

RESOLUTION
PLANNING BOARD
TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: September 10, 2013

Re: Application No. 2013-20-MSUBV
Applicant: Denali Construction, LLC
Premises: Force Hill Road, Livingston, New Jersey
Block: 2100; Lot: 35
R-1 Zone

SUMMARY OF THE CASE

1. The Applicant is Denali Construction, LLC (hereinafter referred to as the “Applicant”). The Applicant proposes to subdivide a vacant lot, consisting of 2.04 acres, (hereinafter referred to as the “Site”) into three lots on which would be constructed single-family homes. The proposed subdivision would require several variances as set forth herein.
2. The Applicant was represented by Stephen A. Geffner, Esq., of Schenck Price Smith & King LLP, who confirmed that all jurisdictional requirements have been met and that all taxes on the Site have been paid.
3. Hearings were held before this Board on July 2, 2013 and August 8, 2013.
4. Testifying on behalf of the Applicant were:
 - A: Richard A. Moralle, of T&M Associates, admitted as an expert in engineering and planning;
 - B: Sal J. Federico, the owner of Applicant; and
 - C: Evan J. Stone, admitted as an expert in landscape architecture.
5. No members of the public appeared.

6. The Site consists of 2.04 acres of vacant land. The Applicant proposes to subdivide the Site into three lots. During the course of the proceedings the Applicant proposed modifications to the size of two of the proposed lots, so that the subdivided Site would be configured as follows:

A: Lot 35.01 would consist of 26,992 square feet; requiring a minimum lot area variance of 8,258 square feet. The Applicant also proposed a 50-foot rear setback which would require a 25-foot variance; and for a front yard setback of 60 feet, a 15-foot variance was requested.

B: Lot 35.02 would consist of 26,979 square feet; requiring a minimum lot area variance of 8,271 square feet. The rear yard setback of 50 feet would require a variance of 25 feet; and for a front yard of setback of 60 feet, a 15-foot variance was requested.

C: Lot 35.03 would consist of 35,264 square feet, which is conforming in size. The rear yard setback of 50 feet would require a variance of 25 feet, and a front yard of 60 feet would require a 15-foot variance. The Applicant also requested a maximum height variance of 2.72 feet for a proposed hypothetical structure that would measure 37.72 feet in height. Township Code Section 170-96.C.(1) establishes a maximum building height of 35 feet.

7. The Applicant's planner testified that pursuant to the provisions of Township Code Section 170-96.C.(2) front yard setbacks may conform to existing building setbacks on the same side of the street and within 300 feet of the Site. The existing building on Lot 33, which has a setback of 55 feet, is within said distance.

8. Applicant's planner testified that a sidewalk is required on only one side of the street because it is a low intensity residential access street under the provisions of the RSIS. A sidewalk is located on the other side of the street and is to be extended by the Applicant.
9. The planner presented by the Applicant testified that the variances would promote the intent and purpose of the Municipal Land Use Law by providing a desirable visual environment through creative development techniques and will enhance the appearance of the neighborhood by allowing the construction of homes that are consistent with the adjoining Bel Air Woods development, both in terms of lot size, home size and height, and comparable front yard setbacks.
10. The Applicant agreed to comply with a number of conditions requested by the Board:
 - A) The Applicant shall obtain necessary tree removal permits from the Construction Official.
 - B) The Applicant shall comply with the special conditions of the Steep Slope Ordinance No. 24-2009.
 - C) The Applicant shall comply with all open issues raised in the June 3, 2013 revised report from the Township Engineer.
 - D) All riparian zones shall be identified on the individual deeds.
 - E) All driveways shall be constructed of permeable material or pavers.
 - F) Any loose or damaged Belgian blocks on the street along the frontage of the proposed lots shall be replaced by Applicant.
 - G) The final plans shall show the sidewalks to be installed by the Applicant along the easterly frontage of the Township's property known as Block:

2104; Lot: 42. Sidewalks shall not be installed in such manner as to interfere with plantings that are to be provided on the westerly side of the street.

- H) The Applicant shall record a Conservation Easement for Lot 35.03 for that portion of the lot within the riparian setback from Canoe Brook. The form thereof shall be approved by the Township attorney and proof of filing and recording shall be submitted to the construction official and Board secretary before a Certificate of Occupancy is issued for that lot.
- I) The Applicant shall enter into a Developer's Agreement in such form and terms as is acceptable to the Township Attorney and approved by the Township Council.
- J) The Applicant shall comply with the incorporated Model Conditions of Approval.

