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

**Final Major Subdivision Approval**

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**Owner/ Applicant:** *Brinkerhoff Enterprises, Inc.*
*2 Wedgewood Drive*
*Annandale, N.J. 08801*

**Property:** *Route 513 & Cooks Cross Rd.*
Block 30, Lot 1
Union Twsp., Hunterdon Cty.

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**WHEREAS**, the applicant, Brinkerhoff Enterprises, Inc. is the owner of property located at Route 513 and Cooks Cross Road and known as Block 30, Lot 1 in the Township of Union, County of Hunterdon and State of New Jersey, and located in the Agricultural Preservation District; and

**WHEREAS**, the applicant previously applied for and received approval of a performance subdivision on the subject parcel consisting of 175+/- acres to build two villages with a total of 74 dwelling units and including a village green, open space, a common wastewater treatment facility and three farm lots, and which subdivision received preliminary major subdivision approval by Resolution of the Union Township Planning Board on February 22, 1990 and subsequently received preliminary major subdivision approval on a revised plan on December 19, 1991; and

**WHEREAS,** the applicant has filed the necessary application for final major subdivision approval, together with the appropriate fees and a final plat dated November 22, 1993, which final plat was prepared by Van Cleef Engineering; and

**WHEREAS**, on behalf of the Planning Board, the Township's various professional consultants reviewed the final plat and testimony presented to the Planning Board, and submitted their written and verbal reports including the Township Engineer, Robert C. Bogart, P.E., in written reports dated December 9, 1993; and Carter Van Dyke Associates in a written report dated December 15, 1993; and

**WHEREAS**, the Planning Board has reviewed the application for final major subdivision approval, and the written reports of its consultants and other agencies having jurisdiction of the application, and considered the testimony of the President of the applicant, Ronald Brinkerhoff, and Alan Johnson, P.E.; and as presented through their Attorney, Daniel Soriano, Esq., at a hearing conducted on December 16, 1993; and thereafter, the Planning Board 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. All application fees have been paid and a statement has been signed by the Tax Collector of the Township of Union indicating that there are no current payments due for real estate taxes on the subject property.

3. The Board reviewed the application and related documents and based thereon, has deemed as complete, the application for final major subdivision approval.

4. The Board has reviewed the report of the Township Engineer of December 9, 1993 and Township Planner's Report of December 15, 1993 and has determined that the recommendations had either been resolved or could be incorporated by way of conditions of this approval.

5. A member of the Township Historical Society commented and commended the Applicant on the continuing restoration of the Historical Farmhouse located on the property. It was requested that the Planning Board through the Historic Preservation Committee continue jurisdiction and oversee the completion of the restoration work on the farmhouse and out buildings.

6. The Township Planner noted that easement documents as contained in his report are to be prepared and submitted to the Board's professionals for review and approval and it was requested and the Applicant agreed that it will execute the documents and cooperate in assuring that the three farmettes from which development rights have been surrendered, will be entered into the Hunterdon County Agricultural Development Board Preservation Program.

7. Neighboring property owners on Cooks Cross Road commented on construction and drainage across the rear of their properties which may be affected by the construction on the Applicant's site. The Applicant has agreed to continue grading and additional swales and berms in accordance with the direction of the Township Engineer.

8. Comments were also received from Roger Soltys and Lloyd Wisner of the Franklin Township Environmental Committee regarding initial construction water run-off problems from the site flowing onto County Route 513 and into neighboring Franklin Township properties. The Applicant commented on the remedial steps taken and the inordinate amount of rain generated by flash storms. It was noted that the Applicant responded on the weekend to alleviate the problems caused by the flash flooding and will continue to monitor proper drainage from the site onto County Route 513 in accordance with plans approved by the County.

9. All homeowner association documents and including Deeds for roadways and separate easement documents must be submitted to the Township professionals for review and approval and to include special notice to each homeowner of its responsibility either through the homeowner's association, or if there is a default by the homeowner's association then by the individual owners collectively for common area responsibilities.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 16th day of December, 1993, that conditional final 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 final major subdivision approval, and the final plat and related documents 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 applications, final plat 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 final major subdivision application and the accompanying final plat 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. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the final plat 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 letters of December 9, 1993 and January 23, 1994 and Township Planner's letter of December 15, 1993 which items are hereby made a condition of this final major subdivision approval.

