

THE TOWNSHIP OF UNION  
HUNTERDON COUNTY  
NEW JERSEY

Copy  
Pl. Bd.

**GRANT OF UNIFORM AGRICULTURAL CONSERVATION EASEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS ON BLOCK 27, LOT 3 IN  
THE TOWNSHIP OF UNION WHICH HAS BEEN SUBDIVIDED INTO A  
MAJOR SUBDIVISION COMPRISED OF TWELVE LOTS AND KNOWN AS  
"THE SANCTUARY" PROJECT .**

THIS GRANT OF AGRICULTURAL CONSERVATION EASEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS FOR EACH INDIVIDUAL LOT  
OWNER OF RECORD (this " Agricultural Conservation Easement") dated May 27,  
2003 is by and between Toll NJ IV, L.P., a New Jersey limited partnership, with offices  
at c/o Toll Brothers, Inc., 3103 Philmont Avenue, Huntingdon Valley, PA 19006,  
hereinafter referred to as the "Owner" or "Grantor", and The Township of Union in the  
County of Hunterdon, New Jersey, hereinafter referred to as the "Easement Holder" or  
"Grantee").

**WHEREAS**, the Township of Union Planning Board granted both Preliminary  
and Final Plan approval for the subdivision of a 103.98 acre tract of land formerly known  
as "The Stobb Tract" and now known as "The Sanctuary", Block 27, Lot 3, in the  
Township of Union, within the Agricultural Preservation 2, AP-2 District, where the  
allowed maximum equivalent density is one (1) unit per eight point three (8.3) acres; and

**WHEREAS**, the Agricultural Preservation district, is intended to protect and  
preserve areas of prime and most agriculturally productive soils for continued agricultural  
and agriculturally oriented uses by permitting uses which provide maximum  
opportunities for open space to insure the availability and protection of these scarce  
prime agricultural soils and soils of statewide importance, and which at the same time  
permits single family residential uses thereon; and

**WHEREAS**, within the 103.98 acre tract of "The Sanctuary" the Planning Board  
of the Township of Union granted approval for the Subdivision of twelve (12) lots, which  
range in acreage from 8.3 to 8.31 acres; and

**WHEREAS**, the metes and bounds description of each of the twelve (12) lots is  
divided into two Tracts, that is, a Tract "A" "Residential Net Buildable Area" of 1.5 acres  
with a Tract "B" remainder of 6.8, or greater, acres which must be maintained as an  
"Agricultural Conservation Easement"; and

**WHEREAS**, the grant of this Agricultural Conservation Easement and  
preservation of the Property shall serve the following purposes ("the Conservation  
Purposes"):

Protection of the Property's relatively natural habitat of fish, wildlife, or plants or  
similar ecosystem; and

Preservation of the Property's open space which provides scenic enjoyment to the general public and yields a significant public benefit; and

Preservation of the Property's open space which, if preserved, will advance a clearly delineated Federal, State, or local governmental conservation policy and will yield a significant public benefit; and

Preservation of the prime agricultural soils of statewide importance within this important land area;

**NOW THEREFORE**, in consideration of the mutual covenants, terms, conditions, restrictions, and promises contained in this Agricultural Conservation Easement, in furtherance of the application for preliminary and final major subdivision approval as submitted by Grantor herein, and approved by the Union Township Planning Board, and now referred to as "The Sanctuary" and intending to be legally bound hereby, Grantors hereby freely and absolutely grant and convey unto the Easement Holder their successors and assigns forever, and Easement Holder accepts, the easements, covenants, prohibitions, and restrictions set forth in this Agricultural Conservation Easement, in perpetuity, to accomplish the Conservation Purposes.

#### **GRANT OF EASEMENT**

The Owners/Grantors, for themselves, their heirs, executors, assigns and successors in interest, hereby voluntarily, unconditionally and absolutely grant and convey unto Easement Holder, its successors and assigns, a perpetual easement in gross over the Property for the purpose of preserving and protecting the Agricultural Conservation Purposes and enforcing the restrictive covenants set forth herein. Easement Holder hereby accepts the grant of the Agricultural Conservation Easement, agrees to hold this Agricultural Conservation Easement exclusively for conservation purposes in perpetuity and has the right to protect and enforce (but not the obligation) the Agricultural Conservation Purposes of this Agricultural Conservation Easement and the terms of the restrictive covenants set forth in this Agricultural Conservation Easement.

This Agricultural Conservation Easement applies to Block 27, Lot 3 in the Township of Union which has been subdivided into a Major Subdivision comprised of twelve lots and known as "The Sanctuary" project, and comprised of the following lots as shown on the Major Subdivision Plat to be filed:

- Lot 1 - Block 27, Lot 3.06
- Lot 2 - Block 27, Lot 3.07
- Lot 3 - Block 27, Lot 3.08
- Lot 4 - Block 27, Lot 3.09
- Lot 5 - Block 27, Lot 3.10
- Lot 6 - Block 27, Lot 3.11
- Lot 7 - Block 27, Lot 3.12
- Lot 8 - Block 27, Lot 3.13
- Lot 9 - Block 27, Lot 3.14
- Lot 10 - Block 27, Lot 3.15
- Lot 11 - Block 27, Lot 3.16

Lot 12 – Block 27, Lot 3.17

A copy of each individual lot description and plat is attached as Schedule "A".

## **Article I      DEFINITIONS**

Section 1.01 Accessory Residential Facilities: "Residential Net Buildable Area" (Tract "A"). Garage, accessory dwelling apartment (or tenant dwelling), swimming pool, tennis court, greenhouse, pool house, garden shed, studio, gazebo, pavilion, mailboxes, lampposts, lighting, and similar facilities accessory to the residential use.

Section 1.02 Agricultural and Equestrian Facilities: "Agricultural Conservation Easement Area" (Tract "B"). Barn, stable, shed, exterior and interior riding rings, facilities for exercising and training horses, facilities for the collection, storage and disposal of manure which shall be done in accordance with the New Jersey Department of Environment and Protection regulations, irrigation facilities and similar facilities accessory to Agricultural and Equestrian Uses.

Section 1.03 Agricultural and Equestrian Use: Agriculture, horticulture, nursery, tree-farming, equestrian, grazing and pasture uses including production of field crops, fruits, vegetables, nursery stock and flowers and the leasing of land for any of these purposes. Equestrian use includes boarding, stabling, raising, feeding, grazing, riding, exercising, training, racing, and jumping horses and competitive events, shows and clinics for horses and/or riders, except with the prior approval of Easement Holder on such terms and conditions as are satisfactory to Easement Holder; agricultural use does not include production of livestock or livestock products or the processing or retail marketing of agricultural products within the Property.

Section 1.04 Agricultural Conservation Easement Plan: Eastern States Engineering, Inc. Ridge Plaza, 2004 Route 31, Clinton, NJ 08809, has prepared a Final Plat of the Property dated July 18, 2001 showing each property with the "Residential Net Buildable Area" (Tract "A") and the "Agricultural Conservation Easement " (Tract "B"), a copy of which is attached as Exhibit "C". The Final Plat designates the following areas within the Property.

