



**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 <b>February 17, 2021</b>
		Expiration Date <b>February 16, 2026</b>
Permit Number(s): 0200-06-0003.7 LUP200001	Type of Approval(s): FHA Individual Permit-Other	Governing Rule(s): N.J.A.C. 7:13-1.1(b)
<b>Permittee:</b> Richard Kurtz F.E Alpine Inc. 270 Sylvan Ave Englewood Cliffs, NJ 07632	<b>Site Location:</b> Block: 119 – Lot: 1.51 Block: 120 – Lots: 1.31, 1.32, 1.41, & 1.51 Municipality: Borough of Demarest County: Bergen	
<b>Description of Authorized Activities:</b>  This document authorizes the construction of a new residential development consisting of 24 units within 7 buildings, recreation center and pool, utilities, driveways, and stormwater management facilities in association with a Flood Hazard Area Individual Permit on the parcel(s) referenced above.  <i>The Department has determined that the herein approved activities meet the requirements of the FHACA 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>		
<b>Prepared by:</b>  <b>Chivon Kistic</b>	<b>Received and/or Recorded by</b> <b>County Clerk:</b>	
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.		
<b>This permit is not valid unless authorizing signature appears on the last page.</b>		

**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

<b>Riparian Zone Vegetation</b>	<b>Area of riparian zone (Acres)</b>
<b>Permanent Disturbed</b>	3.01

**FLOOD HAZARD AREA SPECIAL CONDITIONS:**

1. The applicant shall adhere to the maintenance plan for the stormwater management measures incorporated into the design of the major development in accordance with N.J.A.C. 7:8-5.8 and the guidelines of the New Jersey Stormwater Best Management Practices Manual.
2. The Department has determined that this project meets the requirements of the Stormwater Management rules at N.J.A.C. 7:8. Any future expansion or alteration of the approved stormwater management system, which would affect water quality, increase the rate or volume of stormwater leaving the site, affect the infiltration capacity on the site, or alter the approved low impact site design, shall be reviewed and approved by the Department prior to construction. This includes any proposed changes to the discharge characteristics of any basin, the construction of new inlets or pipes that tie into the storm sewer network and/or the replacement of existing inlets or pipes with structures of different capacity.
3. 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.
4. Prior to commencing any activity such as clearing, grading or construction onsite, the permittee shall obtain all necessary approvals from the local Soil Conservation District (SCD) or its designee and the Natural Resource Conservation Service (NRCS). If neither SCD nor NRCS approval is required, the permittee shall implement soil erosion control measures such as, but not limited to, standards specified in N.J.A.C. 7:13-12.1(e).
5. Disturbance within 300 feet of the top of the bank is only permitted in the areas specifically shown on the approved drawings. No other disturbance within 50 feet of the top of the stream bank is permitted. This condition applies to all channels in the project areas regardless of the contributory drainage area.
6. Upon completion of the project, all temporarily disturbed areas within 50 feet of the top of the stream banks shall be restored to original topography and replanted with indigenous, non-invasive vegetation in accordance with N.J.A.C. 7:13-11.2(z).

## **RIPARIAN ZONE MITIGATION CONDITIONS:**

1. **At least 90 days prior to commencing regulated activities authorized by this permit**, the permittee shall submit a proposal to mitigate for the loss of **3.01 acres** of forested, riparian zone vegetation. The proposal shall be designed in accordance with the standards at N.J.A.C. 7:13-13. Activities authorized by this permit shall not begin until the permittee has obtained written approval of a mitigation plan from the Department (N.J.A.C. 7:13-13.2(b)). The Department is in receipt of a proposal and plan to compensate for the loss of riparian zone vegetation prepared by Hubschman Engineering, P.A., dated February 8, 2021, and entitled: **“CONSERVATION EASEMENT PLAN PROPOSED CONDOMINIUM DEVELOPMENT FRICK ESTATES – SECTION III BOROUGH OF DEMAREST LOTS 1.51, BLOCK 119; LOTS 1.31, 1.32, 1.41 & 1.42, BLOCK 120 BERGEN COUNTY NEW JERSEY”**. This plan is not approved at this time, but the Department recognizes that you will continue to work with the mitigation unit to finalize the area of compensation as shown on the plan.
2. **All mitigation shall be conducted prior to or concurrent with the regulated activity that causes the disturbance.** (N.J.A.C. 7:13-13.3(a)1). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.
3. If the permittee is considering conducting a creation, restoration or enhancement project, the following conditions shall apply:

**Prior to the initiation of regulated activities authorized by this permit**, the permittee shall sign a Department approved conservation restriction to protect the mitigation area from future development that would remove the vegetation planted. (N.J.A.C. 7:13-13.2(g)). The conservation restriction shall conform to the format and content of the rules at N.J.A.C. 7:13-14 and the Riparian Zone Mitigation Area model located at <http://www.nj.gov/dep/landuse/forms/index.html>. The restriction shall be included on the deed and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties) in the county wherein the lands of the mitigation project are located. A metes and bounds description shown on a map must be included within the recorded conservation restriction. Within 10 days of filing the conservation restriction, the permittee must send a copy of the conservation restriction to the attention of the Mitigation Unit Supervisor, NJDEP, Division of Land Resource Protection at Mail Code 501-02A, P.O. Box 420, Trenton, NJ 08625-0420.

4. For creation and restoration projects, the permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:13-13.15)
5. The permittee shall monitor the riparian project for at least 5 years beginning the year after the riparian zone mitigation project has been completed (N.J.A.C. 7:13-13.12(c)). **The permittee shall submit monitoring reports to the Division of Land Resource Protection, no later than December 31<sup>st</sup> of each full monitoring year.**
  - a. All monitoring reports except the final one should include the requirements and goals of the mitigation proposal and a detailed explanation of the ways in which the mitigation has or has not achieved progress toward those goals. If mitigation has not achieved progress, the report shall also include a list of corrective actions to be implemented and a timeline for completion.
  - b. The final monitoring report must include documentation and data demonstrating that:

1. The goals of the riparian zone mitigation as stated in the approved riparian zone mitigation proposal and the permit conditions have been satisfied.
  2. At least 85 percent of the mitigation plantings have survived and that at least 85 percent of the mitigation area is established with native species similar to ones identified on the mitigation planting plan. All plant species in the mitigation area must be healthy and thriving. All trees must be at least 5 feet in height; and
  3. The site is less than 10 percent occupied by invasive or noxious species; and
  4. The conservation restriction for the mitigation site has been executed and recorded.
6. If the riparian mitigation project does not meet the success criteria established above the project shall be considered a failure and the permittee shall submit a revised riparian mitigation plan. The revised plan shall be submitted within 60 days of receipt of notification from the Division indicating the riparian mitigation project was a failure.
  7. If the Division determines that the riparian zone mitigation project is not constructed in conformance with the approved plan, the permittee will be notified in writing by the Department and will have 60 days to submit a proposal to indicate how the project will be corrected.
  8. For preservation projects, the application shall provide documentation showing that the proposed preservation area will fully compensate in accordance with N.J.A.C. 7:13-13.13 for the loss of functions and values caused by the disturbance.

**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.
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 consist of three (3) sheets, prepared by Hubschman Engineering, P.A., dated March 15, 2019, last revised February 16, 2021, unless otherwise noted, and entitled:

**“PROPOSED CONDOMINIUM DEVELOPMENT FRICK ESTATES – SECTION III  
BOROUGH OF DEMAREST LOTS 1.51, BLOCK 119; LOTS 1.31, 1.32, 1.41 & 1.42,  
BLOCK 120 BERGEN COUNTY NEW JERSEY”**

**“SITE PLAN”, Sheet 2 of 12,**

**“GRADING, DRAINAGE & UTILITY PLAN”, Sheet 3 of 12,**

**“NJDEP FHA IP/HARDSHIP EXCEPTION PLAN”, Sheet 1 of 1, dated July 7,  
2020, last revised February 16, 2021; and**

**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](http://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](http://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](http://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:

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Patrick W. Ryan, Acting Manager  
Division of Land Resource Protection

c: Municipal Clerk, Demarest Boro  
Municipal Construction Official, Demarest Boro  
Agent (original) – Michael Hubschman