

RESOLUTION

PLANNING BOARD

TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: July 12, 2016

Re: Application No. 2014-86-PFSPV
Applicant: 395 West Northfield Ave., LLC (d/b/a Livingston Carwash)
Premises: 395 West Northfield Road, Livingston, NJ
Block: 5700; Lot: 1
Zone: B-1

SUMMARY OF CASE

1. The Applicant is the contract purchaser of the subject premises which consists of approximately .88 acres of land (hereinafter "Site") at the intersection of West Northfield Road (Essex County 508), Eisenhower Parkway (Essex County (609) and West Mt. Pleasant Avenue (State Route 10) where they meet at the Livingston traffic circle. The property is essentially triangular in nature with frontage on Eisenhower Parkway, West Northfield Road and on West Mt. Pleasant Avenue at the apex. The property was previously occupied by a gasoline service station but has been vacant, except for existing paving and concrete pads, for a number of years. The only abutting property is to the south of the Site, is owned by the Township of Livingston and houses a fire station.
2. The Applicant proposes to construct and operate a carwash facility on the Site. That is a conditional use in the B-1 General Business District zone. The Applicant requests Preliminary and Final Site Plan approval with related bulk variance relief.

3. Public hearings were heard by the Planning Board of the Township of Livingston (hereinafter “Board”) on May 3, 2016 and June 7, 2016.
4. The Applicant was represented by Steven C. Schepis, Esq.
5. Proof was presented that all statutory requirements and notice of publication have been met, and that all taxes are paid to date.
6. The Applicant presented the following witnesses who testified in support of the Application:
 - A: Larry Ritter, the principal and operator of the proposed carwash facility.
 - B: David J. Egarian, P.E., of D.J. Egarian & Associates, Inc., admitted as an expert in civil engineering.
 - C: Eric L. Keller, P.E., employed by John Desch Associates, Inc., admitted as an expert in traffic engineering.
 - D: Anthony Garrett, licensed architect & P.P., of Bilow Garrett Group, admitted as an expert in architecture and planning.
7. The Applicant requested approval of the Site Plan, prepared by David J. Egarian, of D.J. Egarian & Associates, Inc. and dated October 15, 2015, with final revision date of May 23, 2016; and of architectural plans prepared by the Bilow Garrett Group dated June 24, 2014 with final revision dated 03 May 2016.
8. During the course of the hearing further revisions were made to the Application in response to issues raised by Board Members and the Board’s experts and were agreed to be incorporated into the final Site Plan approval.
9. No members of the public had questions for witnesses or appeared either in support of or in opposition to the Application.

FINDINGS OF FACT

1. The subject property is in the B-1 General Business District. The Applicant proposes to relocate its existing carwash operation from elsewhere in Livingston to the Site. In addition to a carwash, there would be a small retail area offering automotive care products, accessories and other incidentals such as greeting cards, automotive toys, packaged candies, nuts and cookies, and the like. There would also be an automobile detailing area included in the facility. A carwash is a conditional use in the B-1 District. Township Code §170-88.C establishes the conditional use requirements.

2. The Application, as revised, would require Preliminary and Final Site Plan approval with the following variances from provisions of the Township's Code:
 - A: A variance from Section 170-90.C to allow a free-standing monument sign advertising the carwash;

 - B: A variance from Section 170- 108.B.(32) to allow parking in front yards.

 - C: A variance from Section 170-94.B.(9) to permit the solid waste and recycling pickup area to be located behind a parking space that would create an obstruction to pick-up when the parking space is occupied.

 - D: A variance from Section 170-94.F.(1) to permit the loading area to be within a front yard;

 - E: A variance from Section 170-108.C.(2)(a) to allow parking spaces to be within 20-feet of a street right-of-way line;

 - F. A variance from Section 170-92 and a variance from Section 170-90.C to

permit 3 ground-mounted signage structures, each of which would contain poster-type signs displaying services offered and their prices.