4. The applicant shall execute a developer's agreement with the Township of Union containing the terms and conditions of this Planning Board approval and regarding those improvements as relate to the Township, and other agency/jurisdiction conditions and requirements. The Developer's Agreement to be executed shall be in the form as directed by the Township of Union, and the applicant shall post sufficient Performance Guarantees in accordance with N.J.S. 40:55D-53 and as approved by the Township Attorney.

5. The Applicant shall prepare separate Deeds and Easement documents in recordable form and containing metes and bounds descriptions, which documents shall be subject to review and approval by the Planning Board Attorney and Engineer and Township Attorney, prior to their being recorded by the Applicant.

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

7. The Planning Board shall continue jurisdiction of the application and approval to insure historical restoration of the farm house is completed in the form in which it was begun and to be monitored by the Township Historical Committee. The Planning Board, through The Historic Preservation Committee, will oversee additional work on the historic farmhouse and the two outbuildings.

8. The applicant will cooperate and execute any documents necessary to assure that the farmettes from which development rights have been surrendered will be entered into the Hunterdon County Agricultural Development Board preservation program.

9. The applicant shall submit to the Planning Board for review and approval by the Planning Board Attorney, the proposed homeowner association documents including the Declarations of Covenants, Easements and Restrictions, the Homeowner Association Certificate of Incorporation, by-laws; master deed and fence, boundary line marker, street tree, and loop road cross easements to be maintained by the homeowners association.

10. The Declaration of Covenants, Easements and Restrictions; the Certificate of Incorporation; the By-Laws of the Corporation; the Master Deed; and the Contract Notice to Buyers all must contain a provision which provides and whereby *"each property owner/homeowner association member acknowledges, agrees and accepts a proportionate responsibility for any costs of maintenance, liability, real estate taxes etc. arising out of the failure of the Homeowner's Corporation to fulfill its responsibilities in any manner by forfeiture of Corporate Charter, bankruptcy, abandonment, failure to act, etc., and such proportionate share of costs shall be applied as a lien against the individual homeowner's real property and paid as part of the real estate taxes on the subject property."*

11. The applicant shall pay an off-tract contribution and which contribution is to be used for Cooks Cross Road improvements to be determined in accordance with the Development Regulations and taking into consideration in-kind contributions previously made by the developer.

12. The applicant shall secure N.J.D.E.P.E. sign-off documents on the removal of trees in the historical district.

13. The Deed for each of the three farmettes in the subdivision shall contain a restriction prohibiting any further subdivision of the property, and each farmette shall be limited to use as a single family residence and/or agricultural use.

14. The Developer shall complete the swales behind the lots on the neighboring properties which presently front on Cooks Cross Road with the initial grading before the maps are filed and the final completion of grading no later than May 1, 1994, together with additional swales or berms on the easterly side of the Keith Pacifico lot as directed by the Township Engineer.

15. 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.

16. 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.

17. 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.

A Motion to grant final, major subdivision approval as conditioned herein, was made by Mr. Rossi and seconded by Mr. Carlbon.

| VOTE ON DECISION | BOARD MEMBER | VOTE ON RESOLUTION |
|---|---|---|
| Yes | Hess | YES |
| Yes | Everett | YES |
| Yes | Rossi | YES |
| --- | ~~Gray~~ STRUBE | ABSENT |
| absent | Abbene | Absent |
| absent | ~~Sultzer~~ DEAN | YES |
| Yes | Martin | YES |
| Yes | Carlbon | YES |
| absent | Moleta | YES |

The foregoing Resolution memorializing the action taken by the Township of Union Planning Board was duly adopted at its regular meeting on the 24th day of ~~February,~~ MARCH 1994, by a vote of a majority of the aforesaid members approving the original Resolution.

Susan Kane, Secretary
Township of Union Planning Board

Richard ~~Hess, Chairman~~
Township of Union Planning Board

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

Preliminary Major Subdivision
Approval (revised plan-1991)

Owner/ Applicant: Brinkerhoff Enterprises, Inc.
R.D. #2, Box 370
Pittstown, New Jersey 08867

Property: Route 513 and Cooks Cross Rd.
Block 30, Lot 1
Union Township, Hunterdon County

**WHEREAS,** the applicant, Brinkerhoff Enterprises, Inc. is the owner of property located at Route 513 and Cooks Cross Road and known as Block 30 and Lot 1 in the Township of Union, County of Hunterdon and State of New Jersey, and located in the Agricultural Preservation District; and

**WHEREAS,** the applicant had previously applied for and received approval of a performance subdivision on the subject parcel consisting of 175+/- acres to build two villages and a total of 74 dwelling units and including a village green, open space, a common waste-water treatment facility and three farm lots, in which subdivision received preliminary major subdivision approval by Resolution of the Union Township Planning Board on February 22, 1990; and

