

**TOWNSHIP OF UNION  
PLANNING BOARD RESOLUTION**

*Application for Final Major Subdivision Approval*

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**Applicant/  
Owner:** *Richard Paul Adolph  
80 Stoney Brook Road  
Hopewell, N.J. 08525*

**Property:** *Block 27, Lot 9  
Finn Road & Cooks Cross Road  
Township of Union, Hunterdon Cty.*

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**WHEREAS**, the applicant, Richard P. Adolph, is the owner of property located on the corner of Finn Road and Cooks Cross Road in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 27, Lot 9 on the Tax Map of the Township of Union and which property is located in the "AP" 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 granted variance, waivers, preliminary major subdivision approval plan approval to the applicant on December 18<sup>th</sup>, 1997, which approval was memorialized by Resolution of the Planning Board on January 22<sup>nd</sup>, 1998; and

**WHEREAS**, the applicant has submitted a final subdivision plan entitled "Final Plat Major Subdivision Lands of Richard Adolph, Block 27, Lot 9" dated January 7, 1998, which plan was prepared by Thomas L. Yager and Associates; and

**WHEREAS**, on behalf of the Township of Union and its Planning Board, the Township's professional consultants have reviewed the final plat and testimony presented to the Planning Board, and Robert Bogart, P.E., the Township's engineer, submitted his written report of January 22, 1998, and also verbal reports to the Planning Board at a public hearing held on January 22, 1998 and testified at such time that the majority of the changes required by his prior report of December 11<sup>th</sup>, 1997 have now been incorporated on the maps with the exception of some minor technical map items; and

**WHEREAS**, the Planning Board has reviewed the application for final major subdivision approval, and the written and verbal reports of its consultants and other agencies having jurisdiction over the application, and considered the testimony of the applicant, Richard P. Adolph, the applicant's representative, Thomas Yager, L.S. and as presented through their Attorney, Kevin Benbrook, Esq., at a meeting conducted on January 22<sup>nd</sup>, 1998, 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 following documents were marked as exhibits in support of the application:
  - "A-1" - Final Plat Major Subdivision Lands of Richard Adolph Block 27 Lot 9;
  - "A-2" - Letter of Thomas Yager dated 11/14/97 with handwritten notation by Union Township Tax Assessor assigning lot numbers for subdivision.
5. The property being subdivided consists of 10.55 acres, is located in the *Agricultural Preservation District* and fronts on both Cooks Cross Road and Finn Road. The applicant received preliminary major subdivision approval from the Township of Union Planning Board on January 22, 1998 to create a three lot subdivision. The subdivision will consist of three newly created residential lots.
6. The Board considered the written report(s) of its Engineer, Robert Bogart, P.E. dated January 22, 1998 together with his additional comments offered, as well as those of the Township Planner, Carter vanDyke, on the project at the public hearing, and has determined that the recommendations had either been resolved or could be incorporated by way of conditions of this approval, and subject to the engineer's and planner's final review and sign-off, and the review and approval of documents by the Township Professionals.
7. The application was open to the public; however, no public comment was offered.
8. 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 the 22<sup>nd</sup> day of January, 1998, that conditional, 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 application and plat as submitted and as may be required to be amended in accordance with this Resolution and the Planning Board Engineer's requirements are adopted by reference as though the complete application and plans were set forth herein and the same are made a part hereof. The commitments made by the applicant and its representatives in their recorded testimony as set forth in the previous findings of fact shall be satisfied.
2. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the final plan or the improvements to be installed, which are subject to third party jurisdiction and which require approvals by any third party agencies. This Resolution of approval is specifically conditioned upon the applicant securing the approval and permits of all other agencies having jurisdiction of any aspects of the proposed development.
3. The applicant shall comply with all items contained in the Planning Board Engineer's final report of January 22, 1998 and which items are hereby made a condition of this final approval.
4. The Fair Share, Affordable Housing Contribution fee as approved by C.O.A.H. and as set forth in the Township of Union Ordinance, shall be paid by the developer.
5. Any easements associated with the preliminary approval shall be submitted to the Planning Board Attorney and Engineer for their review and approval, and thereafter, proof shall be provided as to the recording of each of the said easements and the original documents distributed to the Grantees therein.
6. The Township Engineer shall monitor all soil conservation matters to insure proper treatment of disturbed areas; and the Planning Board shall continue jurisdiction of this application to insure strict compliance with the approved plans.
7. During construction, the applicant shall comply with all requirements of the Development Regulations of the Township of Union, and this conditional approval. Such compliance shall also be binding upon the applicant's agents, servants, successors and assigns.
8. Final major subdivision approval shall in no way be construed as acceptance of any street, drainage system or other improvement required by the Planning Board, nor shall such approval obligate the Township in any way to repair, exercise jurisdiction over any street, drainage system or other improvement prior to acceptance of the improvement by the governing body.
9. The 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. Minor deviations and field changes may be authorized in writing by the Township Engineer.
10. The applicant shall secure final approval by the Hunterdon County Planning Board and all other bodies with jurisdiction over the application including 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.