FINDINGS OF FACT & CONCLUSIONS

1. The Applicant has satisfied the statutory and code requirements for a subdivision. The Site shall be subdivided into three lots to be designated as Lots 35.01, 35.02, and 35.03; each with the areas and setbacks as set forth on the record by the Applicant's witnesses and as more particularly described herein.
2. The Board hereby grants the following variances requested by the Applicant:
 - A: The Board grants a variance for the minimum lot size of Lot 35.01 which will consist of 26,992 square feet within 235 feet of the front street right-of-way line; resulting in grant of a variance of 8,258 square feet. The Board also grants a variance as to minimum lot size of Lot 35.02 which will consist of

26,979 square feet with 235 feet of the front street right-of-way line; resulting in grant of a variance of 8,271 square feet. The Board finds that both variances as to lot size can be granted pursuant to the provisions of N.J.S. 40:55D-70.c.(2) in that they will provide a better development alternative than required by the Township Code zoning ordinance because it will promote a desirable visual environment and good design that is consistent with the Bel Air Woods neighborhood and will not result in any substantial detriment to the public good or the zone plan and zoning ordinance. The development of these lots and Lot 35.03 will provide a further benefit to the neighborhood because the sanitary sewer system will be extended as a result of this development. The benefits of this approval will substantially outweigh any detriment.

B: The Board hereby grants a front yard setback variance with respect to Lot 35.03. Township Code Section 170-96.C.(2) requires a 75-foot front yard setback. The Applicant proposes a 60-foot front yard setback, resulting in a variance of 15 feet. Approval is consistent with the provisions of N.J.S. 40:55D-70.c.(2) in that it will provide a better alternative to the requirements of the zoning ordinance. The front yard setback will be identical to Lots 35.01 and 35.02, similar to properties in the Bel Air Woods development, and in conformity to the setback of the existing home on Lot 33; thus promoting a desirable visual environment. The benefits of the approval will outweigh any detriment and there will be no significant detriment to the zone plan or zoning ordinance.

- C: The Board grants variances for all three lots as to rear yard setback. 75 feet is required pursuant to Township Code Section 170-96.C.(4) and 50 feet is proposed; resulting in a rear yard setback variance grant for each lot of 25 feet. The rear yard setback variance meets the requirements of N.J.S. 40:55D-70.c.(2) in that it facilitates the 60-foot front yards which create a more desirable visual esthetic and are consistent with the neighborhood development. The benefits of this approval will outweigh any detriment and will cause no harm to the zone plan and zoning ordinance due to the similarity to features of the adjoining neighborhood.
- D: The Applicant is granted a building height variance of 2.72 feet for Lot 35.03, so that it may construct a residence not to exceed 37.72 feet in height. Township Code Section 170-96.C.(1) limits the height of dwellings in the R-1 Zone to 35 feet. The Board finds that the variance is justified under the provisions of N.J.S. 40:55D-70.c.(2) in that the slope of the property requires the variance so that the height of the structure on Lot 35.03 can be consistent with that of the homes to be built on Lots 35.01 and 35.02 as seen from the street. This will promote a desirable and consistent visual environment in that all three homes to be built will be similar in size and height as seen from the street. The benefits of the variance approval will outweigh any detriment and there will be no detriment to the zone plan or zoning ordinance.
3. The Board finds that all the variances are consistent with the terms and provisions of the Master Plan which also promotes a desirable visual environment and consistent development of properties in neighborhoods.

4. The Applicant does not require a variance for the proposed stone wall on Lot 35.01. The Board finds such proposed wall to be required to prevent collapse or erosion because the property that is Lot 33 is at a natural grade higher than the natural grade of proposed Lot 35.01 and is, by Township Code definition, a retaining wall and not prohibited in the front yard.
5. The Board further finds that Lots 35.01 and 35.02 do not require a setback variance for their front yards because the proposed 60-foot setback is greater than the setback allowed by Township Code Section 170-96.C.(2) that permits a front yard to conform to the front yard setbacks of existing buildings within 300 feet and on the same side of the street. The existing building on Lot 33 is within 300 feet of both lots and has a 55-foot setback. The Board finds that the 60-foot setbacks proposed are in conformity with the setback on Lot 33.
6. The Board finds that the construction of a sidewalk on the Site is not required because Force Hill Road is a residential access street serving a low intensity neighborhood and, under the provisions of RSIS Table 4.3, requires a sidewalk on only one side of the street. Since a sidewalk is located on the other side of the street and that sidewalk will be extended across the opposite frontage of Lot 42 by the Applicant, no sidewalk is required to be installed on the Site.
7. This approval is subject to the following terms and conditions agreed to by the Applicant:
 - A) Prior to the issuance of any permits, the Applicant shall submit to the Board Secretary and the Township Engineer final revisions of the plans and drawings prepared by T&M Associates that reflect the amended dimensions of the three subdivided lots which will be as follows:

