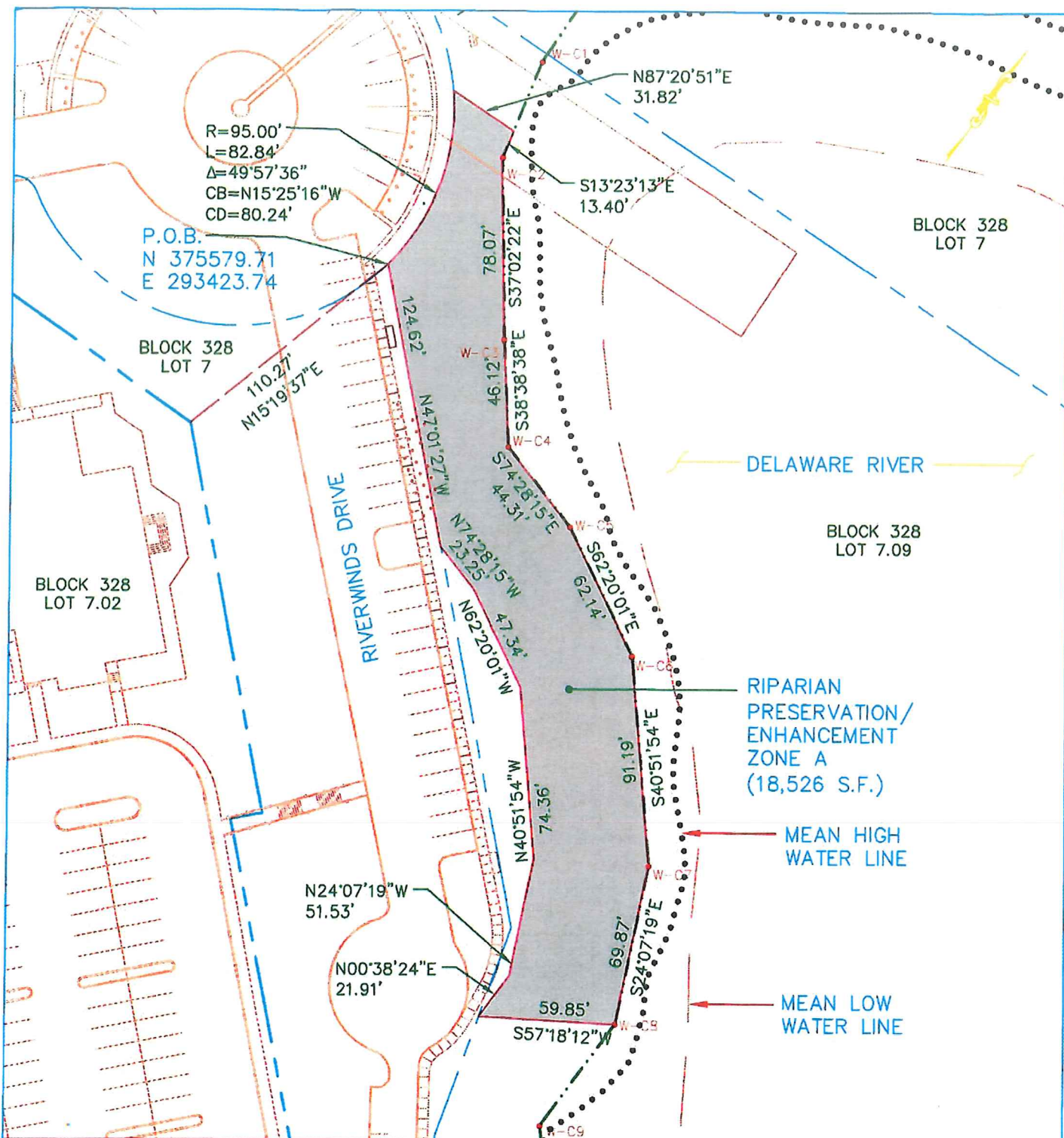
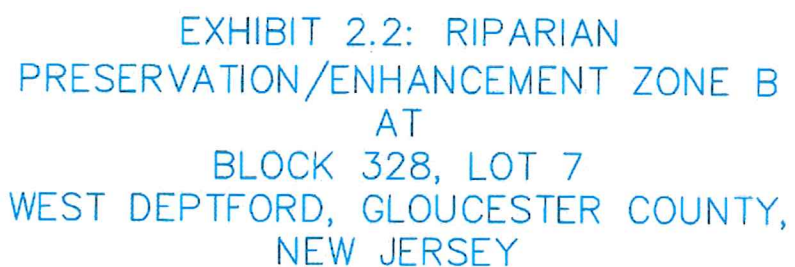


