

December 4, 2007

From Mark C. Tighe
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DRAFT Report of the Board of Adjustment Borough of North Plainfield
Year of 2007

General

I am happy to report that all of the 2007 Board of Adjustment members went to the mandatory training classes given by the Department of Community Affairs. I can share with the Council that the members found the training to be interesting and informative. If additional training is offered I would like the council to consider sending the BOA members.

2007 was a particularly slow year for the Board of Adjustment. Out of a potential Twenty-four regular meetings the BOA actually met six times and had one special meeting.

- o January 17, 2007 BOA organized
- o June 17, 2007 - Heard the Thul deck application which was approved
- o September 5, 2007 carried over four meetings was the Yeshiva application.
- o October 31, 2007 the BOA had a special meeting for Yeshiva which was approved.

As in the past I will support canceling meetings if there are no applications on the agenda. Meeting minutes and resolutions will be carried until new business warrants the board to meet.

Planning Issues

Previously, I have recommended that Funds be appropriated to have the Master Plan reviewed and up dated. Based on planners testimony there seems to be widespread confusion about what exactly constitutes our Master Plan. I would encourage development of a clear plan for our Business Districts and there needs to be clarification about whether the Madden report is included, or if the newest document is a "stand-alone document" If it is it should be readily available at Borough Hall for consultants to review.

Other Issues include the following

Our ordinance on cell phone towers:

The BOA has heard three separate applications on cell towers. All testimony offered supports installation of an additional two or three cell phone towers within the borough boundaries.

Our tower ordinance allows for installation on borough property. But because of the requirement to not be within 1000 feet of residences or schools, we essentially invalidate the entire ordinance, since it prohibits any cell tower in North Plainfield. Additionally, the courts found in other communities where town property was required, the requirement invalidated the ordinance - if the reason for the restriction was based on reserving financial remuneration solely for the town. The BOA has recommended this use be permitted with conditions along Route 22, including the Kmart property. Approving this would reduce the likelihood of an application in the Borough's residential zones.

1. The R-4 zones north of Route 22;

If you look at our Zoning map almost every lot north of Route 22 is zoned differently. This is because in the past we have legalized the existing use and not developed a concise plan for future development. Any residential development in this area is a burden to the community and it is the consensus of the BOA that all the R zones be changed to B-4.

Many of apartments have exceeded their useful life and in keeping with the characteristics of route 22, owners should be encouraged to convert their property to commercial uses. The properties could be developed into shops and restaurants (similar to the village at the Bridgewater Mall) that would attract regional buyers to North Plainfield.

2. The Yeshiva application

This was a very difficult application mainly because the use was essentially approved as an inherently beneficial use. Private schools should be addressed in the Master Plan including the type and intensity of use, number of students per square foot. Recreational areas and buffering, as well as regulation of residential and non-residential schools.

Additionally I would like to express my concern about the continuous expansion of Camp Out... About five years ago the BOA worked on developing a site plan and had imposed strict guidelines for fire lanes and minimal outdoor displays as part of our resolution. Today the business has expanded on two adjacent properties and outdoor displays have been spread out over a 1000 foot frontage of Route 22.

Lastly I would like offer two project that worked out well for all involved. Two typical Cape Cod style homes at 292 Grove St and 524 Oakridge Road sought approval for 2nd story additions. The BOA approved these applications and the completed projects have helped the owners and have improved the property tremendously. These are the types of applications that should be encouraged.

Respectfully Submitted

**Mark Tighe
Chairman**

December 17, 2008

To Mr. Frank Stabile
Council President
North Plainfield Borough Council
263 Somerset Street
North Plainfield, NJ 07060

From: Mark C. Tighe Chairman
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Report of the Board of Adjustment Borough of North Plainfield 2008

General

I am happy with present appointments on the board. The diversity and experience of the members, allow the BOA to thoroughly question applicant's consultants to the benefit of the borough. I believe that determining all facts and findings are important element of an application and that the applicant must present a complete case before a determination is given. I would recommend that the council appoints volunteers to all open positions as we have had some conflicts with attendance from some of the board members.

As in the past, if the county or state level offers any training for the Board, I would recommend that the council consider approving the funds to send the members.

In terms of applications, 2008 was an average year for the Board of Adjustment. Out of a potential twenty-four regular meetings, the BOA met twelve times.

January 16, 2008	BOA organized
April 2, 2008	Application for Soltys' application for second floor addition was approved.
June 4, 2008	Application for Kladis Auto Body appeal of zoning officer decision was approved.
June 18, 2008	Application for Volvo Dealership appeal of zoning officer decision was approved.
July 16, 2008	Application for Greenblatt Billiards Hall was opened and carried over.
September 3, 2008	North Plainfield Nissan expansion was opened and carried over.
September 17, 2008	Greenblatt application was carried over. Application for Rock Discount Liquors to add check cashing business was approved.
October 1, 2008	Peter Beckman application to relocate driveway was carried over. Application expand Yeshiva occupancy was opened and carried over.
October 15, 2008	North Plainfield Nissan expansion application continued.

November 5, 2008

Greenblatt Billiards Hall application was disapproved.

December 2, 2008

North Plainfield Nissan expansion was approved.

December 17, 2008

Metro PC applications at 25 Washington Avenue & Rt. 22 were opened, and carried over.

General Cont.

It has been standard operating procedure while I have been chairman to cancel meetings if there are no applications on the agenda. I will continue to support this procedure in 2009. Meeting minutes and resolutions will be carried until new business warrants the board to meet.

Planning Issues

- The BOA is on record requesting that funds be appropriated for the Master Plan. I would encourage development of a new Master Plan including a clear plan for our Business Districts. I would strongly recommend that the Council and Planning Board treat this as a priority in the new year. I suggest that a Committee be formed to pave the way in developing a scope of work and preparing a RFP. Its recommendations will be sent to the Planning Board for review. I as well as other experienced members of the BOA would volunteer to be part of this committee.
- In the latest Nissan application, the applicant's planner was not able to obtain a copy of the Master Plan at Borough Hall. It is imperative that this documents be readily available at Borough Hall for consultants to review. There also seems to be widespread confusion about if the Madden document is part of the Master Plan, or if the newest document (2002) is considered a "stand-alone document".
- I would like to thank the council for revising the ordinance 08-27 "payment of taxes and assessments". I feel that this is a good ordinance and it is important that any owner seeking a variance or a planning board determination have their property taxes paid up to date.
- I would recommend that a planner be approved to review all use variance applications as a matter of SOP. It would be helpful on these applications to have a planning opinion as to how the application fits with the new Master Plan (this fee would be charged to escrow)

Other issues include the following:

1. The Yeshiva application

The Yeshiva application in 2007 was passed because the board felt that the use was inherently beneficial based on precedent. We feel that the use of "private schools" should be address in the Master Plan including approved zoning areas and specifically detail the occupancy that the borough would consider appropriate, also guidelines for open areas, parking and buffering would be helpful.

2. The R-4 zones north of Route 22

Last year we recommended that the R4 zones north of Route 22 be zoned as B4. Many of the apartments have exceeded their useful life and in keeping with the characteristics of Route 22, owners should be encouraged to convert their property to commercial uses. The properties could be developed into shops and restaurants (similar to the Bridgewater Mall Village) that would attract regional buyers to our area.

Uses Not identified in Master Plan

3. As part of the Master review, uses that are silent should be addressed. In an recent application, Mr. Greenblatt wanted to create a billiards hall out of a warehouse. Billiard halls are not mentioned in the Master Plan at all. In addition, car washes should be addressed and the storage and display of trailers (i.e. Camp Out) should be addressed.

4. **Cell Tower Ordinance**

Over the past two years, the BOA has heard three separate applications on cell towers. All testimony offered supports installation of an additional two or three cell phone towers within the borough boundaries. Our tower ordinance allows for installation on borough property. But, because of the requirement to not be within 1000 feet of residences or schools, we essentially invalidate the entire ordinance, since it prohibits any cell tower in North Plainfield. Additionally, the courts found in other communities where town property was required, the requirement invalidated the ordinance - if the reason for the restriction was based on reserving financial remuneration solely for the town. The BOA has recommended this use be permitted with conditions along Route 22, including the Kmart property. Approving this would reduce the likelihood of an application in the Borough's residential zones.

Respectfully Submitted,



Mark Tighe
Chairman

C BOA Members
Mr. Thomas Fagan Chairman Planning Board
Council Members

**RESOLUTION OF THE PLANNING BOARD OF
THE BOROUGH OF NORTH PLAINFIELD
SD 01-05 DELL'OLIO**

WHEREAS, MICHAEL DELL'OLIO (hereinafter the "Applicant"), located at 110 Rockview Avenue, North Plainfield, New Jersey, has applied to the Planning Board of the Borough of North Plainfield (hereinafter the "Board"), for preliminary major subdivision approval for creation of nine (9) single family building lots on property designated as Lots 13 and 14, Block 154.01 on the Tax Map of the Borough of North Plainfield, which is property is commonly known as 110-112 Rockview Avenue, North Plainfield, New Jersey, which property is now located in the R-8 Zone on the Zoning Map of the Borough of North Plainfield; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the Applicant's witnesses and of adjoining property owners and the general public, if any, and the reports of various officers and agencies of the Borough, whose reports are incorporated herein by reference, has made the following factual findings:

1. The Applicant seeks to subdivide an existing 4.21 acre parcel which contains one single family dwelling, a three story multi-tenant residence and a barn/dwelling structure into nine (9) new single family building lots with a proposed public cul-de-sac road. The existing buildings shall be demolished as part of the subdivision approval;
2. The application was first brought before the Board in 2001. Before the hearings were completed, in December, 2001, the Borough's governing body enacted the ordinances that created the R-8 zone which included the Applicant's property and which deprived the Board of jurisdiction over the application. As a result of litigation, the application was remanded to the Board by the Court to decide the application under the bulk and lot size requirements of the R-1 zone that were in effect at the time the application was initially filed. The Board held additional public hearings on the application on November 29, 2006, December 20, 2006, January 24, 2007 and February 7, 2007, rendering its decision on the application on February 7th;
3. The Board incorporated the testimony that was received on the application at the 2001 hearings, as well as the reports that were submitted at that time. These reports include, but are not limited to the report of Kupper Associates dated November 2, 2001, the report of PK Environmental dated November 27, 2001 (regarding the application for a letter of interpretation line verification of the wetlands), and report of Harry L. Allen, Ph.D., Chair of the North Plainfield Environmental Commission, dated November 19, 2001. The hearings resumed with the Applicant's civil engineer, Aidan Murphy, summarizing his previous testimony that was given during the 2001 hearings. Mr. Murphy submitted a Stormwater Management Report dated September 29, 2006, and described the amendments and changes to the proposed subdivision shown on revised plans dated September 28, 2006, and subsequently further revised in plans bearing latest revision date of December 28, 2006.
4. Mr. Murphy testified that the revised plans and proposed stormwater drainage plan comply with the new New Jersey Department of Environmental Protection (NJDEP) regulations concerning one year and 100 year storms. The drainage system will allow water

to flow over lawns to the on site detention basin and then drain through new pipes into an existing stormwater easement located adjacent to the Easterly lot line of the Applicant's property bordering the rear of lots fronting on Azalea Court. Water from the new roadway will drain into the existing storm sewer system. It was Mr. Murphy's opinion that the rate of runoff will be less than at present for 1, 50 and 100 year storms due to the proposed stormwater drainage system;

5. The Applicant requested that it not be required to show typical floor plans and elevations because it had not determined the style of home that will be constructed. The Board agreed but stated that it would condition any approval on a limitation of the type of dwelling that could be constructed in lieu of requiring floor plans and elevations;

6. In response to statements from the public regarding historic dumping that had taken place on the Applicant's property, the Applicant agreed to conduct soil tests in locations mutually determined by the Applicant's and Borough's engineer. Three test pits were dug and a site inspection revealed deposits of construction debris, including but not limited to concrete, bricks, asphalt, wood, branches, concrete and metal pipe and other debris, but not visible signs of volatile organic compounds (VOC's) that would be considered toxic. The samples that were taken to be analyzed were contaminated but additional samples were taken by Viridian Inc. Environmental Consultants whose findings and analysis were set forth in a report dated January 2007. Merwin Kinkade of Viridian testified that all tests for VOC's and priority pollutants indicated levels were below minimum NJDEP standards for requiring remediation;

7. The Board received reports dated December 18, 2006 and January 15, 2007 from its consulting engineer, Clay McEldowney from Hatch Mott MacDonald Engineers. In response to Mr. McEldowney's reports, Mr. Murphy submitted the revised plans dated December 28, 2006. Among the changes were a flatter and more angled grade to the pipe in the drainage easement to slow the rate of water runoff, and a reduction in the width of the proposed paved roadway to avoid exceeding the amount of impervious coverage that would require an NJDEP stormwater quality review. Mr. Murphy responded to each of Mr. McEldowney's comments in his January 15th letter and explained the manner in which the comments would be addressed;

8. In response to statements from neighbors owning properties fronting on Azalea Court as to the use and ownership of the drainage easement that the Applicant intends to use for stormwater drainage, the Applicant's attorney provided a letter memorandum of law and the Borough Engineer investigated the history of use of the easement. It was determined that the easement had been used for drainage even before the Azalea Court subdivision was approved in 1959 and that the Borough had performed repairs of the pipe in the drainage easement in 2001, indicating a public use and control over the easement. The prevailing law is that where a ditch or stream has been used for water drainage by the public and it has been maintained by a public entity, there is a public right for reasonable use of the drainage stream or ditch in common with the actual owners of the property on which the ditch or stream is located. Therefore the Applicant has the right to use the drainage ditch, although the Board felt that the Applicant should be obligated to maintain the ditch against any adverse change or affect resulting on the additional levels of runoff that will flow through the easement area from the Applicant's proposed detention basin that will be the depository of water runoff from virtually all the new building lots;

9. Members of the public stated concerns about the project that were addressed by the Board. There were concerns about the two corner lots bordering Rockview Avenue having the sides of the dwellings facing the main road. The Board decided that those dwellings should face onto Rockview Avenue and that their driveways should open onto the new cul-de-sac. There were concerns about a builder clearing the entire property but not proceeding with construction of all the proposed dwellings and the Board determined that clearing should take place only as necessary when a dwelling was to be built on each lot. There was public concern about the drop-off in the proposed back yards of certain lots and the Board agreed that there should be protections provided against erosion; and

WHEREAS, the Board has determined that reasons DO exist for the relief sought by the Applicant for the following reasons:

1. The proposed subdivision complies in all material respects with the Borough's Land Development Ordinance in effect in 2001, and the Applicant agreed to comply with all bulk requirements in the R-1 Zone, including side yards, rear yards, lot coverage and height of proposed dwellings;

2. The size of the proposed building lots are significantly larger than are required in the R-1 Zone, are larger than most of the lots on the North side of Rockview Avenue in this area, and are compatible with lots on Rockview Avenue in general;

3. The Applicant's drainage plan satisfies the Borough's requirements of proving that storm water runoff is not likely to be aggravated and in fact if the drainage system is properly maintained, it is likely that stormwater drainage will be improved;

4. The subdivision will advance the purposes of the Municipal Land Use Law by providing an appropriate population density in this residential area while protecting against traffic and drainage problems;

5. The Applicant's engineer agreed to modify the Applicant's plans in order to reduce the impact of the development upon neighboring lots and roadways, including additional trees and landscape buffering, and a reduction in impervious coverage, and other conditions upon which the Board conditioned approval of the application will further insure that the public and the neighborhood will not be adversely affected;

6. The Board has conditioned the approval on certain modifications that will benefit the public, such as replacement of the sidewalk along Rockview Avenue, repair of the curb along Rockview Avenue, controls on the continued maintenance of the stormwater drainage system, including the drainage easement, controls on clearing on the site and protections for the public during construction, and a reasonable limitation on the type of dwelling that will be built, all of which conditions will reduce the likelihood of substantial detriment to the public good;

7. Even though the subdivision is reviewed under the criteria of the R-1 Zone, the proposed development will serve as a reasonable transition between the smaller dwelling lots to the East of the Applicant's property and the remainder of Rockview Avenue where larger dwelling lots exist;

8. As a result of the redevelopment of this property as propose by the subdivision, the existing structures on the Applicant's property will be removed, including the multi-family dwelling, so that the property will be in greater conformity with the uses permitted in the residential zones.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Plainfield that, for the foregoing reasons, the Application of MICHAEL DELL'OLIO for preliminary major subdivision approval be and hereby is GRANTED, subject, however, to the following conditions:

1. The final subdivision plat that will be filed with the County Clerk shall conform to the preliminary plat prepared by Aidan T. Murphy, P.E. bearing latest revision date of December 28, 2006, subject to the modifications required by this Resolution and subject to the review and approval of the Borough's Consulting Engineer as to compliance with all conditions to this Resolution and any Resolution granting final subdivision approval.

2. Prior to obtaining final subdivision approval, the Applicant will prepare and submit for the approval of the Board attorney and Borough's Consulting Engineer a proposed Declaration of Covenants and Restrictions for a homeowners association consisting of the owners of all the proposed building lots which shall provide for the association to be responsible for the maintenance and repair or replacement, where necessary, of the common drainage system, including the detention basin and drainage easement channel to the East of the property, to the extent affected by this development, and any and all common areas, and further providing for all necessary access easements that will permit access onto each lot by the association for the purpose of performing such maintenance, as shown on the aforesaid plans, which Declaration shall be recorded with the Somerset County Clerk prior to issuance of any certificates of occupancy.

3. The proposed dwellings shall not be bi-level style homes, shall be a size and style compatible with the neighborhood on Rockview Avenue, and the dwellings on proposed lots 1 and 8 shall be oriented toward Rockview Avenue with driveway access solely from the cul-de-sac.

4. All utility wiring, including telephone, electric, cable, fiber, etc., shall be installed underground.

5. The subdivision drawings shall be revised to include a non-deciduous landscape berm along the border of the Property with Rockview Avenue, and no less than 18 trees shall be installed along the proposed new cul-de-sac roadway, the location of which shall be approved by the Borough's Consulting Engineer.

6. Parking shall be allowed on one side of the cul-de-sac, and "No parking" signs shall be installed along the cul-de-sac where parking is prohibited.

7. The approximate limits of the old landfill shall be identified on the preliminary subdivision drawings and that area shall be cleared of debris, including building

materials, cans, bottles, tires and all other non-indigenous matter during construction to the satisfaction of the Borough's building department's designee and/or the Borough Engineer.

8. The Applicant shall comply with all requirements of the drainage plan as shown on the aforesaid plans and subject to the approval of the Borough's Consulting Engineer.

9. The street lamps to be installed along the new roadway shall be Dayform Traditionaire style, low in height with downward shielding and cutoffs, and a street lamp shall be installed at the intersection with Rockview Avenue in a location determined by the Borough's Consulting Engineer.

10. The site shall be fenced in during construction in a manner to reasonably protect against public entry onto the property, and this requirement shall be added as a note to the plans.

11. The Applicant shall comply with Round II COAH requirements for this project under COAH regulations in effect as of the date of this approval.

12. Sidewalks shall not be required on the cul-de sac.

13. The Applicant shall comply with the recommendations set forth in the Memorandum of the Borough's consulting Engineer, Clay McEldowney, dated January 15, 2007, as follows:

- A. Section A, Paragraphs 1, 2, 3, 4 and 6 shall be provided prior to commencement of construction of site improvements and signing of preliminary subdivision plans.
- B. Section A, Paragraphs 8, 9, 10 and 11 shall be provided prior to granting of final subdivision approval.
- C. Section C, Paragraph 2, shall be provided prior to construction of site improvements and signing of preliminary subdivision plans.
- D. Section C, Paragraph 3, shall be provided prior to granting of final subdivision approval.
- E. Section D, Paragraph 3, shall be provided prior to construction of site improvements and signing of preliminary subdivision plans.
- F. Section E, Paragraphs 1, 2 and 3, shall be provided prior to construction of site improvements and signing of preliminary subdivision plans.
- G. Section F, Paragraphs 5 and 7, shall be provided prior to construction of site improvements and signing of preliminary subdivision plans.
- H. Section G, Paragraphs 1 through 6, shall be provided prior to construction of site improvements and signing of preliminary subdivision plans.
- I. Section H, Paragraphs 1, 2 and 4 shall be provided prior to construction of site improvements and signing of preliminary subdivision plans, and Paragraph 5, shall be provided prior to granting of final subdivision approval.