- (a) "Residential Net Buildable Area." (Tract "A"). An area (the "Residential Net Buildable Area") containing 1.5 acres, more or less, identified as the "Residential Net Buildable Area" on the Final Plat Plan for "The Sanctuary". Improvements within the "Residential Net Buildable Area: (Tract "A") include a dwelling, garage, accessory uses as permitted or proposed by the Township of Union Land Use Code and include an access drive.
- (b). "Agricultural Conservation Easement Area" (Tract "B"). An area containing 6.8 acres, more or less (the "Agricultural Conservation Easement Area"). Improvements and uses within the "Agricultural Conservation Easement Area" (Tract "B") include accessory barns, carriages house, shed, greenhouse, fencing, and uses that are limited to

agricultural and equestrian uses as defined and permitted by the Township of Union Land Use Code and further defined herein.

Section 1.05 Applicable Laws: Any federal, state or local laws, statues, codes, ordinances, standards and regulations applicable to the Property.

Section 1.06 Construction: Any demolition, construction, reconstruction, expansion, exterior alteration, installation or erection of temporary or permanent buildings, structures or facilities of any kind or excavation, dredging, mining, filling or removal of gravel, soil, rock, sand, coal, petroleum or other materials. The defined term excludes these activities when limited to the interior of Improvements.

Section 1.07 Easement Holder: The Easement Holder is the Grantee, the Township of Union, a municipal corporation of the State of New Jersey, its successors and/or assigns.

Section 1.08 Existing Easements: Easements and rights-of-way or other rights affecting the Property granted to persons (other than Owner) prior to the date of this Agricultural Conservation Easement.

Section 1.09 Improvements: "Residential Net Buildable Area" (Tract "A"): Collectively, the primary dwelling unit, accessory residential facilities, utility facilities and miscellaneous facilities (other than the existing improvements), the construction of which is permitted under this Agricultural Conservation Easement.

Section 1.10 Indemnified Parties: The Easement Holder, its directors, officers, employees, agents and contractors and the heirs, personal representatives, successors and assigns of each of them.

Section 1.11 Miscellaneous Facilities: Including, but not limited to driveways, walkways, boardwalks, and bridges; stormwater management facilities and other drainage facilities, and erosion control devices; pole-mounted habitat improvement devices (such as bird and bat houses); signs, mailboxes and fences; accessory lighting for driveways and walkways.

Section 1.12 Other Terms: Terms designating areas subject to regulation under Applicable Laws such as wetlands, floodplains, steep slopes and watersheds, not otherwise defined in this Agricultural Conservation Easement, shall be given the broadest definition under Applicable Laws then in effect as of the applicable date of reference.

Section 1.13 Recreational Vehicles: "Off-road vehicles as defined in Section 1a of Union Township Ordinance regulating the operation of motor-driven off-road vehicles as finally approved on March 5, 1980 and operated in accordance with Section 3 thereof, and additionally include, but are not limited to, dirt bikes, go-carts, golf carts, all terrain vehicles, motor cycles, snow mobiles, or any type of motorized vehicle, that can cause noise and can damage the natural environment or farm crops, or any non-motorized mountain bike if used on trails or courses established on the property.

Section 1.14 Resource Management Activity: Includes the maintenance and stabilization of any natural resource for conservation purposes. Activities such as

extraction or harvesting are specifically prohibited, unless they are concurrent with acceptable renewable agricultural or forestry practices.

Section 1.15 Utility Facilities: Conduits and facilities for the reception, storage or transmission of water, sewage generated by improvements, electric, gas and telecommunications or other utility facilities. For purposes of interpretation of Section 3.03 pertaining to Additional Improvements, Utility Facilities do not include the following unless otherwise agreed in writing by Easement Holder; (a) storage tanks for petroleum or other hazardous or toxic substances (other than normal amounts of home heating oil); and (b) Utility Facilities not servicing Improvements within the Property other than as provided under Existing Easements.

## **Article II      DECLARATION OF COVENANTS AND RESTRICTIONS**

Owner/Grantor hereby grants, covenants and declares the following prohibitions, restrictions and limitations upon the "Residential Net Buildable Area" (Tract "A") to be binding upon the "Residential Net Buildable Area" (Tract "A") in perpetuity and to run the benefit of the Easement Holder, its successors and assigns.

Section 2.01 Subdivision. No Subdivision of the Property is permitted.

Section 2.02 Use. The "Residential Net Buildable Area" (Tract "A") shall not be used for surface or subsurface mining, quarrying or any industrial or commercial use (including any commercial recreational use). The following uses which were permitted under the Township of Union Land Use Regulations in effect as of the date of approval of the final major subdivision plan are permitted on the within described property, or such additional, less restrictive use as may be permitted by future amendments of the Township of Union Land Use Regulations:

- (a) Residential. Residential Use is permitted within the "Residential Net Buildable Area" (Tract "A") with a front, rear, and two side yards, but not to exceed an aggregate of one (1) primary dwelling unit.
- (b) Home Occupation. Accessory Use in the nature of a home office or home occupation is permitted within the "Residential Net Buildable Area" (Tract "A"), as defined in § 30-5.5.h.1., of the Township of Union Land Use Code.
- (c) Residential Accessory Structure(s). Residential Accessory Structure(s), including tennis courts, sport courts, etc., are permitted within the "Residential Net Buildable Area" (Tract "A"), as defined in § 30-5.5.h.2., of the Township of Union Land Use Code, that was in effect as of the date of approval of the Final Plat.
- (d) Temporary Structures. Temporary Structures are permitted within the "Residential Net Buildable Area" (Tract "A"), as defined in § 30-5.5.h.6., of the Township of Union Land Use Code.

- (e) Swimming Pool. A Swimming Pool is permitted as an Accessory to a Residential Use within the "Residential Net Buildable Area" (Tract "A"), as defined in § 30-5.5.h.7., of the Township of Union Land Use Code.
- (f) Recreational Vehicle. One (1) Recreational Vehicle per dwelling is permitted within the "Residential Net Buildable Area" (Tract "A"), as defined in § 30-5.5.h.10., of the Township of Union Land Use Code.
- (g) Accessory Use for Agricultural Purposes. Accessory Uses for Agricultural Purposes are permitted within the "Residential Net Buildable Area" (Tract "A"), as defined in § 30-5.5.h.11., of the Township of Union Land Use Code.
- (h) Accessory Apartments. Such an accessory apartment shall only be permitted as a tenant dwelling for one of the persons that resides in the accessory apartment and which person must be employed as a full time employee of the farm operation for the property provided that it is located within the "Residential Net Buildable" (Tract "A") portion of the property.