**WHEREAS,** the applicant has re-submitted a new concept for development of this tract of land proposing 38 single-family detached dwelling units of which 35 would be located on one and one-half acre lots including the existing historic farmstead and three farm lots on large tracts (28+/- acres, 32+/- acres, and 46+/- acres), together with individual on-lot septic systems and private wells; and

**WHEREAS,** the applicant has filed the necessary application for variances, waivers and preliminary major subdivision approval, together with the appropriate fees and a preliminary major subdivision plan consisting of 16 sheets dated August 23, 1991 with revisions through December 17, 1991, which plans were prepared by Stanley M. Shelosky, P.E. of Van Cleef Engineering Associates; together with a storm water management study dated August 23, 1991 and revised through December 17, 1991; 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 reports dated October 17, and December 4, 1991; and Carter Van Dyke Associates in written reports dated October 15, and December 10, 1991; and

**WHEREAS,** the Planning Board has reviewed the application for preliminary major subdivision, and the written reports of its consultants and other agencies having jurisdiction of the application, and considered the testimony of the President of the applicant, Ronald Brinkerhoff and through their witnesses, Stanley Shelosky, P.E. and David Hawkins, a licensed New Jersey well driller; and as presented through their Attorney, Daniel Soriano, Esq., at a hearing conducted on December 19, 1991, 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. Thereafter, numerous workshop sessions were conducted with the Board and applicants' representatives.

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 Preliminary subdivision plan for Block 30, Lot 1, with the latest revision of December 9, 1991 and pages 1 and 6 being revised as of December 17, 1991;

A-3 Mounted color version of page 1 of the preliminary plan;

A-4 Page 3 of preliminary plan - natural features map;

A-5 Page 2 of preliminary plan - mounted color with revision of December 9, 1991;

A-6 Evaluation of ground water report dated July 19, 1989 by Penny Althoff;

A-7 Traffic study report of May, 1989;

A-8 Hunterdon County Planning Board conditional approval, letter of October 7, 1991;

A-9 Hunterdon County Department of Health, letter of November 13, 1991;

A-10 Hunterdon County Soil Conservation, letter of September 24, 1991;

A-11 New Jersey Department of Environmental Protection, letter of interpretation dated December 18, 1989;

A-12 Hunterdon County Health Department test result report of December 4, 1991.

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 consists of 175=/- acres, is located in the Agricultural Preservation District and fronts on County Route 513 and Cooks Cross Road. The applicant and its representatives presented a proposal whereby a cluster subdivision consisting of 38 single-family detached dwelling units would be established with 35 of the dwelling units being on one and one-half acres lots including one restored historical farmhouse lot; and three farm units on lots of 28.7, 32.2 and 46.0 acres, together with individual on-lot septic systems and private wells. Access to the cluster subdivision would be by way of single boulevard from County Route 513 located within an 80 foot wide right-of-way and for a distance of approximately 450 feet. The boulevard would connect to an interior loop road and one cul-de-sac. The roadway system is proposed to be dedicated to the Township.

6. The proposed preliminary major subdivision plan meets the intent of the Master Plan which recommends agricultural low-density residential development in this area which is known as the Rockhill Historical District.

7. The subject tract lies in the Rockhill district which has been designated as a National Historic District. The Grove farm located on this site has been identified on the Township Master Plan as a historic landmark and had consisted of one main house, one carriage house, large frame barns and two tenant houses. The applicant has agreed to voluntarily preserve and appropriately restore to historic standards, the farmhouse, and a two room, one story kitchen and carriage house. The farmhouse will be on new proposed lot 25 with the barns and two tenant houses to be removed from the site, and the springhouse to be left in its "as is" condition.

8. Testimony was presented by the applicant's President, Ronald Brinkerhoff, that due to current market conditions, it is difficult to develop this proposed site as previously approved for a village concept due to the front-end costs associated with a sewage treatment facility and the uncertainties of that type of housing market. Therefore, their Corporation proposes the development of a single-family detached cluster plan with oversized lots on which may typically be built a two-story colonial of three to four thousand square feet. Construction will be anticipated to commence in approximately two to three years, and Mr.

Brinkerhoff indicated his intention to build his own personal home on one of the farm lots. As part of the development, three buildings on the historical lot including the farmhouse, one story, two room kitchen and carriage house would be restored.

