

**TOWNSHIP OF UNION
PLANNING BOARD RESOLUTION
RESOLUTION No. #4-97**

Application for Final Major Subdivision Approval

Applicant: *Caccavelli Construction Incorporated
147 West End Avenue
Somerville, N.J. 08876*

Owner: *Kenneth R. Milligan, Administrator of
Elmer Milligan Estate*

Property: *38 Route 625
Block 21.2 Lot 32
Township of Union, Hunterdon Cty.*

WHEREAS, the applicant, Caccavelli Construction Incorporated is the buyer under contract of property owned by the Estate of Elmer Milligan and located on 38 Route 625 in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 21.2, Lot 32 on the Tax Map of the Township of Union and which property is located in the "CR- Country Residential " Zone; and

WHEREAS, the applicant received preliminary major subdivision approval by action of the Planning Board on September 24, 1998, which approval was memorialized in a Resolution adopted by the Planning Board on October 22, 1998; and

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

WHEREAS, the applicant submitted a plan entitled "*Final Map of Perryville Estates*" which plan is dated December 16, 1998; 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 March 18, 1999, and Professional Planner, Carter vanDyke, P.P. in a written report dated January 18, 1999; and

WHEREAS, the Planning Board reviewed the application for Final Major Subdivision Approval and the written reports of its Consultant, and considered the testimony of the applicant's representative, Robert Templin, P.E. & L.S., and as presented through their Attorney, Michael

Caccavelli, Esq. at meeting on March 25, 1999 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, Caccavelli Construction Incorporated, previously received Preliminary Major Subdivision Approval for its proposed 10 lot subdivision comprised of single family homes located on the subject property which is 26.83 acres with frontage on Main Street and County Road #625.
5. The Board reviewed the written reports of its Engineer and Planner and determined that the recommendations contained therein had either been resolved or could be incorporated by way of conditions of this final approval, and subject to the Engineer's and Planner's final review and sign-off, and review and approval of documents by the appropriate Township Professionals.
6. 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 25th day of March, 1999, 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 March 18, 1999, and the Planner's review letter of January 18, 1999, 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 March 18, 1999 and the Planner's report of January 18, 1999 which items are hereby made a condition of this final major subdivision approval.

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

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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

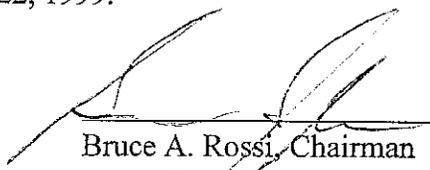
Agreement or executes a new Development Agreement with the Township as directed by the Township Attorney.

11. 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. Dean and seconded by Mr. Hess

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>No</u>	Rossi	<u>---</u>
<u>Yes</u>	Dean	<u>---</u>
<u>Yes</u>	Hess	<u>---</u>
<u>Yes</u>	Carlbon	<u>Yes</u>
<u>No</u>	Ricker	<u>---</u>
<u>Yes</u>	Martin	<u>Yes</u>
<u>Yes</u>	Panzarino	<u>Yes</u>
<u>No</u>	Carten	<u>---</u>
<u>---</u>	Gallagher	<u>---</u>
<u>Yes</u>	Hirt	<u>---</u>
<u>---</u>	Haynes	<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 aforesaid members at its regular meeting held on April 22, 1999.



 Bruce A. Rossi, Chairman
 Union Township Planning Board



 Grace Kocher, Board Secretary
 Union Township Planning Board

**TOWNSHIP OF UNION
PLANNING BOARD RESOLUTION
RESOLUTION No. 4-97**

Application for Preliminary Major Subdivision Approval

Applicant: *Caccavelli Construction Incorporated
147 West End Avenue
Somerville, N.J. 08876*

Owner: *Kenneth R. Milligan, Administrator of
Elmer Milligan Estate*

Property: *38 Route 625
Block 21.2 Lot 32
Township of Union, Hunterdon Cty.*

WHEREAS, the applicant, Caccavelli Construction Incorporated is the buyer under contract of property owned by the Estate of Elmer Milligan and located on 38 Route 625 in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 21.2, Lot 32 on the Tax Map of the Township of Union and which property is located in the "CR- Country Residential " Zone; and