14. The Applicant shall provide and maintain performance and maintenance bonds and/or guarantees required by Section 22-67 of the Borough's Land Development Ordinance as determined by the Borough's Consulting Engineer. Prior to commencing construction of improvements, the Applicant's engineer shall submit to the Borough's

Consulting Engineer a construction cost estimate of site improvements. The borough Engineer will review the estimate and prepare a determination of the required construction escrow and performance guarantee.

15. Prior to signing the preliminary subdivision drawings, the Applicant's engineer shall provide additional spot elevations to confirm that his drainage recommendations are accurate and sufficient.

16. The paved area of the proposed road shall be 28 feet wide.


17. The Applicant shall comply with the Fire Chief's recommendation regarding any proposed fire hydrant.

18. The Applicant shall replace the sidewalk along the frontage of the Property on Rockview Avenue with bluestone or stamped concrete material with a bluestone-like appearance to be compatible with existing sidewalks along Rockview Avenue, and the curb along the Rockview Avenue frontage shall be repaired where necessary.

19. All construction and improvements shall comply with all applicable Borough building ordinances and codes and R.S.I.S. standards, including but not limited to signs, setbacks, curbs, etc., except for those items for which waivers were specifically granted by the Board.

20. Final individual lot grading plans for each lot shall be prepared and submitted to the borough engineer prior to obtaining a building permit for each lot. Final grading plans shall include the footprint of the proposed dwelling, site improvements, and proposed final lot grading. Preliminary grading plans for lots 5 and 6 indicate steep slopes immediately outside the rear of the proposed dwellings and provide little usable back yard area. Final grading plans should employ use of retaining walls where feasible to improve the utility of these lots' rear yards.

21. No lot clearing on a particular lot shall be commenced until a building permit is obtained for construction on that lot, except as is needed to install the drainage system or other utilities or site improvements. The smallest practical area of land shall be disturbed at any one time during construction of dwellings or site improvements.

22. The existing dwellings on the Applicant's property that are within the 9 proposed building lots and detention areas shall be demolished prior to issuance of a building permit for construction of any of the dwellings, ^{except for} unless any existing single family dwelling satisfies all bulk and use requirements in the ordinance, it being understood that once the subdivision plat is filed, creating the separate building lots, the existing dwellings within the subdivision can no longer be occupied except for any single family dwelling that satisfies all bulk and use requirements; *that* 

23. The Applicant shall schedule and participate in a pre-construction meeting with the Borough's Consulting Engineer prior to commencing construction on the site. The meeting shall be attended by the Applicant, his contractor, a representative of the Somerset County Soil Conservation District, and the Borough's Consulting Engineer

24. Any impasse between the Applicant and the Boards professionals related to outstanding conditions may be brought back to the Board for final determination.

25. The Applicant shall submit revised preliminary subdivision drawings within sixty (60) days after the Applicant's receipt of the memorializing resolution.

26. The Applicant shall pay all outstanding charges to its escrow account through the date of submission of preliminary subdivision plans for signing by Borough officials prior to the execution of those plans.

27. All conditions to this Resolution shall be satisfied prior to granting of final subdivision approval, except those that are required to be satisfied prior to issuance of permits for any site improvements or that are conditions that are satisfied after granting final approval.

28. The Applicants shall show on its preliminary subdivision drawings a permanent stakeout of the wetlands delineation to avoid any encroachment into the wetlands and associated transition areas during construction, and shall otherwise comply with NJDEP regulations with regard to the wetlands areas.

29. The Applicant shall apply for and obtain final subdivision approval within the time and in the manner required by the Municipal Land Use Law, within three (3) years of the date of this approval.

30. Revised subdivision drawings, including the preliminary plat, shall be submitted to the satisfaction of the Board's Consulting Engineer and evidenced by the Engineer in writing before they are endorsed by the Board's chairperson and secretary. No construction of site improvements may commence until the Board secretary has the requisite number of endorsed subdivision drawings. to the satisfaction of the Board's Consulting Engineer and evidenced by the Engineer in writing before they are endorsed by the Board's chairperson and secretary. No construction of site improvements may commence until the Board secretary has the requisite number of endorsed subdivision drawings.

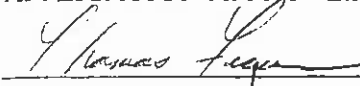
31. The Applicant shall obtain all necessary permits and approvals from all other municipal, county, regional, state and, if necessary, federal agencies as may be required by appropriate regulations, ordinances and statutes.

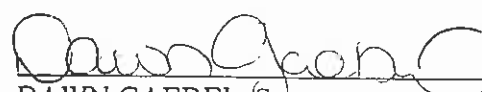
ROLL CALL VOTE:

THOSE IN FAVOR: Members Coxwell, Righetti, Hollod, Lange, Kreder, Mayor Allen and Chairman Fagan

THOSE OPPOSED: None

APPLICATION APPROVED:


THOMAS FAGAN, Chairman
#199175

 3/28/07
DAWN GAEBEL, Secretary

**RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF NORTH PLAINFIELD
SD 01-05 DELL'OLIO**

WHEREAS, MICHAEL DELL'OLIO (hereinafter the Applicant), located at 110-112 Rockview Avenue, North Plainfield, New Jersey, has applied to the Planning Board of the Borough of North Plainfield (hereinafter the "Board") for preliminary and final major subdivision approval for creation of ten (10) building lots on property designated as Block 154.01, Lots 13 and 14 on the Tax Map of the Borough of North Plainfield, which property is commonly known as 110-112 Rockview Avenue, North Plainfield, New Jersey, and was, at the time the application was filed, located in the R-1 Zone on the Zoning Map of the Borough of North Plainfield; and

WHEREAS, waivers were granted to the Applicant by the Board on November 5, 2001 for items not shown on the Applicant's plans that were required by the subdivision checklist in the Land Development Ordinance of the Borough; and

WHEREAS, the Applicant amended his application on November 5, 2001 to bifurcate the application and to apply only for preliminary subdivision approval; and

WHEREAS, hearings were held on the application on November 5, 2001, November 20, 2001 and November 28, 2001, all of which were special meetings held for the specific purpose of hearing the Applicant's application; and

WHEREAS, the Board was notified by the attorney for the Borough of North Plainfield, Eric Bernstein, Esq. that Ordinance No. 01-17 was adopted and became effective on December 9, 2001; and

WHEREAS, the effect of Ordinance No. 01-17 was to rezone the Applicant's property to become part of the R-8 Residence Zone, which requires a minimum lot area of one (1) acre measured within 245 feet of the front right of way; and

WHEREAS, as a result of the rezoning of the Applicant's property, the Applicant's application for a ten lot subdivision would require a density variance under N.J.S.A. 40:55D-70d, and the Planning Board lacks the authority under the Municipal Land Use Law to hear or grant variances under Section 70d; and

WHEREAS, under existing case law, including but not limited to *Manalapan Realty v. Township Committee of Manalapan*, 140 N.J. 366 (1995), an amendment to the Land Development Ordinance that becomes effective during the pendency of a land development application becomes applicable to the applicant's property so that Ordinance No. 01-17 became applicable to this Applicant's property during the pendency of its application; and

WHEREAS, based upon the notification that Ordinance No. 01-17 had become effective prior to the Board's acting on the Applicant's application, the Planning Board has determined that it lacks jurisdiction to hear the Applicant's application for the reasons set forth above.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Plainfield that, for the foregoing reasons, the application of MICHAEL DELL'OLIO for preliminary major subdivision approval be and hereby is DENIED. This denial is not to be considered a decision on the merits of the application and is without prejudice to the Applicant's right to apply to the Board of Adjustment of the Borough of North Plainfield for relief under Section 70d of the Municipal Land Use Law.

ROLL CALL VOTE:

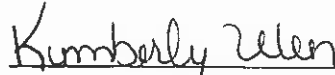
Those in favor (of denying the application without prejudice): Members DeGeorge, Jenkins, Kreder, Righetti, McNulty, Fagan and Chairperson Hansen.

Those opposed: None.

Abstentions: Mayor Allen

MOTION GRANTED (APPLICATION DENIED WITHOUT PREJUDICE)


THOMAS FAGAN, Chairman

 1-28-02
KIMBERLY ULEN, Secretary

**RESOLUTION OF THE PLANNING BOARD OF
THE BOROUGH OF NORTH PLAINFIELD
SD-08-002 STONYBROOK HILLS**

WHEREAS, STONYBROOK HILLS (hereinafter the "Applicant"), located at 266 Harristown Road, Glen Rock, New Jersey, has applied to the Planning Board of the Borough of North Plainfield (hereinafter the "Board"), for preliminary subdivision approval to permit the Applicant to create 48 residential lots on property designated as Lot 2, Block 110 on the Tax Map of the Borough of North Plainfield, which is Property is commonly known as 641 Somerset Street, North Plainfield, New Jersey, and which Property is located in the R-2 Zone on the Land Use Map of the Borough of North Plainfield; and

WHEREAS, the Board held hearings on the application on September 24, 2008 and June 24, 2009; and

WHEREAS, after carefully considering the evidence presented by the Applicant and the Applicant's witnesses and of adjoining property owners and the general public, if any, and the reports of various officers and agencies of the Borough, whose reports are incorporated herein by reference, has made the following factual findings:

1. The Applicant seeks to subdivide a 14.634 acre tract into 48 residential lots, a reserved lot, a conservation easement lot and a stormwater management facility lot, in addition to roadways, utilities and other land to be dedicated to the Borough of North Plainfield. The Applicant seeks no variances from the requirements of the Borough's Land Development Ordinance;

2. The subject Property is located north of U.S. Highway Route 22 and is bordered on the east by Somerset Street, on the west by Grove Street, and on the north by Interhaven Avenue. Although the Property is located in a residential zone, it is surrounded on part of three sides by commercial zones, both in the Borough and in neighboring Green Brook Township and Watchung Borough;

3. The Applicant initially applied for creation of 55 residential lots. The application was amended and the number of residential lots was reduced as a result of changes required in order to comply with certain comments from the Borough Engineer in his memorandum dated September 11, 2008;

4. The Board is in receipt of, and incorporates by reference, the report of Birdsall Services Group dated December 8, 2008, which enumerates each plan, report and communication received to that date relating to the application and also describes the extent to which the applicant had complied with the requests of the Borough Engineer set forth in its previous report dated September 11, 2008. In addition, the Applicant agreed to comply with the remaining comments in the Borough Engineer's report as a condition of approval;

5. The Board is in receipt of, and incorporates by reference herein, the report of Omni Environmental dated December 8, 2009. Omni states that the Applicant's revised layout constitutes a large improvement from the previous submission but expressed certain remaining issues. The Applicant's engineer, Bertin Engineering Associates, responded to Omni's report in a letter dated June 12, 2009 by agreeing to comply with the recommendations set forth in Omni's report or to resolve any remaining issues arising from that report;

6. The Board is in receipt of an Environmental Impact Statement prepared by Bertin Engineering Associates dated November 10, 2008, in which the Applicant's engineer concludes that the existing buildings on the Property cannot easily and feasibly be renovated for use and that the redevelopment of the Property as proposed is consistent with the zoning ordinance and will have little if any adverse affect on the environment;

7. The Board is in receipt of, and incorporates by reference herein, the report of Dolan & Dean, consulting traffic engineers, dated September 16, 2008. Dolan & Dean conclude that there will be minimal adverse impact caused by the proposed development on traffic conditions in the area, and make certain recommendations that the Applicant incorporated into its plans;

8. During the hearing on September 24, 2008, the Applicant agreed to increase the amount of landscaping and buffering along the detention basin; no parking will be permitted on the outside curb of the loop road; and the Applicant agreed to speak with the County planning office about traffic concerns at the intersection of Interhaven Avenue and whether a traffic light is merited at that location;

9. The Applicant's engineer, Calisto Bertin, testified at the hearing on June 24, 2009. He introduced revised drawings dated November 10, 2008 which were made part of the record. He testified that the revised plans incorporated the comments of the Dolan & Dean traffic report, the Birdsall report dated December 8, 2008 and the Omni report dated December 8, 2008. Mr. Bertin agreed to comply with the recommendations of Birdsall, Omni and Dolan & Dean or to resolve any remaining issues arising from those consultants' reports;

10. The Applicant's attorney represented to the Board that the Applicant intends to develop the Property in concert with the Age Restricted (ARC) Housing overlay that was recently enacted by the Borough's governing body, but needed to obtain a preliminary approval of this application due to certain financial factors. However, the Board is aware that the Applicant can proceed with this project as approved provided the Applicant satisfies all conditions to the approval and obtains final approval within the time required by the Municipal Land Use Law; and

WHEREAS, the Board has determined that reasons DO exist for the relief sought by the Applicant for the following reasons:

1. The proposed use of the Property and the subdivision complies in all material respects with the Borough's Land Development Ordinance, and the Applicant agreed to comply with all bulk requirements in the R-2 Zone, including side yards, rear yards, lot coverage, lot setbacks, and height of proposed buildings;

2. The Applicant's civil engineer has agreed to comply with all recommendations of the Borough Engineers to insure that the storm water runoff caused by the proposed development of the Property will comply in all respects with Municipal and State regulations, and that storm drainage and water runoff after the project is completed will not adversely affect other properties, the area, or the Borough in general;

3. The Board's own traffic consultant is satisfied that the proposed development will not significantly adversely affect adjacent roadways or intersections. The Applicant has agreed to recommendations from the Borough's traffic consultant to insure that there will be safe traffic flow within the development, adequate parking on the property, and safe traffic patterns of vehicles leaving and entering the property from adjacent roadways;

4. The proposed use of the property is compatible with the area, which includes commercial, industrial, multi-family and single family residential uses;

5. The Applicant has agreed to all recommendations from the various Borough consultants, or to resolve any issues raised by them. and will comply in all respects with the Residential Site Improvement Standards;

6. Although the "negative criteria" of N.J.S.A. 40:55D-70 does not apply to the subject application, nevertheless, the Board was satisfied that there will be no substantial detriment to the public good. The proposed development will have a slight impact on traffic in the area and at nearby intersections, as would any development of the site. However, the Board is mindful that a Planning Board cannot deny an application based on existing offsite conditions where there are already congested streets. *Dunkin Donuts of New Jersey v. North Brunswick*, 193 N.J. Super 513, 515 (App. Div. 1984). The Applicant is providing landscaping that will enhance the appearance of the development. The Applicant has agreed to modifications to its stormwater runoff plan that will mitigate any increase in rate of runoff from the site;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Plainfield that, for the foregoing reasons, the Application of STONYBROOK HILLS, for preliminary subdivision approval be and hereby is GRANTED, subject, however, to the following conditions:

1. All existing buildings on the Property shall be removed prior to commencement of construction;

2. Prior to issuance of building permits, the Applicant will prepare and submit for the approval of the Board attorney and Borough Engineer a proposed

Declaration of Covenants and Restrictions for a Homeowners Association consisting of the owners of all the proposed lots. The Declaration of Covenants and Restrictions for the Homeowners Association shall require the Association to maintain and if necessary repair the drainage system at the level required by the Applicant's drainage plan, and shall further provide that in the event the Association fails to so maintain the drainage system, the Borough shall have the right to assess the Association and individual homeowners for the cost of maintaining and if necessary repairing the drainage system. The Declarations shall provide for the Association to be responsible for the maintenance and repair or replacement, where necessary, and any and all common areas, including but not limited to the conservation easement; and restrictions limiting the use by lot owners of areas within the riparian zone along the rear of their lots. The Declarations shall be recorded with the Somerset County Clerk prior to issuance of any certificates of occupancy;

3. The Applicant shall provide to the Building Department prior to issuance of any building permits a letter from the Borough tax collector stating that all taxes due to that date have been paid;

4. Any retaining walls constructed on the Property shall be approved by the Borough Engineer or any structural engineer appointed by the Borough Engineer;

5. All utility wiring, including telephone, electric, cable, fiber, etc., shall be installed underground;

6. The Applicant shall install buffering along the detention basin subject to the approval of the Borough Engineer;

7. The Applicant will obtain written confirmation from New Jersey Department of Environmental Protection that no DEP permits or approvals are required with respect to stream encroachment or land use issues;

8. No parking shall be permitted along the outside curb of the loop road;

9. The Applicant shall comply with all requirements of the drainage plan as shown on the aforesaid plans;

10. The site shall be fenced in during construction in a manner to protect against public entry onto the property, and this requirement shall be added as a note to the plans;

11. The sidewalks that are to be installed shall consist of pervious concrete, if deemed feasible by the Borough Engineer;

12. The Applicant shall comply with its fair share obligations under applicable COAH regulations in effect at the time building permits are issued;

13. The Applicant shall provide and maintain performance and maintenance bonds and/or guarantees required by Section 22-67 of the Borough's Land Development Ordinance as determined by the Borough Engineer. Prior to commencing construction of improvements, the Applicant's engineer shall submit to the Borough's Engineer a construction cost estimate of site improvements. The Borough Engineer will review the estimate and prepare a determination of the required construction escrow and performance guarantee;

14. The Applicant shall comply with all comments set forth in the reports from Birdsall Services Group dated December 8, 2008, Omni Environmental LLC dated December 8, 2008 and Dolan & Dean dated September 16, 2008;

15. The Applicant will perform any sanitary sewer inspections that the Borough Engineer deems necessary and the Applicant shall perform any pipe maintenance or repairs that are reasonably required by the Borough or PARSA for connection of the project into the existing sanitary sewer system;

16. The subdivision plan shall comply with the drawings prepared by Bertin Engineering Associates, Inc. dated November 10, 2008 consisting of 15 pages except for revisions required by these conditions;

17. The Applicant shall repave any areas of adjacent roadways that are disturbed or damaged by trucks coming to and from the Applicant's Property during construction, and the Applicant shall notify the property owners in the neighborhood prior to commencing work on adjacent roadways so the property owners can perform any improvements to their properties before completion of paving of the road. The Applicant shall take pre-construction photographs of adjacent streets that will be used for construction traffic and provide them to the Borough Engineer in order to determine the nature and extent of damage that is caused to these roadways during construction;

18. All construction and improvements shall comply with all applicable Borough building ordinances and codes and R.S.I.S. standards, including but not limited to signs, setbacks, curbs, etc.;

19. A final grading plan for the site shall be prepared and submitted to the Borough Engineer prior to obtaining a building permit for the project;

20. The Applicant shall apply for and obtain final subdivision approval within the time and in the manner required by the Municipal Land Use Law and the Borough's Land Development Ordinance;

21. The Applicant shall request the County to perform an evaluation of the warrants for a signal at the intersection of Somerset Street and Interhaven Avenue, and if the County requires the Applicant to pay part or all of the expense of such evaluation, the Applicant will do so. If the warrants merit a signal, the Applicant shall apply to the County for a signal, which will be built at no expense to the Borough (the expense to be

borne by the County and/or the Applicant), to which application the Borough will join. However, this approval is not conditioned upon County approval of a light;

22. The Applicant shall apply to the governing body of the Borough for passage of an ordinance prohibiting parking on the south side of Interhaven Avenue, from the development entrance to the intersection with Somerset Street. However, this approval is not conditioned upon Borough approval of such an ordinance;

23. No clearing on the property shall be commenced until a building permit is obtained for construction, except as is needed to install the drainage system or other utilities or site improvements. The smallest practical area of land shall be disturbed at any one time during construction of buildings or site improvements. The fewest practical number of trees shall be disturbed or removed. At least two, and where necessary three, trees shall be planted on each building lot so that the same number of trees are planted as the number of healthy trees that are removed. All new trees shall have a size that is reasonably acceptable to the Borough Engineer's landscape architect so that mature trees rather than saplings are replacing the existing older trees that are disturbed;

24. The Applicant shall schedule and participate in a pre-construction meeting with the Borough Engineer prior to commencing construction on the site. The meeting shall be attended by the Applicant, his contractor, a representative of the Somerset County Soil Conservation District, and the Borough Engineer;

25. All conditions to this Resolution shall be satisfied prior to issuance of permits for any site improvements to the extent same are required to be satisfied prior to the issuance of permits, and otherwise prior to the issuance of any certificates of occupancy;

26. The Applicant shall obtain all necessary permits and approvals from all other municipal, county, regional, state and, if necessary, federal agencies as may be required by appropriate regulations, ordinances and statutes;

27. A revised site plan showing all revisions required by these conditions shall be submitted to the satisfaction of the Borough Engineer and evidenced by the Engineer in writing before they are endorsed by the Board's chairperson and secretary. No construction of site improvements may commence until the Board secretary has the requisite number of endorsed site plan drawings to the satisfaction of the Borough Engineer and evidenced by the Engineer in writing before they are endorsed by the Board's chairperson and secretary. No construction of site improvements may commence until the Board secretary has the requisite number of endorsed site plan drawings;

28. The name of the development shall be "Stony Brook at North Plainfield" or other name that is reasonably satisfactory to the Borough Administrator;

29. A Developer's Agreement shall be executed between the Borough and Applicant providing for completion of site improvements and infrastructure prior to commencement of construction and for protection for the Borough in the event of phased-in construction of units, including but not limited to the provision of affordable housing units;

30. Trucks and heavy equipment and machinery used during or in connection with construction shall not be started or utilized at the site or in the neighborhood prior to 8:00 a.m. in the morning, nor be utilized later than 6:00 p.m. in the evening, Monday through Friday.