Section 2.03 Dumping. No depositing, dumping, abandoning, or release of any solid waste or debris or liquid wastes or chemical substances shall occur or be permitted within the "Residential Net Buildable Area" (Tract "A") except the following:

- (a) Fertilizers, herbicides, pesticides and mulch may be applied provided such application conforms to Applicable Laws and does not occur within one hundred (100) feet of streams or wetlands unless approved for aquatic use by the New Jersey Department of Agriculture.
- (b) Sanitary Sewer. Individual subsurface sewer systems (septic systems) are permitted in conformity with Chapter 199 regulations
- (c) Composting, etc. Grass clipping, manure, leaves, vegetable, wood chips, sticks and pruned branches, and other similar materials in the nature of organic yard, garden and kitchen wastes may be piled, for composting use by Owner (and not municipal or other public use) provided any such piles shall conform to the following limitations:
  - (i) Consist only of natural, unprocessed vegetative matter originating only from the Property;
  - (ii) Do not contain stumps, logs or construction materials; and
  - (iii) Do not exceed one thousand, two hundred (1,200) cubic feet in gross volume per lot, and are not more than three (3) feet high.

### **Article III DECLARATION OF COVENANTS AND RESTRICTIONS**

The Owner/Grantor hereby grants, covenants and declares the following prohibitions, restricts and limitations upon the "Agricultural Conservation Easement Area" (Tract "B")

to be binding upon the "Agricultural Conservation Easement Area" (Tract "B") in perpetuity and to run to the benefit of the Easement Holder, its successors and assigns.

Section 3.01 Subdivision. No Subdivision of, or within, the "Agricultural Conservation Easement Area" (Tract "B") is permitted.

Section 3.02 Use. The "Agricultural Conservation Easement Area" (Tract "B") shall not be used for intensive agriculture per Use A-2 of the Township of Union Land Use Code, surface or subsurface mining, quarrying or any residential, industrial, commercial (including any commercial recreational) use. Notwithstanding, the foregoing, the "Agricultural Conservation Easement Area" (Tract "B") may be used for agricultural and horticultural purposes per Use A-1 of the Township of Union Land Use Regulations in effect as of the date of approval of the final major subdivision plan (or as may be permitted by future amendments of the Township of Union Land Use Regulations) as further defined herein, and for passive recreational uses, such as walking, horseback riding, and nature study.

Section 3.03. Construction. No Construction shall occur within the "Agricultural Conservation Easement Area" (Tract "B"), except construction of, or pertaining to, the following improvements:

- (a) Accessory Farm Buildings and Structures are all buildings and structures associated with agricultural and horticultural use as defined by §30-5.5.a.1.b. of the Township of Union Land Use Code and are permitted with the following provisions:
  - (i) Buildings and structures associated with farm crop agriculture, such as barns, sheds, silos, and other similar structures including animal sheds, manure storage or other such similar uses, are to be located at a distance of one hundred (100) feet or further from any property line, or two hundred (200) feet or further from any street line or dwelling other than a farm unit, or principal residence, on the same parcel.
  - (ii) Buildings and structures associated with horticultural/nursery uses such as permanent, temporary or portable greenhouses, cold frames, sheds and other such structures, are to be located at a distance of one hundred (100) feet or further from any property line, or one hundred and fifty (150) feet or further from any delineated one hundred (100) year flood plain or wetland. An approved stormwater management plan is required for all such buildings and structures in compliance with Section 30-24 of the Township of Union Land Use Code, and a plan is also required for the recycling of all fertilizers, pesticides and other organic or inorganic chemicals used in or associated with the building, structure and/or any permitted use therein. Additionally, all buildings and structures must be screened as per the buffer requirements described in §30-7.4 of the Township of Union Land Use Code.

- (iii) Boardwalk and walking bridges are permitted within the "Agricultural Conservation Easement Area" (Tract "B"). where necessary to cross wet areas, but not to exceed six (6) feet in width, not two hundred (200) feet in length in the aggregate and generally about three (3) feet above ground surface, unless otherwise in wetland areas that are further regulated by State Code.
  - (iv) Fences are permitted along the outside perimeter of the "Agricultural Conservation Easement Area" (Tract "B").
  - (v) Regulatory signs, for example "no trespassing", "no gunning" and "no hunting" signs, in each case not exceeding one (1) square foot in area, is permitted within the "Agricultural Conservation Easement Area" (Tract "B"), provided they are spaced in accordance with any applicable law
  - (vi) Installation of wildlife habitat improvement devices such as bird or bat houses is permitted.
- (b) The "Agricultural Conservation Easement Area" (Tract "B") is restricted, against any future buildings, development, or use except where consistent with that of providing for open space for agriculture, and aesthetic satisfaction of the residents of the development or of the general public. Specifically prohibited are swimming pools, tennis courts, sports courts etc., and accessory structures for residential use. Any buildings or uses for noncommercial agricultural purposes compatible with the open space objectives of the Township of Union will be permitted only with the express approval of the Planning Board, following approval of the building, site and operational plans by the Planning Board.
- (c) Any areas set aside for Agricultural Conservation Easement are to be suitable for the designated purpose, and are to be consistent with the policy for future land use in the Township of Union. No structures are permitted in "Agricultural Conservation Easement Areas" (Tract "B"), except those which are related to the purposes of the Agricultural Conservation Easement. Where structures relating to agricultural use are located within the "Agricultural Conservation Easement Area" (Tract "B"), then no more than five (5%) percent of that area, or ten thousand (10,000) square feet, whichever is greater, may be converted to building area. Structures relating to agricultural uses are to conform with the provisions for Accessory Farm Buildings and Structures as described above.
- (d) There is to be no motor vehicle usage in open space areas, except for that permitted for maintenance or agricultural purposes. Recreational Vehicles used for a non agricultural use are prohibited within the "Agricultural Conservation Easement Area" (Tract "B").

Section 3.04 Dumping. No depositing, dumping, abandoning or release of any solid waste or debris or liquid wastes or chemical substances shall occur or be permitted within the "Agricultural Conservation Easement Area" (Tract "B") except application of fertilizers, herbicides, pesticides and mulch for the purpose of maintaining or improving the growth of vegetation or the conservation of natural resources provided such application (a) conforms to Applicable Laws and, as to "Agricultural Conservation Easement Area" (Tract "B"); (b) does not materially and adversely affect the maintenance or attainment of Easement Objectives; and (c) does not occur within 100 feet of streams or wetlands unless approved for aquatic use by the New Jersey Department of Agriculture.

Section 3.05 Other applicable laws. The Property shall be subject to the Township of Union Tree Ordinance and all applicable State Laws with respect to the protection and use of wetlands.