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

WHEREAS, the applicant submitted a plan entitled "*Subdivision of Lot 3, Block 21.02*" which plan is dated April 4, 1997 and revised through December 4, 1997, and was prepared by Robert J. Templin, P.E., L.S.; and

WHEREAS, on behalf of the Township of Union and its Planning Board, the Board's various professional consultants reviewed the various plans and testimony presented to the Planning Board, and submitted their written and verbal reports including the Planning Board Engineer, Robert C. Bogart, P.E. in written reports dated June 11th, June 26th, October 16th, and December 11th, 1997, and Professional Planner, Carter vanDyke, P.P. in written reports dated July 10, 1997 and February 19, 1998; and Geologist Matthew Mulhall of M² Associates, Inc. dated February 24, 1998; and

WHEREAS, the Planning Board reviewed the application for Preliminary Major Subdivision Approval and the written reports of its Consultants and other agencies having jurisdiction over the application, and considered the testimony of the applicant's representative, Joseph Caccavelli, President, and on their behalf, Robert Templin, P.E. & L.S., Robert VanOrden, P.E., Richard Lev,

Geologist, Kenneth Milligan, and Administrator of the Estate of Elmer Milligan, and as presented through their Attorneys, Robert Spengler, Esq. and Michael Caccavelli, Esq. at meetings conducted on October 23rd and December 18th, 1997, and January 22nd, May 28th, and September 24th, 1998; and based thereon, has made the following findings of fact:

1. The applicant submitted a proper application for 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 notices to the said adjoining property owners.
3. A copy of the notice of development served on neighboring property owners was submitted to the Board together with an Affidavit of Proof of Publication of the said document in the official newspaper of the municipality at least ten days prior to the date of the initial public hearing. The following documents were marked into evidence:
 - "A-1" Hearing Notice documents;
 - "A-2" Sheet 1 of subdivision plan dated 4/4/97 and revised to 9/23/97f;
 - "A-3" Updated plans - sheet 1 of preliminary plans - revised to 1/1/98;
 - "A-4" N.J.D.E.P. - NFA - 9/22/98;
 - "A-5" Environmental Investigation and Remediation documents.
4. The applicant paid all appropriate application fees and testified that the taxes on the property were current.
5. 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 Preliminary Major Subdivision Approval.
6. The applicant, Caccavelli Construction Incorporated is proposing a 10 lot subdivision which would contain single family homes in the country residential "CR" district. The subject property is approximately 26.83 acres and has frontage on both Main Street and County Road#625. The proposed lots range from 2 acres to 4 acres. The subject property is partially wooded with a 300 foot wide woodland strip that bisects the site.

7. The proposed major subdivision has been before the Board at several workshop sessions prior to the filing of the application. After meetings with Hunterdon County and the Union Township Planning Board, the applicant has proposed a layout which would connect Main Street, Jutland, with County Road #625. The existing intersection of Main Street with County Road #625 would be removed and the right-of-way would revert to the neighboring properties

8. The Planning Board retained the services of a Matthew P. Mulhall, a professional geologist to conduct a preliminary evaluation of the environmental concerns associated with the subject property. Mr. Mulhall submitted his written report to the Planning Board dated February 24, 1998 and as part of his report, Mr. Mulhall submitted the following documents into evidence at the public hearing on May 28, 1998.
 - "B-1" Paper print - 1986 aerial photograph from the N.J.D.E.P. - Tidelands Commission.
 - "B-2" A 1959 Aerial photograph taken by Robinson Aerial Services (JER-19W-67)
 - "B-3" A 1959 Aerial photograph taken by Robinson Aerial Services (JER-19W-68)
 - "B-4" A 1989 Aerial photograph taken by Robinson Aerial Services (89291-16-28)
 - "B-5" A 1989 Aerial photograph taken by Robinson Aerial Services (89291-16-29)
 - "B-6" Geoprobe Soil Investigation dated 4/15/98.
 - "B-7" Remedial action report dated 2/12/98 but submitted to Board in 4/98.