31. The superstructure of the "blue" bridge on the Property shall be removed but the abutments shall remain in place.

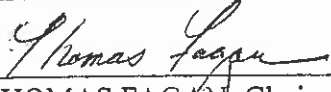
ROLL CALL VOTE:

THOSE IN FAVOR: Members Branan, Coxwell, Hollod, Kreder, Kreder, Righetti, Stabile, Mayor Giordano and Chairman Fagan

THOSE OPPOSED: None

ABSTAIN: Member Mitchell

APPLICATION APPROVED:

 7/23/09
THOMAS FAGAN, Chairman


DAWN GAEBEL, Secretary

**RESOLUTION OF THE PLANNING BOARD OF
THE BOROUGH OF NORTH PLAINFIELD
SPR 07-01 WATCHUNG HILLS AT NORTH PLAINFIELD**

WHEREAS, WATCHUNG HILLS AT NORTH PLAINFIELD, LLC (hereinafter the "Applicant"), located at 266 Harristown Road, Glen Rock, New Jersey, has applied to the Planning Board of the Borough of North Plainfield (hereinafter the "Board"), for preliminary and final site plan approval to permit the Applicant to construct 225 attached age restricted apartment dwelling units on property designated as Lot 2, Block 110 on the Tax Map of the Borough of North Plainfield, which is property is commonly known as 641 Somerset Street, North Plainfield, New Jersey, and which property is located in the R-9 (ARC) Zone on the Land Use Map of the Borough of North Plainfield; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the Applicant's witnesses and of adjoining property owners and the general public, if any, and the reports of various officers and agencies of the Borough, whose reports are incorporated herein by reference, has made the following factual findings:

1. The Applicant seeks to construct a 225 unit residential mid-rise residential midrise condominium complex on a property that is approximately 14.6 acres in area and presently contains multiple buildings that were previously occupied by the Villa Maria Convent.
2. The Applicant proposes to construct a total of 9 buildings, plus a club house and pool as amenities, all as shown on a site plan entitled "Watchung Hills at North Plainfield, LLC, prepared by Bertin Engineering Associates, Inc., bearing last revision date of May 30, 2007, consisting of 15 pages;
3. The proposed site plan complies in each respect with the use and bulk requirements of the ARC (Age Restricted Residential Zone), Section 22-106 et seq. of the Borough's Land Development Ordinance. A question arose at the first hearing as to the compliance of the proposed buildings with the height limitations under the ARC zone, and certain modifications were made to the proposed buildings to the satisfaction of the Borough Engineer so that the height of the buildings would not exceed the zoning limitations;
4. The Board conducted hearings on the application on May 9, 2007, June 13, 2007, June 27, 2007, July 18, 2007, and July 25, 2007. During the hearings, the Applicant agreed to a number of modifications to the proposed site plan in response to questions or comments from the public and the Board and its professionals, particularly with regard to the architecture and appearance of the buildings; walkways around and through the development; traffic patterns and parking layout; and preservation of trees and other natural characteristics of the present property;
5. The Board is in receipt of, and incorporates herein by reference, requests from recommendations from the Borough Zoning Officer, Borough Police Department, and Borough Construction Official, each of which state that the respective Borough agency has no comments or recommendations regarding the project;

6. The Board is in receipt of, and incorporates herein by reference, reports dated April 12, 2007 and June 22, 2007 from Daniel Swayze, P.E., Borough Engineer. The Applicant amended its plans in reply to the April 12th letter, which changes were addressed in a memorandum from the Applicant's engineer, Bertin Engineering, dated June 1, 2007. The Applicant further agreed to comply with the remaining comments set forth in Mr. Swayze's memorandum dated June 22, 2007, upon which any approval would be conditioned;

7. The Board is in receipt of, and incorporates herein by reference, of a memorandum dated April 27, 2007 from the William F. Eaton, Borough Fire Chief, in which 12 recommendations were made. The Applicant agreed to comply with each of these recommendations subject to reaching an agreement with the Fire Chief as to the location of the dumpsters on the property;

8. During the pendency of the application, the Board became aware of certain litigation affecting the ordinances under which the ARC zone was created. Members of the public requested that the Board delay its deliberations while the litigation was pending. However, in keeping with the Board's past practice and its obligation to hear and decide applications before it in a timely and diligent manner, absent the entry of an order by the court staying the hearing of the application, the Board determined that it would proceed with the application;

9. The Applicant represented that the units would be for sale, and not rentals, that there would be age restriction limitations so that occupants would be 55 and over without school-age children as required by the Land Development Ordinance, and the Applicant further represented to the Board that it would comply with the Borough's affordable housing ordinance and that the affordable housing units would be distributed and dispersed throughout the development. The Applicant agreed that there would be deed restrictions regarding the affordable housing units and the age limitations. The Board relied upon these representations in evaluating and ultimately approving the application. The Board's analysis of the public benefit of the proposed project, the impact on public services and infrastructure and the school system, and the traffic analysis would have been completely different had these representations not been made by the Applicant;

10. The Applicant presented the testimony of its project engineer, Calisto Bertin. Mr. Bertin testified that all existing buildings would be removed from the site, that a detention basin would be installed, that there would be no disturbance in the flood plain, and that the project would meet or exceed all storm water runoff requirements and all storm events required for the storm water drainage plan. There would be a drywell system for runoff coming from the gutters so that the detention basin would not be burdened with that runoff. Only the parking lot areas, driveways and open areas would drain into the detention basin. Mr. Bertin also emphasized that the Applicant would be complying with the drainage recommendations of the Borough Engineer, as well as the Residential Site Improvement Standards (RSIS) and would obtain all necessary permits and approvals with regard to stream on the property and drainage in general;

11. During the course of the hearings, the Applicant was made aware of concerns of neighbors with regard to lights of vehicles leaving the property shining into windows. The Applicant made certain modifications, including additional shielding, change of grade, and

reexamination of driveways to insure that shining of lights onto adjacent residential properties would be minimized;

12. Mr. Bertin testified that there would be 193 new trees installed and 1158 shrubs including foundation plantings. The Board made the Applicant aware that it expects the Applicant to remove and disturb as few existing, mature and healthy trees as possible during and after construction;

13. The Applicant offered the testimony of Mary Scro, a licensed architect, who described the layout and size of the proposed units. The "loft" that will be available on larger units will not be large enough to become a bedroom and will be open to the lower floors so that it will not easily be converted into a bedroom. The Applicant agreed to modify the facades of the buildings to increase the size of balconies and install shutters and make other aesthetic modifications in order to break up the "mass" of the buildings and provide for greater variety and increased detail between buildings. The Applicant showed the Board revised architectural elevations at the meeting on June 27, 2007 which included the changes required by the Board member's comments, including faux chimneys, in order to improve the aesthetic appearance of the buildings;

14. Mr. Bertin testified on behalf of the Applicant as a traffic engineering expert. His report dated January 10, 2007 and revised on June 15, 2007 (in response to requests from the Board's traffic consultant for additional traffic counts) was introduced and accepted as part of the record. Mr. Bertin testified that he used ITE trip generation counts as well as manual counts at the critical intersections near the subject property. The level of service at the intersection of Somerset Street and Interhaven Avenue in the evening is at an "F" level. He testified that none of the levels of service on any of the nearby roadways will be changed as a result of the development, and the average delay time would be increased slightly. Mr. Bertin agreed to certain recommendations and conditions, including a no left turn into Interhaven Avenue from the south and one way traffic away from the property on the bridge to Somerset Street. He also agreed that the Applicant would comply with the "site plan comments" in the Dolan & Dean report submitted on behalf of the Borough's traffic consultant dated July 13, 2007;

15. Elizabeth Dolan, a traffic engineer with Dolan & Dean testified as the Board's independent traffic consultant. She introduced a report from her firm dated July 13, 2007 and it was accepted as part of the record. She stated that the manual traffic count technique utilized by Mr. Bertin's firm was valid and she had no objection to the method of counts or the counts themselves. She testified that the project would cause a fluctuation of traffic but not a measurable impact on existing traffic levels. Ms. Dolan testified that there should be a study of "warrants" for installing a light at the Interhaven/Somerset Street intersection. Ms. Dolan recommended that a larger island be installed and parking areas to improve site lines, that parking should be prohibited on the south side of Interhaven Avenue from the exit of the development to Somerset Street, both of which the Applicant agreed to;

16. Both Mr. Bertin and Ms. Dolan rendered the opinion that the project would not unreasonably affect the traffic problem on Watchung Avenue going northbound at peak morning hours. The number of vehicles leaving the subject property during peak hours in the morning would not significantly aggravate the already serious problem that exists with the backup of traffic moving northbound toward Route 78;

17. The public was given full opportunity to testify and make statements regarding the application. The public was concerned regarding the preservation of the existing historic buildings and wooded areas; questioned the traffic study counts, and the impact of additional traffic on Watchung Avenue in the morning peak hours; was concerned with the impact of the project on properties in the neighborhood, particularly during construction; concern about traffic on Interhaven Avenue and the intersection with Somerset Street; and questioned the need for age restricted housing at this location, in the Borough and in the County in general; and

WHEREAS, the Board has determined that reasons DO exist for the relief sought by the Applicant for the following reasons:

1. The proposed site plan complies in all material respects with the Borough's Land Development Ordinance, and the Applicant agreed to comply with all bulk requirements in the ARC Zone, including side yards, rear yards, lot coverage, lot setbacks, and height of proposed buildings;

2. The Applicant's civil engineer has agreed to the recommendations of the Borough Engineer to insure that the storm water runoff caused by the proposed development of the Property will comply in all respects with Municipal and State regulations, and that storm drainage and water runoff after the project is completed will not adversely affect other properties, the area, or the Borough in general;

3. The Board's own traffic consultant is satisfied that the proposed development will not significantly adversely affect adjacent roadways or intersections, including those that are already at a "failing" level at peak hours. The Applicant has agreed to recommendations from the Borough's traffic consultant to insure that there will be safe traffic flow within the development, adequate parking on the property, and safe traffic patterns of vehicles leaving and entering the property from adjacent roadways;

4. The Applicant agreed to modifications of its architectural plans that will increase the aesthetic value of the proposed buildings, will make the buildings blend in more suitably with properties in the area, and will increase the value of the proposed units due to the architectural enhancements to which the Applicant agreed;

5. The impact of the density of the proposed units on the property is minimized by the age restricted nature of the units and the manner in which traffic from the development will be dispersed in different directions. The Board is satisfied that the density of development is compatible with the neighborhood, taking into consideration the age restricted ownership of the units, the amount of open space and new trees and shrubs that will be planted, and the mixed nature of uses in the neighborhood, including apartments and commercial uses;

6. The proposed use of the property is compatible with the Master Plan and Zoning Ordinance of the Borough, and also with the recommendations of the State Development Guide Plan which seeks to channel growth into existing growth areas and to prevent urban sprawl. The proposed development will prevent senior citizens living in the Borough from having to leave the Borough to seek alternative living arrangements that are

compatible with their needs and desires as they approach and reach retirement age. This has been a goal of the Board and its planners in seeking to create an age restricted residential zone and with the permanent age restrictions and affordable housing regulations that will be incorporated into the master deed and declaration of covenants and restrictions, these planning goals will be addressed;

7. Although the "negative criteria" of N.J.S.A. 40:55D-70 does not apply to the subject application, nevertheless, the Board was satisfied that there will be no substantial detriment to the public good. Rather, the detriment will be minimal since the owner of the property was entitled to develop the property in a manner that would increase the intensity of use of the property and the clustering of housing and age restricted limitations will reduce the aesthetic and traffic impact on adjacent residences and roadways. There will be no adverse impact on the zone plan and zoning ordinances since the application complies in all respects with the zone plan and by offering a variety of housing types to what exists in the residential housing stock in the Borough, the proposed use promotes the purposes of the Municipal Land Use Law;

8. The proposed development will have a slight impact on traffic in the area and at nearby intersections, as would any development of the site. However, the Board is mindful that a Planning Board cannot deny an application based on existing offsite conditions where there are already congested streets. *Dunkin Donuts of New Jersey v. North Brunswick*, 193 N.J. Super 513, 515 (App. Div. 1984).

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Plainfield that, for the foregoing reasons, the Application of WATCHUNG HILLS AT NORTH PLAINFIELD, LLC, for preliminary and final site plan approval be and hereby is GRANTED, subject, however, to the following conditions:

1. All existing buildings on the Property shall be removed prior to commencement of construction.

2. Prior to issuance of building permits, the Applicant will prepare and submit for the approval of the Board attorney and Borough Engineer a proposed Master Deed and Declaration of Covenants and Restrictions for a Homeowners Association consisting of the owners of all the proposed units which shall provide for the Association to be responsible for the maintenance and repair or replacement, where necessary, of the common drainage system, and any and all common areas, which Declaration shall be recorded with the Somerset County Clerk prior to issuance of any certificates of occupancy.

3. The Master Deed and Declaration of Covenants and Restrictions for the Homeowners Association shall also provide for the mandatory resale limitations required for compliance of the COAH units with COAH and municipal regulations regulating COAH housing in effect at the time of this approval. The Applicant shall comply with the municipal housing liaison's request for distribution of affordable units between low- and moderate-cost units and shall comply with all other requirements under municipal ordinances relating to affordable housing in effect at the time of this approval. COAH units will be dispersed throughout the development among the market units on the Property.

4. The Applicant shall comply with the recommendations of the Borough Fire Chief, subject to reaching agreement on the location of the dumpsters on the property.
5. All utility wiring, including telephone, electric, cable, fiber, etc., shall be installed underground.
6. The units shall be for sale and not rentals, and there shall be limitations on the rental of the units by unit owners in the Declaration of Covenants and Restrictions and in the unit Deeds.
7. The Applicant will obtain written confirmation from New Jersey Department of Environmental Protection that no DEP permits or approvals are required with respect to stream encroachment or land use issues;
8. The Applicant will obtain "will serve" confirmatory letters from each of the utility providers required for the project.
9. The Applicant shall comply with all requirements of the drainage plan as shown on the aforesaid plans and with the storm water management requests set forth in the report of the Borough Engineer dated April 12, 2007 and June 22, 2007.
10. The site shall be fenced in during construction in a manner to protect against public entry onto the property, and this requirement shall be added as a note to the plans.
11. Internal walkways utilizing pervious concrete, if deemed feasible by the Borough Engineer, shall be installed in appropriate locations throughout the development.
12. There shall be no antennae of any kind permitted on the top of or outside the buildings, including but not limited to satellite dishes or antennae, and this prohibition shall be set forth in the Declaration of Covenants and Restrictions for the Homeowners Association.
13. The Applicant shall perform a load analysis of the bridge to Somerset Street and signage shall be posted stating the weight limit on the bridge. A "no left turn" sign shall be installed at the intersection below the bridge with Somerset Street and a sign shall be installed at the southerly end of the bridge stating "one-way" traffic toward Somerset Street, as well as any other traffic signs and markings as approved by the Borough Engineer and County Engineer or planning board.
14. The Applicant shall provide and maintain performance and maintenance bonds and/or guarantees required by Section 22-67 of the Borough's Land Development Ordinance as determined by the Borough Engineer. Prior to commencing construction of improvements, the Applicant's engineer shall submit to the Borough's Engineer a construction cost estimate of site improvements. The Borough Engineer will review the estimate and prepare a determination of the required construction escrow and performance guarantee.
15. The Applicant's engineer shall address all comments and conditions in the Borough Engineer's report dated June 22, 2007 to the satisfaction of the Borough Engineer.

16. The Applicant will perform any sanitary sewer inspections that the Borough Engineer deems necessary and the Applicant shall perform any pipe maintenance or repairs that are reasonably required by the Borough or PARSA for connection of the project into the existing sanitary sewer system.

17. The Applicant shall comply with the Fire Chief's recommendation regarding any proposed fire hydrants.

18. The Applicant shall repave Grove Street North of Route 22 and any other roadway that is disturbed or damaged by trucks coming to and from the Applicant's Property during construction, and the Applicant shall notify the property owners in the neighborhood prior to commencing work on adjacent roadways so the property owners can perform any improvements to their properties before completion of paving of the road. The Applicant shall take pre-construction photographs of adjacent streets that will be used for construction traffic and provide them to the Borough Engineer in order to determine the nature and extent of damage that is caused to these roadways during construction.

19. All construction and improvements shall comply with all applicable Borough building ordinances and codes and R.S.I.S. standards, including but not limited to signs, setbacks, curbs, etc..

20. A final grading plan for the site shall be prepared and submitted to the Borough Engineer prior to obtaining a building permit for the project. Final grading plans shall include the footprint of the proposed buildings, site improvements, and proposed final lot grading.

21. The Applicant shall provide for additional parking areas on stabilized grass in areas approved by the Borough Engineer.

22. The Applicant shall perform an evaluation of the warrants for a signal at the intersection of Somerset Street and Interhaven Avenue, and if the warrants merit a signal, apply to the County for a signal, which will be built at no expense to the Borough (the expense to be borne by the County and/or the Applicant), to which application the Borough will join. However, this approval is not conditioned upon County approval of a light.

23. Larger islands shall be installed in the parking areas to improve site lines, and the parking areas shall be paved with pervious concrete if deemed feasible by the Borough Engineer.

24. The Applicant shall apply to the governing body of the Borough for passage of an ordinance prohibiting parking on the south side of Interhaven Avenue, from the development entrance to the intersection with Somerset Street. However, this approval is not conditioned upon Borough approval of such an ordinance.

25. The Applicant shall comply with the "site plan" comments in the report prepared by Dolan & Dean dated July 16, 2007 and the report dated July 19, 2007.

26. No clearing on the property shall be commenced until a building permit is obtained for construction, except as is needed to install the drainage system or other utilities or site improvements. The smallest practical area of land shall be disturbed at any one time during construction of buildings or site improvements. The fewest practical number of trees shall be disturbed or removed. All new trees shall have a size that is reasonably acceptable to the Borough Engineer's landscape architect so that mature trees rather than saplings are replacing the existing older trees that are disturbed.

27. The Master Deed and Declaration of Covenants and Restrictions for the Homeowners Association shall require the Association to maintain and if necessary repair the drainage system at the level required by the Applicant's drainage plan, and shall further provide that in the event the Association fails to so maintain the drainage system, the Borough shall have the right to assess the Association and individual homeowners for the cost of maintaining and if necessary repairing the drainage system.

28. The Applicant shall schedule and participate in a pre-construction meeting with the Borough Engineer prior to commencing construction on the site. The meeting shall be attended by the Applicant, his contractor, a representative of the Somerset County Soil Conservation District, and the Borough Engineer.

29. Any impasse between the Applicant and the Board's or Borough's professionals related to outstanding conditions may be brought back to the Board for final determination.