9. The applicant is proposing that a Homeowner's Association would be formed and Incorporated and the 35 single family lot owners would be members of the Homeowner's Association (the three farm lots and their lands to be excluded from the homeowner's association). The Homeowner's Association would not own any property, but would be formed for the primary purpose of maintenance of the common open space easement areas, cul-de-sac island, trees and buffering within the common open space easement areas and fencing associated with the common open space easement areas and separating the residential cluster from the surrounding farms. The detention basin on farm #3 will be jointly maintained by the owner of the farm on which it is located and the Homeowner's Association (with the farmowner providing general care such as mowing; and the Homeowner's Association being responsible for maintenance of the structure and its proper functioning), and such maintenance responsibility language will be included in the Deed of conveyance and shall run with the land.

10. The farm lots are to be created by the subdivision, with farm no. 3 to access the public roads through the entrance drive of the development to County Route 513. The other two farms would be provided access through Cooks Cross Road. The three farms and the neighboring farm (Block 30, Lot 8) are to be buffered from the development by a combination of tree and fence buffering and water run-off is to be controlled and diverted through swales as presented on the plans submitted. The three farm lots are to be permanently Deed restricted against any further subdivision, which restriction shall inure to the benefit of all lot owners in this development, and the Township of Union.

11. The applicant has applied for a variance of the driveway Ordinance proposing to reduce the length of the driveway curb-cuts to 20 feet (26 feet required). The applicant's engineer observed that the 20 foot driveway cut was proposed and approved by the Board in the previous application submitted on this property. The Board's professionals offered their observations that the 20 foot length would be more than sufficient and only apply to the interior cluster lots and farm no. 3, and would not be applicable to the two farm lots entering onto Cooks Cross Road.

12. The applicant requested design waivers, namely:

(a) The applicant is proposing to provide a boulevard entrance to the site, that is, a median divided road with each lane to be 24 feet wide;

(b) The cul-de-sac as proposed is a tear-drop design with an island rather than a right hand design;

(c) Allow one terminus of a subcollector street (boulevard access) to connect to the lower order street. The Ordinance requires that all proposed sub-collector streets shall provide two access intersections with high classification streets and shall not terminate in a cul-de-sac;

(d) Trees to be planted outside the right-of-way rather than within the right-of-way;

(e) No roadway cross-sections to be provided since the cuts and fills are not excessive;

13. The Board reviewed with applicant, the necessity for a five foot wide, street tree easement area located immediately outside of the road right-of-way and sight triangles at intersections, and in which easement area street trees could be planted. Such easement would run to the benefit of the Township but without any obligation to the Township to either plant or maintain trees in the easement area, but the developer would install such trees as may be required in his proposed plan, and the Township or their authorized agent may at some date in the future, install or maintain such trees located in this area.

14. The Board reviewed the necessity to maintain a building restriction easement on portions of those cluster lots adjoining farmland and County Route 513. The building restriction easement would prohibit development except for the planting of vegetation, the installation of fences, and the construction of individual septic systems. Further, portions of the eight cluster lots located in the interior block of the residential cluster subdivision would be subject to a common open space easement which would prohibit all development and reserve the rights of maintenance and use to the Homeowner's Association. The common open space easement would also reserve rights for utilities and drainage.

15. The application was opened to the public for comment and questions were raised by neighboring, residential property owners regarding traffic, drainage, septics, lot size and screening. These particular areas were addressed both by the applicant's and the Planning Board's consultants and will be accounted for in any approved plan.

16. With regard to the three farm lots, the applicant has agreed that each farm lot will be restricted in perpetuity for conservation and agricultural preservation without any further right of subdivision and in accordance with standards as established in the previously approved, preliminary major subdivision on this tract of land and previous applications before the Township Planning Board (i.e. Kuchman/Brass Castle, Block 29, Lot 27).

17. The applicant provided testimony by Dave Hawkins, a licensed New Jersey Well Driller, regarding nitrate levels found in existing wells on the property. Mr. Hawkins testified that the existing wells had been re-lined under Hunterdon County Health Department supervision, which agency took additional tests and found that two of the three wells now meet State standards and the third well will likewise be tested and brought into compliance, if required. The nitrate problem arose as a result of prior farming of the land, but with the eventual transition to non-farming and now construction of residential homes, the problem will abate itself and be further rectified through properly installed individual lot wells.