9. During the course of Mr. Mulhall's review of the subject property, it was determined that the subject property (known as the Milligan Property) was at one time used to recycle and/or dispose of automobiles and their parts. The aerial photographs entered into evidence above indicate the presence of automobiles and as recent as 1987, where an area of approximately 3.6 acres was transected with dirt roads and was used for the storage and disposal of automobiles.

10. Based upon the aerial photographs submitted to the Board by Mr. Mulhall, several areas of environmental concern were identified including:
 - a. The automobile storage/disposal area in the northeastern portion of the property;
 - b. Building 1 and surrounding property where automobiles were parked as early as 1951;

- c. The wooded area south and southwest of Building 1 where automobiles and other smaller objects were apparently stored/disposed;
 - d. Building 2 and surrounding property where materials were stored/disposed.
 - e. Any and all septic systems, chemical and/or petroleum storage areas, drainage systems, disturbed/excavated areas, fill areas, and underground storage tanks are potential areas of environmental concern.
11. Based upon the numerous areas of potential environmental concern and the long history of automobile recycling/storage/disposal activities at the subject property, it was determined by Mr. Mulhall that the most significant area of potential concern would be the groundwater on the property.
 12. The application has been carried on a month-to-month basis with the applicant granting the Board extensions of time in which it could act pursuant to N.J.S.A. 40:55D-48.
 13. The applicant secured the services of Melick-Tully and Associates to provide a second opinion on the initial Environmental reports and testing prepared by the applicant's original environmental consultant, Hampton-Clarke. Robert Van Orden, P.E., the managing environmental partner of Melick-Tully provided testimony on his company's review of the Hampton-Clarke reports, their on-site inspection of the property, and the report of the Board's consultants, M² Associates. Mr. Van Orden confirmed that the guidance which they gave to the applicant was consistent with the recommendations made by the Board's consultant in his report and they recommended that the property owner enter into a "Memorandum of Agreement" whereby the N.J.D.E.P. would review the remediation work and testing which had been undertaken at the site with the end goal being the receipt of a "No Further Action" letter.
 14. In furtherance of the D.E.P. declaration, Melick-Tully prepared a report for submission to the N.J.D.E.P. and conducted meetings with the D.E.P. Case Manager to secure their review and the issuance of the letter of July 21, 1998 indicating those conditions to be satisfied prior to the issuance of a "No Further Action" letter. Entered into evidence as exhibit "A-4" was the "Site Wide - No Further Action" letter issued by the New Jersey Department of Environmental Protection dated September 22, 1998.

Also entered into evidence as exhibit "A-5" was a package of documents leading to the issuance of the "No Further Action" letter and including a site map, preliminary assessment report, Certificate of Disposal of Soil Removed from the Site, Well Closure Report, Hunterdon County Board of Health approval of the well and septic seepage pits, potable test reports and remedial action report and the "Site Wide No Further Action" letter issued by the N.J.D.E.P. dated September 22, 1998.

15. The Board's consultant, Matt Mulhall of M² Associates questioned the representatives of Melick-Tully and Mr. Milligan regarding the usage of the property and their findings and results contained in the report, all to the satisfaction of the initial concerns raised on the site. A recommendation was made that all wells be purged and sampled two weeks after each well was installed and tested for not only normal County Board of Health potable water standards, but also for the presence of volatile organic compounds and lead.
16. The application was opened to the public, however, no further comments or questions were generated.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 24th day of September, 1998, that conditional preliminary major subdivision approval 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 preliminary major subdivision approval, and the subdivision and site plans and related documents presented to the Board, and upon the agreement by the applicant that it would accept and incorporate as conditions of the 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 the accompanying subdivision plans and other documents as referenced in the Planning Board Engineer's reports dated June 11th, June 26th, October 16th, and December 11th, 1997, and the Board Planner's reports dated July 10, 1997 and February 19, 1998 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. The applicant shall comply with all terms and provisions of the Planning Board Engineer's reports; namely, the reports of the Township Engineer as summarized in his report of December 11, 1997 and the Professional Planner's reports, last revised in his report of February 19, 1998. All provisions as set forth in the Planning Board Engineer's reports, and the Planner's reports, and including but not limited to the posting of all review and inspection escrow for fees and the replenishment of same as required, a cost estimate on improvements, a Performance Guarantee to be reviewed and approved by the Township Attorney with the costs therefor to be paid from the developer's escrow account, and a pre-construction conference between the parties as directed by the Planning Board Engineer and the Planning Board Planner as necessary to review the tree protection and landscaping standards, on-tract and off-tract contributions as per the Township Ordinance; street names approved by the