11. The applicant shall post such additional inspection and review escrow fees as required by the Township of Union for the continued review and inspection of the project by the Township Professionals. In as much as the developer will not be performing any off-tract improvements and has paid to the Township, its off-tract contribution for the development of this site, a Performance/Maintenance Guarantee and Development Agreement will not be necessary.

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

A Motion to grant final major subdivision approval was made by Mr. Rossi and seconded by Mr. Dean.

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>Yes</u>	Hess, Chair	<u>Yes</u>
<u>Yes</u>	Carlbon	<u>Yes</u>
<u>Yes</u>	Dean	<u>Yes</u>
<u>Yes</u>	Haynes	<u>Yes</u>
<u>Yes</u>	Niemiec	<u>Yes</u>
<u>Yes</u>	Rossi	<u>Yes</u>
<u>Yes</u>	Strube	<u>Yes</u>
<u>Abst.</u>	Martin, 1 <sup>st</sup> Alt.	<u>-----</u>
<u>-----</u>	Carton, 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 January 22, 1998.

  
 Grace Kocher, Board Secretary  
 Union Township Planning Board

  
 Richard Hess, Chairman  
 Union Township Planning Board

**TOWNSHIP OF UNION  
PLANNING BOARD RESOLUTION**

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*Application for Variance, Waivers and Preliminary  
Major Subdivision Approval*

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**Applicant/** *Richard Paul Adolph*  
**Owner:** *80 Stoney Brook Road  
Hopewell, N.J. 08525*

**Property:** *Block 27, Lot 9  
Finn Road & Cooks Cross Road  
Township of Union, Hunterdon Cty.*

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**WHEREAS**, the applicant, Richard P. Adolph, is the owner of property located on the corner of Finn Road and Cooks Cross Road in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 27, Lot 9 on the Tax Map of the Township of Union and which property is located in the "AP" Zone; and

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

**WHEREAS**, the applicant has submitted a plan entitled "Major Subdivision of Lands of Richard Adolph" dated June 30, 1997, and revised through December 3, 1997 which plan was prepared by Thomas L. Yager and Associates, 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 written reports dated July 16<sup>th</sup>, September 11<sup>th</sup>, October 28<sup>th</sup>, and December 11<sup>th</sup>, 1997, and Professional Planner, Carter vanDyke, P.P. in written reports dated October 31<sup>st</sup> and December 12<sup>th</sup>, 1997; and

**WHEREAS**, the Planning Board has reviewed the application for variance, waivers and 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, Richard Adolph and the applicant's representative, Chris Briglia, P.E., and as presented through their Attorney, Robert Benbrook, Esq. at meetings conducted on November 6<sup>th</sup> and December 18<sup>th</sup>, 1997 and based thereon, has made the following findings of fact:

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

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

3. A copy of the notice of development served on neighboring property owners was submitted to the Board together with an Affidavit of Proof of Publication of the said document at least ten days prior to the date of the initial public hearing. The following documents were marked into evidence:

"A-1" Hearing Notice documents;

"A-2" Color rendering of preliminary plat, page 1 of 2, dated June, 1997;

"A-3" Sheet 1 of 2, revised 9/30/97; mark-up of map - highlighted in red;

"A-4" Notice documents on variance; Section 30:6.47(b).

