

*Lake Side Estates*

**TOWNSHIP OF UNION  
PLANNING BOARD RESOLUTION  
RESOLUTION No. 2000-22**

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*Application for Final Major Subdivision Approval*

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**Applicant:** *Henry Lewis  
PO Box 282  
Whitehouse Station N.J. 08889*

**Property:** *Block 25, Lots 2 & 4  
Race Street  
Union Township, Hunterdon Cty.*

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**WHEREAS,** The Applicant, Henry Lewis is the owner of property located on Race Street and known as Block 25, Lot 2 & 4 on the Tax Map in the Township of Union, County of Hunterdon, State of New Jersey and which property is located in the "CR" Country Residential District; and

**WHEREAS,** the applicant, Henry Lewis, received variances, waivers and preliminary major subdivision approval by action of the Planning Board memorialized in its resolution of July 27, 2000; and

**WHEREAS,** the applicant has filed the necessary application for Final Major Subdivision Approval together with the appropriate filing fee and plans with the Administrative Officer; and

**WHEREAS,** the applicant has submitted a plan entitled "*Final Subdivision Plat for Lake Side Estates*" prepared by James J. Mantz, P.E., dated October 19, 2000; and

**WHEREAS,** on behalf of the Township of Union and its Planning Board, the Board's various professional consultants reviewed the various plans and submitted their written and verbal reports including the Planning Board Engineer, Robert C. Bogart, P.E. in a written report dated February 15, 2001 and Carter VanDyke, P.P. in a written report dated March 13, 2001; and

**WHEREAS,** the Planning Board reviewed the application for Final Major Subdivision Approval and considered the testimony of the applicant, Henry Lewis, and the applicants Professional Engineer, James Mantz; and as presented through their Attorney, David Trombadore, Esq. at a public meeting on March 22, 2001 and based thereon, has made the following findings of fact:

1. The applicant submitted a proper application for Final Major Subdivision Approval with the Administrative Officer, which application as to form (not contents) and the required documentation was deemed complete by the Administrative Officer.

2. The applicant's representative testified that all appropriate application fees and the taxes on the property were current.
3. The Board reviewed the application and related documents and the recommendation of the Board's Engineer and based thereon deemed as complete the application for Final Major Subdivision Approval.
4. The applicant, Henry Lewis, previously received Preliminary Major Subdivision Approval for its proposed 7 lot single family major subdivision comprised of an existing farmhouse located on an irregular shaped lot and 6 single family detached dwellings (all conforming to the requirements of the zoning ordinance) located on conventional lots, with each home to be serviced by individual on-lot septic systems and with private, on-lot wells for each home, rather than public water as previously proposed.
5. The Board reviewed the written reports of its Engineer and Planner, and determined that the recommendations made by these professionals have either been resolved or could be incorporated by way of conditions of this final approval, such that approval could be granted subject to incorporating as conditions of approval the final review and sign off by the various Township Professionals, including the Township Engineer and Planner and Board Attorney.
6. The applicant's Attorney acknowledged receipt of the February 15, 2001 report of the Township Engineer, and also the March 13, 2001 report of the Township Planner, and based upon his review of the enumerated items with the applicant, Henry Lewis, the applicant testified before the Board that all items listed therein had been resolved or would be acceptable as conditions to be completed by himself as the applicant.
7. The application was opened to the public for comment, however, no public comment was offered.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 22nd day of March, 2001, that application for final major subdivision be conditionally approved as hereinafter set forth:

In its deliberations and conditional approval, the Planning Board relied upon and gave specific consideration to the representations made by the applicant and the statements made in the application for final major subdivision approval and the final plat presented to the Board, and upon the agreement by the applicant that it would accept and incorporate as conditions of the final major subdivision approval, all commitments made in the application, final plat and associated documents and testimony before the Board and which are hereby made a condition of this approval as follows:

1. All of the information as shown on the final major subdivision application and the accompanying final plans and other documents as referenced in the Planning Board Engineer's review letter of February 15, 2001 and the Township Planner's review letter of March 13, 2001, and as may

be required to be amended in accordance with this Resolution are adopted by reference as though the complete application and modified plans were set forth herein and the same are made a part hereof. Further, the commitments made by the applicants and their representatives in their recorded testimony and as set forth in the previous findings of fact shall be satisfied.

2. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the final plan or the improvements to be installed, which are subject to third party jurisdiction and which require approvals by any third party agencies. This Resolution of approval is specifically conditioned upon the applicant securing the approval and permits of all other agencies having jurisdiction of any aspects of the proposed development.