30. The balconies on the units shall be widened to 6 feet in width and will have solid sides.

31. Shutters shall be added to the windows on the front facades of the buildings.

32. All conditions to this Resolution shall be satisfied prior to issuance of permits for any site improvements.

33. Handicapped spaces shall be added at each building with some spaces to be located in the garaged area.

34. The Applicant shall obtain all necessary permits and approvals from all other municipal, county, regional, state and, if necessary, federal agencies as may be required by appropriate regulations, ordinances and statutes.

35. A revised site plan showing all revisions required by these conditions shall be submitted to the satisfaction of the Borough Engineer and evidenced by the Engineer in writing before they are endorsed by the Board's chairperson and secretary. No construction of site improvements may commence until the Board secretary has the requisite number of endorsed site plan drawings to the satisfaction of the Borough Engineer and evidenced by the Engineer in writing before they are endorsed by the Board's chairperson and secretary. No construction of site improvements may commence until the Board secretary has the requisite number of endorsed site plan drawings.

36. The name of the development shall be "Stony Brook at North Plainfield" or other name that is reasonably satisfactory to the Borough Administrator.

37. The Applicant shall insert in the Master Deed, Declaration of Covenants and Restrictions and unit Deeds adequate safeguards to maintain the age restriction of the units for residents who are 55 and over, and to prohibit school age children, and the Declaration of Covenants and Restrictions shall further provide that if any school age children occupy the units and attend public schools, the unit owner will be assessed by the Borough the amount that is currently being charged, or would be charged, for tuition for out of town students. It is understood and agreed that the Board has relied upon the age restrictions and the continuation of the age restrictions in approving this application and that no future application will be made to reduce, modify or create exceptions to the age restrictions.

38. A Developer's Agreement shall be executed between the Borough and Applicant providing for completion of site improvements and infrastructure prior to commencement of construction and for protection for the Borough in the event of phased-in construction of units, including but not limited to the provision of affordable housing units.

39. Trucks and heavy equipment and machinery used during or in connection with construction shall not be started or utilized at the site or in the neighborhood prior to 8:00 a.m. in the morning, nor be utilized later than 6:00 p.m. in the evening, Monday through Friday.

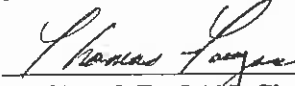
40. The Declaration of Covenants and Restrictions shall include a provision that provides for a priority to be given for units to existing Borough Residents, to the extent permitted by law.

ROLL CALL VOTE:

THOSE IN FAVOR: Members Coxwell, Hollod, Kreder, Lange, Righetti, Stabile, Mayor Allen and Chairman Fagan

THOSE OPPOSED: None

APPLICATION APPROVED:


THOMAS FAGAN, Chairman
#208405


DAWN GAEBEL, Secretary

**RESOLUTION OF THE PLANNING BOARD OF
THE BOROUGH OF NORTH PLAINFIELD
SD 05-01 HURLING**

WHEREAS, CARMELA HURLING (hereinafter the "Applicant"), located at 250 Brook Avenue, North Plainfield, New Jersey, has applied to the Planning Board of the Borough of North Plainfield (hereinafter the "Board"), for preliminary major subdivision approval for creation of five (5) single family building lots on property designated as Lot 22, Block 17.01 on the Tax Map of the Borough of North Plainfield, which is property is commonly known as 250 Brook Avenue, North Plainfield, New Jersey, which property is located in the R-2 Zone on the Zoning Map of the Borough of North Plainfield; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the Applicant's witnesses and of adjoining property owners and the general public, if any, and the reports of various officers and agencies of the Borough, whose reports are incorporated herein by reference, has made the following factual findings:

1. The Applicant seeks to subdivide an existing 1.79 acre lot which contains one single family dwelling into five (5) building lots that will front on a proposed public cul-de-sac road;
2. Each proposed lot will exceed the minimum lot size permitted in the R-2 zone, with the smallest lot to be over 8000 square feet and the average lot size to be over 12,000 square feet;
3. The Applicant proposes a drainage system featuring individual drywells on each lot, along with a common storm water retention/detention basin, which will store and clean storm water before releasing it at a controlled rate into the ground;
4. In response to objections from the owner of adjacent Lot 21, and concerns from the Board and the Borough Engineer, the Applicant redesigned its configuration of lots and the road by creating a strip of land to the East of the roadway so Lot 21 would not become a corner lot; increasing landscaping adjacent to Lot 21, along Brook Avenue and along Edgewater Court;
5. The Applicant's engineer assured the Board that all dwellings can and will be constructed within the legal "building envelope" on each lot so that no bulk variances will be required or requested;
6. The Board is in receipt of reports from PMK Group, the Borough's engineers, dated June 22, 2005, February 28, 2006 and December 3, 2006. At the last hearing on the application, Borough Engineer Dan Swayze testified that he is satisfied with the Applicant's proposed drainage system calculations and that his remaining concerns can be resolved through conditions to an approval or during review for final approval;
7. The Applicant submitted a report from Paul Cowie & Associates, consulting arborists, dated August 15, 2006, which provided an inventory of trees on the property in order to show that a limited number of healthy trees will be lost as a result of construction;

8. The City of Plainfield Planning Director submitted a letter dated April 12, 2006 requesting the Applicant to include a trailway through the conservation easement in order to promote the proposed Green Brook Multiuse Trail, a condition to which the Applicant agreed;

9. As a result of concerns regarding sanitary sewer capacity, a study was performed by PARSA that was memorialized in a letter dated October 5, 2006, stating that there was adequate sewer capacity, that the addition of four dwellings would not cause a burden on the system, and that the existing problems with sewer backups was caused by roots and debris in the system that would be corrected through maintenance and repair of the existing system; and

WHEREAS, the Board has determined that reasons DO exist for the relief sought by the Applicant for the following reasons:

1. The proposed subdivision complied in all material respects with the Borough's Land Development Ordinance and the proposed lot sizes are compatible with and in fact larger than most of the lots in the neighborhood;

2. The Applicant's drainage plan, including the individual dry wells, satisfies the Borough's requirements of proving that storm water runoff is not likely to be aggravated and in fact it is likely that drainage will be improved by the dual system;

3. The subdivision will advance the purposes of the Municipal Land Use Law by providing appropriate population density in this residential area while protecting against traffic and drainage problems;

4. The Applicant agreed to modifications to its plans that reduced the impact of the development upon neighboring lots and roadways, including landscape buffering along Lot 22, Brook Avenue and Edgewater Court, and changing the orientation of the proposed dwelling on the lot closest to Brook Avenue to avoid having the rear of the dwelling facing Brook Avenue.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Plainfield that, for the foregoing reasons, the Application of CARMELA HURLING for preliminary major subdivision approval be and hereby is GRANTED, subject, however, to the following conditions:

1. The subdivision map or deed that will be filed with the County Clerk will conform to the plan prepared by Stephen E. Parker, P.E. bearing latest revision date of October 23, 2006, subject to the modifications required by this Resolution and subject to the review and approval of the Board's attorney and the Borough Engineer;

2. The Applicant will prepare and submit for the approval of the Board attorney and Borough Engineer a proposed Declaration of Covenants and Restrictions for a homeowners association consisting of the owners of all the proposed building lots which shall provide for the association to be responsible for the maintenance and repair or replacement, where necessary, of the common drainage system and for maintenance of the

strip of land extending from proposed Lot 22.05 to Brook Avenue, and further providing for all necessary access easements that will permit access onto each lot for the purpose of performing such maintenance, as shown on the aforesaid plans;

3. The proposed dwellings shall have footprints of not less than 1600 square feet, shall have basements, shall not be bi-level style homes, and shall be a Colonial style compatible with the neighborhood;

4. All utility wiring shall be installed underground;

5. A non deciduous landscape berm shall be installed along the border of the Property with Brook Avenue, and additional plantings shall be installed along the lot line adjacent to Edgewater Court;

6. The Applicant, and its successors in interest, shall provide to the Borough quarterly records showing proof of maintenance (including vacuuming) of the storm water retention system in accordance with the stormwater maintenance manual to be submitted by the applicant's engineer as approved by the Borough Engineer;

7. The Applicant and its successors shall post and maintain a bond for 20 years in an amount deemed sufficient by the Borough Engineer to ensure 20 years of maintenance of the storm water sewer system;

8. The Applicant shall comply with all requirements of the drainage plan as shown on the aforesaid plans and subject to the approval of the Borough Engineer;

9. The street lamps to be installed along the new roadway shall be Dayform Traditionaire style, low in height with downward shielding and cutoffs.

10. The side of the dwelling on proposed lot 22.01 that faces Brook Avenue shall have windows and shutters in order to reduce the severity of appearance of the side wall;

11. The Applicant shall comply with Round II COAH requirements for this project under COAH regulations in effect as of the date of this approval;

12. "No parking" signs shall be installed along the side of the cul-de-sac on which parking is prohibited;

13. The Applicant shall comply with the recommendations set forth in the Memorandum of the Borough Engineer dated December 3, 2006, except that items (c), (d) and 1 (b) can be provided as part of the submission for final approval;

14. The Applicant shall provide and maintain performance and maintenance bonds and/or guarantees required by Section 22-67 of the Borough's Land Development Ordinance as determined by the Borough Engineer;

15. The Applicant's engineer shall provide additional spot elevations to confirm that his drainage recommendations are accurate and sufficient;

16. The paved area of the proposed road shall be widened by four (4) feet on the Westerly side of the road and two (2) feet on the Easterly side of the road so that the paved roadway will be thirty (30) feet wide;

17. The Applicant shall comply with the Fire Chief's recommendation stated in his Memorandum dated March 27, 2006 regarding the proposed fire hydrant;

18. A 10 foot wide public easement shall be provided through the area designated as a "conservation easement" for a trail for use as part of the Greenbrook Multi-Use Trail;

19. All construction and improvements shall comply with all applicable Borough building ordinances and codes and R.S.I.S. standards, including but not limited to signs, setbacks, curbs, etc., except for those items for which waivers are specifically provided in this Resolution;

20. All conditions to this Resolution shall be subject to the approval of the Borough Engineer;

21. All conditions to this Resolution shall be satisfied prior to granting of final subdivision approval, except those that will be permitted by the Board to be conditions to final approval;

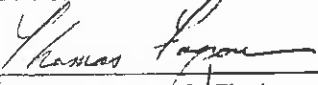
22. The Applicant shall apply for and obtain final subdivision approval within the time and in the manner required by the Municipal Land Use Law, within three (3) years of the date of this approval.


ROLL CALL VOTE:

THOSE IN FAVOR: Members Stabile, Coxwell, Righetti, Hollod, Lange, Forbes and Chairman Fagan

THOSE AGAINST: None

APPLICATION APPROVED:


THOMAS FAGAN, Chairman
Doc. 196222

 1/25/07
DAWN GAEBEL, Secretary

**RESOLUTION OF THE PLANNING BOARD OF
THE BOROUGH OF NORTH PLAINFIELD
SD 05-01 HURLING**

WHEREAS, CARMELA HURLING (hereinafter the "Applicant"), located at 250 Brook Avenue, North Plainfield, New Jersey, has applied to the Planning Board of the Borough of North Plainfield (hereinafter the "Board"), for final major subdivision approval for creation of five (5) single family building lots on property designated as Lot 22, Block 17.01 on the Tax Map of the Borough of North Plainfield, which is property is commonly known as 250 Brook Avenue, North Plainfield, New Jersey, and which property is located in the R-2 Zone on the Zoning Map of the Borough of North Plainfield; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the Applicant's witnesses and of adjoining property owners and the general public, if any, and the reports of various officers and agencies of the Borough, whose reports are incorporated herein by reference, has made the following factual findings:

1. The Applicant previously obtained preliminary subdivision approval under Resolution SD 05-01 and it now seeks final approval under N.J.S.A. 40:55D-50, which requires the Planning Board to grant final approval if the detailed drawings conform to the standards established by ordinance for final approval and the conditions of preliminary approval;

2. The Applicant has submitted plans entitled "Final Plat Brook Bend Estates, Tax Map, Lot 22, Block 17.01," bearing latest revision date of September 4, 2007, prepared by Parker Engineering & Surveying, P.C. upon which the Applicant relies in seeking final approval;

3. The Board is also in receipt of reports dated October 30, 2007 and November 19, 2007 by PMK Group, Borough Engineers, citing certain technical deficiencies in the maps. However, Stephen Parker, P.E. testified at the hearing that he had complied with the comments of the PMK Group and will further comply with a letter received from the Somerset County Planning Board dated November 8, 2007;

4. Daniel Swayze, Borough Engineer, testified at the hearing that he is satisfied that Mr. Parker is complying with all of the conditions to preliminary approval based upon Mr. Parker's testimony and certain conditions to which the Applicant agreed as part of a final approval;

5. The Board addressed the concerns of an objector who stated that a variance was required. The Applicant stated, and the Board agreed, that the only variances needed had been granted as part of preliminary approval and the public notice sent out by the Applicant which stated that variances were sought was a formality and that there were no new variances required; and

WHEREAS, the Board has determined that the relief sought by the Applicant CAN be granted for the following reasons:

1. The Board is satisfied, based upon the statements of the Borough Engineer, that the Applicant has satisfied the conditions to preliminary subdivision approval and, therefore, is entitled to a final approval;

2. The Applicant has reaffirmed that it has not made any substantive changes to the configuration of the lots or proposed buildings on the lots and, therefore, there have been no changes since preliminary approval that would merit a reexamination of the previous approval;

3. The Applicant has complied with, or has agreed to comply with, all of the recommendations of the Borough Engineer, and certain further conditions imposed by the Board that will ensure that the project will be completed in accordance with the plans and approval and with conditions and constraints that will benefit the public and public safety.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of North Plainfield that, for the foregoing reasons, the Application of CARMELA HURLING for final major subdivision approval be and hereby is GRANTED, subject, however, to the following conditions:

1. The Applicant shall obtain "will serve" letters from the utilities that will be necessary to service the project;

2. All bonds and guarantees required by the preliminary resolution and the Borough ordinances shall be posted by the Applicant;

3. Any requirements imposed by the reports of PMK Group dated October 30 and November 19, 2007 that have not yet been satisfactorily addressed shall be satisfied;

4. All COAH requirements under Round II shall be complied with by the Applicant subject to the approval of the Borough Administrator;

5. The Applicant will add to Section 3.03(2)(e) of its Declaration of Covenants and Restrictions that the Green Brook Trail easement is for the benefit of the public and the Borough of North Plainfield;

6. Revised plans shall be submitted showing all changes required by this Resolution;

7. Satisfaction of all conditions shall be subject to the approval of the Borough Engineer;

8. All conditions to SD 05-01 (preliminary approval) that have not yet been satisfied shall be complied with prior to issuance of building permits or, where applicable, prior to issuance of certificates of occupancy.


ROLL CALL VOTE:

THOSE IN FAVOR: Members Lange, Coxwell, Hollod, Kreder, Brannon, Mitchell, and Chairman Fagan.

THOSE AGAINST: None

APPLICATION APPROVED:


THOMAS FAGAN, Chairman
Doc. 216414


DAWN GAEBEL, Secretary 10/28/07

ORDINANCE NO. 08-15
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY

**AN ORDINANCE TO REVISE, AMEND AND SUPPLEMENT THE CODE
OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER XXII,
ENTITLED "LAND DEVELOPMENT," SPECIFICALLY, ARTICLE I,
ENTITLED "GENERAL PROVISIONS," TO ADD A NEW SECTION 22-19,
ENTITLED "SATELLITE DISHES"**

WHEREAS, there have been an increasing number of satellite dishes placed on properties/homes/businesses throughout the Borough of North Plainfield; and

WHEREAS, the Borough Council of the Borough of North Plainfield, Somerset County, State of New Jersey believes that some regulation of satellite dishes is necessary to promote uniformity in the placement of such satellite dishes and to preserve aesthetics throughout the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that Chapter XXII of the Code of the Borough of North Plainfield, entitled "Land Development," specifically Article I, entitled "General Provisions," is hereby revised, amended and supplement to add the following new Section:

22-19 Satellite Dishes

a. "Satellite dish" shall be defined as any apparatus, building and/or structure which is designed for the purpose of receiving or transmitting television, radio, satellite or similar signals.

b. Size and location. A satellite dish which complies with following requirements shall be a permitted conditional use in all zones, except the Washington Park Historic

District, where the placement of a satellite dish on lots within the District must conform to the standards established for satellite dishes within the Washington Park Historic District.

1. The surface area of any satellite dish shall not exceed fifty (50') square feet or eight (8') feet in diameter.

2. The satellite dish shall be erected on a secure ground-mounted foundation or securely attached to the roof of the principal structure and properly grounded, as described further below.

3. All power controls and signal cables from the satellite dish to the structure being served shall be buried underground and installed in accordance with the appropriate building and electric codes. All exterior wiring shall conform to all applicable "weather proofing" standards.

4. The satellite dish shall be located in the rear yard of the property only and shall comply with all yard and setback requirements for the principal structure. No satellite dish shall be permitted in a front or side yard.

5. The satellite dish shall be located and screened to minimize visibility from the street and adjacent properties. The ability of the applicant to install the satellite dish in an unobtrusive location and to minimize its impact on adjacent properties shall be a major factor in determining whether or not the conditional use is approved. Screening shall be maintained as originally approved.

6. Only one (1) satellite dish shall be permitted for each individual lot, and its use shall be for the sole use of that lot.

c. Permit Required. Any property owner and/or person or entity in possession of the property, shall obtain a permit from the Construction Code Official prior to the placement of a satellite dish on the property. No tenant of any property may apply for a permit unless they submit, with the permit, a written notarized document signed by the property

4. An application fee of \$25.00 shall be submitted with all applications for a permit.

e. Maintenance Requirements; Enforcement

1. Every satellite dish shall be maintained in a safe, presentable and good structural material condition at all times. If the satellite dish is not made to comply with adequate safety and maintenance standards, the Zoning Official shall require its removal in accordance with this section.

2. No persons shall maintain or permit to be maintained on any premises owned or controlled by him any satellite dish which is in a dangerous or defective condition. Any such satellite dish shall be removed or repaired by the owner of the premises or the owner of the satellite dish, whichever is applicable. Upon failure of the owner to remove or repair a dangerous or defective satellite dish, the Zoning Official shall proceed as described herein.

3. The Zoning Official shall cause to be removed any satellite dish that endangers the public safety such as an abandoned, dangerous or materially, electrically or structurally defective satellite dish or a satellite dish for which no permit has been issued. The Zoning Official shall prepare a notice which shall describe the satellite dish and specify the violation involved and which shall state that the satellite dish must be removed or the violation corrected within ten (10) calendar days. ~~If the violation is not corrected within the ten (10) calendar day~~ period, the Zoning Official shall cause same to be removed. All notices shall be sent by certified mail, return receipt requested and regular mail. The notice shall be mailed to the owner of the property on which the satellite dish is located, the owner of the satellite dish, if known, and the occupant of the property.

4. Any person having an interest in the satellite dish or the property may appeal the determination of the Zoning Official ordering removal or compliance by filing a written notice of appeal with the Borough Administrator within ten (10) calendar days after receipt of the notice. Notwithstanding the above, in cases of imminent danger to the public safety or other emergency, the Zoning Official

owner supporting the application. If the property changes hands, an updated written notarized document must be submitted to support a continuing use.

d. Obtaining a Permit.

1. A permit may be obtained by providing the Construction Code Official with a plot plan and specifications showing the size of the dish, the proposed location of same on the subject premises, construction plans showing the foundation support details (where applicable), the location of electrical conduits and all such other information as required herein.

2. The plot plan shall include the following information:

a) The name and address of the applicant and the owner of the property; the name, address and title of the person or entity preparing the plan and accompanying data, the date of preparation and the dates of each revision, where applicable.

b) Appropriate places for the signature of the Construction Code Official, subcode officials (where applicable) and Zoning Officer.

c) The lot and block numbers from the Borough Tax Map of the subject property, as well as the length and bearings of the lot lines.

d) The proposed location of the satellite dish, as well as the location of all existing buildings and structures and all accessory buildings and structures, with dimensions showing present and finished grade elevations at all corners.