1. Lot 35.01 shall consist of 26,992 square feet within 235 feet of the front street right-of-way line.
 2. Lot 35.02 shall consist of 26,979 square feet measured within 235 feet of the front street right-of-way line.
 3. Lot 35.03 shall consist of 35,264 square feet within 235 feet of the front street right-of-way line.
- B) Applicant shall obtain necessary tree removal permits from the Construction Official.
- C) The Applicant shall comply with the special conditions of the Steep Slope Ordinance No. 24-2009.
- D) All riparian zones on lots shall be identified on the individual deeds for such lots.
- E) All driveways shall be constructed of permeable material or pavers.
- F) Any loose or damaged Belgian blocks on the street along the frontage of the proposed lots shall be replaced by Applicant.
- G) The final plans shall show the sidewalks to be installed by the Applicant along the easterly frontage of the Township's property known as Block: 2104; Lot 42. Sidewalks shall not be installed in such manner as to interfere with plantings that are to be provided on the westerly side of the street.
- H) The Applicant shall record a Conservation Easement for Lot 35.03 for that portion of the property within the riparian zones as set forth on the plans. The form and terms of the easement shall have been approved by the Township Attorney, and proof of filing and recording shall be submitted to

the Construction Official and the Board Secretary before a Certificate of Occupancy is issued for that lot.

- I) Prior to issuance of any permits, the Applicant shall have entered into a Developer's Agreement in such form and terms as are acceptable to the Township Attorney and Township Engineer and approved by the Township Council.
- J) A maintenance plan for the bioretention basins meeting the requirements of the Residential Site Improvement Standards or the Township's Stormwater Control Ordinance, or both, as applicable, shall be prepared by Applicant and shall have received the approval of the Township Engineer prior to issuance of any construction permit. Any future revisions to the maintenance plan shall not become effective until the Township Engineer's approval shall have been obtained. (1) The maintenance plan and any future revisions of it shall be recorded upon the deed of record for the property in terms approved in advance by both the Board Attorney and the Township Attorney; and, (2) the Applicant shall provide a performance bond for such maintenance, including landscaping and cleanliness.
- K) Numbers 2, 3, 4, 6 through 11, 12.c, and 16, 18 and 19 of the attached Model Conditions of Approval are incorporated herein.
- M) 1. Conditions A, B, D, J and K and Model Conditions 6 and 18 shall be met before any permit other than a tree removal permit has been issued.

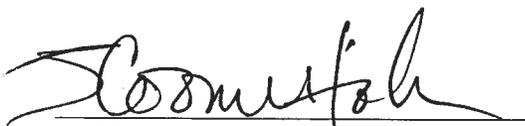
2. Condition K and Model Condition 9 are continuing conditions.

NOW THEREFORE, for the reasons set forth herein and as stated on the record by the Members of the Planning Board of the Township of Livingston, it is resolved that Minor Subdivision approval with variances as set forth herein, be and is hereby granted, subject to the terms and conditions as set forth herein.



Peter M. Klein, Chairman

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Planning Board of the Township of Livingston on September 10, 2013 wherein Board Members Anthony, Kalishman, Klein, Leopold, Meade, and Alternate No. 2 Wishnew (in place and stead of Member Dinar) voted in favor of the Application; they being all of the Members present and qualified to vote.



Jackie Coombs Hollis, Secretary

PLANNING BOARD, TOWNSHIP OF LIVINGSTON

Model Conditions of Approval
(As Amended through February 12, 2013)

Every application turns on its own facts and is judged on its own merits. Listed below are models of conditions which may be considered "standard". A standard can be tailored to specific circumstances, and may not always apply. Other or additional conditions may be tailored for any application.

1. Architecture

- a. Rooftop ancillary structures and equipment (other than alternative small energy systems and communications equipment) shall be screened by material compatible with the exterior finish of the building and matching the exterior color of the building as closely as possible.
- b. Enclosures of trash bins, recycling bins or dumpsters shall be of the same type of materials and the same color as the exterior finish of the building.