EXHIBIT 2.1: RIPARIAN
PRESERVATION/ENHANCEMENT ZONE A
AT
BLOCK 328, LOTS 7 AND 7.09
WEST DEPTFORD, GLOUCESTER COUNTY,
NEW JERSEY

SCALE: 1"=60'
DATE: 1/20/2020



200 CENTURY PARKWAY, SUITE 200
MT. LAUREL, NJ 08056
TEL: 856-722-8100
FAX: 856-722-8101
WWW.ANDM.COM



AND
YOUR GOALS. OUR MISSION.

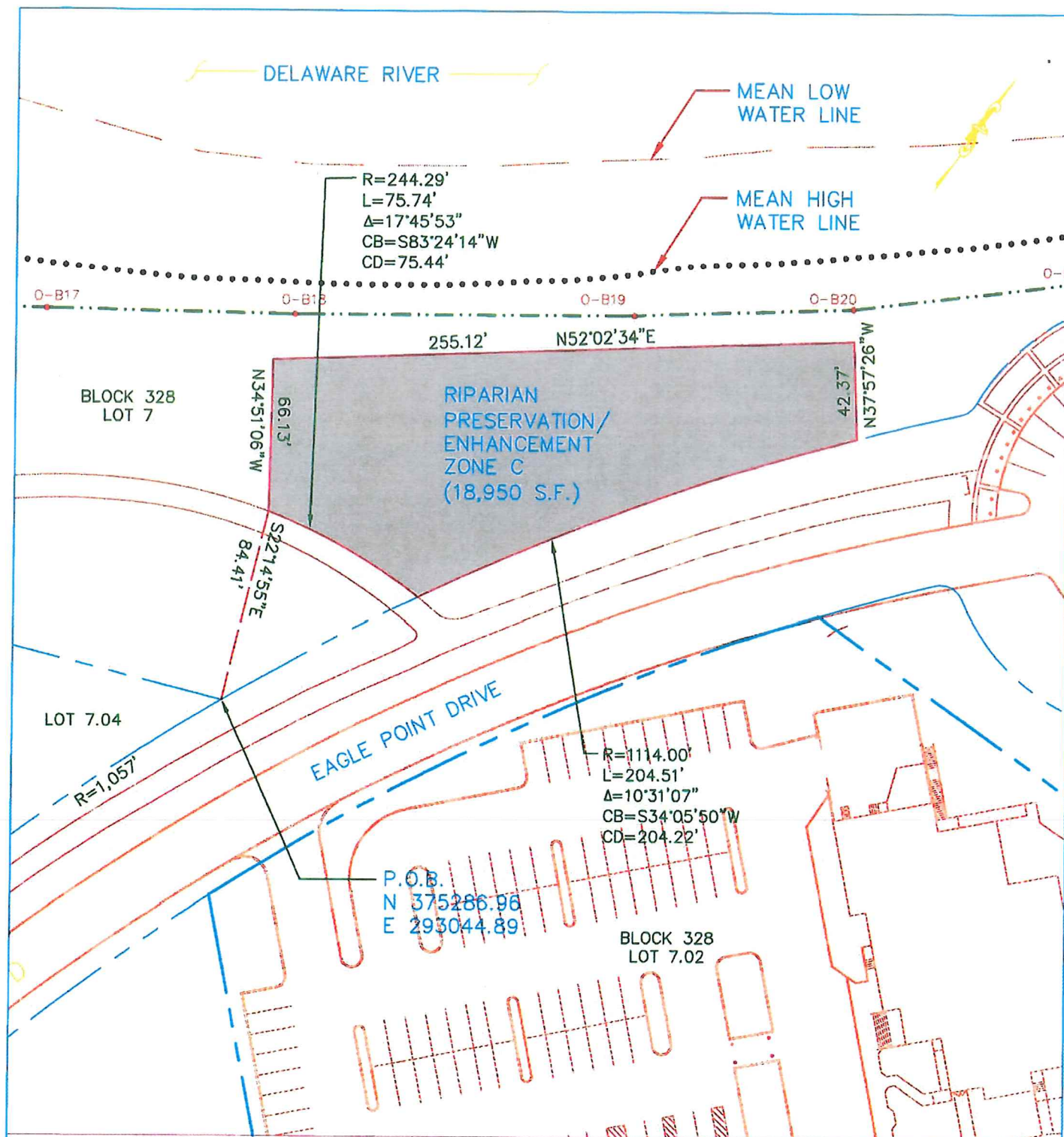


EXHIBIT 2.3: RIPARIAN
PRESERVATION/ENHANCEMENT ZONE C
AT
BLOCK 328, LOT 7
WEST DEPTFORD, GLOUCESTER COUNTY,
NEW JERSEY

SCALE: 1"=60'
DATE: 1/20/2020



200 CENTURY PARKWAY, SUITE 2
WEST LAUREL, NJ 08094
TEL: 908.223.4700
FAX: 908.223.4701

www.andm.com
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Exhibit 3:
Metes & Bounds Legal Description



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**DESCRIPTION OF RIPARIAN CONSERVATION / ENHANCEMENT ZONE A
CORRESPONDING TO EXHIBIT 2.1**

**AT
TAX MAP BLOCK 328, LOT 7.09
TOWNSHIP OF WEST DEPTFORD, GLOUCESTER COUNTY, NJ**

Project No. WDMO00741 January 20, 2020

All that certain tract or parcel of land and premises situate, lying and being in the Township of West Deptford, County of Gloucester, and State of New Jersey, more particularly bounded and described as follows:

Beginning at a point in the curved easterly line of the Eagle Point Road cul-de-sac (R=95.00') at the southwesterly line of Tax Map Lot 7.09, Block 328 being NJ State Plane Coordinate (NAD 1983) N375579.71 x E293423.74, also as measured through Tax Map Lot 7, Block 328 N 15° 19' 37" E from an angle point in the northeasterly line of Tax Map Lot 7.02, Block 328, and extending; thence