3. The Applicant also requests approval, pursuant to Township Code Section 170-88.C.(4), to allow a driveway entrance width of 30 feet, rather than 25 feet, requiring a favorable County recommendation because the driveway connects directly to a County roadway.
4. The Applicant presented expert testimony from its licensed professional engineer, David Egarian, that the proposed development would have on-site vehicle circulation that would be adequate for peak hours. The Site has four existing driveways and changes would be made so that the entrance driveway from Eisenhower Parkway and the entrance driveway from West Northfield Road near the intersection with West Mt. Pleasant Avenue would be closed; leaving a single entry driveway from West Northfield Road and a single egress driveway onto Eisenhower Parkway. As suggested by the Board, the revised Site Plans included sidewalk improvements and planting buffer areas to shield the on-site vehicle queue and parking from the public streets, as well as adjusting the parking design and solid waste pickup location.
5. The traffic engineer, Eric L. Keller, offered testimony that he had reviewed the traffic study prepared by John Desch Associates, and was familiar with it. He testified that the carwash would have lower traffic volume than the gas station that previously occupied the premises and that arrivals during peak street traffic hours would be pass-by drivers. His opinion was that new vehicle trips to the carwash as a destination would mainly be generated during non-peak hours. He

was of opinion that the design included adequate on-site stacking capacity for vehicles waiting to be serviced.

6. Engineer Egarian submitted written reports explaining that the car washing would be with water drawn from an on-site well and stored in a 7,500 gallon in-ground holding tank. As water is used, grease would be reclaimed and the water then returned to the holding tank. There would be a well pump automatic cut-off activated if the water in the tank rises above a pre-set level. There would be visual and audible alarms of that event, and any overflow from the tank would be directed to the storm sewer system. By re-using and recycling water, there is significant reduction of the volume of wastewater flow. The Applicant agreed that the timing of the well pump operation would be coordinated with the Township Engineer to minimize any detrimental impact.
7. The Applicant presented testimony from its engineer, Mr. Egarian, that the landscaping and retaining wall that would be located within the New Jersey DOT setback from the traffic circle requires limiting the height of both the landscaping and wall at the apex of the Site triangle to 3.5 feet. Both would be subject to obtaining an occupancy permit from the NJDOT.
8. The existing monument sign at the Applicant's current location elsewhere in Livingston would be installed on the Site at the location and with the orientation shown on Site Plan Drawing 1 revised as of 05.23.16. The sign, as depicted on Drawing No. 8 of the Site Plan revision dated 05.23.16, is mounted between posts that are each 7 feet 6 inches in height and the over-all width is 6 feet 11 inches.

9. Three 3 ground-mounted non-illuminated signs setting forth services and prices offered to customers are also proposed. Two of the signs would be 8 feet tall and 3 feet wide. The third sign would be 3 feet tall and 8 feet wide. One sign would be positioned near the southerly end of the loading area, one would be adjacent to the entrance to the automated car wash, and the third would be adjacent to the entrance to the hand wash tunnel.
10. The Applicant proposes to erect a 45-foot high flagpole on a concrete base. It would be set back a minimum of 45 feet from the nearest property line to comply with Township Code requirements. The pole would only be used to display the American flag, the size of which would not exceed 4 feet by 6 feet, and would be illuminated.
11. The 30-foot-wide curb cut for the West Northfield Road driveway is an existing width from the former gas station. It would continue to facilitate entry to the site by fire engines. The proposed retaining of that driveway width was in the Applicant's submission to Essex County.
12. Applicant's planning expert, Mr. Garrett, testified as to his opinion that the shape of the Site with three front yards is a fundamental hardship that affects building location, parking, loading and signage; that the proposed development is a practical practical one due to the nature of the Site; and that the variances requested can be granted without causing substantial detriment to the zone plan and will not cause any detriment to the public health, safety and welfare.
13. No members of the public had questions for witnesses or appeared to testify either in favor of or in opposition to the Application.

CONCLUSIONS OF THE BOARD

1. The Board approves and grants Preliminary and Final Site Plan approval, subject to the variances and Conditions set forth below, consistent with the architectural plans prepared by Bilow Garrett Group Architects and Planners, P.C., dated June 29, 2014 with final revision dated 03 May, 2016; and the Preliminary and Final Site Plan prepared by D.J. Egarian & Associates, Inc., dated October 15, 2015, with final revision dated 05.23.16 as further amended in the course of the hearing. These Plans shall be further revised in accordance with the Conditions set forth herein.
2. The Application meets the Conditional Use requirements set forth in Township Code §170-88.C; including the public safety requirement in respect to the 30-foot width of the entrance driveway from West Northfield Road.
3. The Applicant has demonstrated that the requested variances from generally applicable bulk requirements should be granted, consistent with the provisions of N.J.S.A. 40:55D-70.c.(1) and c.(2). The lot is unusually shaped and fronts on three public streets, and the approval of the variances will advance the intent and purpose of the Master Plan by providing for an appropriate use of the property and add an attractive esthetic improvement of the existing vacant property. There is no apparent visual impact to the public from the only abutting property, which is owned by the Township of Livingston. The Board finds that the facts presented in this matter prove that the setback requirements are negatively and directly impacted by the unusual shape and configuration of the lot, and that the signage

will be less intrusive than that of the gas station that previously operated at this location. The requested variance relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Master Plan and Zoning Ordinance.