2. Blasting

In the event that blasting be necessary on the Site, the following conditions shall apply in addition to all requirements of federal law or regulations:

- a. All blasting operations shall be performed in strict compliance with N.J.S.A. 21:1A-128 *et seq.* and N.J.A.C. 12:190-1.1 *et seq.*, or superseding requirements.
- b. A pre-blast inspection of all structures on all properties adjacent to the Site or within 200 feet of the intended blasting location (whichever is the greater distance) shall be conducted at Applicant's expense. It shall be conducted no more than 60, nor less than 30, days before blasting commences. A written report of the inspection results shall be provided to the owner of each structure inspected within 10 days after completion of the inspection.
- c. Blasting shall occur only between 10:00 a.m. and 3:00 p.m. on Monday through Friday. Blasting during other hours may be permitted, temporarily, by the Township Engineer upon his finding that a condition constituting an emergency exists and necessitates such permission.
- d. Applicant shall coordinate all blasting with the Livingston Police and Fire Departments. If traffic control is required, it shall be provided at Applicant's expense.
- e. Applicant shall give the Township Engineer, the Chief of Police, the Fire Chief, and all owners of structures required to be inspected under "b" above, written notice of scheduled blasting operations to be received not less than 20 days, nor more than 40 days, prior to their commencement. If scheduled blasting operations are delayed or suspended they shall not be resumed until new notice has been given and received. All notices shall include the name and telephone number of Applicant's representative for purposes of receiving and responding to questions and comments.

- f. These conditions do not supersede any requirements of law or regulation that are more strict or restrictive.

3. Cleanliness During Demolition or Construction

- a. At the close of each work day the Site shall be thoroughly cleaned and all trash and construction debris, including that within buildings under construction, shall be placed in covered dumpsters. Dumpsters shall be removed from the Site, and replaced, before they overflow.
- b. Not less often than weekly, and whenever else required by the Construction Official or the Township Engineer, the public streets adjacent to the Site shall be manually or mechanically broom swept to remove dirt, mud or debris originating from the Site and located within 500 feet of the Site.
- c. Dust suppression methods acceptable to the Construction Official and the Township Engineer shall be utilized on the Site.

4. Deeds & Easements

- a. All conditions of approval that are continuing conditions shall be set forth within all deeds executed with regard to the Site.
- b. All deeds, easements, dedications or restrictions required by this approval shall be subject to review and approval by the Board Attorney prior to signing and shall be filed for recordation after such approval. The Applicant shall submit proof of such recordation to the Board Secretary, the Township Engineer and the Construction Official prior to the issuance of any permits.

5. Detention Basins

- a. Stormwater management basins shall be established on lots created for that purpose only. No structures that are not an approved part of the stormwater management system shall be erected on any such lot. Such basins, together with their required landscaping and fencing, shall be completed, and shall have been inspected and approved by the Township Engineer, prior to issuance of the first Certificate of Occupancy.
- b. If the approval of the Application calls for title to such a lot to be transferred to the Township; at such time as the Township accepts any new streets or roads on the Site, title to the lot shall be conveyed to the Township provided that the Township Engineer is then satisfied that the

basin has been constructed in full compliance with all applicable requirements. The deed conveying such title shall be subject to prior approval by both the Board Attorney and the Township Attorney.

- c. A maintenance plan meeting the requirements of the Residential Site Improvement Standards or the Township's Stormwater Control Ordinance, or both, as applicable, shall be prepared by Applicant and shall have received the approval of the Township Engineer prior to issuance of any construction permit. Any future revisions to the maintenance plan shall not become effective until the Township Engineer's approval shall have been obtained.
- d. Unless maintenance of the basin is assumed by the Township or a public agency as its direct responsibility, (1) the maintenance plan and any future revisions of it shall be recorded upon the deed of record for the property in terms approved in advance by both the Board Attorney and the Township Attorney; and, (2) the Applicant shall provide a performance bond for such maintenance, including landscaping and cleanliness.

6. Final Plans

Prior to the issuance of any Township permit for demolition of any structure, preparation of the Site, or construction of any improvement:

- a. The full text of all of the conditions of this approval, and all plan changes agreed to in the course of the hearing, shall be set out on final plans submitted to the Construction Official, the Township Engineer and the Board Secretary; and
- b. Such final plans shall have been reviewed by the Board Secretary or the Board's Planning Consultant for determination of whether the plans conform to the Board's approvals and shall then have been signed by the Board Chairman, the Board Secretary and the Township Engineer.
- c. Such final plans shall comply with the Uniform Construction Code and the Barrier Free Subcode as then in force in the State of New Jersey. If, during performance of work pursuant to the Board's resolution and permits that have been issued, field conditions indicate need for change(s), such need shall be called to the attention of both the Construction Official and the Township Engineer for approval of any such change before it is implemented. If any such change is significant, permission to amend the Site Plan may have to be sought from the Planning Board. Until all requirements under approved plans and the Uniform Construction Code, including accessibility requirements, have been completed

or bonded, any certificates of occupancy issued shall be temporary certificates only.