4. The applicant paid all appropriate application fees and testified that the taxes on the property were current.

5. The Board reviewed the application and related documents and the recommendation of the Board's Engineer and based thereon deemed as complete the application for variance, waivers and preliminary major subdivision approval.

6. The applicant, Richard P. Adolph, is proposing to subdivide the subject property into three conforming, single family detached lots, with each lot to be serviced by its own septic and well.

7. The property consists of 10.55 acres and is located in the "A-P" *Agricultural-Preservation District*, with frontage on both Finn Road and Cooks Cross Road. Access to the two proposed new lots and the lands remaining would be from Finn Road by individual driveways.

8. The applicant requested a waiver of the requirement for a landscaping plan. Testimony was provided as to the existing hedgerow within a 25' tree preservation easement along the road, and the mature trees that exist to the rear of the lot, and at the front on one of the proposed new lots. It was determined that the existing trees met the intent of the Ordinance and at the same time, is maintaining the rural character of the area.

9. The applicant also requested a waiver of the requirement of an Environmental Impact Statement. Testimony was provided to support the request including the intent not to create an internal road system; that there would be no extension of public utilities; and the impact on traffic would be minimal from two new residential lots.

10. The applicant's representatives provided testimony regarding the drainage through trench drains, with no run-off from the lot. After discussion, it was recommended by the Planning Board that as a condition of preliminary approval, the drywell trench drains for new lots 9.01 and 9.02 should be at least 50 feet from the proposed septic field and that same should be noted on the plan and drawn on the plan for each lot.

11. The applicant requested a variance from Section 30-6.4b.7 which requires that no more than 15% of Class II soils, and no more than 20 % of Class III soils, shall be developed in the Agricultural/Preservation District. The Board determined that the Ordinance applies to each lot individually regarding the soils that can not be developed, and not the entire project/subdivision lot as a whole. Accordingly, a variance from the Ordinance section was required.

12. The Board reviewed the plan submitted by the applicant and determined that the layout of the residential lots with the clustering of houses in on area was the best planning for the tract which has frontage on two public roads. The proposed design would keep the naturally preserved area at the intersection of Cooks Cross and Finn Roads, and as such, would more appropriately advance the purposes of zoning as it relates to this specific property. Accordingly, the Board determined that the disturbance of Class II and III soils beyond the Ordinance standard on a portion of each of the new lots was advantageous, however, as a condition of the Board granting the variance of Section 30-6.4b.7, the preserved area must be maintained as open space and be deed restricted against further subdivision.

13. Discussion took place regarding the requirement for off-tract improvement contribution by the applicant, and it was determined that same should apply to all three lots, and such contribution was readily agreed to by the applicant. The Planning Board Engineer, Robert C. Bogart, calculated the required off-tract contribution at \$2,646.17 per lot.

14. The application was opened to the public for testimony, however no public testimony was offered.

15. With regard to the variance application and design standard waiver requests, 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 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.

A Motion was made by Mr. Strube and seconded by Mr. Martin to grant the following variance and waivers:

1. Waiver of requirement for submission of Landscaping Plan;
2. Waiver of requirement for submission of Environmental Impact Statement;
3. Variance of Section 30-6.4b.7 to permit expansion of limit of disturbance of Class II and Class III soils in the AP District, conditioned upon a three acre area on one lot being maintained as open space and Deed restricted as a conservation area without any further right to subdivision of these lands.