3. The Construction Code Official and/or applicable subcode officials shall review the plan and either issue a permit or deny the permit within twenty (20) calendar days after submission of said plan, unless further time has been granted by the applicant.

may cause the immediate removal of a dangerous or defective satellite dish without notice. The Borough Administrator shall render his decision within ten (10) calendar days of receipt of such written notice of appeal and his decision shall be final.

5. Any satellite dish removed by the Zoning Official pursuant to the provisions of this section shall become the property of the Borough and may be disposed of in any manner deemed appropriate by the Borough. The cost of removal of the satellite dish shall be considered a debt owed to the Borough by the owner of the satellite dish and the owner of the property, and may be recovered in an appropriate court action by the Borough or attached as a lien by the Borough to the property, whichever the Borough chooses.

f. Existing Satellite Dishes.

1. After enactment of this section, the Zoning Official or his designee shall, as soon as practicable, survey the Borough for satellite dishes which do not conform to the requirements of this section. Upon determining that a satellite dish is non-conforming, the Zoning Official shall notify the owner or user of the property on which the satellite dish is located of the nonconformity and his/her requirements to meet the conditions/terms of the Ordinance.

2. Any satellite dish located within the Borough on the date of adoption of this section, or located in an area annexed to the Borough thereafter, which does not conform to the provisions of this section, is eligible for characterization as a legal nonconforming satellite dish if the satellite dish was in compliance with applicable law on the date of adoption of this section.

3. A legal nonconforming satellite dish shall immediately lose its legal nonconforming designation if the satellite dish is altered in any way; or the satellite dish is relocated; or the satellite dish is replaced. On the happening of any of the above, the satellite dish shall immediately be brought into compliance with this chapter with a new permit secured therefore, or shall be removed.

4. Nothing in this section shall relieve the owner or user of a legal nonconforming satellite dish or owner of the property on which the satellite dish is located from the provisions of this section regarding safety, maintenance and repair of such satellite dish; provided, however, that no maintenance or repair shall have the effect of making the satellite dish nonconforming.

5. Landlords with multiple satellite dishes on their properties must ascertain whether said dish(es) are active and/or could be made conforming to this Ordinance within sixty (60) calendar days of notice by the Borough of the enactment of this Ordinance remove all non functioning and/or non conforming satellite dishes.

g. Fines. Any person violating any provision of this section shall be fined in accordance with Chapter I, Article 1-5, entitled "General Penalty", of the Code of the Borough of North Plainfield.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

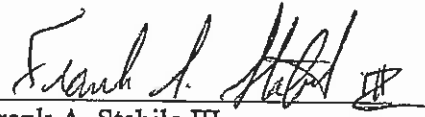
3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

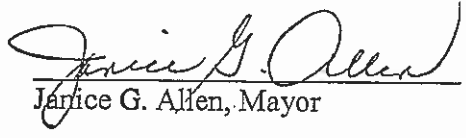
INTRODUCED: June 23, 2008
PASSED: June 23, 2008
PUBLISHED: July 18, 2008
ADOPTED: July 28, 2008
ROLL CALL: AYES: Forbes, Giordano, Hitchcock, Righetti, Stabile
NAYS: Habeeb, Singleterry
ABSTAIN: None
ABSENT: None

APPROVED BY THE MAYOR: July 30, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Frank A. Stabile III
Council President


Janice G. Allen, Mayor

**ORDINANCE NO. 08-14
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND/OR SUPPLEMENT THE
BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER
IV, "GENERAL LICENSING," TO ADD A NEW SECTION 4-16, ENTITLED,
"TANNING BOOTH ESTABLISHMENTS"**

WHEREAS, numerous municipalities throughout the State of New Jersey regulate tanning booth establishments and provide for the licensure of such businesses; and

WHEREAS, the Borough of North Plainfield lacks such a regulatory ordinance and therefore currently provides no guidelines and/or requirements for such businesses; and

WHEREAS, the Borough of North Plainfield Borough Council and Mayor have determined that such an ordinance is necessary in order to protect the interests of the Borough and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Chapter IV entitled, "General Licensing," is hereby amended, revised and/or supplemented to add a new Section 4-16, entitled "Tanning Booth Establishments" as follows:

4-16 Tanning Booth Establishments

4-16.1 Definitions

a. For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Employee" means any person who renders any service in connection with the operation of a tanning booth establishment business and receives compensation from the operator of the business.

2. "License" means the document issued by the Borough of North Plainfield authorizing the tanning booth establishment.

3. "Licensee" means any person who holds a license issued by the Borough of North Plainfield authorizing the tanning booth establishment.

4. "Patron" means any person who uses the tanning booth services under such circumstances that it is reasonably expected that he or she will pay money or give other consideration therefore.

5. "Tanning booth" means any enclosed or semi-enclosed area or room, containing one (1) or more ultraviolet lamps intended for irradiation of any part of the human body to induce skin tanning.

6. "Tanning booth establishment" means any commercial enterprise or facility containing at least two (2) tanning booths, provided that this definition shall not include any hospital, clinic or other medical facility wherein ultraviolet radiation is or may be used under the supervision of a trained medical staff for the diagnosis or treatment of disease. Any licensee must establish, in writing, why he/she wishes to have less than two (2) tanning booths. A finding that having less than two (2) tanning booths is insufficient shall be considered a presumptively valid decision.

4-16.2 License Required.

a. Establishment license. No person, firm, corporation or other entity shall conduct, maintain and/or operate a tanning booth establishment without first having obtained a license therefore in accordance with the provisions of this Chapter.

b. Application for a tanning booth establishment license shall be made to the Borough Board of Health, on forms approved by it, signed and executed by the applicant.

c. Any person, firm, corporation or other entity desiring a tanning salon establishment license shall file a written application with the Borough Board of Health and pay a non-refundable annual application/license fee of One Hundred Dollars (\$100.00) at the time of filing. All applicants shall furnish the following information:

1. The type of ownership of the business, i.e., whether individual, partnership, corporation or otherwise;

2. The name, style and designation under which the business is to be conducted;

3. The business address and all telephone numbers, including facsimile, where business is to be conducted;

4. A complete list of the names and addresses of all employees in the business and the name and address of the manager or other person principally in charge of the operation of the business;

5. Proof of comprehensive general liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and professional liability insurance in the minimum amount of One Million Dollars per occurrence; and,

6. The following personal information concerning the applicant if the applicant is an individual; concerning each stockholder holding more than ten percent (10%) of the stock of the corporation and/or each officer and each director if the applicant is a corporation; concerning each partner, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business:

A. The applicant's name, complete residence address and residence telephone number;

B. The two (2) previous addresses immediately prior to the present address of the applicant;

C. Written proof of age;

D. Height, weight, sex and color of hair and eyes;

E. Two (2) front-face photographs taken within thirty (30) calendar days of the date of the application which are at least two inches by two inches (2"x2") in size;

F. The tanning salon or similar business history and experience of the applicant, including, but not limited to, whether or not the applicant has previously operated in the Borough or another municipality or state under a license or permit which was ultimately denied, revoked or suspended and the reason therefore and the business activities or occupations subsequent to such action or denial, suspension or revocation;

G. All criminal convictions, other than misdemeanor traffic violations, with full disclosure of all jurisdictions in which convicted and the offense for which the person was convicted and circumstances thereof. The applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Borough Police Department; and,

H. The names and addresses of three (3) adult residents of Somerset County in the State of New Jersey who will serve as character references, which references shall not be relatives or business associates.

4-16.3 Conditions and Requirements

a. No license to conduct, maintain or operate a tanning booth establishment shall be granted to any person until such person has demonstrated to the satisfaction of the Board of Health that the following conditions and requirements have been met:

1. Each tanning booth shall have prominently displayed on its door or beside its entrance a sign that states "DANGER-Ultraviolet Radiation. Follow instructions. As with natural sunlight, overexposure can cause injury and sunburn; repeated exposure may cause premature aging of skin and skin cancer. Exposure of eyes to ultraviolet light without protective eyewear may cause serious injury to eyes. Medications or cosmetics applied to skin may increase oversensitivity to ultraviolet light, as may a family history of skin

problems or allergy to sunlight. Consult a physician before using this booth if you are taking any medication or if you believe yourself sensitive to sunlight."

2. Each tanning booth shall be equipped with handrails, floor markings or other suitable physical aids to assure that the user maintains the proper exposure distance from the lamps.

3. Users shall, on each visit, be provided free of charge sanitary protective eyewear that protects the user's eyes from ultraviolet radiation but permits sufficient vision to enable the user to maintain balance, read necessary labels or instruction and effect a quick, safe exit from the tanning booth.

4. Each timer used to control exposure duration, whether controlled by the user from within the tanning booth or by the operator and/or an employee of the tanning booth establishment, shall be accurate to within plus or minus ten percent (10%) or any selected timer interval.

5. The ambient air temperature in each tanning booth shall, at no time, exceed one hundred degrees Fahrenheit (100°F).

6. Each tanning booth shall be sufficiently strong and rigid to resist collapse due to the impact of a falling person. Tanning booth access doors shall open outwardly and shall, in all other respects, be designed to facilitate safe and rapid entrance to and exit from the booths. Tanning booth floors shall provide adequate traction, even when wet, to allow such safe and rapid ingress and egress.

7. Each tanning booth shall be equipped with heavy wiregrids, ultraviolet transmitting plastics or some similar physical barrier to protect users from contact with ultraviolet lamps. Such barrier shall be sufficiently strong and rigid to resist collapse due to the impact of a falling person.

8. Each tanning booth and tanning booth establishment shall be constructed, operated and ~~maintained in compliance with the Zoning Ordinances, Building Codes, Electrical Standards and every other applicable ordinance of the Borough of North Plainfield and the State of New Jersey.~~

9. Each tanning booth establishment shall obtain and maintain on file with the Borough Board of Health a certification from a dermatologist approved by the Board of Health stating that the methods for exposure determination, both as to duration and distance, utilized by the tanning booth establishment are safe and that such methods comply with current medical standards.

10. Each tanning booth establishment and the equipment used therein shall comply with the regulations promulgated by the United States Food and Drug Administration and published in Volume 21 of the Code of Federal Regulations at 1002.61(a)(4) and 1040.20, as amended and/or supplemented as applicable.

4-16.4 Contents of License; Transferability; Display

- a. Each license issued under the provisions of this Chapter shall bear the actual date of issue thereof, the legal name of the person, firm, corporation or other organization to whom issued and the location of the premises or other place of operation for which the license is requested.
- b. No license shall be transferable.
- c. Each tanning booth establishment shall display its license in a conspicuous place on the licensed premises.

4-16.5 Building Requirements; Inspections

- a. The Board of Health shall refer all applications for a tanning booth establishment to the Building Department, Fire Department, Police Department and the Zoning Officer, which departments shall inspect the premises proposed to be operated as a tanning booth establishment and make written recommendations to the Board of Health concerning compliance with the codes that they administer.
- b. No tanning booth establishment shall be issued a license, or be operated, established and/or maintained in the Borough, unless an inspection by the health officer, building inspector and/or fire inspector reveals that the establishment complies with the minimum requirements of the health, building and fire codes for businesses operating in the Borough.

4-16.6 Expiration of License

All licenses granted under the provisions hereof shall expire on December 31 of the year for which the same are granted, unless suspended or revoked or unless issued for a shorter period.

4-16.7 Operating Requirements

- a. Every portion of the tanning booth establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- b. Prices and rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- c. All tanning booths shall be constructed and maintained in such a way as to safeguard the privacy of all patrons. In no case shall tanning room access doors be locked when both a patron and any employee are inside the room and/or booth.
- d. No tanning booth establishment employee or operator shall perform, or offer to perform, any act or service which would require the touching of the patron's sexual or genital area.
- e. Hours of operation for any tanning booth establishment shall be limited to 9:00 a.m. to 10:00 p.m., seven (7) days per week.

4-16.8 Inspections

The Health Department and/or the Building or Zoning Department and/or the Fire Department and/or the Police Department shall, from time to time, at least once a year, make an inspection of each tanning booth establishment granted a license under the provisions of this chapter for the purpose of determining whether the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any way.

4-16.9 Sleeping Quarters

No part of any quarters of any tanning booth establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such tanning booth establishment except for limited periods incidental to and directly related to tanning. This provision shall not preclude the location of a tanning booth establishment in separate quarters of a building housing a hotel or other separate business or club.

4-16.10 Denial, Suspension or Revocation of License

a. Any license authorized by this Chapter may be denied, suspended or revoked by the Borough Board of Health after notice and a hearing for any of the following causes:

1. Fraud, misrepresentation or false statement in the application for the license;
2. Fraud, misrepresentation or false statement made in the course of carrying on the permitted business in the Borough;
3. Any violation of this chapter;
4. Conviction of a crime involving moral turpitude, sexual misconduct, prostitution or any crime involving dishonesty; and/or,
5. Conducting the permitted business in the Borough in any unlawful manner or in such a manner as to constitute a danger to the health, safety or general welfare of the public.

b. Notice of the hearing for the denial, suspension or revocation of a license shall be given in writing, setting forth specifically the grounds therefore and the date, time and place of the hearing. Such notice shall be given personally or mailed to the licensee at the address provided on the application or license at least ten (10) calendar days prior to the date set for the hearing.

4-16.11 Violations

Any person, firm, corporation or other entity who shall violate any of the provisions of this chapter shall, upon conviction, be fined a minimum of Five Hundred Dollars (\$500.00) and a maximum of Two Thousand Dollars (\$2,000.00), and may be imprisoned for up to ninety (90) days in jail for each offense. Each and every day upon which a violation of any provision of this ordinance exists shall constitute a separate violation.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

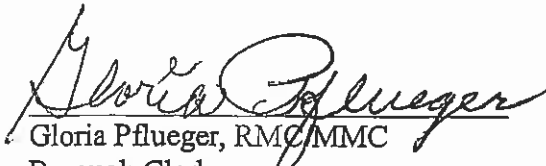
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

INTRODUCED: July 14, 2008
PASSED: July 14, 2008
PUBLISHED: July 19, 2008
ADOPTED: July 28, 2008
ROLL CALL: AYES: Forbes, Giordano, Habeeb, Hitchcock, Righetti, Singleterry,
NAYS: None Stabile
ABSTAIN: None
ABSENT: None

APPROVED BY THE MAYOR: July 30, 2008

ATTEST:


Gloria Pflueger, RMC MMC
Borough Clerk


Frank A. Stabile III, Council President


Janice G. Allen, Mayor

**ORDINANCE NO. 08-12
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER IV, "GENERAL LICENSING," TO ADD A NEW SECTION 4-15, ENTITLED, "MASSAGE, BODYWORK AND SOMATIC THERAPY"

WHEREAS, numerous municipalities throughout the State of New Jersey regulate the practice of massage, bodywork and somatic therapy and provide for the licensure of such businesses and therapists; and

WHEREAS, the Borough of North Plainfield lacks such a regulatory ordinance and therefore currently provides no guidelines and/or requirements for such businesses and therapists; and

WHEREAS, the Borough of North Plainfield Borough Council and Mayor have determined that such an ordinance is necessary in order to protect the interests of the Borough and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey, that the Borough Code of the Borough of North Plainfield, Chapter IV entitled, "General Licensing," is hereby amended, revised and supplemented to add a new Section 4-15 entitled, "Massage, Bodywork and Somatic Therapy" as follows:

4-15 Massage, Bodywork and Somatic Therapy

4-15.1 Definitions

a. For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Employee" means any person who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

2. "License" means the document issued by the Borough of North Plainfield authorizing the provision of massage, bodywork and somatic services at a massage establishment.
3. "Licensee" means any person who holds a license issued by the Borough of North Plainfield authorizing the provision of massage, bodywork and somatic services at a massage establishment.
4. "Massage, bodywork and somatic therapies" means the systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and/or use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, movement and neural myofascial education and education in self-care and stress management as it relates to massage, bodywork and somatic therapies. Massage, bodywork and somatic therapy practices are designed to affect the energetic system of the body for the purpose of promoting and maintaining the health and well-being of the patron. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability or of a sexual nature.
5. "Massage, bodywork and somatic therapist" means an individual who has taken courses in massage therapy and has received a diploma or certificate of completion in the area of massage therapy and/or is certified pursuant to the provisions of N.J.S.A. 45:11-53 et seq. and N.J.A.C. 13:37-16.1 et seq.
6. "Massage establishment" means any establishment having a fixed place of business where massage, bodywork and somatic services are provided for a valuable consideration.
7. "Patron" means any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give other consideration therefore.

4-15.2 Prohibited Conduct

- a. Establishment license. No person, firm, corporation or other entity shall operate a massage establishment without first having obtained a license therefore in accordance with the provisions of this Chapter.
- b. Massage, bodywork and somatic therapist license. No person shall practice massage or related therapies as a massage, bodywork and/or somatic therapist, employee or otherwise, unless he or she has a valid and subsisting massage, bodywork and somatic therapist license issued to him or her by the Borough pursuant to the provisions of this Chapter.
- c. The owner/operator of any massage establishment shall require that the license of any licensee performing massage, bodywork and/or somatic services within the massage establishment be prominently displayed so that same is clearly visible to any patron receiving such services from a licensee.

d. Exceptions. The provisions of this section shall not apply to massage, bodywork or somatic therapy given:

1. In the office of a licensed physician, chiropractor or physical therapist or other practitioner that is licensed by the New Jersey Board of Medical Examiners; or,
2. In a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors, and/or physical therapists or other practitioners that are licensed by the New Jersey Board of Medical Examiners; or,
3. In any school certified to teach massage, bodywork or somatic therapy by the New Jersey Department of Education.

4-15.3 Massage Establishment License

a. Any person, firm, corporation or other entity desiring a massage, bodywork or somatic therapy establishment license shall file a written application with the Borough Clerk's office on a form to be furnished by said office and pay a non-refundable annual application/license fee of Two Hundred Fifty Dollars (\$250.00) at the time of filing. All applicants shall furnish the following information:

1. The type of ownership of the business, i.e., whether individual, partnership, corporation or otherwise;
2. The name, style and designation under which the business is to be conducted;
3. The business address and all telephone numbers, including facsimile, where business is to be conducted;
4. A complete list of the names and addresses of all massage, bodywork and somatic therapists and/or employees in the business and the name and address of the manager or other person principally in charge of the operation of the business;

5. Proof of comprehensive general liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and professional liability insurance in the minimum amount of One Million Dollars per occurrence; and,

6. The following personal information concerning the applicant if the applicant is an individual; concerning each stockholder holding more than ten percent (10%) of the stock of the corporation and/or each officer and each director if the applicant is a corporation; concerning each partner, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business:

A. The applicant's name, complete residence address and residence telephone number;

B. The two (2) previous addresses immediately prior to the present address of the applicant;

C. Written proof of age;

D. Height, weight, sex and color of hair and eyes;

E. Two (2) front-face photographs taken within thirty (30) calendar days of the date of the application which are at least two inches by two inches (2"x2") in size;

F. The massage therapy or similar business history and experience of the applicant including, but not limited to, whether or not the applicant has previously operated in the Borough or another municipality or state under a license or permit which was ultimately denied, revoked or suspended and the reason therefore and the business activities or occupations subsequent to such action or denial, suspension or revocation;

G. All criminal convictions, other than misdemeanor traffic violations, with full disclosure of all jurisdictions in which convicted and the offense for which convicted and circumstances thereof. The applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Police Department; and,

H. The names and addresses of three (3) adult residents of Somerset County in the State of New Jersey who will serve as character references, which references shall not be relatives or business associates.