Planning Board Historic Preservation Committee; lot numbering as directed by the Tax Assessor, and house numbering by Township Clerk.

3. 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.
4. All wells to be drilled on the site shall be purged and sampled two weeks after the date of well installation for compliance with the normal County Board of Health potable water standards, and also sampled for volatile organic compounds and lead. A report of each well tested shall be filed with the Union Township Construction Office for each well drilled on each lot of the major subdivision.
5. All commitments heretofore made by the developer in its testimony and as may be more particularly set forth in the findings of fact, as well as all conditions set forth in the Planning Board Engineer and Planner's report shall be made conditions of this approval.
6. 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.
7. The Township of Union 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.
8. 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.
9. The developer shall execute with the Township of Union, a Developers Agreement prepared by the Township Attorney to incorporate all of the provisions of this memorializing Resolution, as well as such other terms and conditions as provided under State Statute and Municipal Ordinances, and such Agreement shall bind any successor developers of this project to the same terms and conditions. The cost of the preparation of the Developer's Agreement shall be paid from the developer's escrow account.

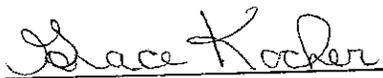
10. In the event this developer sells or otherwise transfers all or part of this development to any other developer, assignee, person or entity, the escrow accounts and Bonds posted by the developer herein, shall not be released in whole or in part, until the successor developer, assignee, person or entity has posted sufficient review and inspection escrows and Bonds as determined by the Township Attorney and Chief Financial Officer.
11. The developer shall provide a listing of each plan/page comprising the preliminary major subdivision documents, with the original date and latest revision date of each of the said documents for inclusion in the Development Agreement.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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

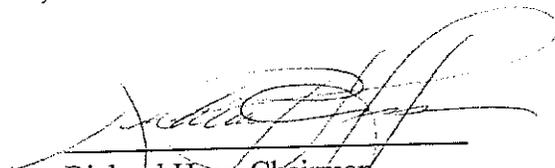
conditions of this approval are material elements of the approval based upon the submission of the application and property in its entirety, and the non-compliance with any term or condition by the applicant or his successors or assigns shall be deemed a material default subjecting the application to 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 was made by Mr. Dean and seconded by Mr. Rossi to grant conditional, preliminary major subdivision as set forth herein.

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>Y</u>	Hess	<u>Y</u>
<u>N</u>	Rossi	<u>----</u>
<u>Y</u>	Haynes	<u>Y</u>
<u>----</u>	Strube	<u>----</u>
<u>Y</u>	Carlbon	<u>Y</u>
<u>Y</u>	Dean	<u>----</u>
<u>Y</u>	Martin	<u>Y</u>
<u>Y</u>	Panzarino	<u>----</u>
<u>N</u>	Ricker	<u>----</u>
<hr/>		
<u>N</u>	Carten (1 st . Alt)	<u>----</u>
<u>----</u>	Gallagher (2 nd 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 aforesaid members at its regular meeting held on October 22, 1998.


