

FORM NO. 28

EXAMPLE OF PLANNING BOARD CONDITIONS ATTACHED TO PRELIMINARY MAJOR SUBDIVISION APPROVAL

The following are typical conditions attached to a preliminary approval. They were prepared by Robert T. Morgenstern, Esq. for an application before a township in Sussex County. They are furnished as illustrative only and do not indicate either approval or disapproval by the author or publisher.

CONDITIONS OF APPROVAL

1. The Applicant shall obtain approval from the County Planning Board and meet the conditions of that approval.

2. The Applicant shall comply with the Residential Site Improvement Standards in the construction and implementation of this subdivision unless deviation is specifically permitted in this Resolution.

3. Applicant shall record a deed in the County Clerk's Office for Block 3306, Lot 2.02. The deed shall contain a metes and bounds description. The deed shall contain the following language: "This lot is restricted against development. There shall be no construction, improvement or change of grade on the above described lot without the approval of the DEP. Members of the general public shall have access to the within lot for use for recreational purposes. This restrictive covenant shall be binding upon the Grantor, the Grantee and their heirs, successors and assigns". A note to the effect shall added to the subdivision map.

The Applicant is permitted to transfer title to the aforesaid Lot 2.02 to the State of New Jersey, or to a non-profit agency who shall own and maintain the lot as open space for public use and access. The deeding of the lot to the State of New Jersey or to a non-profit agency is encouraged.

4. The Township may purchase areas along Roy Spring Brook, also known as the Station Branch of the Paulinskill, located within the Township Green Way Preservation Areas of the Township Master Plan for a period of one year from the date of the within subdivision should the Township Committee desire to do so, pursuant to the Municipal Land Use Law.

5. Applicant shall create a conservation easement for the area within a minimum of 150 feet of Roy Spring Brook, also known as the Station branch of the Paulinskill, on the subdivision map. Only those activities permitted by the NJ DEP will be permitted within 300 feet of this stream. Said conservation easement shall also be included in deeds for the lots within this area. Said deeds shall have the following restrictive covenant: "There shall be no improvement, fill or change of grade within the above described conservation easement without the express written approval of the New Jersey Department of Environmental Protection". The Applicant shall establish permanent monuments delineating the edge of the conservation easement subject to the above covenant, to the satisfaction of the Planning Board Engineer.

6. Applicant shall create a conservation easement for the area within a minimum of 150 feet of the Paulinskill, on the subdivision map. Said conservation easement shall also be included in deeds for the lots within this area. Said deeds shall have the following restrictive covenant: "There shall be no improvement, fill or change of grade within the above described conservation easement without the express written approval of the New Jersey Department of Environmental Protection". In the event that the DEP establishes a greater wetlands transition area, then the area of the conservation easement shall increase to include the entire area of the wetlands transition area established by the NJ DEP. The Applicant shall establish permanent monuments delineating the edge of the conservation easement subject to the above covenant, to the satisfaction of the Planning Board Engineer.

7. The Applicant shall obtain letter of interpretation delineating the wetlands and wetlands transition area on the site. Applicant shall show the delineation of the wetlands and wetlands transition areas as approved by the NJ DEP on the subdivision map. If the DEP disagrees with the wetlands and wetlands transition area as shown on the subdivision map approved by this Board, the Applicant shall file a revised map with this Board and obtain reapproval of the revised subdivision map from this Board before any construction takes place.

8. Applicant shall obtain any required permits from the NJ DEP.

9. The Applicant shall deed strips of land to the Township along Potters Road and Saddleback Road for road purposes by metes and bounds description with the description to be approved by the Planning Board Engineer.

10. When the subdivision streets are suitably improved and ready for acceptance as Township streets by the Township, Applicant shall deed said roads to the Township by deed in recordable form with a metes and bounds description.

11. Applicant shall install firm material on strips of land parallel to the streets adjacent to the subdivision to inhibit weed growth and to facilitate the use of those areas for use by pedestrians and bikers. The areas may be planted with low growing grass. The exact design shall be approved by the Planning Board Engineer.

12. The Applicant shall deed site triangle easements to the Township at the intersection of Saddleback Road and Twin Rivers Road and at the intersection of Saddleback Road and Wagon Wheel Road.

13. The Applicant shall deed a site triangle easement at the intersection of Saddleback Road and County Route 610 to the County and to the Township. The Applicant shall grade the site triangle easements to the satisfaction of the Township Engineer.

14. The deeds of easement shall contain the following covenant:

“The above described sight triangle easement is hereby conveyed to the Township. No structure or improvement shall be constructed or installed and no vegetation shall be planted which would interfere with the line of sight of motorists utilizing the roadways adjacent to the sight triangle easement. The Township is hereby granted an easement to enter onto the land which is the subject of the sight triangle easement to remove any such structure, improvement or vegetation which so interferes with the line of sight of motorists.”