1. Northwardly measured 82.84' curving to the left along the arc of the 95.00' radius easterly line of the Eagle Point Road cul-de-sac with a central angle of 49° 57' 36" and a chord bearing N 15° 25' 16" W, 80.24' to a point; thence
2. N 87° 23' 13" E (non-radially) through Tax Map Lot 7, Block 328 for this and the following thirteen courses, 31.82' to a point; thence
3. S 13° 23' 13" E, 13.40'; to a point thence
4. S 37° 02' 22" E, 78.07'; to a point thence
5. S 38° 38' 38" E, 46.12'; to a point thence
6. S 74° 28' 15" E, 44.31'; to a point thence
7. S 62° 20' 01" E, 62.14'; to a point thence
8. S 40° 51' 54" E, 91.19'; to a point thence
9. S 23° 07' 19" E, 69.87'; to a point thence
10. S 57° 18' 12" W, 59.85' to a point; thence
11. N 00° 38' 24" E, 21.91' to a point; thence
12. N 24° 07' 19" W, 51.53' to a point; thence
13. N 40° 51' 54" W, 74.35' to a point; thence
14. S 62° 20' 01" W, 47.34' to a point; thence



Description of Riparian Conservation / Enhancement Zone A Exhibit 2.1
Tax Map Block 328, Lot 7.09
Township of West Deptford, Gloucester County, NJ

January 20, 2020
Page No. 2

15. N 74° 28' 15" W, 23.25' to a point in the easterly line of Tax Map Lot 7, Block 328;
thence
16. N 47° 01' 27" W along same, 124.62' to the point and place of beginning.

Being all those lands depicted on the attached "EXHIBIT 2.1: RIPARIAN PRESERVATION / ENHANCEMENT ZONE A at BLOCK 328, LOT 7.09, WEST DEPTFORD, GLOUCESTER COUNTY, NEW JERSEY" prepared by T&M Associates dated 1/20/2020 containing 18,526 Square Feet of Land.



William E. Alburger, P.L.S., P.P.
NJ Professional Land Surveyor No. 32106



YOUR GOALS. OUR MISSION.