#### **Article IV RIGHT OF EASEMENT HOLDER**

Section 4.01 The Owner/Grantor, hereby grants and conveys to the Easement Holder/Grantee, its successors and assigns, a perpetual Easement in gross over the Property for the purpose of administering and enforcing the covenants, restrictions and limitations set forth in Article II and Article III above in furtherance of the Easement Objectives for the Property. This grant of easement permits the Easement Holder or its designee(s) among other things the right (but not the obligation) to:

- (a) Entry. Enter and inspect the Property, upon reasonable notice, in a reasonable manner and at reasonable times, for any of the following purposes: (i) annually to monitor compliance with this Agricultural Conservation Easement, to evaluate the condition of the Property, and to identify any changes from conditions reported in the Plat Plan as shown in Schedule "A". Documentation; and (ii) with the Owner's concurrence, to undertake resource management activities within the "Agricultural Conservation Easement Area" (Tract "B") in furtherance of Easement Objectives.
- (b) Enforcement. After the giving of such notice (if any) as is required under Article V, enforce the covenants, restrictions and limitations imposed upon the "Residential Net Buildable Area " (Tract "A") under Article II of this Agricultural Conservation Easement and upon the "Agricultural Conservation Easement Area" (Tract "B") under Article III of this Agricultural Conservation Easement and to exercise any right or remedy provided to Easement Holder under this Agricultural Conservation Easement or otherwise available under Applicable Law including, without limitation, the right to enter upon the Property to investigate and/or correct the violation.

Section 4.02 Exclusions. This Agricultural Conservation Easement does not grant any right of entry onto the Property to the general public.

Section 4.03 Reservations. Except as prohibited, limited or otherwise restricted under this Agricultural Conservation Easement, Owner reserves all rights of ownership, use and

occupancy of the Property. Owner retains all responsibilities of ownership, use and occupancy of the Property.

## **Article V VIOLATIONS: RIGHTS OF EASEMENT HOLDER/GRANTOR**

Section 5.01 Violation. If the Easement Holder determines at any time in its reasonable judgment that this Agricultural Conservation Easement is being violated, or has been violated, or that a violation is threatened or imminent:

- (a) **Notice: Cure Period.** The Easement Holder shall notify Owner of the violation and the Owner shall have a period of thirty (30) days to cure, subject to extension for such reasonable period of time as may be necessary to cure, if Owner has notified Easement Holder of Owner's plan to cure, has commenced to cure within the initial thirty (30) day period, and continues thereafter to use best efforts and due diligence to effect a cure. No notice or cure period is required if immediate action is required to prevent irremediable damage to a natural feature of the Agricultural Conservation Easement Area that is intended to be preserved under the Baseline Documentation.
- (b) **Remedies.** Upon the expiration of such cure period (if any) as is provided in the preceding subsection, Easement Holder may do any one or more of the following:
  - (i) Seek injunctive or other relief to specifically enforce the terms and conditions of this Agricultural Conservation Easement; to restrain present or future acts in violation of the Agricultural Conservation Easement; and to compel the restoration of the Property to a condition conforming with the requirements of this Agricultural Conservation Easement; and
  - (ii) Seek a monetary judgment for all costs and expenses that Owner is obligated to reimburse Easement Holder under the provisions of this Article.
- (c) **Availability of Equitable Relief.** Owner agrees that Easement Holder's remedies at law for any violation of the terms of this Agricultural Conservation Easement are inadequate and the Easement Holder shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Easement Holder may be entitled, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies.
- (d) **Cumulative.** Easement Holder's remedies described in this section shall be cumulative and concurrent and shall be in addition to all remedies now or hereafter existing at law or in equity.

Section 5.02 Reimbursement Obligations. Provided an actual violation of the terms of this Agricultural Conservation Easement has occurred, Owner shall reimburse Easement Holder for all costs and expenses reasonably incurred by Easement Holder in connection

with the investigation, enforcement or correction of such violation of this Agricultural Conservation Easement (whether or not any litigation is commenced) including attorneys' fees, court costs and the expense incurred for engineering, surveying, title, environmental or resource management services and other consultants engaged by Easement Holder in connection with such violation. Owner's reimbursement obligation under this Section is conditioned upon the determination that a violation hereof has in fact occurred.

Section 5.03 No Waiver. The failure of Easement Holder to exercise any right or remedy under this Agricultural Conservation Easement shall not be deemed a waiver of any right or remedy. Easement Holder retains the right in perpetuity to require full compliance by Owner of each and every restriction, limitation, term or covenant of this Agricultural Conservation Easement.

Section 5.04 Indemnity. Owner shall indemnify, defend, and hold harmless the Easement Holder and other indemnified Parties from and against all liabilities, penalties, costs, damages, expenses, causes of action, claims, demands, or judgments including, without limitation, reasonable attorney's fees and court costs, arising from or in any way connected with (a) injury to or death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or occurring on or about the Property, regardless of cause, unless and to the extent caused by the negligence of any Indemnified Parties; and (b) the failure of Owner to comply with Applicable Laws.

Section 5.05 Extinguishment. If a court of competent jurisdiction shall at any time invalidate this Agricultural Conservation Easement in whole or in part or modify or render unenforceable any of the items and provisions contained herein, Easement Holder shall be entitled to collect from the party seeking invalidation of this Agricultural Conservation Easement damages in an amount equal to the value of this Agricultural Conservation Easement calculated as the difference between the fair market value of the Property unrestricted by this Agricultural Conservation Easement and the fair market value of the Property subject to the restrictions contained in this Agricultural Conservation Easement. In addition to any other costs and expenses reasonably incurred by Easement Holder in connection with such action.

Section 5.06 Continuing Liability. The term "Owner" and any pronouns used in place of that term, shall mean the person or persons executing this Agricultural Conservation Easement for only as long as such person or persons own the Property, and, thereafter, each person holding any ownership interest in the Property or any portion thereof. Each Owner shall be, and remain, liable for any breach of violation of this Agricultural Conservation Easement arising or existing during the period of such Owner's ownership of the Property but shall not be liable for a breach or violation arising subsequent to the date such Owner no longer has any ownership interest in the Property. As of the date of this Agricultural Conservation Easement, Easement Holder acknowledges that it has inspected the Property and found no violations of this Agricultural Conservation Easement, Easement Holder will, upon the request and at the expense of the Owner making the request, inspect the Property and notify the Owner as to whether or not any violation of this Agricultural Conservation Easement were disclosed by the inspection.

Section 5.07 Notice Delivery. All notices required of Owner/Grantor shall be given to the Owner of Record at the address as contained on the tax record duplicate of the Township of Union. All notices required by the Owner in care of the Clerk of the

Township of Union at the municipal offices. All notices shall be in writing and shall be deemed properly given upon mailing by certified mail, return receipt requested.

Section 5.08. Separate Counsel. Owner acknowledges that Owner has been represented by legal counsel of Owner's selection, or has had the opportunity to be so represented, and fully understands that Owner is permanently relinquishing certain rights which Owner would otherwise have to the full use and development of the Property.

Section 5.09 Encumbrances. Owner represents and warrants to Easement Holder that:

- (a) Existing Liens. Owner is the sole owner of the Property in fee simple and the Property is not encumbered by any mortgage or other lien having a priority over this Agricultural Conservation Easement. Owner shall supply evidence of same in a form acceptable to the Easement Holder's attorney.
- (b) Future Liens. Owner shall pay before delinquency all taxes, assessment, fees and charges assessed upon the Property which may at any time become a lien, charge or encumbrance superior in priority to this Agricultural Conservation Easement.