4-15.4 Massage, Bodywork and Somatic Therapist License

a. Any person desiring a massage, bodywork or somatic therapist license shall file a written application with the Borough Clerk's office on a form to be furnished by said office and pay a non-refundable annual application/license fee of One Hundred Dollars (\$100.00) at the time of filing. All applicants shall submit satisfactory evidence of:

1. Successful completion with a showing of passage (either Pass grade in a Pass/Fail course or C or better grade in an A through F course) of such study by an accredited institution/educational facility of a minimum of five hundred (500) hours in-class study in the field of massage, bodywork or somatic therapy, along with either:

2. Successful completion of the written examination offered by the National Certification Board for Therapeutic Massage and Bodywork; or,

3. Certification by the New Jersey Division of Consumer Affairs; Board of Nursing, Massage, Bodywork and Somatic Therapy.

b. The applicant shall also furnish the following information:

1. The applicant's name, complete residence address and residence telephone number;

2. The two (2) previous addresses immediately prior to the present address of the applicant;

3. Written proof of age;
4. Height, weight, sex and color of hair and eyes;
5. Two (2) front-face photographs taken within thirty (30) calendar days of the date of the application which are at least two inches by two inches (2"x2") in size;
6. The massage therapy or similar business history and experience of the applicant including, but not limited to, whether or not the applicant has previously operated in the Borough or another municipality or state under a license or permit which was ultimately denied, revoked or suspended and the reason therefore and the business activities or occupations subsequent to such action or denial, suspension or revocation;
7. All criminal convictions other than misdemeanor traffic violations, with full disclosure of all jurisdictions in which convicted and the offense for which convicted and circumstances thereof. The applicant shall execute a waiver and consent to allow a fingerprint and criminal background check by the Police Department; and,
8. The names and addresses of three (3) adult residents of Somerset County in the State of New Jersey who will serve as character references, which references shall not be relatives or business associates.

4-15.5 Building Requirements; Inspections

- a. The Borough Clerk shall refer all applications for a massage establishment to the Building Department, Fire Department, Police Department, Health Department and the Zoning Officer, which departments shall inspect the premises proposed to be operated as a massage establishment and make written recommendations to the Borough Clerk concerning compliance with the codes that they administer.
- b. No massage establishment shall be issued a permit or license, or be operated, established or maintained in the Borough unless an inspection by the health officer, building inspector and/or fire inspector reveals that the establishment complies with the minimum requirements of the health, building and fire codes for businesses operating in the Borough.

4-15.6 Display of License

The massage establishment shall display the establishment license and the license of each and every massage, bodywork or somatic therapist employed in the establishment in an open and conspicuous place in the establishment so that it may be readily seen by persons entering the premises.

4-15.7 Operating Requirements

- a. Every portion of the massage, bodywork and/or somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- b. Prices and rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

- c. All employees, including massage, bodywork and/or somatic therapists shall be clean and wear clean, non-transparent outer garments. Dressing rooms must be available on the premises and contain doors. If the dressing room is also used as the therapy/massage room, then adequate procedures shall be in place to safeguard the privacy of the patron. In no case shall dressing room doors and/or therapy/massage room doors be locked when both a patron and any employee are inside the room(s).
- d. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner.
- e. The sexual or genital area of patrons must be covered at all times by towels, cloths or undergarments when in the presence of an employee and/or massage, bodywork and/or somatic therapist.
- f. It shall be unlawful for any person knowingly, in a massage establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of any other person.
- g. No massage, bodywork and/or somatic therapist, employee or operator shall perform, or offer to perform, any act which would require the touching of the patron's sexual or genital area.
- h. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
- i. Oils, creams, lotions and other preparations used in administering massage, bodywork or somatic therapies shall be kept in clean, closed containers or cabinets.
- ~~j. Animals, except for handicap service animals, shall not be permitted in the massage establishment.~~
- k. Each massage, bodywork and somatic therapist shall wash his or her hands in hot running water, using proper soap or disinfectant, before administering a massage, bodywork or somatic therapy to each patron.
- l. Hours of operation for any massage establishment shall be limited to 9:00 a.m. to 10:00 p.m., seven (7) days per week.
- m. No minors shall be allowed in the massage establishment, other than the waiting area which shall be physically separate from the therapy areas, except when the minors are patrons and accompanied in all areas by a parent or guardian.

4-15.8 Inspections

The Health Department and/or the Building or Zoning Department and/or the Fire Department and/or the Police Department shall, from time to time, at least once a year, make an

inspection of each massage establishment granted a license under the provisions of this chapter for the purpose of determining whether the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any way.

4-15.9 Sleeping Quarters

No part of any quarters of any massage establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage establishment except for limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment or both. This provision shall not preclude the location of a massage establishment in separate quarters of a building housing a hotel or other separate business or club.

4-15.10 Denial, Suspension or Revocation of License

a. Any license authorized by this chapter may be denied, suspended or revoked by the Chief of Police after notice and a hearing for any of the following causes:

1. Fraud, misrepresentation or false statement in the application for the permit;
2. Fraud, misrepresentation or false statement made in the course of carrying on the permitted business in the Borough;
3. Any violation of this chapter;
4. Conviction of a crime involving moral turpitude, sexual misconduct, prostitution or any crime involving dishonesty; and/or,
5. Conducting the permitted business in the Borough in any unlawful manner or in such a manner as to constitute a danger to the health, safety or general welfare of the public.

b. Notice of the hearing for the denial, suspension or revocation of a license shall be given in writing, setting forth specifically the grounds therefore and the date, time and place of the hearing. Such notice shall be given personally or mailed to the licensee at the address provided on the application or license at least ten (10) calendar days prior to the date set for the hearing.

4-15.11 Violations

Any person, firm, corporation or other entity who shall violate any of the provisions of this chapter shall, upon conviction, be fined a minimum of Five Hundred Dollars (\$500.00) and a maximum of Two Thousand Dollars (\$2,000.00), and may be imprisoned for up to ninety (90) days in jail for each offense. Each and every day upon which a violation of any provision of this ordinance exists shall constitute a separate violation.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

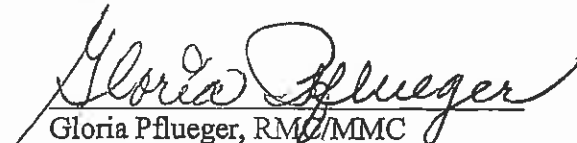
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.


3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

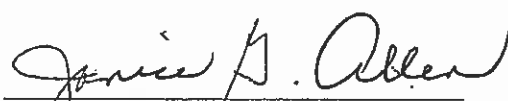
INTRODUCED: June 9, 2008
PASSED: June 9, 2008
PUBLISHED: June 14, 2008
ADOPTED: June 23, 2008
ROLL CALL: AYES: Forbes, Giordano, Habeeb, Hitchcock, Righetti, Singleterry,
NAYS: None Stabile
ABSTAIN: None
~~ABSENT: None~~

APPROVED BY THE MAYOR: June 25, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Frank A. Stabile III, Council President


Janice G. Allen, Mayor

ORDINANCE NO. 08-21

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

AN ORDINANCE TO AMEND, REVISE, AND SUPPLEMENT THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER XXII, ENTITLED "LAND DEVELOPMENT," ARTICLE VI, ENTITLED "SUBDIVISION AND SITE PLAN REVIEW AND APPROVAL," TO ADD A NEW SECTION 22-72, ENTITLED "ENVIRONMENTAL IMPACT STATEMENT" AND A NEW SECTION 22-73, ENTITLED "COMMUNITY IMPACT STATEMENT"

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that it is in the best interests of the citizens of the Borough of North Plainfield that prior to the development of any subdivision or site plan, the Borough and its citizens should be aware of what impact the proposed development will have on the environment and the community; and

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that in order for the Planning Board and/or the Zoning Board of Adjustment of the Borough of North Plainfield to be aware of the impact the proposed development will have on the environment and the community the developer should be required to submit an Environmental Impact Statement and a Community Impact Statement; and

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to amend Chapter XXII of the Borough Code to set forth requirements and guidelines regarding the submission of such Environmental Impact Statements and Community Impact Statements in connection with applications for development in order to protect and advance the health, safety and welfare of Borough residents.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the

Borough of North Plainfield, Chapter XXII, entitled "Land Development," Article VI, entitled "Subdivision and Site Plan Review and Approval" is hereby revised, amended and supplemented to add a new Section 22-72, entitled "Environmental Impact Statement," and a new Section 22-73, entitled "Community Impact Statement," as follows:

22-72 Environmental Impact Statement

22-72.1 Requirements and Applicability

A. No major subdivision or major site plan shall receive preliminary approval until an Environmental Impact Statement (EIS) shall have been submitted to and approved by the Planning Board and/or the Zoning Board of Adjustment, unless the Planning Board or the Zoning Board of Adjustment waives this requirement pursuant to Section 22-72.5, below. The purpose of requiring an Environmental Impact Statement is to permit the Planning Board/Zoning Board of Adjustment to assess the impact of the proposed project upon the environment. Particular emphasis should be given to assessing the impact of the proposed development upon water and air resources, pollution of all kinds, drainage, waste disposal, wetlands, floodplains, steep slopes, shallow bedrock, critical areas and landscape.

B. No application for development shall be approved as set forth above, unless it has been affirmatively determined, after an environmental appraisal, that the proposed project:

1. Will not result in significant adverse impact on the environment;
2. Has been conceived and designed in such a manner that it will not significantly impair natural processes; and,
3. Will not place a disproportionate or excessive demand upon the total resources available to the project site and to the impact areas.

22-72.2 Definition

An Environmental Impact Statement ("EIS") shall be defined as a separate written description and analysis of all possible direct and indirect effects a development will have on the site of the proposed development, as well as adjacent and noncontiguous areas, with particular reference to the effect of the project on the public health, safety and welfare, the protection of public and private property and the protection, preservation and enhancement of the natural environment.

22-72.3 Contents of Statement

The EIS shall contain information and analysis with respect to the following:

A. The location of the project and a description of the project, including maps and drawings, specifying what is to be done and how it is to be done during construction and operation. The description shall locate the project within its regional, municipal and neighborhood setting, including its relation to surrounding properties, roads, utility lines, parks, recreational sites, historic sites, rivers, streams and vegetative patterns. The project description shall include contours, buildings and other structures, roads, paved areas, grading and regrading, adjacent natural streams, floodplains, wetlands, critical areas, water supply, drainage, stormwater runoff plans, sediment and soil erosion control, traffic patterns, waste disposal plans and open space management plans.

B. An inventory of existing environmental conditions at the project site and in the affected region, including delineation of all on-site easements, deed restrictions, rights-of-way, stream encroachment lines, wetlands and floodplains. The inventory shall describe air quality, water quality, water supply, surface waters (including streams, ponds and marshes), wetlands, floodplains, steep slopes, critical areas, bedrock, hydrology, natural and man-made drainage, geology, soils and properties thereof (including capabilities and limitations), sewerage systems, topography, slope, vegetation, wetlands, wildlife, aquatic organisms, noise characteristics and levels, traffic conditions, ecology, demography, land use, aesthetics, history and archeology. Air and water quality shall be described with reference to standards promulgated by the New Jersey Department of Environmental Protection.

C. A listing of all licenses, permits or other approvals required by municipal, county or State law and the status of each.

D. An assessment of the probable temporary and long-term environmental impact of the project, both adverse and beneficial, supported by environmental data, on the topics described in Section B above.

E. A listing and evaluation of any probable adverse environmental impacts and damage to natural resources which cannot be avoided, both on-site and off-site, as a result of the project, with emphasis upon air and water pollution and quality, increase in noise, damage to plants, trees and wildlife systems, displacement of people and businesses, impediments to existing traffic flow and increase in sedimentation and siltation. Impacts upon any wetlands, floodplains, steep slopes, critical areas and shallow bedrock shall also be set forth and evaluated.

F. A thorough discussion of the steps to be taken during and after construction, both at the project site and in the surrounding area, to minimize the adverse environmental effects described above, such description to be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify.

G. A statement of alternatives to the proposed project which might avoid some or all of the adverse environmental effects of the proposed project. The statement should include the reasons for the acceptability or nonacceptability of each alternative and an analysis of the costs and social impact(s) of the alternatives.

H. Sewerage facilities: An estimate of the expected flow of sewage, process water and/or other wastewater expected from the proposed development. If any flow is expected, the EIS must discuss:

1. If the disposal is on-site, the data on underlying geology, water table, soils analysis, soil stratigraphy, percolation tests for every sewage disposal site, topography, location and depth of aquifers, depth, capacity and type of construction of all wells within five hundred feet (500') of the site and any other pertinent data.
2. If the disposal is off-site, the plant design capacity, the monthly average and peak flows for the past twelve (12) months, the daily average and peak flows, any enforcement action against the plant, the receiving water quality standards, the stream quality data from Federal, State or private sources, the stream flow (minimum average seven (7) consecutive day flow with a frequency of occurrence of ten (10) years), plans for the sewage treatment facility (local plans) and State regional planning policy and flows expected from other approved subdivisions which are dependent upon the sewage treatment facilities in question.
3. Compliance with all applicable State and local sewage and health regulations and with all groundwater standards of the NJDEP.

I. Water supply: A showing that an adequate potable water supply is available and not threatened by nearby use of other land and:

1. If the water is to be supplied from the site, the location and depth of all private and public water supplies within five hundred feet (500') of the development improvements, the location, depth and adequacy of the proposed private or public water supplies to serve the proposed development improvements and the geologic description of subsurface conditions.
2. If the supply is from facilities off-site, including private water companies, the amount of diversion granted by the NJDEP, Division of Water Resources, the present amount of diversion and diversions expected from other approved subdivisions or site plans which are dependent upon the present diversions granted by the Division of Water Resources. The applicant must submit documentary proof that the facility has the available excess capacity in terms of its allowable diversion and equipment to supply the proposed project and is willing to do so.
3. Compliance with all State and local regulations.

J. Drainage: There must be a showing that stormwater runoff from the site is so controlled that on-site and off-site erosion will not be either caused or worsened and that the

potential for downstream flooding will not be increased as a result of the development. The EIS must also state:

1. Volume and peak flow rates of stormwater runoff expected from the undeveloped site and to be generated by new improvements, including volumes and rates for two (2), five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) year storm frequencies having durations producing maximum flow rates before and after the proposed development;
2. Data on landscaping, vegetation maps, trees and ground cover existing on-site compared with what would exist with the proposed development;
3. Any increase in rate or velocity of runoff and change in drainage patterns;
4. Plans for disposition of stormwater, whether by retention or detention on-site or by other means so as to protect downstream property;
5. If the proposed development lies in whole or in part in a floodplain, a description of potential flood damages, including a summary of flood stages from Federal and State sources; and,
6. Submission of an erosion and sedimentation control plan reviewed by the local Soil Conservation District, if applicable.

K. Solid waste disposal: Submission of a plan for disposal by means of a facility operating in compliance with the State Sanitary Code.

L. Air pollution: A showing that no visible smoke or deleterious chemical changes are produced in the atmosphere by heating or incinerating devices or by any processing of materials.

22-72.4 Submission and Review

A. Ten (10) copies of the EIS shall be submitted to the Planning Board or the Zoning Board of Adjustment for distribution to applicable Borough officials and review.

B. In reviewing the EIS, the Planning Board/Zoning Board of Adjustment shall take into consideration the effect of the applicant's proposal upon all aspects of the environment including, but not limited to, water quality, water supply, sewage disposal and environmental preservation.

C. The Planning Board/Zoning Board of Adjustment shall approve an EIS only if it determines that the proposed development will not result in appreciable harm to the natural environment, has been designed with a view toward the protection of natural resources and will not place an excessive demand upon the total resources available for such proposal and for any future proposals. The EIS approval shall be part of the overall approval for any major subdivision or major site plan and the Planning Board/Zoning Board of Adjustment may impose

any conditions on approval of the EIS in the same manner and to the same extent as conditions which may be imposed for major subdivision or major site plan approval. The time limits specified for major subdivision or major site plan approvals shall apply.

22-72.5 Waiver

The Planning Board or the Zoning Board of Adjustment, whichever is applicable, at its sole discretion, may waive the requirement for an EIS, in whole or in part, if sufficient evidence is submitted to support a conclusion that the proposed project will have a negligible environmental impact or that a complete EIS need not be prepared in order to evaluate adequately the environmental impact of the proposed project.

22-72.6 Appeals

If the EIS is rejected by the Planning Board or the Zoning Board of Adjustment, the decision may be appealed to the Borough Council by filing a written notice with the Borough Clerk within ten (10) calendar days after receiving notice of the rejection. The Borough Council shall hold a hearing on the matter within thirty (30) calendar days after the notice of appeal has been filed and may modify, affirm or reverse the Planning Board's/Zoning Board of Adjustment's decision as to the EIS.

22-73 Community Impact Statement

22-73.1 General

All applications for major subdivision or major site plan approval shall be accompanied by a Community Impact Statement (CIS) analyzing the proposed development and its expected impact upon existing municipal facilities and services. The information provided within the CIS shall serve to influence the design of the proposed development so that the provision of necessary municipal facilities can be anticipated and coordinated with the construction of the proposed development and/or alert the appropriate public agencies to anticipated needs that may have to be satisfied in the near future.

22-73.2 Contents of Community Impact Statement

The CIS shall address the following areas:

A. Population impact: The applicant shall provide an analysis of the number of people expected to be added to the municipal population as a result of the proposed development within the following age groups: (1) preschool aged children- zero (0) to four (4) years of age; (2) school aged children-five (5) to eighteen (18) years of age; (3) parents of family bearing age-eighteen (18) to forty (40) years of age; (4) middle aged adults-forty one (41) to sixty two (62) years of age; and, (5) senior citizens-over sixty two (62) years of age.

B. School impact: The applicant shall provide an analysis of the anticipated number of pupils who will be added to the student population in the Borough, the ability of the existing public school facilities to absorb the expected student population during a ten (10) year period

and the expected cost of any required building additions and increased teaching staff which may be necessary as a result of the proposed number of pupils who will be added to the student population. The applicant may provide this analysis by either of the following means:

1. The applicant may submit an analysis prepared by the Borough Superintendent of Schools or Board of Education; or,
2. The applicant may submit an analysis prepared by competent professionals, together with proof that a copy of the analysis has been served on the Board of Education with the following notice: "The Planning Board/Zoning Board of Adjustment requests that the Superintendent of Schools or the Board of Education provide written comments on this analysis within twenty (20) calendar days after service. The Superintendent and the Board are also invited to attend the hearings on this application and give testimony on the impact of the application on the school system."

C. Facilities impact: The applicant shall provide an evaluation as to the adequacy of existing facilities to serve the proposed development, including the adequacy of existing public water facilities, public sewerage facilities, recreational facilities and library facilities.

D. Service impact: The applicant shall provide an evaluation as to the adequacy of existing public services to serve the proposed development and the impact of the development upon these services, including police protection, fire protection, solid waste disposal and street maintenance services.

E. Traffic impact: The applicant shall provide an analysis of the existing road network available to serve the proposed development, as well as the proposed road network within the development itself and the surrounding road network which will be affected by the proposed development, including the capacity of the existing and proposed roadways, the anticipated traffic volumes as a result of the proposed development, the physical structure of both road networks and any problem areas in the road network affected by the development, including unsafe intersections and vertical or horizontal alignments.

F. Utility impacts: The applicant shall submit letters directed to the Planning Board/Zoning Board of Adjustment and signed by a responsible official of the lighting agency, water company and of any other utility company or governmental authority or district having jurisdiction in the area and which will provide utility service to the proposed development, approving the design of each proposed utility installation and stating who will construct the facility so that service will be available prior to occupancy.

G. Financial impact: The applicant shall provide an analysis of the revenues expected to be generated from the development compared to the anticipated costs which the proposed development is expected to generate. Revenue and costs shall be shown for the municipality, the municipal school system and the county.

All factors, multipliers and values used in the preparation of the CIS shall have been provided by a reliable and recognized source and shall be subject to verification as to their accuracy and applicability by the Planning Board/Zoning Board of Adjustment. If the Planning Board/Zoning Board of Adjustment demonstrates reasonable cause to question any representations made in the CIS, the applicant shall be liable for any additional expense incurred during the review of said statement.