 Grace Kocher, Board Secretary
 Union Township Planning Board


 Richard Hess, Chairman
 Union Township Planning Board

**TOWNSHIP OF UNION
PLANNING BOARD RESOLUTION
RESOLUTION No. 4(A)-97**

Vacation of Resolution No. 4-97

Applicant: *Caccavelli Construction Incorporated
147 West End Avenue
Somerville, N.J. 08876*

Owner: *Kenneth R. Milligan, Administrator of
Elmer Milligan Estate*

Property: *38 Route 625
Block 21.2 Lot 32
Township of Union, Hunterdon Cty.*

WHEREAS, the applicant, Caccavelli Construction Incorporated applied for preliminary major subdivision approval from the Union Township Planning Board on the captioned property; and

WHEREAS, the application was listed for continued public hearing on May 28, 1998 in accordance with the previously granted extension signed by the applicant through that date; and

WHEREAS, the applicant having failed to appear and provide any additional information as noted in the record, the Planning Board adopted Resolution No. 4-97, denying without prejudice, the said application; and

WHEREAS, the applicant has received a copy of Resolution No. 4-97 and immediately contacted the Planning Board Secretary indicating a misunderstanding on the extensions previously executed and granted to the Planning Board; and

WHEREAS, the applicant through its Attorney, Michael J. Caccavelli, Esq., submitted a detailed status of their efforts to acquire the property in a letter to the Planning Board dated July 9, 1998; and

WHEREAS, the applicant and its Attorney appeared before the Planning Board at its regular meeting on July 23, 1998 and submitted documentation from the State of New Jersey dated July 21, 1998 reporting on the status of the "no further action letter" being sought and the remedial action being taken on the said property; and

WHEREAS, the Planning Board having been satisfied with the progress being made by the applicant and its intention to resolve all outstanding issues on the application.

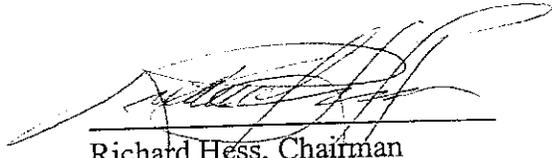
NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Union, Hunterdon County, New Jersey on the 23rd day of July, 1998 that Resolution No. 4-97 previously adopted on this application is vacated and upon the condition voluntarily offered by the applicant extending the time for Planning Board action through September 24, 1998.

A Motion was made by Rossi and seconded by Carlbon to vacate said Resolution No. 4-97.

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>Y</u>	Hess	<u>Y</u>
<u>Y</u>	Rossi	<u>N</u>
<u>Y</u>	Haynes	<u>Y</u>
<u>Y</u>	Strube	<u>---</u>
<u>Y</u>	Carlbon	<u>Y</u>
<u>---</u>	Dean	<u>Y</u>
<u>Y</u>	Martin	<u>Y</u>
<u>Y</u>	Panzarino	<u>Y</u>
<u>---</u>	Ricker	<u>N</u>
<u>Y</u>	Carten (1 st . Alt)	<u>N</u>
<u>Y</u>	Gallagher (2 nd 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 aforesaid members at its regular meeting held on the 24th day of September, 1998.


 Grace Kocher, Board Secretary
 Union Township Planning Board


 Richard Hess, Chairman
 Union Township Planning Board

**TOWNSHIP OF UNION
PLANNING BOARD RESOLUTION
RESOLUTION No. 4-97**

Application for Preliminary Major Subdivision Approval

Applicant: *Caccavelli Construction Incorporated
147 West End Avenue
Somerville, N.J. 08876*

Owner: *Kenneth R. Milligan, Administrator of
Elmer Milligan Estate*

Property: *38 Route 625
Block 21.2 Lot 32
Township of Union, Hunterdon Cty.*

WHEREAS, the applicant, Caccavelli Construction Incorporated is the buyer under contract of property owned by the Estate of Elmer Milligan and located on 38 Route 625 in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 21.2, Lot 32 on the Tax Map of the Township of Union and which property is located in the "CR- Country Residential " Zone; and

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

WHEREAS, the applicant submitted a plan entitled "*Subdivision of Lot 3, Block 21.02*" which plan is dated April 4, 1997 and revised through December 4, 1997, and was prepared by Robert J. Templin, P.E., L.S.; and

