

**RESOLUTION
SUBDIVISION/SITE PLAN COMMITTEE
PLANNING BOARD
TOWNSHIP OF LIVINGSTON, NEW JERSEY**

Decided: July 11, 2011

Re: Application No. 2011-29-MS
Applicant: CIT Group, Inc.
Premises: Block: 6100; Lots: 12 & 13
One CIT Drive
Zone: R-L

WHEREAS, application has been made by CIT Group, Inc. (hereinafter "Applicant"), owner of the premises commonly known as One CIT Drive (hereinafter "Site"), to the Planning Board of the Township of Livingston (hereinafter "Board") for Minor Site Plan approval to permit installation of a second emergency back-up electrical generator on the Site; and

WHEREAS, the Board has established a four-member Subdivision/Site Plan Committee (hereinafter "Committee") pursuant to § 170-3 of the Code of the Township of Livingston (hereinafter "Code"), with jurisdiction to determine whether an Application meets the definition of "minor" and, if so, to take final action of approval or disapproval of such Application; and

WHEREAS, the Committee has, on this date, determined that the Application is an application for minor site plan approval and that notice and public hearing are therefore not required; and

WHEREAS, a completed Application has been filed, the fees required by Code have been paid, and it otherwise appearing that the jurisdiction and powers of the Board and the Committee have been properly invoked and exercised, that the Application is in compliance with all statutory requirements, and proof has been submitted that there are no taxes due or delinquent with respect to the Site; and

WHEREAS, the Committee has reviewed and considered as part of the Application:

Minor Site Plan drawings prepared by Mark E. Zelina, P.E. of
Maser Consulting P.A., dated May 27, 2011, and revised July 5, 2011.

CIT Group Data Center Upgrade drawings prepared by Phoenix Facilities
Technologies, LLC revised through March 25, 2011;

The 8 July 2011 report of J. Michael Spenser of JMS Acoustics LLC.

NOW, THEREFORE, the Committee does make the following findings of fact and conclusions of law with respect to this Application:

1. The Site is in the R-L Research Laboratory District and fronts on Peach Tree Hill Road.
2. The locations of the existing generator and the proposed additional generator are further from both the Peach Tree Hill Road right-of-way line and the side property line than the required minimum setbacks, and those locations are not visible from the street.
3. The additional generator will have a capacity of 1,000 kW and be in a noise attenuating enclosure designed to ensure that sound emissions meet applicable State standards at receiving property lines.
4. There is presently a sidewalk at the proposed location of the additional generator. Applicant will construct a new, five-foot wide, concrete sidewalk from the principal building to the existing nearby four handicap parking spaces.
4. A smoking shelter nearby will be relocated as shown on the Site Plan.

NOW, THEREFORE, BE IT RESOLVED by the Committee that:

1. The Application for Minor Site Plan approval is hereby approved.
2. This approval is subject to the following conditions:
 - a. The sound attenuation enclosure shall ensure that generated noise levels shall not exceed applicable NJ Noise Control Regulations limits at Site property lines or at the nearby new R-5G Residence District on Peach Tree Hill Road.
 - b. After installation of the additional generator, its actual generated noise levels, at both the Site property lines and the R-5G Residence District line, shall be measured by an acoustical expert acceptable to the Township Engineer, and said expert shall certify to the Township Engineer whether the applicable NJ Noise Control Regulations are complied with. If there is non-compliance the generator shall not operated, except as permitted in any emergency by such regulations, until the noise levels are in compliance.
 - c. If either generator can be heard in a residence district, testing of that generator shall only occur during daylight hours.
 - d. If any trees are to be removed, they shall be replaced on Site in the number required by the Trees Ordinance.
 - e. The Site Plan shall be revised, prior to issuance of any permits, to show the limits of disturbance associated with the work proposed.

- f. Upon completion of the approved work, Applicant shall submit four (4) properly signed and sealed copies of as-built plans to the Township's Construction Official.
- g. The following of the Board's Model Conditions of Approval attached hereto are incorporated herein: Numbers 3, 6, and 8 -11.



Richard Dinar, Chairperson
Subdivision/Site Plan Committee

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Subdivision/Site Plan Committee of the Planning Board of the Township of Livingston on July 11, 2011 by the affirmative votes of Members Richard Dinar, Peter Klein and Michele Meade; they being all of the Members of the Committee present.



Debra Coonce
Planning Board Recording Secretary
& Secretary of the Meeting

PLANNING BOARD, TOWNSHIP OF LIVINGSTON

Model Conditions of Approval
(As Amended through March 15, 2011)

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 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 blasting (whichever is the greater distance) shall be conducted at Applicant's expense.
- 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

- 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 which 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, and within 500 feet of the Site, shall be manually or mechanically broom swept to remove dirt, mud or debris originating from the Site.

- c. Dust suppression methods acceptable to the Construction Official and the Township Engineer shall be utilized on the Site.

4. Deeds & Easements

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 filing for recordation.

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.
- 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 (as well as any future revisions) 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 in terms receiving the approval of the Township Engineer. Unless maintenance is assumed by the Township or a public agency as its direct responsibility, the maintenance plan and any future revisions 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.

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.

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

- a. The approval of this Application is subject to the posting of any and all required performance guarantees, soil erosion and sediment control approvals, and any other requirements of Township ordinances prior to the commencement of site preparation or construction.
- b. This approval is also conditioned upon the Applicant providing, prior to issuance of the first certificate of occupancy, a performance guarantee 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 4.0 feet above the root ball. All evergreen trees planted shall have a height of 6.0 to 8.0 feet.
- b. Street shade trees shall be planted in front yards and outside the right-of-way 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 a tree or other planting removed because of damage or disease.

- d. No tree existing on the Site at the time of filing of the application shall be removed except as identified for removal on an approved plan. 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 equipment, shall occur within fifty (50) feet of any tree to be preserved.
- g. Any provision of the Trees Ordinance, § 170-53 et seq. of the Code of the Township of Livingston, that establishes a higher or more restrictive 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, preparation of the Site or construction of any improvement shall be issued until proof of request for such 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 shall retain jurisdiction over any and all signs until the final certificate of occupancy has been issued.

14. Traffic and Parking Enforcement

- a. 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.
- b. 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.

15. Utilities for Site Plans and Major Subdivisions

Applicant will 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 Code Section 170-73.A.(17) of the Land Use Ordinance before issuance of any certificate of occupancy.

16. Wetlands

- a. Applicant will insert on the final subdivision map 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 with the Township when informed by the Township Engineer that such an agreement is required. The terms of such an agreement shall be subject to review and approval by the Township Attorney prior to signing.

18. 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 elevation drawings.