3. The applicant shall comply with all items as contained in the Planning Board Engineer's review letter of February 15, 2001 and the Planning Board Planner's review letter of March 13, 2001 which items are hereby made a condition of this final major subdivision approval, which shall be fully satisfied by the applicant. With regard to Item C 1 (2<sup>nd</sup> point) in Planner's letter of March 13, 2001, this requirement is eliminated and replaced by finding of fact #12 on page 3 of the preliminary resolution of approval of July 27, 2000.

4. There is hereby incorporated and made part hereof, all of the conditions of the previously granted, preliminary subdivision approval.

5. The water service to the 6 lot subdivision approved herein shall be provided by private, on-lot wells rather than public water as previously approved.

6. All easements associated with the preliminary approval shall be submitted to Planning Board Attorney and Engineer for their review and approval, and thereafter, proof shall be provided as to the recording of each of the said easements and the original documents distributed to the Grantees therein.

7. The Township Engineer shall monitor all soil conservation matters to insure proper treatment of disturbed areas; and the Planning Board shall continue jurisdiction of this application to insure strict compliance with the approved plans.

8. During construction, the applicant shall comply with all requirements of the Development Regulations of Union Township, this conditional approval and the Developer's Agreement entered into with the Township of Union. Such compliance shall also be binding upon the applicant's agents, servants, successors and assigns.

9. Final major subdivision approval shall in no way be construed as acceptance of any street, drainage system or other improvement required by the Planning Board, nor shall such approval obligate the Township in any way to repair, exercise jurisdiction over any street, drainage system or other improvement prior to acceptance of the improvement by the governing body.

10. The Union Township Planning Board reserves the right to revoke and withdraw any approval granted in the event that there is any deviation from or alteration of the plan hereby

approved, unless prior written approval for such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.

11. In the event this developer sells or otherwise transfers all or part of this development to any other developer, assignee, person or entity, the escrow accounts and Bonds posted by the developer herein, shall not be released in whole or in part, until the successor developer, assignee, person or entity has posted sufficient review and inspection escrows and Bonds as determined by the Township Attorney and Chief Financial Officer, and countersigns the existing Development Agreement or executes a new Development Agreement with the Township as directed by the Township Attorney.

12. The terms and conditions of this approval shall be binding upon the applicant, the applicant's successors in interest and assigns. Further, each of the terms and conditions of this approval are material elements of the approval based upon the submission of the application and property in its entirety, and the non-compliance with any term or condition by the applicant or his successors or assigns shall be deemed a material default subjecting the application to revocation of this approval. The request to change any single condition since all conditions are integrally related shall open the entire application to the Planning Board for re-consideration, possible re-approval and new terms and conditions in addition to those terms and conditions presently existing in this approval.

A Motion to grant final, major subdivision approval as conditioned herein, was made by Mr. Carten and seconded by Ms. Nargi.

| <u>VOTE ON<br/>DECISION</u> | <u>BOARD<br/>MEMBER</u>        | <u>VOTE ON<br/>RESOLUTION</u> |
|-----------------------------|--------------------------------|-------------------------------|
| <u>Yes</u>                  | Ricker                         | <u>Yes</u>                    |
| <u>Yes</u>                  | Haynes                         | <u>Yes</u>                    |
| <u>Abs</u>                  | Carlbon                        | <u>—</u>                      |
| <u>Yes</u>                  | Carten                         | <u>Yes</u>                    |
| <u>Abs</u>                  | Hess                           | <u>—</u>                      |
| <u>Yes</u>                  | Martin                         | <u>Yes</u>                    |
| <u>Abs</u>                  | Rossi                          | <u>—</u>                      |
| <u>Abs</u>                  | Grossi                         | <u>—</u>                      |
| <u>Yes</u>                  | Nargi                          | <u>Yes</u>                    |
| -----                       |                                |                               |
| <u>Abs</u>                  | Brandt (1 <sup>st</sup> . Alt) | <u>—</u>                      |
| <u>Abs</u>                  | Gray (2 <sup>nd</sup> Alt)     | <u>—</u>                      |

The foregoing Resolution memorializing the actions taken by the Township of Union Planning Board was duly adopted by the Planning Board by a vote of a majority of the affirmative voting members at its regular meeting held on April 26, 2001

  
Grace Kocher, Board Secretary  
Union Township Planning Board

  
Thomas E. Ricker, Chairman  
Union Township Planning Board

**TOWNSHIP OF UNION**  
**PLANNING BOARD RESOLUTION**

*Application for Variances and Preliminary  
Major Subdivision Approval*

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**Applicant:**     *Henry Lewis  
PO Box 282  
Whitehouse Station, NJ 08889*