18. With regard to the variance application, it was determined that sufficient testimony in accordance with the requirements of N.J.S.A. 40:55D-70(c) was presented to the Board; and it was further determined that the variance 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.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 19th day of December, 1991, that conditional preliminary major subdivision approval with a variance and waivers 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 a variance, waivers 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 variance, waivers 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 variance 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. All lots to be created on this tract by the major subdivision into smaller parcels including the 35 single-family lots and the three farm lots, shall not be further subdivided, and an appropriate notation shall be placed upon the preliminary and final plats to be filed on this application indicating same. Further, all Deeds on the property shall contain a restriction against further subdivision.

3. All easements shall be described by metes and bounds description and no construction or improvements shall be permitted on, in or under the easement areas other than as specifically required by the approved plans, such as, drainage improvement structures, fences and individual septic systems. The said easements shall be submitted to the Planning Board Engineer and Attorney for their review and approval prior to recording by the applicant.

The following easements have been approved by the Board:

(a) Street tree easements. The Street tree easements shall be identified as an area adjacent, and parallel to, the street right-of-way line which extends to a width of five feet.

(b) Common open space easements. Being located within the interior block of the cluster subdivision and affecting portions of eight residential lots, the common open space easement would prohibit development and reserve rights of maintenance and use to the Homeowner's Association.

(c) Building restriction easement. Being located along the perimeter of the cluster subdivision and therefore affecting those lots that border on the perimeter, the building restriction easement would prohibit development except for the planting of vegetation, the installation of fences, and the construction of individual septic systems.

4. 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 service; and the State of New Jersey (Re: N.J.P.D.E.S.; T.W.A.; L.O.I.; Stream Encroachment; etc.).

5. All provisions as set forth in the Planning Board Engineer's report of December 4, 1991, and the Planner's report of December 10, 1991, 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, on-tract and off-tract contributions as per the Township Ordinance; 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.

6. The three "farm lots" shall be restricted against further development or subdivision and the Deed for each lot shall contain a restriction limiting the use of said lot to agricultural purposes or a single family residential use. Such restriction shall be subject to the review and approval by the Planning Board Attorney. All costs of the Planning Board Engineer, Planner and Attorney, and Township Attorney for continuing review, modifications and approval of final language, plats or documents regarding this application, and including the agricultural Deed restrictions, drainage or other easements, and Developer's Agreements, Performance Guarantees shall be paid from the review escrow account established by the applicant for professional services employed by the Municipality to review the continuing application for development.

7. 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.

8. The applicant proposes to service each lot with its own well. This grant of preliminary subdivision approval does not guarantee each lot will provide adequate on-lot water. If it is subsequently determined that there is an inadequate water supply, as a result of any reviews by third party agencies having jurisdiction thereof, the said lot shall not remain a separate lot but shall merge with and become part of whichever adjoining lot or lots are so

suitable. Such merger of unsuitable lots shall be accomplished by the applicant preparing and forwarding Deeds of merger to the Planning Board Attorney for his review and approval, and subsequently recording the approved Deeds in the Hunterdon County Clerk's Office. The said Deeds shall contain language identifying the underlying purpose of the merger of the lots and shall prohibit further subsequent subdivisions thereof unless and until a public water system is available and has been installed to service the lots of such proposed subsequent subdivision.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. The Planning Board hereby grants the following waivers:

(a) **Section 30-22.8.e.1 Street Design Options.** The plan has designed the entrance boulevard in excess of the minimum design requirements for Residential Sub-collector streets as specified on page 3431/3432 of the Land Use Code.

(b) **Section 30-22.8.h.6 Length of Cul-de-sac** states that no cul-de-sac shall exceed 1,000 feet in length unless authorized by the Planning Board. The Board approved the use of an entrance boulevard to satisfy this requirement.

(c) **Section 30-22.8.h.7 Cul-de-sac Turnarounds** states that all cul-de-sacs shall contain a circular bulb designed with a 40 outside radius. The Board has accepted an alternative tear-drop shaped cul-de-sac which exceeds the minimum design requirements for said turnarounds.

(d) **Section 30-22.8.i.3 Residential Sub-collector Street Access** states that all proposed sub-collector streets shall provide two access intersections with higher classification streets and shall not terminate in a cul-de-sac. The Board had approved the entrance boulevard sub-collector with only one access onto a higher order street (Route 513) with the other intersection onto the proposed lower order residential access loop street.

(e) **Section 30-22.13.a.5** requires that street trees be planted within the street right-of-way. The Board approved the planting of street trees within a five foot street tree easement located adjacent to the street R-O-W.

(f) **Section 30-22.14.b Street Construction Specifications** requires that street cross-sections be submitted with the preliminary plan. Upon consultation with the Township Engineer, the Board has waived this requirement.