**DESCRIPTION OF RIPARIAN CONSERVATION / ENHANCEMENT ZONE B
CORRESPONDING TO EXHIBIT 2.2**

**AT
TAX MAP BLOCK 328, LOT 7
TOWNSHIP OF WEST DEPTFORD, GLOUCESTER COUNTY, NJ**

Project No. WDMO00741 January 20, 2020

All that certain tract or parcel of land and premises situate, lying and being in the Township of West Deptford, County of Gloucester, and State of New Jersey, more particularly bounded and described as follows:

Beginning at a point in the northerly line of Tax Map Lot 7.09, Block 328 at NJ State Plane Coordinate (NAD 1983) N375693.01 x E293392.77 as measured N 87° 41' 47" E, 62.77' along same from a point tangent to the 95.00' radius curve of the Eagle Point Road cul-de-sac, and extending; thence

1. N 28° 50' 13" E through Tax Map Lot 7, Block 328 for this and the following nineteen courses, 20.44' to a point; thence
2. N 17° 22' 17" E, 38.74' to a point; thence
3. N 66° 28' 04" E, 81.03' to a point; thence
4. N 23° 31' 56" W, 32.61' to a point; thence
5. N 80° 22' 34" W, 62.06' to a point; thence
6. N 75° 58' 54" E, 83.30' to a point; thence
7. N 84° 36' 07" E, 64.67' to a point; thence
8. N 49° 01' 56" E, 25.40'; to a point thence
9. N 85° 46' 26" E, 14.82'; to a point thence
10. S 40° 28' 54" E, 14.45' to a point; thence
11. S 01° 51' 14" W, 9.90' to a point; thence
12. S 54° 20' 30" W, 24.83' to a point; thence
13. S 23° 59' 07" W, 14.91' to a point; thence
14. N 79° 46' 55" W, 17.87' to a point; thence
15. S 86° 22' 19" W, 39.74' to a point; thence
16. S 78° 21' 37" W, 46.86' to a point; thence




Description of Riparian Conservation / Enhancement Zone B Exhibit 2.2
Block 328, Lot 7
Township of West Deptford, Gloucester County, NJ

January 20, 2020
Page No. 2

12. S 71° 23' 06" W, 48.79' to a point; thence
13. S 60° 44' 56" W, 62.97' to a point; thence
14. S 46° 23' 26" W, 40.23' to a point; thence
15. S 31° 45' 55" W, 44.03' to a point in the northerly line of Tax Map Lot 7.09, Block 328;
thence
16. S 87° 41' 47" W, 37.56' to the point and place of beginning.

Being all those lands depicted on the attached "EXHIBIT 2.2: RIPARIAN PRESERVATION / ENHANCEMENT ZONE A at BLOCK 328, LOT 7.09, WEST DEPTFORD, GLOUCESTER COUNTY, NEW JERSEY" prepared by T&M Associates dated 1/20/2020 containing 10.860 Square Feet of Land.



William E. Alburger, P.L.S., P.P.
NJ Professional Land Surveyor No. 32106



YOUR GOALS. OUR MISSION.

**DESCRIPTION OF RIPARIAN CONSERVATION / ENHANCEMENT ZONE C
CORRESPONDING TO EXHIBIT 2.3**

**AT
TAX MAP BLOCK 328, LOT 7
TOWNSHIP OF WEST DEPTFORD, GLOUCESTER COUNTY, NJ**

Project No. WDMO00741 January 20, 2020

All that certain tract or parcel of land and premises situate, lying and being in the Township of West Deptford, County of Gloucester, and State of New Jersey, more particularly bounded and described as follows:

Beginning at a point in the curved northwesterly line of Eagle Point Road (70' wide) at NJ State Plane Coordinate (NAD 1983) N375693.01 x E293392.77 as measured 96.88' curving to the right along the arc of a 1,057' radius with a central angle $04^{\circ} 58' 58''$ and a chord bearing N $26^{\circ} 20' 48''$ E, 96.85' from its intersection with the northerly line of Tax Map Lot 7.04, Block 328, and extending; thence

1. Southwestwardly through Tax Map Lot 7, Block 328 for this and the following three courses, measured 75.74' curving to the left along the arc of a 244.29 radius with a central angle $17^{\circ} 45' 53''$ and a chord bearing S $83^{\circ} 24' 14''$ W, 75.44' to a point; thence
2. N $34^{\circ} 51' 08''$ W, 66.13' to a point; thence
3. N $52^{\circ} 02' 34''$ E, 255.12' to a point; thence
3. S $37^{\circ} 57' 26''$ E, 42.37' to a point in the curved northwesterly line of Eagle Point Road; thence
4. Southwestwardly measured 204.51' along the curved northwesterly line of Eagle Point Road curving to the left along the arc of a 1,057' radius with a central angle $10^{\circ} 31' 07''$ and a chord bearing S $34^{\circ} 05' 50''$ W, 204.22' to the point and place of beginning.