This language shall be added to the final subdivision map.

15. In the event that the construction of the streets and other improvements are commenced prior to final subdivision approval, Applicant shall post a restoration bond in a form and amount acceptable to the Township Committee after recommendation as to same by the Township Planning Board and Township Planning Board Engineer to guarantee the restoration of the site.

16. The drainage for the subdivision project shall be approved by the Township Planning Board Engineer.

17. The Applicant shall comply with applicable State Storm Water Management Regulations and laws particularly, without limitation, N.J.A.C. 7:8-1, et seq.

18. Applicant shall comply with the Township Storm Water Management Plan.

19. Applicant's design engineer shall prepare a storm water maintenance plan for the storm water management measures as required by N.J.A.C. 7:8-5.8 and other applicable regulations. Said maintenance plan shall be approved by the Township Planning Board and the Township Committee. The plans shall provide for, among other things, the responsibility for storm water maintenance. Applicant's design engineer shall calculate the cost of storm water maintenance within the plan.

20. If the person responsible for maintenance is not a public agency, the maintenance plan shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken pursuant to N.J.A.C. 7:8-5.8 or other applicable law.

21. The Applicant shall construct the storm water maintenance facilities at its own cost and expense.

22. Applicant shall deed required easements for storm water management facilities to the appropriate party responsible for storm water maintenance.

23. The within approval is subject to a condition that the Township Committee adopt at final reading an Ordinance identified as Section 240-105 entitled, “Non-Conforming Uses and Lots.” That Ordinance provides, in essence, that where a parcel of land containing storm water drainage or similar structures is deeded to the Township, the area conveyed to the Township shall be calculated as remaining part of the original lot for lot area bulk requirements and set back requirements.

24. The obligations for storm water maintenance shall be included within a Developer's Agreement.

25. The Applicant shall comply with the following paragraphs of the report of Ted Rodman, PE., Township Planning Board Engineer dated May 16, 2005 and as the same may be further amended: Paragraphs 4 through 10, 16, 18, 19, 20, 21, 22, 24, 25, 26, and 27.

26. The Applicant shall indicate the required graded area once on each cross section sheet in the typical roadway cross section pursuant to the report of the Planning Board Engineer. A copy of said report is annexed.

27. The Applicant shall comply with the New Jersey Flood Hazard Control Regulations, N.J.A.C. 7:123-1 et seq and other applicable law with respect to flood control.

28. The Applicant shall comply with the Township Ordinances with respect to Fair Share Housing.

29. Applicant shall pay any required Residential Development Fees required by Township Ordinances including, without limitation, Section 12-11.17.

30. If approved by the Township Zoning Board of Adjustment, Applicant shall construct a minimum of two units of affordable housing within the Township in lieu of a cash contribution. If the Applicant does not obtain approvals to construct these units, the Applicant shall return to the Planning Board for a further determination of the method of compliance with the Township Ordinances with respect to affordable housing.

31. Applicant shall prepare a Developer's Agreement between the Applicant and Township including the following topics:

a. The Applicant's agreement to comply with the Township Affordable Housing ordinance and setting forth the plan of compliance.

b. The Applicant shall include its obligations with respect to State Storm Water Management Regulations with respect to the construction and maintenance of storm water management facilities.

c. Applicant shall designate in the Agreement who is to be the responsible party for storm water management facilities within the Municipality and provide for the maintenance of same.

d. Applicant shall specify Applicant's obligations with respect to inspection of the excavations on site for roads, drainage facilities and foundations with respect to limestone or dolomite existing on the site. Applicant shall specify its obligations in the event limestone or dolomite is discovered which is in need of remediation to protect the ground water.

e. The Developer's Agreement shall include an agreement by the Applicant to plow streets within the subdivision and to provide snow and ice removal until said streets are accepted by the Township Committee as Township streets.

f. The Developer's Agreement shall include an agreement by the Applicant to maintain the storm water facilities unless or until said maintenance obligation is assumed by some other entity in writing.

g. The Applicant shall comply with all recommendations in a report from Mellick Tully, it's consultant, dated June 29, 2005 with respect to the limestone issue signed by a geologist and professional engineer with recommendations for treating the limestone on site and protecting the ground water table, and in the construction of the subdivision. Without limitation, a geologist from Mellick Tully, or other geologist approved by the Planning Board, shall do the following:

1. Observe the bottoms of the excavations of the detention basins and subsurface recharge facilities.

2. If blasting is required, the blasting shall be monitored by a geologist from Mellick Tully, or other geologist approved by the Planning Board.