**Owner:**         *Phillipsburg National Bank  
305 Roseberry Street  
Phillipsburg, NJ 08865*

**Property:**     *Block 25, Lot 2&4  
Race Street  
Union Twsp., Hunterdon Cty.*

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**WHEREAS**, Phillipsburg National Bank is the owner of property located on Race Street and known as Block 25, Lot 2 & 4 in the Township of Union, County of Hunterdon and State of New Jersey, and which property is primarily located in the "CR" - Country Residential District; and

**WHEREAS**, the applicant, Henry Lewis, with the owner's consent, has submitted an application for variances, waivers and preliminary major subdivision approval, together with the appropriate fees and a preliminary major subdivision plan consisting of 7 sheets, dated October 3, 1999, and prepared by James Mantz, P.E. along with Stormwater Drainage Calculations prepared by James Mantz, P.E.; and a Development Plan dated October 12, 1999, revised through January 25, 2000, and contained a Title Sheet, Preliminary Subdivision Plat, Lot Development Plan, Profile of Lake View Lane, Intersection Detail Plan, Construction Detail and Notes and an Environmental Plan; and

**WHEREAS**, on behalf of the Planning Board, the Township's various professional consultants reviewed the various plans and testimony presented to the Planning Board and submitted their written and verbal reports including the Township Engineer, Robert Bogart, P.E. in written report dated March 21, 2000, and Carter Van Dyke Associates in written report dated January 20, 2000; and

**WHEREAS**, the Planning Board has reviewed the application for variances, waivers and preliminary major subdivision, and the written reports of its consultants and other agencies having

jurisdiction of the application, and considered the testimony of the applicant, Henry Lewis, and his professional witnesses, James Mantz, P.E. of Maitra Associates and John Madden, PP; and as presented through their Attorney, Raymond Trombadore, Esq., at hearings conducted on March 23, and April 27, 2000, and thereafter, the Board made the following findings of fact:

1. The applicant submitted proper applications for variances, waivers and preliminary major subdivision approval with the Administrative Officer, which application as to form (not contents) and the required documentation was deemed complete by the Administrative Officer.

2. The applicant secured a certified list of neighboring property owners within two hundred feet of the said property and submitted proof of service of notice of the said application on the adjoining property owners, which notice was served by certified mail, return receipt requested, and the applicant also supplied the certified receipts together with an Affidavit of Service attesting to the mailing of the said notices to the said adjoining property owners.

3. A copy of the Notice of application for preliminary major subdivision served on neighboring property owners was submitted to the Board together with an Affidavit of Proof of Publication of the said document at least ten days prior to the date of the initial public hearing. The said notice documents were marked into the record as "A-1". Also marked into evidence during the hearing were the following:

- A-2 Page 2 of 8 - Preliminary Subdivision Plat, revised through 1/25/00
- A-3 Page 3 of 8 - Lot Development Plan, revised through 1/25/00
- A-4 Page 3 of 8 - Details of proposed Lot 2.01 revised through 1/25/00
- A-5 Page 4 of 8 - Profile of Lakeview Lane, revised through 1/25/00
- A-6 Letter dated 11/8/99 from Hunterdon County Dept. Of Health providing permit
- A-7 Hunterdon County Soil Conservation District Permit dated 10/26/00
- A-8 Submission to NJDEP for a Stream Encroachment Permit dated 3/7/00

4. The applicant paid all appropriate application fees, the taxes on the said property were current as of the date of the application, and based upon a review and recommendation by the Planning Board's professional staff, the Planning Board deemed the application complete.

5. The property to be subdivided was formerly known as the Bailey Farm and consists of 49.5 acres and located in the Country Residential (CR) Zone. The property fronts on Race Street and

backs up to the Conrail Line. Presently existing on the property is the former Bailey Farm Home whose present front porch is currently located within the road right of way and whose rear yard setback also does not comply with ordinance standards, in as much as a large lake is located approximately 49 feet off the rear of the home.

6. The applicant proposes a 7 lot, single family subdivision comprised of the existing farmhouse located on an irregular shaped lot and 6 single family detached dwellings (all conforming to the requirements of the zoning ordinance) located on conventional lots, with each home to be serviced by individual on-lot septic systems and with water provided through an extension of the public water service main (Town of Clinton) from its existing location on Race Street.