Section 5.10 Interpretation. Any general rule of construction to the contrary notwithstanding, this Agricultural Conservation Easement shall be construed so as to preserve, protect and further the Easement Objectives to the fullest extent. If any provision in this Agricultural Conservation Easement is found to be ambiguous, an interpretation consistent with Easement Objective that would render the provision valid and enforceable shall be favored over any interpretation that would render it invalid or unenforceable.

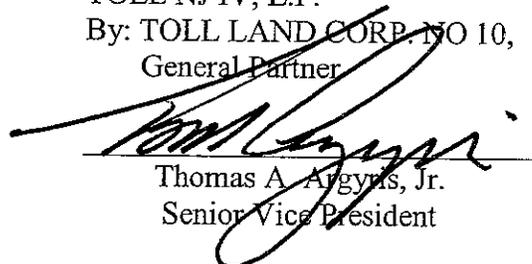
Section 5.11 Severability. If any provision of this Agricultural Conservation Easement is found be invalid or unenforceable, the remaining provisions of this Agricultural Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

IN WITNESS WHEREOF; and intending to be legally bound hereby, Owner and Easement Holder have executed this Grant of Agricultural Conservation Easement and Declaration of Restrictive Covenants as of the day and year first above written.

WITNESS

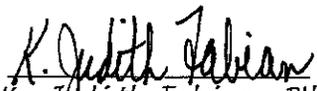


TOLL NJ IV, L.P.  
By: TOLL LAND CORP. NO 10,  
General Partner



Thomas A. Argyris, Jr.  
Senior Vice President

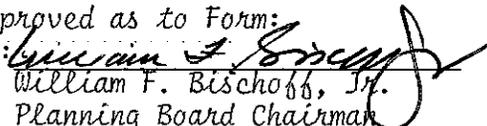
WITNESS

  
K. Judith Fabian, RMC  
Township Clerk

  
Grace A. Kocher  
Planning Board Secretary

TOWNSHIP OF UNION

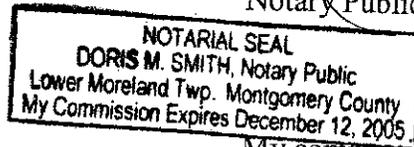
By:   
Name: BRUCE A. ROSSI  
Title: MAYOR

Approved as to Form:  
By:   
William F. Bischoff, Jr.  
Planning Board Chairman

STATE OF \_\_\_\_\_ :  
:SS.  
COUNTY OF \_\_\_\_\_ :

BE IT REMEMBERED that on this 27<sup>th</sup> day of May, 2003, before me, the undersigned authority, personally appeared Thomas A. Argyris, Jr., who is the Senior Vice President of Toll Land Corp. No. 10, General Partner of Toll NJ IV, L.P., and who is to me known to be the person who executed the foregoing instrument, and thereupon he/she did acknowledge that he/she signed and delivered such instrument as his act and deed and as the act and deed of the corporation, pursuant to a Resolution of the Board of Directors of the corporation, for the uses and purposes therein expressed.

*Doris M. Smith*  
Notary Public



[Seal]

My commission expires:

STATE OF \_\_\_\_\_ :  
:SS.  
COUNTY OF \_\_\_\_\_ :

BE IT REMEMBERED that on this \_\_\_ day of \_\_\_\_\_, 2003, before me, the undersigned authority, personally appeared \_\_\_\_\_, who is the \_\_\_\_\_ of Union Township, and who is to me known to be the person who executed the foregoing instrument, and thereupon he/she did acknowledge that he/she signed and delivered such instrument as his act and deed and as the act and deed of Union Township, pursuant to a proper Resolution of Union Township, for the uses and purposes therein expressed.

Notary Public

[Seal]

My commission expires:

**TOWNSHIP OF UNION  
PLANNING BOARD RESOLUTION**

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***Application for Preliminary Major  
Subdivision Approval - "The Sanctuary"***

**Applicant:** *Toll Brothers, Inc.  
3103 Philmont Avenue  
Huntington Valley, PA 19006*

**Owner:** *Walter Stobb  
71 Perryville Road  
Hampton, New Jersey 08827*

**Property:** *Block 27, Lot 3  
Perryville Rd. and Cooks Cross Rd.  
Union Township, Hunterdon County*

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**WHEREAS**, the applicant, Toll Brothers, Inc., is the Purchaser under Contract of a property owned by Walter Stobb and located on Perryville Road and Cooks Cross Road in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 27, Lot 3 on the Tax Map of the Township of Union and which property is located in the "AP-2" Zone; and

**WHEREAS**, the applicant has filed the necessary application for preliminary major subdivision approval (as well as such waivers or variances as may be necessary as a result of the review and planning process) together with the appropriate filing fee with the Administrative Officer; and

**WHEREAS**, the applicant has submitted a plan entitled "*Preliminary Subdivision Plans for The Sanctuary*" dated November 6, 2000 and revised through January 26, 2001 which plan was prepared by Donald Schlachter, PE of Eastern States Engineering, as well as Preliminary Hydro geologic Evaluation dated February 1, 2001, an Aquifer Test and Analysis Plan dated May 8, 2001, prepared by Converse Consultants, and an Impact Statement Report prepared by Professional Planning & Engineering Corporation dated 11/3/00; and

**WHEREAS**, on behalf of the Township of Union and its Planning Board, the Board's various professional consultants have 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 a written report dated April 19, 2001 and Professional Planner, Carter VanDyke, P.P. in a written report dated April 16, 2001 and June 19, 2001; also Geologist

Matthew Mulhall, P.G. in written reports dated February 16, 2001 and May 15, 2001; and the Environmental Commissions review of the Impact Statement dated February 21, 2001 (and subsequent report dated July 9, 2001); and

**WHEREAS**, the Planning Board has 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, Toll Brothers, Inc., as presented through their representatives Vice President Tom Argyris and Vice President Jim Majewski, and their Engineer, Donald P. Schlachter, PE of Eastern States Engineering and their Professional Planner, John McDonough, AICP, PP of Professional Planning and Engineering Corporation and as presented through their Attorney, Carl Bisgaier, Esq., at meetings conducted on April 26, 2001; May 24, 2001 and June 28, 2001, 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 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.
3. 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 (for preliminary major subdivision approval and such other waivers or variances as may arise during the hearing) 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.
4. 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 at least ten days prior to the date of the initial public hearing. The following documents were marked as Exhibits into evidence:

“A-1” Hearing Notice documents;

“A-2” Preliminary Major Subdivision Plan of Lot 3, Block 27 consisting of 18 sheets dated November 6, 2000 and revised to January 26, 2001;

“A-3” A report entitled “Impact Statement Report for The Sanctuary” dated November 3, 2000 prepared by Professional Planning and Engineering Corporation;

“A-4” A report entitled “Soil Logs and Soil Test Data for The Sanctuary” dated November 2, 2000, prepared by Eastern States Engineering Inc.;