4. Accordingly, the Board approves the following variances:

A: A variance from Code § 170-90. C to allow a free-standing monument sign at the location, and with the orientation, shown on Site Plan Drawing No. 1, revised 05.23.16, and illustrated on Site Plan Drawing No. 8 of the same revision date; such a sign not being permitted in the B-1 General Business District;

B: A variance from Code § 170-108.B.(32) to permit parking in the Eisenhower and West Northfield Road front yards; such parking being prohibited in the B-1 General Business District.

C: A variance from Code §170-94.B.(9) to allow the location of the solid waste and recycling pickup area behind a parking stall, provided always that no cars shall obstruct such area between the hours of 5:30 P.M. and 8:00 A.M.;

D: Variances from Code § 170-94.B.(5) and Code § 170-94.F.(1) to permit the loading area to be situated within the West Northfield Road front yard as depicted in Site Plan Drawing No. 1 as revised 05.23.16;

E: A variance from Code § 170-94.B.(5) to permit a parking setback of 6 feet from the Eisenhower Parkway right-of-way line for 6 parking spaces and a variance of 2.9 feet from such ROW line for parking spaces south of the exit driveway.

F: A variance from Code §170-92 and a variance from Code §170-90.C to permit 3 ground-mounted signage structures, each of which would contain poster-type signs displaying services offered and their prices.

4. Approval is subject to the following Conditions agreed to by the Applicant:

A: A Tree Removal Permit shall have been received by the Applicant;

B: Well pumping hours of operation shall have been approved by the Township Engineer;

C: The water holding tank shall be fitted with a device to cut off the well pump when a pre-set maximum water level in the tank has been reached. That specification shall have been agreed to by the Township Engineer. Visual and audible means of identifying excess water levels shall be provided and any water overflow shall be directed to the storm sewer;

D: The flagpole shall have a height not to exceed 45 feet, and shall be positioned so that it is not less than 45 feet from all property lines. It shall display only the American flag, with dimensions not exceeding 6 feet by 4 feet, which shall be illuminated if flown during the hours of darkness;

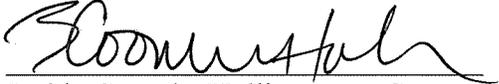
E: All plantings other than the deciduous trees already identified on the Site Plan shall be deer resistant and as approved by the Township Engineer. The plantings on the Eisenhower Parkway frontage shall be evergreen shrubs with a height of not less than 3 feet when planted so as to provide adequate screening of the Site;

- F: The Applicant shall have its professionals and experts provide written responses to the reports of the Township professionals and the experts hired by the Board.
- G: The 3 immovable non-illuminated ground signs displaying services and price information shall each not exceed 3 feet by 8 feet in overall dimensions, whether the greater dimension is horizontal or vertical. The Applicant shall obtain the approval of the Business Improvement District as to the colors of that signage.
- H: All of the Board's Model Conditions of Approval annexed hereto, except Conditions 5 and 14.a, are hereby incorporated herein.
- J. Conditions A and F and Model Condition 6 shall have been met before any permits other than a Tree Removal Permit shall be issued.
- K. Conditions B, C, E and G shall have been met prior to issuance of a CO.
- L. All other Conditions 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, and consistent with the proofs and testimony presented at the hearing, it is resolved that the Board does hereby approve the Application for Preliminary and Final Site Plan approval with variances, as set forth herein, subject to the terms and conditions of this Resolution.


Peter M. Klein, Chairperson

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 July 12, 2016 by the unanimous affirmative votes of Members Kimmel, Leopold, Santola, Klein and Alternate No. 2 Wishnew (in place and stead of Member Meade); they being all of the Members both present and eligible to vote and constituting a quorum of the Board.


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 certificat

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 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.