WHEREAS, on behalf of the Township of Union and its Planning Board, the Board's various professional consultants reviewed the various plans and testimony presented to the Planning Board, and submitted their written and verbal reports including the Planning Board Engineer, Robert C. Bogart, P.E. in written reports dated June 11th, June 26th, October 16th, and December 11th, 1997, and Professional Planner, Carter vanDyke, P.P. in written reports dated July 10, 1997 and February 19, 1998; and Geologist Matthew Mulhall of M² Associates, Inc. dated February 24, 1998; and

WHEREAS, the Planning Board reviewed the application for Preliminary Major Subdivision Approval and the written reports of its Consultants and other agencies having jurisdiction over the application, and considered the testimony of the applicant's representative, Joseph Caccavelli, President, and Robert Templin, P.E. & L.S., and as presented through their Attorneys, Robert Spengler, Esq. and Michael Caccavelli, Esq. at meetings conducted on October 23rd and December 18th, 1997, and January 22nd, 1998 and also at the adjourned hearing on May 28th, 1998; and based thereon, has made the following findings of fact:

1. The applicant submitted a proper application for 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 notices to the said adjoining property owners.
3. A copy of the notice of development served on neighboring property owners was submitted to the Board together with an Affidavit of Proof of Publication of the said document in the official newspaper of the municipality at least ten days prior to the date of the initial public hearing. The following documents were marked into evidence:

"A-1" Hearing Notice documents;

"A-2" Sheet 1 of subdivision plan dated 4/4/97 and revised to 9/23/97f;

"A-3" Updated plans - sheet 1 of preliminary plans - revised to 1/1/98;
4. The applicant paid all appropriate application fees and testified that the taxes on the property were current.
5. 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 Preliminary Major Subdivision Approval and preliminary major subdivision approval.

6. The applicant, Caccavelli Construction Incorporated is proposing a 10 lot subdivision which would contain single family homes in the country residential "CR" district. The subject property is approximately 26.83 acres and has frontage on both Main Street and County Road#625. The proposed lots range from 2 acres to 4 acres. The subject property is partially wooded with a 300 foot wide woodland strip that bisects the site.

7. The proposed major subdivision has been before the Board at several workshop sessions prior to the filing of the application. After meetings with Hunterdon County and the Union Township Planning Board, the applicant has proposed a layout which would connect Main Street, Jutland, with County Road #625. The existing intersection of Main Street with County Road #625 would be removed and the right-of-way would revert to the neighboring properties

8. The Planning Board retained the services of a Matthew P. Mulhall, a professional geologist to conduct a preliminary evaluation of the environmental concerns associated with the subject property. Mr. Mulhall submitted his written report to the Planning Board dated February 24, 1998 and as part of his report, Mr. Mulhall submitted the following documents into evidence at the public hearing on May 28, 1998.
 - "B-1" Paper print - 1986 aerial photograph from the N.J.D.E.P. - Tidelands Commission.
 - "B-2" A 1959 Aerial photograph taken by Robinson Aerial Services (JER-19W-67)
 - "B-3" A 1959 Aerial photograph taken by Robinson Aerial Services (JER-19W-68)
 - "B-4" A 1989 Aerial photograph taken by Robinson Aerial Services (89291-16-28)
 - "B-5" A 1989 Aerial photograph taken by Robinson Aerial Services (89291-16-29)
 - "B-6" Geoprobe Soil Investigation dated 4/15/98.
 - "B-7" Remedial action report dated 2/12/98 but submitted to Board in 4/98.

9. During the course of Mr. Mulhall's review of the subject property, it was determined that the subject property (known as the Milligan Property) was at one time used to recycle and/or dispose of automobiles and their parts. The aerial photographs entered into evidence above indicate the presence of automobiles and as recent as 1987, where an area of approximately 3.6 acres was transected with dirt roads and was used for the storage and disposal of automobiles.