17. The applicant shall form and Incorporate the Homeowner's Association whereby all owner's of the 35 single-family dwelling lots (not the three farm lot owners) on the subject property will be required to be members of the Association by reason of their purchase of a residential home and which Association shall be governed by the Certificate of Incorporation and Declarations and By-Laws appropriately recorded. All Homeowner's Association documents shall be subject to review and approval by the Township and Planning Board prior to final subdivision approval with such documents to carry out the intent, terms, and conditions of this approval.

18. The Homeowner's Association to be formed and incorporated will not own any property, but will have as its primary purpose the maintenance of the perimeter fence (separating the residential cluster from Rte. 513 and the surrounding farmland), street trees, and all planting materials located within the common open space easement, and on the cul-de-sac island and boulevard median strip. The Board has approved the fencing detail on Sheet 6/16 last revised December 17, 1991. The fencing shall be continuous except at designated egress openings.

19. The applicant shall preserve and appropriately restore to historic standards, the farmhouse, two room one story kitchen and carriage house located on proposed Lot 25.

20. 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.

21. The following Deed restrictions shall be incorporated in each lot Deed and submitted to the Planning Board Attorney and Engineer for their review and prior approval:

(a) The rear yard building restriction line marker trees within the perimeter lots shall be deed restricted against removal, and in the case of disease or death, the trees shall be replaced at the expense of the adjoining lot owner.

(b) The rear yard buffer plantings along the perimeter of the cluster subdivision shall be located as specified on Sheet 6/16 with the latest revision date of December 16, 1991. These buffer plantings located on the perimeter lots and within the building restriction easement shall be deed restricted from removal, and in the event of disease or death, the plantings shall be replaced by the subject lot owner. In the event that the owner or owners of said lots do not replace said trees or other planting materials identified above after notification by the Township to do so, the Township or their duly authorized representative may enter said property and replace said plants or trees and invoice said lot owner or owners for said costs.

(c) The common open space easement area shall be restricted against development of any nature.

(d) The building restriction easement area located along the perimeter of the cluster subdivision and affecting those lots that border on the perimeter shall be restricted against development except for the planting of vegetation, installation of fences and the construction of individual septic systems.

22. An amendment to the Municipal Land Use Law enacted August 7, 1991 required public notice of certain applications for development to be given in accordance with the standards set forth in N.J.S. 40:55D-12 to all public utilities and cable television companies that own land or any facility or possess a right-of-way or easement within 200 feet of all directions of the property which is the subject of the application. This amendment created numerous problems and complications pertaining to notice of public hearings regarding applications that were commencing or already being processed by Boards.

In response thereto, P.L. 1991 Chapter 412 was enacted into Law on January 17, 1992 and provided for public utilities and cable television companies to register with a Municipality before the obligation for notice would arise and further provided in a new section as follows:

*9. "Failure to give notice as required pursuant to P.L. 1991, C. 245, (the August 7, 1991 amendment requiring notice) shall not invalidate any hearing or proceeding held or to be held, on any preliminary or final approval granted or to be granted, from August 7, 1991 until 75 days following enactment".*

Accordingly, this most recent amendment to the Municipal Land Use Act eliminates any question or requirement for additional notice on the within application.

23. 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. Hess and seconded by Mr. Carlbon to grant a variance to reduce the driveway curb-cuts to 20 feet.

| VOTE ON VARIANCE | BOARD MEMBER |
|---|---|
| Yes | Everett |
| Yes | Hess |
| Yes | Gray |
| Yes | Strube |
| Yes | Abbene |
| ------- | Glotstein |
| | Martin |
| Yes | Carlbon |

A Motion was made by Mr. Carlbon and seconded by Ms. Abbene to grant conditional, preliminary major subdivision approval as set forth herein.

| VOTE ON DECISION | BOARD MEMBER | VOTE ON RESOLUTION |
|---|---|---|
| Yes | Everett | |
| Yes | Hess | YES |
| Yes | Gray | YES |
| Yes | Strube | |
| Yes | Abbene | |
| ------- | Glotstein | ------ |
| Yes | Martin | YES |
| Yes | Carlbon | YES |

The foregoing Resolution memorializing the action taken by the Township of Union Planning Board was duly adopted at its regular meeting on the 23rd day of April, 1992 by a vote of a majority of the aforesaid members approving the original Resolution.

Susan Kane, Secretary
Township of Union Planning Board

Robert Everett, Chairman
Township of Union Planning Board