- “A-5” A report entitled “Stormwater Management and Soil Erosion & Sediment Control Report for The Sanctuary” dated November 6, 2000, prepared by Eastern States Engineering, Inc.;
- “A-6” A report entitled “Preliminary Hydroecologic Evaluation” dated February 1, 2001, prepared by Converse Consultants;
- “A-7” A report entitled “Traffic Engineering Investigation” dated January 22, 2001, prepared by Oracle Engineering, Inc.
- “A-8” Plan entitled “Final Survey Plan” dated February 25, 1999, prepared by Byron Rimmer, PLS of Eastern States Engineering
5. The applicant paid all appropriate application fees and testified that the taxes on the property were current, as well as escrow accounts.
6. The Applicant was granted the following “Completeness” waivers at the March 22, 2001 meeting for the purpose of deeming the Application “complete”:
- a. Lot and Block Numbers Approved by Assessor - the applicant was granted a waiver for completeness purposes with the understanding that the approved Block and Lot numbers will be added to the plans prior to Final Subdivision Application;
  - b. Aquifer Test and Analysis - the applicant was granted a waiver for completeness purposes only. The February 16, 2001 report by Matthew J. Mulhall, P.G., the Planning Board’s hydrogeologist, recommended that a waiver not be granted from the requirements of Section 30-6.8 of the Union Township Land Use Code.
7. The Board determined that the aquifer testing and analysis previously waived for completeness only purposes is an integral part of the development application process, and there must be full compliance with the Ordinance requirements by the Applicant. The Applicant acknowledged the importance of the aquifer test and analysis on the subject property and agreed to provide full compliance prior to, with the results addressed in the application for final approval.
8. The Applicant, Toll Brothers, Inc., has entered into a Contract to purchase the 103 acres site presently owned by Walter Stobb and which site is located in the AP-2 Agricultural Preservation District. The Applicant proposes the construction of twelve (12) single family dwellings and associated site improvements on the tract with ten (10) of the dwellings fronting on the proposed internal roadway system which will ultimately access Cooks Cross Road and the remaining two (2) remaining dwellings fronting directly onto Perryville Road.
9. The project has been designated by the Applicant under the name of “The Sanctuary” and the twelve (12) single family lots would each be 8.3 acres in size or slightly larger, and in full compliance with the area and dimensional requirements of the Zone District; and with 6.8 acres of each lot being permanently Deed restricted as

open space and from non-agricultural uses. The Applicant's representatives and Professional consultants presented testimony on the construction of The Sanctuary project as a development intended to fully comply with the design standards of the Union Township Development Regulations.

10. The Applicants representatives provided testimony that the project will provide for a very low density which will preserve the wooded buffers and the prime agricultural soils that exist on the site to the extent required by the Ordinance. Presently, the lot layout balances the prime agricultural soil and woodlands, and limits the total disturbed area of the 103 acre tract to approximately 12 acres. Further, as a result of prior farming operations and un-channeled water run-off, a small area of flood-plain soils exist in the area necessary for the internal road system required to accomplish the preferred lot layout. In order to maintain this desired roadway system, a diminimus encroachment of 1.17 acres (out of the entire 103 acre tract) is necessary across these displace flood-plain soils. The Township Planner and Engineer have concurred in such roadway placement inasmuch as relocation of the road would require the removal of presently existing, natural buffers and hedgerows.
  
11. The Applicants Consultants reviewed the reports issued by the Township Engineer and Township Planner and testified that they will fully comply with Township Engineer Bogart's letter report of April 19, 2001; and with regard to the roadway widths, will provide 20 foot wide cartways and 40 foot wide right of way (which are in excess of the RSIS Standards, and the Board approved a diminimus exception for the cartway width).  
  
Further, the Applicants representatives testified that they have or would comply with all recommendations contained in the Union Township Planner VanDyke's reports of April 16<sup>th</sup> and June 19, 2001; as well as addressing the concerns raised in the Geologists, Matt Mulhall's report of February 16, 2001, and requirements in his letter of May 15, 2001.
  
12. As a result of the review process, updated revisions and recommendations by the Planning Board and its consultants during the review and hearing process, it became evident that a waiver of design standards or diminimus variance of the Township Ordinance would be required in order to prevent the removal and destruction of existing natural buffers and hedgerows and so as to permit the encroachment of the roadway system over the displaced flood-plain soils that exist on the site.
  
13. With regard to the variance application as to the diminimus encroachment of the roadway over the displaced flood-plain soils, 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 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, there would be no substantial detriment to the zoning plan, and that the benefits of the deviation would substantially outweigh any detriment.

**Variance "C-2" -**

A Motion was made by Mr. Haynes and seconded by Mr. Martin to grant a Variance to permit encroachment into the flood-plain soils as reflected on the plan and so as to permit building the road over such flood-plains whereby there will be resulting encroachment of 1.17 acres (on the 103 acre site) due to the diminimus nature of the encroachment.

Vote on the Variance:

**Aye**

Martin  
Grossi  
Brandt  
Ricker

**Nay**

Haynes  
Carten

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 28<sup>th</sup> day of June, 2001 that conditional preliminary major subdivision approval with 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 variances, waivers and 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 variances, 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 the accompanying subdivision plans and other documents as referenced in the Planning Board Engineer's report(s) dated April 19, 2001, and Planner's reports dated April 16<sup>th</sup> and June 19<sup>th</sup>, 2001, and the Geologist's report of May 15, 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 applicant and its representatives in their recorded testimony and as set forth in the previous findings of fact shall be satisfied.
2. For the purposes of Fire Company bypass concerns, there will be three pull-off areas to be 50 feet long by 12 feet wide.
3. An underground 30,000 gallon storage tank made of fiberglass to be located at the requested location of the Quakertown Fire Company; and upon satisfactory inspection and approval by the Construction Official and Township Engineer the tank will be maintained

by the Fire Company. The tank will be located within an Easement, to be reviewed and approved by the Planning Board Engineer and Attorney prior to filing of the Final Plat.

4. Applicant shall perform soil testing in roadway areas for the purpose of determining pavement and subbase thickness, to be reviewed and approved by the Township Engineer.
5. No construction of any site improvements, no land disturbance, and no clearing shall take place on any area of the site until final approval, unless appropriate and acceptable bonding is first posted with the Township. The only permitted site activity or exception shall be for surveying and/or stakeout procedures and for aquifer testing proceedings.
6. Conservation Easements on each lot to be described by metes and bounds in each Deed and physically marked out on each lot in a manner satisfactory to the Township Engineer and Township Planner. There shall be included in each Deed, a permanent Deed restriction against non-agricultural use. All Easements and Lot Deeds shall be submitted to the Planning Board Engineer, Attorney and Planner for review and approval prior to final sign-off and filing of the Final Major Subdivision Plat.
7. Conservation Easements on each lot, with the Township named as a beneficiary, for purposes of enforcement only, which easement is to be described by metes and bounds in each Deed.
8. A subcommittee composed of Planning Board, Township Committee and Applicant representatives shall meet to review the location of the bikeway along the frontage on Perryville Road.
9. The Applicant shall submit a copy of the Phase I Environmental Report to the Planning Board and the property shall be subject to site inspection verification to confirm the cleanup of prior dumping in the area of the rear of proposed Lot #3.
10. Any tree removal shall be coordinated with and approved in advance by the Township Engineer and Township Planner (who shall consult on such removal with the designated representative of the Environmental Commission).
11. Response by the Applicant satisfactory to the Planning Board on issues raised in the Environmental Commission letter dated July 9, 2001.
12. The applicant shall fully comply with all requirements of the Township Aquifer Test and Analysis Ordinance and satisfactory results and compliance shall be a condition of application for final. In the event that satisfactory compliance cannot be secured, the applicant shall be required to appear before the Planning Board for an amendment to its Preliminary Approval, taking into consideration the results of the testing.