7. The application for subdivision to the Board was "grandfathered" by an Ordinance adopted by the Township Committee, and accordingly, the application is considered and processed under the former regulations affecting this lot.

8. The variances requested by the applicant proposes open space consisting of Lot 2.08 comprised of 27.94 acres (includes pond/lake area), and Lot 2.07 comprised of 2.17 acres.

9. In addition to the front and rear yard setback variances sought by the applicant to conform the existing, non-conforming location of the structure in relation to modern zoning laws, the applicant also seeks a waiver to permit access to an internal cul-de-sac road through two easements on two lots as shown on the plan.

10. The applicant proposes a 24 foot wide cartway with vertical curbing and a 40 foot right-of-way and a 12% grade.

11. The Homeowners in the 7 lot single family subdivision will be required contractually to become and maintain membership in a Homeowners' Association to be formed by the applicant/developer and the cost of maintenance of the open space areas, the dam on the pond/lake and all amenities will be underwritten by the Homeowners' Association. All documents associated with the Homeowners' Association must be submitted to the Planning Board Attorney and Planner for their written approval prior to filing or recording of such documents or including of such requirements in any contract or public offering statement.

12. The applicant has proposed plans for amenities in the open space areas and the unique structures on the property including an ice house and bridge, however no definitive plans have been concluded by the applicant. Accordingly, the Planning Board shall retain jurisdiction of the open space and amenities and these additional plans and use of these areas shall be subject to a Site Plan Review to be submitted at a future time, and resolved as part of Final Major Subdivision Approval.

13. The applicant's Professional Planner provided testimony as to the advisability of maintaining the cul-de-sac at its present length rather than using a private drive that would cross the

lot. The Planner testified that the purpose of the zoning would be advanced and benefits of such road length and access would outweigh any detriment to the Zoning Ordinance. The Planner testified that the development immediately across the street from this project has a similar private driftway access across two lots. By maintaining such access, the large lots located in this development would assist in protecting the environment.

14. The applicant's Planner also testified with regard to the location of the existing farmhouse and the non-conforming nature of its existing front and rear yard setback; and further testified that maintaining the existing house would preserve the historic character of the area and this historic house by maintaining the structure in its present location, adjacent to the lake/pond.

15. The applicant's Engineer testified that the lake/pond would be part of the common area under the control and supervision of the Homeowner's Association and that the cul-de-sac identified on the plans would become a public road dedicated to the Township.

16. The application was opened to the public for comment, however no comments or questions were submitted.

17. With regard to the variance and waiver application, it was determined that sufficient testimony in accordance with the requirements of N.J.S.A. 40:55D-70c was presented to the Board; and it was further determined that the variances and waiver requested could be granted and the purposes of zoning would be advanced by a deviation from the Township of Union Development Ordinance as they relate to this specific property and that the benefits of the deviation would substantially outweigh any detriment.

A Motion was made by Ms. Hirt and seconded by Mr. Martin to grant the following variances and a waiver of engineering requirements to permit access to the internal cul-de-sac through two easements over two lots:

- A. The front yard setback on proposed new lot #2 shall be reduced from 75 feet to 11.2 feet.
- B. The rear yard setback on proposed new lot #2 shall be reduced from 100 feet to 49 feet.

**VOTE ON**

**DECISION**

**BOARD MEMBER**

Yes  
Yes  
Yes  
Yes  
Yes  
Yes

Hirt  
Martin  
Carlbon  
Carten  
Brandt  
Panzarino

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 27th day of April, 2000, that conditional preliminary major subdivision approval with a variances and waiver be granted as follows:

In its deliberations and conditional approval, the Planning Board relied upon and gave specific consideration to the representations made by the Applicant and the statements made in the application for variances, waiver and preliminary major subdivision approval, and the subdivision plan and related documents presented to the Board, and upon the agreement by the applicant that it would accept and incorporate as conditions of the variances, waiver and preliminary major subdivision approval, all commitments made in the applications, subdivision plan and associated documents, and testimony before the Board and which are hereby made a condition of this approval as follows:

1. All the information as shown on the preliminary major subdivision and variances and waiver applications and the accompanying subdivision plans and other documents as referenced in the Planning Board Engineer's and Planner's review letters and as may be required to be amended in accordance with this Resolution are adopted by reference as though the complete application and modified plans were set forth herein and the same are made a part hereof. Further, the commitments made by the applicant and its representatives in their recorded testimony and as set forth in the previous findings of fact shall be satisfied.