7. Flood Hazards

- a. Insert on the final site plan and/or subdivision map a metes and bounds description of all flood hazard areas located on the Site.
- b. Insert in all deeds for individual lots that contain or are adjacent to flood hazard areas, and on the preliminary and final subdivision maps or plats, the following covenant: "The lands designated herein contain flood hazard areas. There shall be no disturbance of any kind as to any flood hazard area unless permitted by N.J.D.E.P. pursuant to the Flood Hazard Control Act, N.J.S.A. 58:16A-50 *et. seq.* or superseding requirements."

8. Guarantees and Bonds

- a. The approval of this Application is subject to the posting, with terms acceptable to the Township Engineer, of any and all required performance guarantees, bonds, soil erosion and sediment control approvals, and any other requirements of Township ordinances prior to the issuance of any permits for commencement of site preparation or construction.
- b. This approval is also conditioned upon the Applicant's providing, prior to issuance of the first Certificate of Occupancy, a performance guarantee acceptable to the Township Engineer for any aspects of the approved landscaping or fencing that has not been completed by the time of issuance of such certificate.

9. Landscaping & Environmental Protection

- a. All deciduous trees planted shall have a caliper of not less than 2.5 inches measured at a height of 4.5 feet above ground level. All evergreen trees planted shall have a height of 6.0 to 8.0 feet.
- b. Street shade trees shall be planted as required by Township Code § 170-72 and shall not be included in the calculation of Replacement Trees required by the Trees Ordinance.
- c. Any tree or other planting installed in accordance with the plans which dies shall be replaced, within the current or next planting season, in kind and at the same size as it had reached at the time of death; except that if it died more than three years after planting its replacement need not be larger

than the size it had reached three years after planting. The same replacement requirements shall apply to any tree or other planting installed in accordance with the plans if subsequently removed because of damage or disease.

- d. No tree existing on the Site at the time of filing of the application shall be removed unless removal is approved under the Trees Ordinance or by this Board. Every existing tree to be preserved shall be tagged and shall be shown on the Site Plan or Subdivision Plan. During site preparation and during construction, each such tree shall be protected by snow fencing or a more substantial means approved by the Construction Official. No soils, excavated materials, or any construction equipment or building materials, shall be stored or operated within a root protection zone that shall be the greater distance of (i) the crown drip line, or (ii) a distance equal to caliper multiplied by one (1) foot, (but never less than eight (8) feet from the trunk of a tree to be preserved), or anywhere else where such soil or materials can adversely affect the health of trees to be preserved. All work done within the root protection zone shall be accomplished with hand tools.
- e. The grade of land located within the root protection zone shall not be raised or lowered more than three (3) inches unless compensated for by welling or retaining wall methods; but in no event shall welling or retaining walls be installed less than eight (8) feet from the trunk of a tree.
- f. During site preparation or construction, no fuel storage, and no refueling, maintenance, repair or washdown of construction vehicles or equipment, shall occur within fifty (50) feet of any tree to be preserved.
- g. Any provision of the Trees Ordinance, Chapter 306 of the Code of the Township of Livingston, that establishes a conflicting standard or requirement shall control.
- h. No mulch shall be placed, or allowed to accumulate, within six inches of the trunk of any tree or shrub planted on the Site in compliance with this resolution. Mulch shall not be applied, or allowed to accumulate, elsewhere within the drip line of the tree or shrub to a depth in excess of four inches.

10. Noise

- a. No site preparation, demolition or construction activity shall be performed on the Site on Sundays, or before 7:30 a.m. or after 5:00 p.m. on weekdays, or before 9:00 a.m. or after 5:00 p.m. on Saturdays or federal holidays.

- b. All vehicles and motorized machinery operated on the Site shall be equipped with properly operating mufflers.
- c. No site preparation, demolition or construction activity (other than authorized blasting) shall produce, at the property line, (i) continuous airborne sound at a sound level in excess of 65 dBa, or which has an octave band sound pressure level in decibels which exceeds the standards provided in 32 N.J.R. 2230 et. seq., or (ii) impulsive sound in air which has a peak sound pressure level in excess of 80 decibels, or (iii) impulsive sound in air which repeats more than four times in any hour and has a peak sound pressure level in excess of 50 decibels.
- d. Relief from these noise conditions may be permitted, temporarily, by the Township Engineer upon his finding that a circumstance constituting an emergency exists and necessitates such permission.