13. The Applicant will submit a revised tree-clearing plan for the trees located within 35 feet of the building envelope, and the Applicant will show the tree-protection fencing in the field. The Township Planner will review this plan and make onsite inspections of the progress as necessary. The Applicant shall also submit a revised landscaping plan taking into consideration the suggestions made during the planning process and as set forth in the Township Planner's report of June 19, 2001.
14. The Township of Union 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/Board of Adjustment. Minor deviations and field changes may be authorized in writing by the Township Engineer.
15. The applicant shall secure final approval by the Hunterdon County Planning Board and all other bodies with jurisdiction over the application as applicable, including but not limited to Hunterdon County Soil Conservation District and the New Jersey Department of Transportation; the Township Board of Health and the County Board of Health, and the N.J.D.E.P.
16. The applicant shall post such additional inspection and review fees as required by the Township of Union, in addition to the execution and posting of the applicable Performance/Maintenance Bonds and Agreements as directed and approved by the Township Attorney.
17. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within this 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.
18. The developer shall execute with the Township of Union, if determined to be required by the Township Attorney, 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.
19. In the event this developer sells or otherwise transfers all or part of this project 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.

20. During construction, the applicant shall comply with all requirements of the Development Regulations of the Township of Union, this conditional approval, and any 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.
21. 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.
22. 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/Board of Adjustment for re-consideration, possible re-approval and new terms and conditions in addition to those terms and conditions presently existing in this approval.
23. The Developer submitted its application and proposal for subdivision of the tract so as to fully comply with the development requirements of the zone in which the property is located. Accordingly, the approval granted by the Planning Board is specifically conditioned upon their being no further subdivision of the property or any individual lot created thereunder, under the Municipal Land Use Law, or in any other manner, such as testamentary devise or otherwise, as may be defined in the Municipal Land Use Law under the definition of subdivision or exception to subdivision. The Applicant shall include such permanent restriction against any further subdivision in each individual lot Deed, and such Deeds shall be submitted for review and written approval by the Planning Board Attorney prior to recording and conveyance of the individual lots.

A Motion was made by Mr. Grossi and seconded by Mr. Carten to grant conditional, preliminary major subdivision as set forth herein.

**VOTE ON  
DECISION**

Y  
Y  
Y  
Y  
Y  
Y

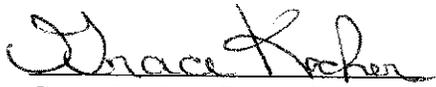
**BOARD MEMBER**

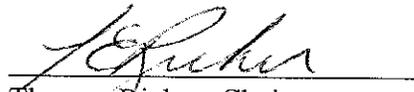
Ricker  
Grossi  
Martin  
Carten  
Brandt  
Haynes

**VOTE ON  
RESOLUTION**

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Y  
Y  
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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 25, 2001.

  
Grace Kocher, Board Secretary  
Union Township Planning Board

  
Thomas Ricker, Chairman  
Union Township Planning Board

**TOWNSHIP OF UNION  
PLANNING BOARD RESOLUTION**

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*Application for Final Major  
Subdivision Approval - "The Sanctuary"*

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**Applicant:** *Toll Brothers, Inc.  
3103 Philmont Avenue  
Huntington Valley, PA 19006*

**Owner:** *Walter Stobb  
71 Perryville Road  
Hampton, New Jersey 08827*

**Property:** *Block 27, Lot 3  
Perryville Rd. and Cooks Cross Rd.  
Union Township, Hunterdon County*

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*the location  
is  
C. Van Dyke  
P. 08*

**WHEREAS**, the applicant, Toll Bros., Inc. is the Purchaser under Contract of a property owned by Walter Stobb and located on Perryville Road and Cooks Cross Road in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 27, Lot 3 on the Tax Map of the Township of Union and which property is located in the "AP-2" Zone; and

**WHEREAS**, the applicant has filed the necessary application for final major subdivision approval together with the appropriate filing fee with the Administrative Officer; and

**WHEREAS**, the Township of Union Planning Board previously granted conditional preliminary major subdivision approval, which approval was memorialized by Resolution of the Planning Board on October 25, 2001; and

**WHEREAS**, the applicant has submitted a plan entitled "Final Subdivision Plat, Block 27, Lot 3, The Sanctuary, Union Township, Hunterdon County, New Jersey" dated July 18, 2001, and which plan was prepared by Eastern States Engineering, Inc. and signed and sealed by Dana J. Parrish, PLS; and

**WHEREAS**, on behalf of the Township of Union and its Planning Board, the Board's various professional consultants have reviewed the various plans and testimony presented to the Planning Board, and submitted their written and verbal reports, including the Planning Board Engineer, Robert Bogart, P.E., in a written report dated November 14, 2001; the Township's Professional Planner, Carter VanDyke, P.P., in a written report dated November 19, 2001, and also Geologist Matt Mulhall, in a written report dated October 18, 2001; and

**WHEREAS**, the Planning Board has reviewed the application for final major subdivision approval, and the written reports of its consultants as well as other agencies having jurisdiction over the application, and considered the testimony of the applicant, Toll Brothers, Inc., as presented through their representatives, Vice President, Tom Argyris, Professional Planner, John McDonough, AIC, PP, and their Engineer, John Bainno, as presented through their Attorney, Carl Bisgaier, Esq. at public hearings conducted on October 25, 2001 and December 4, 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 Office, which application as to form (not contents) and the required documentation was deemed complete by the Administrative Office.
2. All application fees have been paid and the taxes on the said property are 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 Planning Board reviewed the report of October 18, 2001 of its Geological consultant, Matt Mulhall regarding the aquifer test and analysis conducted by the applicant's on the subject property and its relation to neighboring residential lots. The testing was conducted in furtherance of the initial report of Mr. Mulhall of May 15, 2001 and referenced in the Preliminary Resolution of Approval on the tract. Based upon the review of the applicant's testing and reports, as well as site inspection, the Board's consultant concluded that the aquifer test satisfied all requirements of the Union Township Ordinance 30-6.8 and led to his conclusion that the aquifer test indicated that groundwater beneath the applicant's site met Federal drinking water standards and N.J.D.E.P. groundwater quality standards. Further, the test concluded that the water-level recovery within the aquifer has sufficient extent to support the proposed additional withdrawals for the proposed subdivisions and that these withdrawals would not result in the mining of groundwater.
5. The applicant entered into evidence as Exhibit "F-1", the letter of November 14, 2001 from the Hunterdon County Health Department confirming that the applicant had completed all testing in full conformance with Section 7:9A Standards for Individual Subsurface Sewage Disposal Systems and thereby took no exception to the Planning Board approving the major subdivision with individual lot septic systems, subject to review and approval by the New Jersey Department of Environmental Protection.
6. The applicant's representatives committed in their testimony that there would be full compliance by the applicant with the report of the Township Engineer dated November 14, 2001; and with regard to the bikeway, the applicant will construct a bikeway four foot in width along the frontage of the property and to State standards.
7. The applicant's representatives committed in their testimony that there would be full compliance by the applicant with the report of the Township Planner dated November 19, 2001; and specifically that each residential structure must be built within the 1.5 acre net