3. The roads in the subdivision shall be constructed as per the recommendations in the report of Mellick Tully. If limestone is encountered, the Applicant shall implement the remedies recommended by Mellick Tully in its report or on site and as recommended by the Township Engineer.

4. The Applicant shall give seventy two (72) hours notice to the Township Construction Official and Township Engineer in the event limestone or dolomite is encountered in any of the locations set forth herein, prior to covering the excavation so that they may inspect the excavations and make recommendations to this Board.

h. The Applicant shall have a geologist and/or a professional engineer inspect the foundations on Lots 108, 109 and 110 and the subdivision street and the detention basins before they are covered over. Said engineer and/or geologist shall certify that the proposed improvements can be constructed without damage or degradation of the groundwater table. In the event remediation with respect to the limestone or dolomite discovered is required, the professional engineer or geologist shall specify what remediation is required, in writing, to the Applicant, with a copy to the Township Planning Board. Applicant shall implement any required remediation measures prior to covering the excavation. The Township Construction Official and Township Engineer shall be notified in the event that limestone or dolomite is discovered in any of the locations set forth within this condition prior to covering the excavation so that they may inspect the excavation and make recommendations to this Board.

32. Applicant shall post a maintenance guarantee for the subdivision streets and drainage facilities for a period of two years from the acceptance of the streets by the Township Committee.

33. The Applicant shall install dry wells for the roof drains in accordance with NJ DEP Storm Water Regulations.

34. The Applicant shall comply with the Resolution of the Township Committee with respect to the implementation of the Soil Removal Closure Plan.

35. Applicant shall obtain the approval of the Township Planning Board Engineer with respect to the implementation of the Soil Removal Closure Plan.

36. The Applicant, its successors and assigns shall not disturb the archeological sites within the subdivision. Applicant shall include a note in the deed for each lot where a registered archeological site is located by notifying the purchaser of the existence of the site.

37. Applicant shall obtain the approval of Public Service Electric & Gas Company for road improvements under the power line and improvements crossing the PSE&G easement.

38. Applicant shall insert a restrictive covenant on the subdivision map and in the deed for each subdivided lot, requiring the Grantee to comply with the Township Ordinance governing tree cutting and tree removal.

39. Applicant shall pay all required fees to the Township for the subdivision approval and inspection of subdivision improvements.

40. Blasting, if required, shall comply with the requirements of state law.

41. All deeds and easements shall be reviewed and approved by the Township Engineer and Planning Board Attorney as to form and shall be recorded in the County Clerk's Office and proof of recording shall be filed with this Board.

42. The Applicant shall obtain the approval of the Township Fire Department and Emergency Rescue Squad verifying that the proposed subdivision streets furnish adequate access for firefighting equipment.

43. The utilities for this development shall be installed underground. Approval of the utilities shall be obtained from G.P.U. Energy and filed with this Board at or prior to the application for final subdivision approval for this development or any section thereof.

44. The Applicant shall prepare a map reduced to the size of the Township Tax Map encompassing the subdivision and shall file two copies of the map and an electronic disc containing the filed map information with the Township Planning Board as a condition of final major subdivision approval. The Applicant shall pay to the Township the cost of transferring the data on the final map, including without limitation, lot lines, easements to public bodies and conveyances for road purposes. A maximum payment for this cost shall be made with the Clerk of the Planning Board in the amount of Five Hundred Dollars (\$500) as a condition of final major subdivision approval.

45. The developer's agreement shall meet with the approval of the Township Committee, the Township Planning Board, the Township Planning Board Engineer and the Township Attorney.

46. The Applicant shall obtain the approval of the County Soil Conservation District for the Soil Erosion and Sediment Control Plan.

47. Applicant shall submit a copy of the revised application to the NJ DEP for a Letter of Interpretation with the Township Planning Board.

48. Applicant shall pay real estate taxes to date.

49. Applicant shall submit copies of all permits it receives from any other governmental agency to this Board.

50. Applicant shall document its compliance with the conditions of this Resolution. Applicant shall submit a copy of this Resolution with documentation to meet each condition attached numbered to show compliance with each condition.

51. Applicant shall hold a pre-construction meeting with the Planning Board engineer and the Township Construction Official prior to commencement of construction.

52. The Applicant shall widen a portion of Saddleback Road and Potters Road shown on the subdivision map. The improvements shall be to the satisfaction of the Township Engineer. 53. The Applicant shall include a note in the Deed for Lot 1.12, as follows:

"There is an archeological site located on the above-described lot."

54. The Applicant shall deed lands containing storm water facilities in the subdivision to, the Township.

55. Applicant shall comply with all other Federal, State and Local laws in the implementation of this subdivision.