22-73.4 Waiver

The Planning Board/Zoning Board of Adjustment may waive any or all provisions of this Section that it deems unnecessary.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: September 8, 2008

PASSED: September 8, 2008

PUBLISHED: September 12, 2008

ADOPTED: September 22, 2008

ROLL CALL: AYES: Forbes, Habeeb, Hitchcock, Righetti, Singleterry, Giordano

NAYS: None

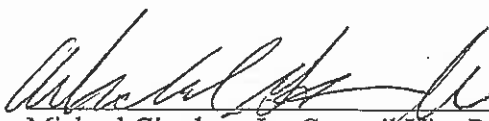
ABSTAIN: None


ABSENT: Stabile

APPROVED BY ACTING MAYOR: September 22, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Michael Giordano Jr., Council Vice President


David E. Hollod, Acting Mayor

ORDINANCE NO. 08-20

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE, AND SUPPLEMENT THE BOROUGH CODE
OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER XXII, ENTITLED "LAND
DEVELOPMENT," ARTICLE VI, ENTITLED "SUBDIVISION AND SITE PLAN
REVIEW AND APPROVAL," SPECIFICALLY SECTION 22-58, ENTITLED
"OFF-TRACT IMPROVEMENTS"**

WHEREAS, the Borough Code of the Borough of North Plainfield requires developers seeking subdivision or site plan approval to either install necessary off-tract improvements or pay their pro rata share of the cost of installing such off-tract improvements pursuant to N.J.S.A. 40:55D-42; and

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that a mechanism needs to be provided to ensure that such off-tract improvements are completed when the developer opts to install such; and

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to add a provision to the Off-Tract Improvements Ordinance requiring developers to post a performance bond/guarantee for completion of any off-tract improvements the developer agrees to install.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Chapter XXII, entitled "Land Development," Article VI, entitled "Subdivision and Site Plan Review and Approval," specifically Section 22-58, entitled "Off-Tract Improvements" is hereby revised, amended and supplemented to add a new paragraph (c) as follows:

22-58 OFF-TRACT IMPROVEMENTS

**

c. When the developer chooses to install the improvements instead of contributing his pro-rata share of the cost of such improvements, the developer shall post a performance bond/guarantee ensuring completion of such improvements in accordance with the provisions of §22-67.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.


2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

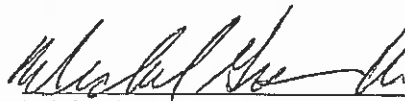
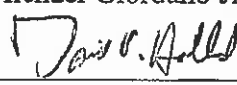
3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: September 8, 2008
PASSED: September 8, 2008
PUBLISHED: September 12, 2008
ADOPTED: September 22, 2008
ROLL CALL: AYES: Forbes, Habeeb, Hitchcock, Righetti, Singleterry, Giordano
NAYS: None
ABSTAIN: None
ABSENT: Stabile

APPROVED BY ACTING MAYOR: September 22, 2008

ATTEST:


Gloria Pflueger, RMC/MNC
Borough Clerk


Michael Giordano Jr., Council Vice President

David E. Hollod, Acting Mayor

ORDINANCE NO. 08-19
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY

**AN ORDINANCE TO REVISE, AMEND AND SUPPLEMENT THE CODE
OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER XXII,
ENTITLED "LAND DEVELOPMENT," SPECIFICALLY, ARTICLE I,
ENTITLED "GENERAL PROVISIONS," SECTION 22-19, ENTITLED
"SATELLITE DISHES"**

WHEREAS, the Borough Council of the Borough of North Plainfield has recently enacted an ordinance regulating the placement of satellite dishes in the Borough; and

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to add a provision to that ordinance permitting property owners to seek a waiver from compliance with certain provisions.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that Chapter XXII of the Code of the Borough of North Plainfield, entitled "Land Development," specifically Article I, entitled "General Provisions," Section 22-19, entitled "Satellite Dishes" is hereby revised, amended and supplemented as follows:

22-19 Satellite Dishes

- i. Waiver: Any property owner and/or person or entity in possession of the property may seek a waiver from the permit requirement by making application therefor to the Zoning Board of Adjustment. A waiver may be sought to allow more than one (1) satellite dish on the property, to allow placement of the satellite dish in a location other than that permitted by this Ordinance or to allow a satellite dish which exceeds the size limitations set forth in this Ordinance. The waiver application shall state the specific reasons for the request and shall include all the information required to be provided in a permit application, as set forth in Paragraph (d) above. The Zoning Board of Adjustment

shall consider the request and grant or deny the waiver within twenty (20) calendar days after submission of the waiver request.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

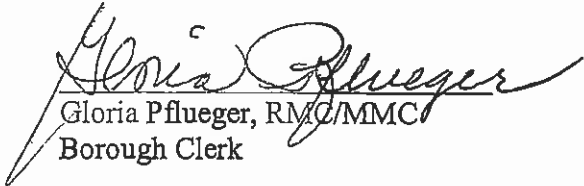
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

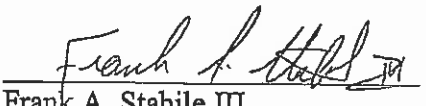
3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

INTRODUCED: August 11, 2008
PASSED: August 11, 2008
PUBLISHED: August 22, 2008
ADOPTED: September 8, 2008
ROLL CALL: AYES: Forbes, Giordano, Habeeb, Hitchcock, Righetti, Singleterry,
NAYS: None Stabile
ABSTAIN: None
ABSENT: None

APPROVED BY THE MAYOR: September 10, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Frank A. Stabile III
Council President


Janice G. Allen, Mayor

ORDINANCE NO. 08-18

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE
BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
SPECIFICALLY SECTION 22-119, ENTITLED "SIGNS"**

WHEREAS, the Borough Council of the Borough of North Plainfield recently adopted a new Sign Ordinance setting forth regulations for the use and location of signs in the Borough; and

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that Section 22-119.3(K)(1) needs to be amended and that Section 22-119.3(K)(2) of the Sign Ordinance should not have been included as part of the Ordinance; and

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to amend Section 22-119.3(K)(1) and remove Section 22-119.3(K)(2) from the Sign Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Section 22-119, entitled "Signs" is hereby revised, amended and supplemented to remove Section 22-119.3(K)(2) in its entirety, to remove the subsection (1) designation from Section 22-119.3(K) and revise the remaining language to read as follows:

"K. Election campaign signs. Election campaign signs are permitted to be placed on private property in any district in the Borough. It shall be the

responsibility of the owner of the property where the sign is placed to remove said sign."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: August 11, 2008

PASSED: August 11, 2008

PUBLISHED: August 22, 2008

ADOPTED: ~~September 8, 2008~~

ROLL CALL: AYES: Forbes, Giordano, Habeeb, Hitchcock, Righetti, Singleterry, Stabile
NAYS: None

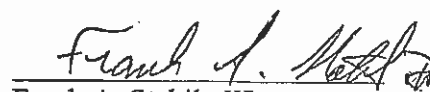
ABSTAIN: None

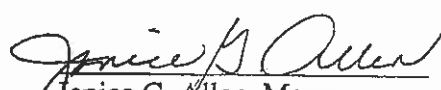
ABSENT: None

APPROVED BY THE MAYOR: September 10, 2008

ATTEST:


Gloria Pflueger, RMCMMC
Borough Clerk


Frank A. Stabile III
Council President


Janice G. Allen, Mayor

ORDINANCE NO. 08-26

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE BOROUGH
CODE OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER VII,
SECTION 7-9, SCHEDULE XIII, ENTITLED "BUS STOPS"**

WHEREAS, the Borough Council of the Borough of North Plainfield recently adopted an Ordinance designating the various bus stops throughout the Borough; and

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that certain designated bus stops must be eliminated from Schedule XIII because they are located on a State Highway as per the mandate of the New Jersey State Department of Transportation (DOT)/New Jersey Transit; and

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to amend Chapter VII, Section 7-9, Schedule XIII to remove the reference to bus stops located on Route 22, a State Highway.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Chapter VII, Section 7-9, Schedule XIII, entitled "Bus Stops" is hereby revised, amended and supplemented to remove the reference to bus stops located on Route 22, under the designation "State Highway."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.


3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: November 10, 2008
PASSED: November 10, 2008
PUBLISHED: November 15, 2008
ADOPTED: November 24, 2008

ROLL CALL: AYES: Forbes, Giordano, Habeeb, Righetti, Singleterry, Stabile
NAYS: None
ABSTAIN: None
ABSENT: Hitchcock

APPROVED BY MAYOR: November 25, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Frank A. Stabile III, Council President


Janice G. Allen, Mayor

ORDINANCE NO. 08-27

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE
BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
SPECIFICALLY CHAPTER XXII, ARTICLE VI, ENTITLED
"SUBDIVISION AND SITE PLAN APPROVAL" TO ADD A NEW
SECTION 22-72, ENTITLED "PAYMENT OF TAXES AND
ASSESSMENTS"**

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that it is in the best interests of the Borough and its residents that certain additional requirements be imposed upon persons and/or entities filing development applications in the Borough; and

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that a new section should be added to Chapter XXII, Article VI requiring persons and/or entities filing development applications to submit proof that no taxes or assessments for local improvements are due and/or delinquent on the property for which any development application is made pursuant to the provisions of N.J.S.A. 40:55D-39 and 40:55D-65;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Chapter XXII, Article VI, entitled "Subdivision and Site Plan Approval" is hereby revised, amended and supplemented to add a new Section 22-72, entitled "Payment of Taxes and Assessments", as follows:

"22-72 Payment of Taxes and Assessments

As a condition of approval by the Planning Board of the Borough of North Plainfield or the Board of Adjustment of the Borough of North Plainfield, any person and/or entity submitting an application for development of property within the Borough must submit proof that no taxes and/or assessments for local improvements are due or delinquent on the property for which any subdivision, site plan or planned development

application is made at the time of submission of such subdivision, site plan or planned development application."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.


3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

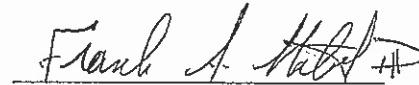
INTRODUCED November 24, 2008:
PASSED: November 24, 2008
PUBLISHED: December 4, 2008
ADOPTED: December 22, 2008


ROLL CALL: AYES: Forbes, Giordano, Hitchcock, La Ronde, Righetti, Singleterry,
NAYS: None Stabile
ABSTAIN: None
ABSENT: None

APPROVED BY THE MAYOR: December 22, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Frank A. Stabile Jr.
Council President


Janice G. Allen, Mayor

ORDINANCE NO. 08-28

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE
BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
SPECIFICALLY SECTION 22-119, ENTITLED "SIGNS"**

WHEREAS, the Borough Council of the Borough of North Plainfield recently adopted a new Sign Ordinance setting forth regulations for the use and location of signs in the Borough; and

WHEREAS, the Borough Council of the Borough of North Plainfield has determined that Section 22-119.3(I) should be amended in order to place a time limitation on how long such signs may remain on a property; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Section 22-119, entitled "Signs", specifically Section 119.3(I) is hereby revised, amended and supplemented as follows:

"I. Building construction signs. One (1) on-site building construction sign on each construction site in any zoning district is permitted, provided that the maximum display surface shall not exceed eight (8) square feet in the R-1, R-2, R-3, G, SC and PO-R zone district, and shall not exceed thirty-two (32) square feet in any other zoning district. All such on-site building construction signs shall be removed within five (5) calendar days of completion of the construction."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or

paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

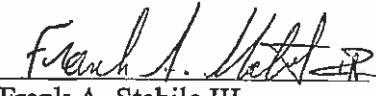
INTRODUCED: November 24, 2008
PASSED: November 24, 2008
PUBLISHED: December 4, 2008
ADOPTED: December 22, 2008

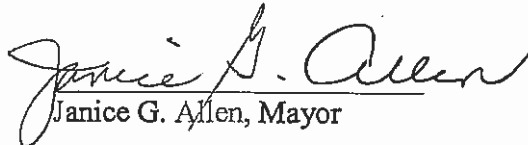
ROLL CALL: AYES: Forbes, Giordano, Hitchcock, La Ronde, Righetti, Singleterry, Stabile
NAYS: None
ABSTAIN: None
ABSENT: None

APPROVED BY THE MAYOR: December 22, 2008

ATTEST:


Gloria Pflueger, RMCMMC
Borough Clerk


Frank A. Stabile III
Council President


Janice G. Allen, Mayor

ORDINANCE NO. 09- 09
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT
THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
CHAPTER XI, ENTITLED "PROPERTY MAINTENANCE CODE", TO ADD A
NEW ARTICLE IV, ENTITLED, "ABANDONED PROPERTY"**

WHEREAS, there has been an increase in the number of homes in the Borough of North Plainfield being foreclosed on which ultimately end up abandoned; and,

WHEREAS, the Borough Council of the Borough of North Plainfield believes that provisions need to be put in place to ensure that any abandoned homes continue to be maintained; and,

WHEREAS, the State of New Jersey has adopted the Abandoned Property Rehabilitation Act, N.J.S.A. 55:19-78, et seq., which addresses the maintenance of such abandoned properties; and,

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to codify the provisions of the Abandoned Property Rehabilitation Act in a Borough ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey, that the Borough Code of the Borough of North Plainfield, Chapter XI, entitled "Property Maintenance Code", is hereby amended, revised and supplemented to add a new Article IV, entitled "Abandoned Property", as follows:

"ARTICLE IV ABANDONED PROPERTY

11-13.1 Abandoned Property Rehabilitation Act Adopted

The provisions of the Abandoned Property Rehabilitation Act (the "Act"), N.J.S.A. 55:19-78, et seq., are hereby accepted, adopted and established and this Ordinance modifies the Act only for purposes of order and context. All substantive rights and obligations under the Act are maintained and preserved.

11-13.2 Definitions

A. "Abandoned property" means any property that is determined to be abandoned pursuant to the provisions of N.J.S.A. 55:19-78, et seq. and/or the provisions of this Ordinance.

B. "Department" means the New Jersey Department of Community Affairs.

C. "Lienholder" or "mortgage holder" means any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

D. "Owner" means the holder or holders of title to an abandoned property.

E. "Property" means any building or structure and the land appurtenant thereto.

F. "Public Officer" means the Code Enforcement Officer of the Borough of North Plainfield or any other person which may be designated or appointed by the Mayor or designee pursuant to N.J.S.A. 40:48-2.5.

G. "Qualified rehabilitation entity" means an entity organized or authorized to do business under the New Jersey statutes which shall have as one of its purposes the construction or rehabilitation of residential or non-residential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities to carry out the rehabilitation of vacant buildings in urban area.

11-13.3 Abandoned property; criteria

Except as provided in N.J.S.A. 55:19-83, any property that has not been legally occupied for a period of six (6) months and which the Public Officer determines meets any one (1) of the following additional criteria may be deemed to be abandoned property:

A. The property is in need of rehabilitation in the reasonable judgment of the Public Officer and no rehabilitation has taken place during that six (6) month period;

B. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy and no construction has taken place for at least six (6) months as determined by the Public Officer pursuant to this section;

C. At least one (1) installment of property taxes remains unpaid and delinquent on the property in accordance with Chapter 4 of Title 54 of the Revised Statutes of the State of New Jersey as of the date of a determination by the Public Officer pursuant to this section; or,

D. The property has been determined to be a nuisance by the Public Officer in accordance with N.J.S.A. 55:19-82 and/or the provisions of this Ordinance.

A property which contains both residential and non-residential space may be considered abandoned so long as two-thirds (2/3) or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six (6) months at the time of the determination of abandonment by the Public Officer and the property meets the criteria of either subsection A or subsection D of this section.

11-13.4 Nuisance property; criteria

A property may be determined to be a nuisance if:

A. The property has been found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3;

B. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;

C. The property is subject to unauthorized entry leading to potential health and safety hazards; or, the owner has failed to take reasonable and necessary measures to secure the property; and/or, the Borough has secured the property in order to prevent such hazards after the owner has failed to do so;

D. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or,

E. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in

close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

A Public Officer who determines a property to be a nuisance pursuant to subsections B through E of this section, singularly or jointly, shall follow the notification procedures set forth in N.J.S.A. 40:48-2.3 et seq.

11-13.5 Property deemed not abandoned; criteria; certification of abandonment provided upon request

A. If any entity other than the Borough has purchased or taken assignment from the Borough of a tax sale certificate on a property that has not been legally occupied for a period of six (6) months, that property shall not be placed on the abandoned property list as set forth below if: (1) the owner of the certificate has continued to pay all Borough taxes and liens on the property in the tax year when due; and, (2) the owner of the certificate takes action to initiate foreclosure proceedings within six (6) months after the property is eligible for foreclosure pursuant to either subsection a. or subsection b. of N.J.S.A. 54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

B. A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two (2) of the additional criteria set forth in Section 4 of N.J.S.A. 55:19-81.

C. A determination that a property is abandoned property shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.

D. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to subsection b. of N.J.S.A. 54:5-86, the Public Officer or the Tax Collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of abandoned according to the criteria set forth in sections 4 and 5 of N.J.S.A. 55:19-81 and 55:19-82.

11-13.6 Notification

A. A creditor serving a notice of intention to foreclose on a mortgage on residential property in the Borough of North Plainfield shall serve the Public Officer and the North Plainfield Borough Clerk with a copy of the notice at the same time it is served on the owner of the property. In the event that the property being foreclosed is an affordable unit, pursuant to the "Fair Housing Act", then the creditor shall identify that the property is subject to the "Fair Housing Act." The copy served on the Public Officer and the Borough Clerk shall include the

full name and contact information of an individual located within the State of New Jersey who is authorized to accept service on behalf of the creditor.

B. If a residential property becomes vacant at any point subsequent to the creditor's filing the notice of intention to foreclose, but prior to the vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable State or local code, the Public Officer shall notify the creditor, who shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property and to such standard or specification as may be required by the Public Officer.

11-13.7 Inventory and list of abandoned property; appeals

A. The Public Officer shall identify all abandoned property throughout the Borough, or within those parts of the Borough as the governing body may designate, and establish and maintain an "abandoned property list". Each item of abandoned property on the abandoned property list shall include the tax block and lot number, the name of the owner of record, if known, and the street address of the property. Properties may be added or deleted from the abandoned property list at any time upon a finding by the Public Officer that the property no longer meets the definition of an abandoned property. An interested party may request that a property be included on the abandoned property list following the procedure set forth in N.J.S.A. 55:19-105.

B. An abandoned property shall not be included on the abandoned property list if rehabilitation and/or repair of the property is being performed in a timely manner, as evidenced by building permits and diligent pursuit of the rehabilitation and/or repair work authorized by those permits.

C. If a property, which an entity other than the Borough has purchased or taken assignment from the Borough of a tax sale certificate, is placed on the abandoned property list, the property shall be removed from the list if the owner of the certificate pays all municipal taxes and liens due on the property within thirty (30) calendar days after the property is placed on the list. However, if the owner of the certificate fails to initiate foreclosure proceedings within six (6) months after the property was first placed on the list, the property shall be restored to the abandoned property list.

D. The Public Officer shall establish the abandoned property list or any additions thereto by publication in the official newspaper of the Borough of North Plainfield, which publication shall constitute public notice, and, within ten (10) calendar days after publication, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list. The published and mailed notices shall identify property determined to be abandoned and shall set forth the owner of record, if known, the

tax lot and block number and the street address. The Public Officer, in consultation with the Tax Collector, shall also send out a notice by regular mail to any mortgagee, servicing organization or property tax processing organization that receives a duplicate copy of the tax bill pursuant to N.J.S.A. 54:4-64. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the tax collector, notice shall be posted on the property in the manner provided in N.J.S.A. 40:48-2.7. The mailed notice shall indicate the factual basis for the Public Officer's finding that the property is abandoned property as that term is defined in N.J.S.A. 55:19-78 et seq., and any rules and regulations promulgated thereunder, specifying the information relied upon in making such finding. In all cases a copy of the mailed or posted notice shall also be filed by the Public Officer in the Somerset County Clerk's office. This filing shall have the same force and effect as a notice of lis pendens under N.J.S.A. 2A:15-6. The notice shall be indexed by the name of the property owner as defendant and the name of the Borough as plaintiff, as though an action has been commenced by the Borough against the owner.

E. An owner or lienholder may challenge the inclusion of his/her/its property on the abandoned property list by appealing that determination in writing to the Public Officer within thirty (30) calendar days of the owner's receipt of the certified notice or forty (40) calendar days from the date upon which the notice was sent, whichever is later. An owner whose identity was not known to the Public Officer shall have forty (40) calendar days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the abandoned property list. For good cause shown, the Public Officer shall accept a late filing of an appeal.