**VOTE ON  
DECISION**

**BOARD MEMBER**

<u>Yes</u>	Hess
<u>---</u>	Rossi
<u>Yes</u>	Strube
<u>Abst.</u>	Carlbon
<u>Abst.</u>	Dean
<u>----</u>	Niemiec
<u>Yes</u>	Hirt
<u>Yes</u>	Martin
<u>----</u>	Grill

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 18<sup>th</sup> day of December, 1997, 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 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 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 the accompanying subdivision plans and other documents as referenced in the Planning Board Engineer's reports dated July 16<sup>th</sup>, September 11<sup>th</sup>, October 28<sup>th</sup>, and December 11<sup>th</sup>, 1997, and Planner's reports dated October 31<sup>st</sup> and December 12<sup>th</sup>, 1997, and as may be required to be amended in accordance with this Resolution are adopted by reference as though the complete application and modified plans were set forth herein and the same are made a part hereof. Further, the commitments made by the applicant and its representatives in their recorded testimony and as set forth in the previous findings of fact shall be satisfied.

2. The applicant shall comply with all terms and provisions of the Planning Board Engineer's final report; namely, the report of Robert C. Bogart, P.E. of December 11<sup>th</sup>, 1997 as well as the Planner's report of December 12<sup>th</sup>, 1997 and specifically items D.1, 2 and 4.. All provisions as set forth in the Planning Board Engineer's and the Planner's reports, and including but not limited to the posting of all review and inspection escrow fees and the replenishment of same; a pre-construction conference between the parties as directed by the Planning Board Engineer; a conference scheduled by the Township Planner as necessary to review the tree protection and landscaping standards;, on-tract and off-tract contributions as per the Township Ordinance; street names approved by the Planning Board Historic Preservation Committee; lot numbering as directed by the Tax Assessor.

3. Pursuant to the Union Township Development Regulations and waiver of the landscaping plan, the applicant shall provide for the installation/credit for 12 new or existing trees per acre as directed by the Township Planner.

4. The drywell trench shall be at least 50 feet from the septic field on lots 9.01 and 9.02. and a note shall be placed in the plan and each trench shown on the plan of each lot.

5. Two Deeds, each containing a metes and bounds description of the resulting lots, 9.01 9.02, and 9.03 shall be submitted to the Planning Board Engineer and Attorney for their review and approval, prior to recording by the applicant.

6. Each of the three new lots shall be Deed restricted for the conservation easement and further, each of the Deeds are to contain a restriction against further subdivision, as well as an appropriate notation being placed upon the preliminary and final Plats to be filed indicating same.

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

8. 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.

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

10. 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.

11. In as much as the developer will not be performing any off-tract improvements and has paid to the Township, its off-tract contribution for the development of this site, a Performance/Maintenance Guarantee and Development Agreement will not be necessary.

12. The developer shall provide a listing of each plan/page comprising the preliminary major subdivision documents, with the original date and latest revision date of each of the said documents for filing with the Planning Board Secretary.

13. 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.

14. 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.

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

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

17. 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.

18. 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.

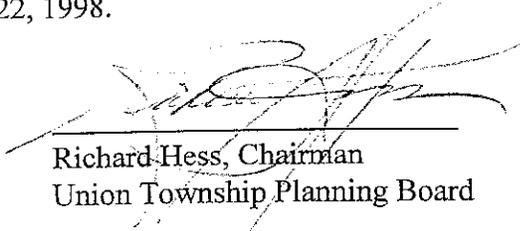
19. The terms and conditions of this approval shall be binding upon the applicant, the applicant's successors in interest and assigns. Further, each of the terms and conditions of this approval are material elements of the approval based upon the submission of the application and property in its entirety,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

Motion was made by Ms. Hirt, and seconded by Mr. Martin to grant conditional, preliminary major subdivision as set forth herein.

<u>VOTE ON</u> <u>DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON</u> <u>RESOLUTION</u>
<u>Yes</u>	Hess	<u>Yes</u>
<u>----</u>	Rossi	<u>----</u>
<u>Yes</u>	Strube	<u>Yes</u>
<u>Abst</u>	Carlbon	<u>----</u>
<u>Abst</u>	Dean	<u>----</u>
<u>----</u>	Niemiec	<u>----</u>
<u>Yes</u>	Hirt	<u>----</u>
<u>Yes</u>	Martin	<u>----</u>
<u>----</u>	Grill	<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 January 22, 1998.

  
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Grace Kocher, Board Secretary  
Union Township Planning Board

  
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Richard Hess, Chairman  
Union Township Planning Board