State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Land Use Regulation
Mail Code 501-02A, P. O. Box 420
Trenton, New Jersey 08625-0420
www.state.nj.us/dep/landuse

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

Craig Shirk
Gannett Fleming, Inc.
PO Box 67100
Harrisburg, PA 17106-7100

July 28, 2015

Re: JURISDICTIONAL DETERMINATION
Environmental Review - EDA and DCA/NEP Programs
DLUR File Number: 1503-15-0005.1
DLUR Activity Number: CDT150001
Grant Application ID Number: SBL621290
Applicant: DMM ASSOCIATES
Block(s) and Lot(s): [186, 1 through 20]
Beach Haven Borough, Ocean County

Dear Mr. Shirk:

This letter is in response to an application submitted by the above referenced applicant for funding under the Economic Development Authority's Neighborhood & Community Revitalization (NCR), Small Business Loans (SBL) Programs, the Department of Community Affair's Neighborhood Enhancement Program (NEP), and/or the Reconstruction, Rehabilitation, Elevation and Mitigation (RREM) Program. This jurisdictional determination is for the proposed renovation of the Thundering Surf Water Park and Adventure Golf Course located at the project site. More specifically, the proposed work includes: demolition of the existing miniature golf course; construction of a new three-level miniature golf course, construction of a new eight-lane racer slide; replacement of the existing multi-level play structure; and replacement of the existing wooden support structure for the water park with a new galvanized steel support structure. The project site is located within the CAFRA zone of the Borough of Beach Haven, a non-qualifying municipality. Potentially applicable statutes include Waterfront Development Act (N.J.S.A. 12:5-3 et seq.), Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.), Coastal Area Facility Review Act, CAFRA, (N.J.S.A. 13:9-1 et seq.), Flood Hazard Area Control Act (N.J.S.A. 58:16A et seq.) and the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B et seq.).

Based on a review of the information provided, the Coastal Zone Management Rules, and the Department's Geographic Information System information and Coastal Wetlands Maps, a **Waterfront Development permit and a Coastal Wetlands permit are not required.**

Based on a review of the Coastal Zone Management Rules, the following determination is made:

( ) **A CAFRA permit is required.**

(x) **A CAFRA permit is not required** per N.J.A.C. 7:7-4.7, Permit-by-rule 7, **provided the below requirements are met.** The Permit-by-rule 7 authorizes expansion or relocation (with or without expansion) landward or parallel to the mean high water line of the footprint of a legally constructed commercial development that has been or could have been legally occupied in the most recent five-year period, provided:

1. The expansion or relocation is in compliance with the applicable requirements or codes of municipal, State and Federal law;

2. Except as provided in (a)8 below, the expansion or relocation is not proposed on a beach, dune, or wetland;

3. In the case of residential development, the expansion does not result in an increase in the number of dwelling units;

4. In the case of commercial development, the expansion does not result in an increase in the number of parking spaces or equivalent parking area associated with the development;

5. Except as provided in (a)8 below, the expansion or relocation does not result in additional impacts to special areas as defined at N.J.A.C. 7:7-9;

6. The expansion or relocation meets the requirements of N.J.A.C. 7:7-9.25 and 9.26; and

7. The expansion does not increase the surface area of the footprint of the development by a cumulative total of more than 400 square feet on the property constructed after July 19, 1994. For an example of how the cumulative total limitation would apply, see (a)3 above.

8. Where the expansion includes structures such as stairs or an ADA-compliant ramp, which are constructed only for access to a residential or commercial development required to be elevated pursuant to the New Jersey Uniform Construction Code, N.J.A.C. 5:23, in accordance with the Flood Hazard Area Control Act rules, N.J.A.C. 7:13, there is no feasible alternative location for these structures outside of a beach, dune, wetland, or other special areas as defined at N.J.A.C. 7:7E-3. ADA means the Americans with Disabilities Act of 1990 (42 USC sect. 1201 et seq.).

Flood Hazard Area:

The project will take place within a tidal floodplain regulated under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-1.1. Since the project may meet N.J.A.C. 7:7-4.7, Permit-by-rule 7, the project will not require a separate Flood Hazard Area Permit.

Freshwater Wetlands:

Based on the information provided to the Division, it does not appear that the proposed project will impact freshwater wetlands and associated transition areas regulated under the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A. Therefore, a permit is not required.

The project may be presumed to be consistent with the New Jersey Coastal Zone Management Program and a Water Quality Certificate is authorized.

This letter does not relieve the applicant of the responsibility of obtaining any other required State, Federal or local permits or approvals as required by law and is based on the information submitted in accordance with existing regulation. This determination shall be considered null and void if the submitted information is incorrect, site conditions or regulations change.

Please contact Jessica Cobb by e-mail at Jessica.Cobb@dep.nj.gov or (609) 633-2289 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,

Ryan J. Anderson, Supervisor
Bureau of Coastal Regulation
Division of Land Use Regulation