11. Other Governmental Approvals

- a. Applicant shall comply with all applicable Federal, State and local laws and regulations and obtain any other governmental approvals required for implementation of this application as approved. If any other governmental agency or authority grants a waiver of or variance from any law, rule or regulation, or imposes any condition or requirement, which affects this approval or any of the conditions contained herein, then this Board shall have the right to review such action as it relates to this Board's approval or conditions and to modify, amend or revoke its approval and/or conditions.
- b. No Township permit for demolition of any structure, or preparation of the Site or construction of any improvement shall be issued until proof of request for such required approvals and any action thereupon, shall have been presented to the Construction Official and the Board Secretary by the Applicant.

12. Paving and Sidewalks

- a. Applicant shall install the top course of street paving:
 - (1) For residential development not later than the earlier of three (3) years after the issuance of the first Certificate of Occupancy or three (3) months after fifty percent (50%) of residential units have received Certificates of Occupancy.
 - (2) For non-residential or mixed-use development, prior to issuance of the first Certificate of Occupancy.

- b. All manholes, catch basins, and driveway curbs shall be ramped until the top course of street paving has been installed.
- c. All sidewalks shall be constructed of concrete or of non-asphalt pavers and shall be not less than four feet wide in a residence district or five feet wide in the Business Improvement District. Existing sidewalks that do not meet prior Township Code requirements shall be replaced to the standard for the new sidewalks.

13. Signs

The Board retains jurisdiction over any and all signs until the final Certificate of Occupancy has been issued.

14. Traffic and Parking Safety and Enforcement

- a. At the time of applying for a building permit the Applicant shall submit proof of having filed a written request pursuant to, and in accordance with, N.J.S.A. 39:5A-1, requesting that N.J.S.A. 39:1-1 *et seq.* be made applicable to the roads, streets, driveways, parking areas, etc. within the Site. The Applicant shall provide proof of the governmental action on such request to the Construction Official prior to issuance of the final Certificate of Occupancy.
- b. Lines of sight established for entrance and exit driveways of the Site shall be shown on the as-built site plans, and no structures, trees or plants that would interfere with such lines of sight shall be permitted at any time.
- c. All traffic and parking provisions in the approved site plans or otherwise required by the Board's resolution shall be accomplished prior to issuance of the first Certificate of Occupancy.
- d. The Applicant shall comply with State law and applicable Township ordinances regarding handicapped parking and shall maintain such spaces and all the traffic and parking signage and markings on the Site in good order and repair.

15. Utilities for Site Plans and Major Subdivisions

Applicant shall construct all utilities underground as required by law, and shall submit to the Engineering Department a written instrument from each serving utility evidencing full compliance with this condition and with Township Code §170-73.A.(17) before issuance of any Certificate of Occupancy.

16. Wetlands

- a. Applicant shall insert on the final subdivision map and/or site plan a metes and bounds description of all wetlands, wetlands transition areas, and buffers on the Site.
- b. Where applicable, each deed for a lot, and the subdivision plat, shall contain the following language: "The lands designated herein contain wetlands and wetlands transition areas. There shall be no disturbance of any kind as to any wetlands or wetlands transition areas unless permitted by N.J.D.E.P. pursuant to law, and Best Management Practices (as defined in N.J.A.C. 7:7A-1.4 or superseding requirements) for prevention or reduction of adverse impacts upon or pollution of wetlands, wetlands transition areas and buffers shall be followed at all times. This restrictive covenant shall run with the land and be binding upon the grantees, their heirs and successors and assigns."

17. Developer's Agreement

Prior to issuance of any permit for demolition, site preparation, or construction, the Applicant shall have entered into a Developer's Agreement negotiated with the Township Attorney in conjunction with the Township Engineer

18. Written Response to Memoranda

Prior to issuance of any permit for site preparation, demolition or construction, the Applicant shall have provided written responses to all issues raised in all memoranda from the Township Engineer, or any consultant to the Township, that were considered by the Board in the hearings.

19. As-built Plans

A final Certificate of Occupancy shall not be issued until the Applicant shall have submitted to the Construction Official four (4) properly signed and sealed copies each of as-built site plans, surveys and building elevations.