10. Based upon the aerial photographs submitted to the Board by Mr. Mulhall, several areas of environmental concern were identified including:
- a. The automobile storage/disposal area in the northeastern portion of the property;
 - b. Building 1 and surrounding property where automobiles were parked as early as 1951;
 - c. The wooded area south and southwest of Building 1 where automobiles and other smaller objects were apparently stored/disposed;
 - d. Building 2 and surrounding property where materials were stored/disposed.
 - e. Any and all septic systems, chemical and/or petroleum storage areas, drainage systems, disturbed/excavated areas, fill areas, and underground storage tanks are potential areas of environmental concern.
11. Based upon the numerous areas of potential environmental concern and the long history of automobile recycling/storage/disposal activities at the subject property, it was determined that the most significant area of potential concern would be the groundwater on the property.
12. The application has been carried on a month-to-month basis with the applicant granting the Board extensions of time in which it could act pursuant to N.J.S.A. 40:55D-48. At end of April 23, 1998 meeting, it was determined that the applicant was not prepared to address the outstanding environmental concerns of the Board, as well as the other outstanding issues on the application as identified in the record before the Board, and accordingly the applicant granted another one month extension in which the Board could act on its application (to the May 28, 1998 meeting).
13. The application was listed on the Agenda for a public hearing on May 28, 1998 in order to continue the testimony of the applicant and their geologist with regard to the environmental issues, as well as all other outstanding issues as contained in the record before the Board. The applicant and their representatives failed to appear to provide the necessary additional testimony or additional data or plans; and furthermore failed to grant any further extension of time for the Board to take action on the application.

14. The Geologist/Consultant to the Board, Matthew Mulhall, appeared at the May 28, 1998 public hearing and provided testimony that the applicant had conducted a soil investigation through Geoprobe and their Soil Investigation Summary Report dated April 15, 1998 was presented to the Board and Mr. Mulhall. Their report and proposed plan included the installation of three monitoring wells on the site. It was further understood by Mr. Mulhall that the applicant, together with his representative, Mike Stone, would be appear and present their findings from the wells.
15. Mr. Mulhall reported that apparently the report had not been provided to the N.J.D.E.P. and since there are known levels of lead and the potential exist for other contamination, the applicant was required to report same to the N.J.D.E.P.
16. Based upon the failure of the applicant to provide the Board with any further extension of time for which it could act on its application beyond May 28, 1998, the Board was required to take action on the application in the condition in which it had been presented, with its outstanding deficiencies, in order that an automatic approval not occur pursuant to N.J.S.A. 40:55D-48.
17. The Board found that there remained significant issues outstanding relating to the site and the proposed major subdivision, and based upon the failure of the applicant to provide any additional materials or documentation and without an extension of time for which to act; the application for preliminary major subdivision should be denied, without prejudice.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 25th day of June 1998 that the application for preliminary major subdivision is denied, without prejudice.

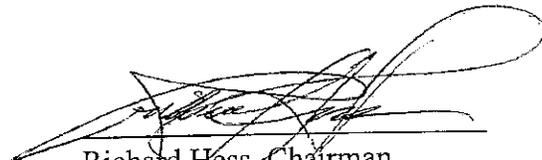
A Motion was made by Mr. Rossi and seconded by Mr. Carlbon to deny the application, without prejudice.

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>Y</u>	Hess	<u>Y</u>
<u>Y</u>	Rossi	<u>Y</u>
<u>Y</u>	Haynes	<u>Y</u>
<u>Y</u>	Strube	<u>Y</u>
<u>Y</u>	Carlbon	<u>Y</u>

<u>Y</u>	Dean	<u>Y</u>
<u>Y</u>	Martin	<u>Y</u>
<u>Y</u>	Panzarino	<u>Abs.</u>
<u>Y</u>	Ricker	<u>Y</u>
<hr/>		
<u>---</u>	Carten (1 st . Alt)	<u>---</u>
<u>---</u>	Gallagher (2 nd 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 aforesaid members at its regular meeting held on the 25th day of June, 1998.


 Grace Kocher, Board Secretary
 Union Township Planning Board


 Richard Hess, Chairman
 Union Township Planning Board