2. Common areas on the property will include the lake and frontage buffer along Race Street, amenities and ice house. The common areas will be owned and maintained by a Homeowner's Association to be formed and the Homeowner's Association documents shall be submitted to the Planning Board Attorney and Planner for review and prior approval as set forth above in the findings which are made a part hereof.

3. The Board shall retain the jurisdiction on the open space areas (amenities, ice house, bridge, etc.) which are all subject to a future site plan to be submitted and approved by the Board.

4. A note shall be contained on the Plan (and a condition of this approval shall) requiring temporary fencing to be installed to protect the tree areas from disturbance during construction, and all trees proposed for removal are to be marked prior to removal so that the Township Inspector can review same to be sure that excess trees are not being removed from the property.

5. A Conservation Easement in written form (with language to be approved by the Planning Board Engineer and Attorney) shall be imposed on each lot on those areas of the lot which are not within the buildable area of the lot.

6. The Applicant shall review in consultation with the Township Engineer and secure the Township Engineer's approval on appropriate signage for the intersection with and on Race Street due to the curve at the entrance to the site and the grade of the internal roads as they intersect with Race Street.

7. Approval by all other Agencies having jurisdiction on the within application, including but not limited to the Hunterdon County Planning Board, Department of Health and Soil Conservation District; and the State of New Jersey regarding all permits necessary, including but not limited to access, drainage, wetlands interpretation, etc. from the Department of Transportation, Department of Environmental Protection, etc.

8. Compliance with all provisions as set forth in the Planning Board Engineer's report of March 21, 2000 and the Planner's report of January 20, 2000 and including but not limited to the posting of all review and inspection fees, a cost estimate on improvements, a Performance Guarantee to be reviewed and approved by the Township Attorney, and a pre-construction conference between the parties as directed by the Planning Board Engineer, payment of the required On-tract and off-tract contributions prior to signing of the final plat; street names approved by the Township Historical Society; lot numbering as directed by the Tax Assessor; "right to farm" language in the Deed to each lot.

9. The Applicant shall review in consultation with the Township Engineer and secure Township Engineer's approval on locations for installation of core-10 guardrail along the proposed road.

10. During construction, the applicant shall comply with all requirements of the Development Regulations of the Township of Union, this conditional approval, and the Developer's Agreement entered into with the Township of Union, and such compliance shall also be binding upon the applicant's agents, servants, successors and assigns.

11. Approval of this preliminary subdivision application shall in no way be construed as acceptance of any street, drainage system or other improvement required by the Planning Board, nor shall such approval obligate the Township in any way to retain or exercise jurisdiction over such street, drainage system or other improvement.

12. All improvements made on the premises shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances at the time of installation of the said improvement.

13. The Union Township Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alteration of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.

14. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the subdivision project in accordance with this approval, shall operate as an acknowledgment and agreement by the applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.

15. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the subdivision, or its improvements, which are subject to third party agency jurisdiction and which requires approvals by any third party agencies.

16. The approval herein memorialized is limited to general terms and conditions only, in accordance with N.J.S. 40:55D-49, and shall not constitute, nor be construed to constitute approval of the detailed drawings, specifications, and estimates required of an application for final major subdivision approval.

17. Approval by and compliance with all standards of the Union Township Board of Health, as may be required; and the County Board of Health, especially as to requirements on nitrate levels.

18. The Freshwater Wetlands Act is monitored and enforced by the State of New Jersey, Department of Environmental Protection and Energy. In granting this approval, the Planning Board makes no findings of fact as to the existence, or lack thereof, of wetlands on the subject property other than as may be reflected in specific findings stated herein, and the applicant is subject to and shall comply with, all Federal and State Regulations on wetlands.

19. All performance requirements as set forth in the findings of fact herein shall be satisfied by the applicant as a condition of this approval whether or not repeated at length in this conditions-section of the Resolution.

A Motion was made by Mr. Martin and seconded by Ms. Hirt to grant conditional, preliminary major subdivision approval with.

VOTE ON

DECISION

Yes  
Yes  
Yes  
Yes  
Yes  
Yes

BOARD MEMBER

Martin  
Hirt  
Carlbon  
Carten  
Brandt  
Panzarino

RESOLUTION

Yes  
—  
Yes  
Yes  
Yes  
Yes

The foregoing Resolution memorializing the action taken by the Township of Union Planning Board was duly adopted at its regular meeting on the 27<sup>th</sup> day of July, 2000 by a vote of a majority of the aforesaid members approving the original Resolution.

  
Grace Kocher, Secretary  
Township of Union Planning Board

  
Thomas Ricker, Chairman  
Township of Union Planning Board