Being all those lands depicted on the attached "EXHIBIT 2.3: RIPARIAN PRESERVATION / ENHANCEMENT ZONE C at BLOCK 328, LOT 7, WEST DEPTFORD, GLOUCESTER COUNTY, NEW JERSEY" prepared by T&M Associates dated 1/20/2020 containing 18,950 Square Feet of Land.


William E. Alburger, P.L.S., P.P.
NJ Professional Land Surveyor No. 32106

G:\Projects\WDMO\00741\Survey\Description of Riparian Conservation_Enhancement Zone C Exhibit 2_3 .docx

Exhibit 4:
Riparian Area Enhancement and Landscaping Plan – May 2018, RiverWinds,
West Deptford, Gloucester County, New Jersey, prepared by
T&M Associates, dated May 9, 2018

Exhibit 5:
Riparian Maintenance Schedule, dated MARCH 3, 2021

**EXHIBIT 5:
RIPARIAN ZONE MAINTENANCE SCHEDULE**

THIS MAINTENANCE SCHEDULE dated as of MARCH 3, 2021 is intended to provide information related to the operation and maintenance activities associated with the riparian zone mitigation area as shown on the entitled Riparian Conservation/Enhancement Zone at Block 328, Lots 7 & 7.09, West Deptford, Gloucester County, New Jersey, prepared by T&M Associates, dated January 21, 2020, attached hereto as **Exhibits 2, 2.1, 2.2, & 2.3**, and Riparian Area Enhancement and Landscaping Plan – May 2018, RiverWinds, West Deptford, Gloucester County, New Jersey, prepared by T&M Associates, dated May 9, 2018, attached hereto as **Exhibit 4**,

- A. The provisions of this schedule shall apply to the footprints of existing primary and accessory uses, including but not limited to fences, lawns, gardens, utility lines, sidewalks, kayak launch, water, septic and sewage supply facilities and their related appurtenances (utility pump and lift stations, manholes, conveyance pipes, sediment chambers, outfalls, headwalls, etc.);
- B. The following uses or activities are permitted in the riparian zones:
 - 1. Fishing areas and passive areas of public parklands;
 - 2. Riverbank restoration projects and vegetation restoration projects to restore the Delaware River or riparian zone to an ecologically healthy stage utilizing natural channel design practices to the greatest degree possible. This project duration, type, method of construction, and timing schedule shall be reviewed and subject to NJDEP approval;
 - 3. Repair, reconstruction, rehabilitation, and maintenance of primary and existing uses, or in addition to as deemed appropriate and that are expressly permitted and authorized by the New Jersey Department of Environmental Protection;
 - 4. Provision for water access to the Delaware River and man-made lagoon either through existing improvements, or in addition to as deemed appropriate and that are expressly permitted and authorized by the New Jersey Department of Environmental Protection.
- C. General site maintenance will be performed by the Township, or contracted vendor, and include:

1. Litter removal and disposal;
2. Maintenance of existing structures, including but not limited to signage, security cameras, stormwater conveyance system, and utilities;
3. Watering vegetation;
4. Patrolling, monitoring, and correction of vandalism;
5. General landscaping maintenance activities such as planting, pruning, and/or trimming to promote the success of the riparian zone plantings;
6. Use of fertilizers, herbicides or pesticides, provided:
 - a) where permitted by the approved planting and maintenance plan as provided Exhibit 4 and herein;
 - b) for selective herbicide application by a qualified professional to control noxious weeds and invasive species of plants in riparian zone;
 - c) for selective pesticide application by a qualified professional to control browsing wildlife in riparian zone;
7. Perform emergency relief work such as cleanups after flooding and removing trees that present a hazard to property or public safety.

D. Inspections and reporting the progress of the success of the mitigation area, retention of records to note the same, submission of reports to the NJDEP is the responsibility of West Deptford Township.

END OF SECTION