buildable area on each lot with the remaining 6.8 acres restricted under a conservation easement for the particular lot.

8. The applicant testified that it would work in conjunction with the Township Engineer and Planner on proposed tree removal from each lot for purposes of building construction with any dispute on the extent of removal to be returned to the continuing jurisdiction and final decision by the Planning Board. Likewise, final grading of each lot would be conducted under the same procedure.
9. By way of modification of the preliminary plan, the applicant will construct the entrance feature improvements in the same manner as approved in the preliminary plan, however the structure will be stone-faced with appropriate landscaping.
10. The Planning Board reviewed the final comments provided by the Union Township Environmental Commission in its report of October 10, 2001, and the applicant's representative testified that items # 1 and 2 of the report were design issues which were resolved and approved by the Planning Board in preliminary approval; item #3 was addressed by way of a letter of interpretation (L.O.I.) Issued by N.J.D.E.P. for the site; and items # 4 and 5 were addressed through additional testimony of the applicants Engineer. It was noted by the Board that all conditions of preliminary approval would be continued as a condition of final approval on the project.
11. The application was open to the public for comment, and members of the public as well as members of the environmental commission expressed their views and asked questions of the applicant's witnesses which the Board considered and deemed satisfied and/or were taken into consideration by the Board.
12. The Board concluded that the requirements of the Township of Union Development Regulations for final major subdivision approval have generally been satisfied and can be approved subject to conditions.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, Hunterdon County, New Jersey on December 4, 2001 that final major subdivision approval be granted 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 subdivision plat presented to the Board, and upon the agreement by the applicant that it would accept and incorporate as conditions of this approval, all commitments made in the application, plan 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 plat and other documents referenced in the Planning Board Engineer's report dated November 19, 2001, and as may be required to be amended in accordance with this Resolution are adopted by

references of the complete application and modified plans were set forth herein and the same remain part hereof. 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.

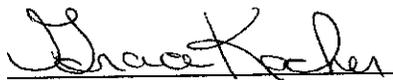
2. The applicant shall comply with all items contained in the Planning Board Engineer's report dated November 14, 2001, the Board Planner's report dated November 19, 2001; and the Geologist's report dated October 15, 2001, and which are not otherwise modified by a specific condition herein. The final major subdivision plat shall not be executed by the Township until all conditions of preliminary and final approval are satisfied.
3. The applicant shall not be required to construct a bikeway as part of the development of the project, it being determined that no interconnecting bike paths have been established in the area of the development, and no present plans for bikeways within the Township have been developed. Accordingly, the applicant shall make an in-lieu payment for bike path or road improvement purposes in the amount of the estimated cost of the bikeway as agreed to between the Township Engineer and applicant. In addition, the applicant shall assist the Township in providing earthwork at the Cooks Crossroad - Perryville Road intersection.
4. The Township Planner and Engineer shall approve any tree removal or tree location for construction purposes on the property. If a dispute arises as to approval on removal and/or relocation of any trees, the Applicant shall submit such dispute for Planning Board review and approval.
5. Final grading plan for each lot shall be submitted to reflect methods used to save existing trees on lots, and also in the areas of roadway improvements and cul-de-sacs, which plans shall be subject to review and approval by the Township Engineer and Planner, with any dispute that arises being referred to the Planning Board for final disposition. Separate Conservation Easements shall be shown on the final major subdivision plat, and the Conservation Easements shall also be marked in the field by appropriate markers approved by the Township Engineer. In addition, the Deed to each lot shall describe, by Metes and Bounds Description, the specific Conservation Easement area on that lot. The Conservation Easements, as well as any other Easements and Deeds on the property shall be submitted to the Planning Board Engineer and Planning Board Attorney for their review and approval prior to recording.
6. All homeowners association documents shall be submitted to the Planning Board Attorney and Planner for review and approval prior to recording.
7. 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; such as, but not limited to, the N.J.D.E.P. letter of January 17, 2002 to Toll Brothers, Inc. determining "that the proposed road B detention basin dam may be considered a Class IV dam".

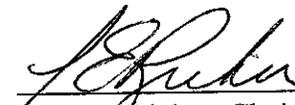
8. During construction, the applicant shall comply with all requirements of the Development Regulations of the Township of Union, this conditional approval and the Developers Agreement entered into with the Township of Union. Such compliance shall also be binding upon the applicant's agents, servants, 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 Township of Union Planning Board reserves the right to revoke and withdraw any approval granted herein, upon notice to the applicant and public hearing, 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. The applicant shall pay all on-tract and off-tract contributions required by the Township Ordinances; as well as posting such additional inspection and review fees as may be required by the Township of Union; and shall post the applicable Performance/Maintenance Bonds and execute a Development Agreement with the Township as may be required and approved by the Township Attorney.
12. In the event this applicant sells or otherwise transfers this easement to any other applicant, assignee, person or entity, the escrow accounts and Bonds posted by the applicant herein, shall not be released in whole or in part, until the successor applicant, 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.
13. There is hereby incorporated and made a part of this conditional approval, all of the conditions of the previously granted preliminary major subdivision approval, as though such conditions were set forth at length herein.

A Motion to grant final major subdivision approval was made by Hess and seconded by Brandt.

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>Y</u>	Haynes	<u>Y</u>
<u>Y</u>	Rossi	<u>      </u>
<u>Y</u>	Ricker	<u>Y</u>
<u>Y</u>	Grossi	<u>Y</u>
<u>Y</u>	Martin	<u>Y</u>
<u>Y</u>	Hess	<u>Y</u>
<u>N</u>	Carten	<u>      </u>
<u>Recused</u>	Nargi	<u>      </u>
<u>Y</u>	Bischoff	<u>Y</u>
<hr/>		
<u>Y</u>	Brandt (1 <sup>st</sup> Alt)	<u>Y</u>
<u>DNV</u>	Lucasik (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 aforesaid members at its regular meeting held on February 28, 2002.

  
 Grace Kocher, Board Secretary  
 Union Township Planning Board

  
 Thomas Ricker, Chairman  
 Union Township Planning Board