1. Within thirty (30) calendar days of receipt of a request for an appeal of the findings contained in the notice, the Public Officer shall schedule a hearing for re-determination of the matter.
2. Any property included on the list shall be presumed to be abandoned property unless the owner can demonstrate that the property was erroneously included on the list through the submission of an affidavit or certification averring that the property is not abandoned and stating the reasons for such averment. The affidavit or certification shall be accompanied by supporting documentation including, but not limited to, photographs, repair invoices, bills and/or construction contracts. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined in N.J.S.A. 55:19-78 et seq.
3. The Public Officer shall decide any timely filed appeal within ten (10) calendar days of the hearing on the appeal and shall promptly notify the property owner of the decision and the reasons therefore, by certified mail, return receipt requested, and by regular mail.

4. The property owner may challenge an adverse determination of an appeal with the Public Officer, by instituting a summary proceeding in accordance with the New Jersey Court Rules in the Superior Court, Law Division, Somerset County, which action shall be tried de novo. Such action shall be instituted within twenty (20) calendar days of the date of the notice of decision mailed by the Public Officer. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined in N.J.S.A. 55:19-78 et seq. The failure to institute an appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination except that, for good cause shown, the court may extend the deadline for instituting the action.

5. The Public Officer shall promptly remove any property from the abandoned property list that has been determined not to be abandoned on appeal.

F. The abandoned property list shall become effective upon the expiration of the period for appeal with respect to the property or upon the denial of an appeal brought by the property owner at such time as any one property has been placed on the list in accordance with the provisions of this section. The Borough shall then have the right to pursue any legal remedy with respect to the properties on the abandoned property list.

11-13.8 Sale of tax lien on abandoned property; remediation costs

A. Notwithstanding N.J.S.A. 54:5-19 or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the property taxes or other Borough liens due on the property are delinquent six (6) or more quarters as of the date of expiration of the right to appeal inclusion on the list or, if any appeal has been filed as of the date that all opportunities for appeal of inclusion on the list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures in the "Tax Sale Law," N.J.S.A. 54:5-1, et seq., on or after the ninetieth (90th) calendar day following the expiration of that time of appeal or final determination on an appeal, as appropriate.

B. The Borough may, at its option, require that the sale of the tax sale certificate or any subsequent assignment or transfer of a tax sale certificate held by the Borough be subject to the express condition that the purchaser or assignee be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list and to post a bond in favor of the Borough to guarantee the rehabilitation or repair of the property. The Public Officer may waive the requirement to post a bond imposed by the Borough for any purchaser, assignee or transferee of a tax sale certificate that provides documentation acceptable to the Public Officer that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined in N.J.S.A. 55:19-80. The cost of rehabilitation and repairs and the cost of the bond shall be added to the

amount required to be paid by the owner for redemption of the property. The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the tax collector, pursuant to N.J.S.A. 54:5-62, representing the amount of money expended toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate of interest for delinquencies in excess of \$1,500, pursuant to N.J.S.A. 54:4-67, in effect for the time period when the amounts were expended. The tax sale certificate purchaser, assignee or transferee, under the auspices and with the authority of the Borough, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement holding the Borough harmless is filed with the Public Officer.

C. If the tax sale certificate is not purchased at the initial auction of the tax sale certificate and the Borough purchases the certificate pursuant to N.J.S.A. 54:5-34, then the Borough is authorized and empowered to convey and transfer to the New Jersey Redevelopment Authority (the "Authority") or any of its subsidiaries, without receiving compensation therefore, all of its right, title and interest in that certificate; however, the Authority shall repay the Borough upon sale of the property, all monies including interest, costs and fees, owed. Any portion of the amount paid to the tax collector to redeem the tax sale certificate that represents tax or other Borough lien delinquencies and subsequent Borough liens, including interest, shall be returned by the tax collector to the Borough.

D. If the Borough or the Authority or its subsidiaries acquires the tax sale certificate for a property on the abandoned property list, it shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list upon ten (10) calendar days' written notice to the property owner and any mortgagee existing as of the date of the filing of the lis pendens notice. No remediation shall be commenced, however, if within that ten (10) calendar day period, the owner or mortgagee shall have notified the Borough or the Authority or its subsidiaries, as appropriate, in writing, that the owner or mortgagee has elected to perform the remediation itself. When the owner or mortgagee elects to perform the remediation itself, it shall be required to post bond in favor of the Borough or the Authority or its subsidiaries, as appropriate, in order to ensure performance. The amount and conditions of the bond shall be determined by the Public Officer.

1. Upon completion of the remediation, the cost of the remediation incurred by the Borough or the Authority or its subsidiaries, as appropriate, as so certified by the entity incurring the cost, shall constitute a lien upon the property first in time and right to any other lien, whether

the other lien was filed prior to or after the filing of any lien by the Borough or the Authority or its subsidiaries, except for Borough taxes, liens and assessments and any lien imposed pursuant to the "Spill Compensation and Control Act," N.J.S.A. 58:10-23.11, et seq., together with any interest thereon.

2. The entity incurring the cost shall file the certification of cost with the Somerset County Clerk's office. The certification of cost shall be recorded as a lien upon the property.

E. Failure of an owner or lienholder to remove a property from the abandoned property list within the period of time for appeal of inclusion of the property on the list shall be prima facie evidence of the intent of the owner to continue to maintain the property as abandoned property. The clearance, development, redevelopment or repair of such property being maintained as an abandoned property shall be a public purpose and public use for which the power of eminent domain may be exercised.

11-13.9 Removal of property from list of abandoned properties; remediation

A. An owner may remove a property from the list of abandoned properties prior to sale of the tax sale certificate by paying all taxes and Borough liens due, including interest and penalties, and:

1. By posting cash or a bond equal to the cost of remediating all conditions as a result of which the property has been determined to be abandoned and posting cash or a bond to cover the cost of any environmental cleanup required on the property, evidenced by a certification from a licensed engineer stating that the cash or bond adequately covers the cost of the cleanup and reviewed and approved by the Public Officer; or,

2. By demonstrating to the satisfaction of the Public Officer that the conditions rendering the property abandoned have been remediated in full; provided, however, that where the Public Officer finds that the owner is actively engaged in remediating the conditions as a result of which the property was determined to be abandoned, as evidenced by significant rehabilitation activity on the property, the Public Officer may grant an extension of time of not more than one hundred twenty (120) calendar days for the owner to complete all work, during which time no further proceedings will be taken against the owner or the property.

B. If the owner has posted cash or a bond in order to have a property removed from the abandoned property list and the conditions as a result of which the property was determined to be abandoned have not been fully remediated within one (1) year of the date of posting the cash or bond or, in the case of a property

which requires a remediation of any known, suspected or threatened release of contaminants, if the owner has failed to enter into a memorandum of agreement with the New Jersey State Department of Environmental Protection or an administrative consent order, as the case may be, or if an agreement or order is in effect but the owner has failed to perform the remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the Borough which shall use the cash or bond and any interest which has accrued thereon for the purpose of demolishing or rehabilitating the property or performing the environmental remediation. Any funds remaining after the property has been demolished, rehabilitated and/or cleaned up shall be returned to the owner.

11-13.10 Acquisition of tax sale certificate for abandoned property; action to foreclose right of redemption

A. When a person other than the Borough or the Authority or its subsidiaries acquires a tax sale certificate for a property on the abandoned property list at tax sale, the purchaser may institute an action to foreclose the right of redemption at any time after the expiration of six (6) months following the date of the sale of the tax sale certificate.

B. When the Borough is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, or when the Authority or any of its subsidiaries acquires the tax sale certificate pursuant to N.J.S.A. 54:5-104.34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of N.J.S.A. 54:5-77.

C. After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:

1. Posts cash or a bond equal to the cost of remediating the conditions as a result of which the property was determined to be abandoned, as determined by the court; or,
2. Demonstrates to the court that the conditions as a result of which the property was determined to be abandoned have been remedied in full.

11-13.11 Entry of final judgment barring right of redemption; grounds for reopening judgment

Once a final judgment has been recorded barring the right of redemption with respect to a property on the list of abandoned properties, no court shall reopen such judgment at any time except on the grounds of lack of jurisdiction or fraud in the conduct of the action.

11-13.12 Transfer of possession and control of abandoned property

A summary action or other action to transfer possession and control of abandoned property in need of rehabilitation to the Borough may be brought by the Borough in the Superior Court of New Jersey, Somerset County. If the court shall find that the property is abandoned and the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the court may authorize the Borough to take possession and control of the property and develop a rehabilitation plan.

If the Borough is granted possession and control, it may commence and maintain those further proceedings for the conservation, protection or disposal of the property or any part thereof that are required to rehabilitate the property and/or recoup the cost and expenses of rehabilitation and for the sale of the property; provided, however, that the court shall not direct the sale of the property if the owner applies to the court for reinstatement of control of the property as provided in N.J.S.A. 55:19-92 and/or the provisions of this Ordinance.

Failure by the owner, mortgage holder or lien holder to submit plans for rehabilitation to the Borough, obtain appropriate construction permits for rehabilitation or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, State and/or Federal agencies providing such funding within the six (6) month period that the property has been "abandoned" shall be deemed prima facie evidence that the owner has failed to take any action to further the rehabilitation of the property.

11-13.13 Filing of complaint; required information

A complaint filed pursuant to section 11-13.12 above and/or N.J.S.A. 55:19-84 shall include:

- A. Documentation that the property is on the Borough abandoned property list or a certification by the Public Officer that the property is abandoned; and,
- B. A statement by an individual holding appropriate professional qualifications that there are sound reasons that the building should be rehabilitated rather than demolished based upon the physical, aesthetic or historical character of the building or the relationship of the building to other buildings and lands within its immediate vicinity.

11-13.14 Filing of complaint; notice requirements; entry to secure, stabilize, repair or inspect the property

- A. Within ten (10) calendar days of filing a complaint, the plaintiff shall file a notice of lis pendens with the Somerset County Clerk's office.

B. At least thirty (30) calendar days before filing the complaint, the Borough shall serve a notice of intention to take possession of an abandoned building. The notice shall inform the owner and any interested parties that the property has not been legally occupied for six (6) months and of those criteria that led to a determination of abandonment.

The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate Borough officials, the Borough will seek to gain possession of the building to rehabilitate the property and the associated cost shall be a lien against the property, which may be satisfied by the sale of the property, unless the owner applies to the court for reinstatement of control of the property as provided in N.J.S.A. 55:19-92 and/or the provisions of this Ordinance.

After the complaint is filed, the complaint shall be served on the parties in interest in accordance with the New Jersey Rules of Court.

C. After serving the notice of intent on the owner by certified mail, return receipt requested, the Borough or its designee may enter upon the property in order to secure, stabilize or repair the property, or in order to inspect the property for purposes of preparing the plan to be submitted to the court pursuant to N.J.S.A. 55:19-89.

11-13.15 Property owner, defense against complaint; requirements

A. Any owner may defend against a complaint by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to one hundred twenty-five percent (125%) of the amount determined by the Public Officer or the court to be the projected cost of rehabilitation.

Any plan submitted by an owner to defend against a complaint shall be submitted within sixty (60) calendar days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.

B. A plan submitted by an owner pursuant to this section shall include, but not be limited to:

1. A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, such as operating budgets or resale prices, or both, as appropriate;
2. A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;

3. A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and,

4. Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.

C. The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property which is the subject of the complaint. If the court approves the owner's plan, then it may appoint the Public Officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, then the Borough may apply to the court to have the owner's bond forfeited, possession of the building transferred to the Borough to complete the rehabilitation plan and authorization to use the bond proceeds for rehabilitation of the property. The owner shall provide quarterly reports to the Borough on its activities and progress toward rehabilitation and reuse of the property. The owner shall provide those reports to the court on its activities that the court determines are necessary.

D. The court may reject a plan and bond if it finds that the plan does not represent a realistic and expeditious means of ensuring the rehabilitation of the property or that the owner or his representatives or agents, or both, lack the qualifications, background or other criteria necessary to ensure that the plan will be carried out successfully.

11-13.16 Owner unsuccessful in defending against complaint; mortgage or lien holders to be designated in possession of property

A. If an owner is unsuccessful in defending against a complaint, the mortgage holder or lien holder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions as set forth in N.J.S.A. 55:19-87 and/or this Ordinance. The plan shall be submitted within sixty (60) calendar days after the court has rejected owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lien holder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the Public Officer to act as monitor of the party's compliance.

The mortgage holder or lien holder, as the case may be, shall provide quarterly reports to the court and the Borough on its activities and progress toward rehabilitation and reuse of the property.

If the mortgage holder or lien holder fails to carry out any material step in the approved plan, then the Public Officer shall notify the court, which may order the

bond forfeited, grant the Borough possession of the property and authorize the Borough to use the proceeds of the bond for rehabilitation of the property.

B. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lien holder granted possession of a property pursuant to this section, including court costs and reasonable attorney's fees, may be added to the unpaid balance due that mortgage holder or lien holder, with interest calculated at the same rate as set forth in the note or security agreement or, in the case of a tax lien holder, at the statutory interest rate for subsequent liens.

11-13.17 Borough to be designated in possession of property; submission of plan to court

If no mortgage holder or lienholder meets the conditions set forth in section 11-13.16 above, then the Borough shall submit a plan to the court which conforms with the provisions of section 11-13.15(b) above. The plan shall designate the entity which shall implement the plan, which may be the Borough or that entity designated in accordance with the provisions of N.J.S.A. 55:19-90 or section 11-13.18 of this Ordinance.

The court shall grant the Borough possession of the property if it finds that:

- A. The proposed rehabilitation and reuse of the property is appropriate and beneficial;
- B. The Borough is qualified to undertake the rehabilitation and reuse of the property; and,
- C. The plan submitted by the Borough represents a realistic and timely plan for the rehabilitation and reuse of the property.

The Borough shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the plan submitted to the court. In making its findings pursuant to this section, the court may consult with qualified parties, including the New Jersey State Department of Community Affairs and, upon request by a party in interest, may hold a hearing on the plan.

Where either a redevelopment plan pursuant to N.J.S.A. 40A:12A-1 et seq. or a neighborhood revitalization plan pursuant to N.J.S.A. 52:27-490 et seq. has been adopted or approved by the New Jersey State Department of Community Affairs encompassing the property which is the subject of a complaint, the court shall make a further finding that the proposed rehabilitation and reuse of the property are not inconsistent with any provision of either plan.

11-13.18 The Borough's exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity

The Borough may exercise its rights under N.J.S.A. 55:19-78 et seq. directly, or may designate a qualified rehabilitation entity to act as its designee, for the purpose of exercising the Borough's rights where that designation will further the rehabilitation and reuse of the property consistent with Borough's plans and objectives. This designation shall be made by resolution of the Borough Council. The Mayor may delegate this authority to the Public Officer.

Regardless of whether the Borough exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property pursuant to, the Borough shall maintain, safeguard and maintain insurance on the property. Notwithstanding the Borough's possession of the property, nothing in N.J.S.A. 55:19-78 et seq. shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

11-13.19 The Borough deemed possessor of property; borrowing of funds; reporting and filing requirements

A. If the Borough has been granted possession of a property pursuant to N.J.S.A. 55:19-89 and/or the provisions of this Ordinance, the Borough shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals and submitting applications for financing or other assistance to public or private entities.

For the purposes of any State program of grants or loans, including, but not limited to, programs of the New Jersey State Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, possession of a property under this section shall be considered legal control of the property.

Notwithstanding the granting of possession to the Borough, nothing in N.J.S.A. 55:19-78, et seq. shall be deemed to relieve the owner of the property of any obligation the owner or any other person may have for the payment of taxes or other Borough liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.

The granting of possession shall not suspend any obligation the owner may have as of the date of the granting of possession for payment of any operating or maintenance expense associated with the property, whether or not billed at the time of the granting of possession.

B. The court may approve the borrowing of funds by the Borough to rehabilitate the property and may grant a lien or security interest with priority over all other

liens or mortgages other than municipal liens. Prior to granting this lien priority, the court shall find that: (1) the Borough sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms; (2) the Borough sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and, (3) lien priority is necessary in order to induce another lender to provide financing on reasonable terms.

No lien authorized by the court shall take effect unless recorded in the office of the Somerset County Clerk. For the purposes of this section, the cost of rehabilitation shall include reasonable non-construction costs such as architectural fees or construction permit fees customarily included in the financing of the rehabilitation of residential property.

C. Where the Borough has been granted possession by the court in the name of the Borough, the Borough may seek the approval of the court to assign its rights to another entity, which approval shall be granted by the court when it finds that: (1) the entity to which the Borough's rights will be assigned is a qualified rehabilitation entity; and, (2) the assignment will further the purposes of this section.

D. Where the Borough has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide quarterly reports to the Borough on its activities and progress toward rehabilitation and reuse of the property. The Borough or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the Borough or its designee have failed to take diligent action toward rehabilitation of the property within one (1) year from the grant of possession, then the court may request the Borough to designate another qualified rehabilitation entity to exercise its rights, or if the Borough fails to do so, may terminate the order of possession and return the property to its owner.

E. The Borough shall file a Notice of Completion with the court, and shall also serve a copy on the owner and any mortgage holder or lien holder, at such time as the Borough has determined that no more than six (6) months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the Public Officer attesting that rehabilitation will be complete within that time period and a statement setting forth such actions it plans to undertake to ensure that reuse of the property takes place consistent with the plan.

11-13.20 Petition for reinstatement of control and possession by owner

An owner may petition for reinstatement of the owner's control and possession of the property at any time after one (1) year from the grant of possession, but no later than thirty (30) calendar days after the Borough has filed a Notice of Completion with the

court or, in the event the Notice of Completion is filed within less than one (1) year of the grant of possession, within thirty (30) calendar days after the Borough has filed notice.

The court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship on the Borough or affect any of the terms or conditions under which the Borough has applied for or received financing for the rehabilitation of the property.

11-13.21 Contents of petition; filing and payment requirements

Any petition for reinstatement of the owner's control and possession of the property shall:

A. Include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court;

B. Provide legally binding assurances that the owner will comply with all conditions of any grant or loan secured by the Borough or repay those grants or loans in full, at the discretion of the maker of the loan or grant; and,

C. Be accompanied by payment equal to the sum of (1) all Borough liens outstanding on the property; (2) all costs incurred by the Borough in bringing action with respect to the property; (3) any costs incurred by the Borough not covered by grants or loans to be assumed or repaid pursuant to this section; and, (4) any costs remaining to complete rehabilitation and reuse of the property, as determined by the Public Officer; which payment shall be placed in escrow with the Clerk of the Somerset County Superior Court pending disposition of the petition.

11-13.22 Obligations of owner prior to grant of petition

Prior to the granting of the owner's petition by the court, the owner may be required to post a bond or other security in an amount determined by the court, after consultation with the Public Officer, as likely to insure that the owner will continue to maintain the property in sound condition. That bond or other security shall be made available to the Borough to make any repair on the property in the event that the owner fails to comply with any requirement imposed as a condition of the reinstatement petition.

The owner may seek approval of the court to be relieved of this requirement after five (5) years, which approval shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period and that the owner has remedied other violations in a timely and expeditious fashion.

11-13.23 Failure of owner to petition for reinstatement of control and possession of property; granting of title to the Borough; authority to sell

If the owner fails to petition for the reinstatement of control and possession of the property within thirty (30) calendar days after the entity in possession has filed a Notice of Completion or in any event within two (2) years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the court in granting a reinstatement petition, upon petition by the entity in possession, the court may grant the Borough title or authorize the Borough to sell the property, subject to the provisions of N.J.S.A. 55:19-96 and/or section 11-13.24 of this Ordinance.

11-13.24 Procedure of Borough seeking to gain title to property; authorization to sell; proceeds

A. Where the Borough seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the court shall approve and may place the proceeds of sale in escrow with the court.

The court may authorize the Borough to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement.

The proceeds of the purchase of the property shall be distributed as set forth in N.J.S.A. 55:19-97 and/or section 11-13.25 of this Ordinance.

B. The Borough may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.

C. Upon approval by the court, the Borough shall sell the property on such terms and at such price as the court shall approve and may place the proceeds of sale in escrow with the court. The court shall order a distribution of the proceeds of the sale after paying court costs in the order of priority set forth in N.J.S.A. 55:19-97 and/or section 11-13.25 of this Ordinance.

11-13.25 Distribution of proceeds

The proceeds from the sale shall be distributed in the following order of priority:

- A. The costs and expenses of sale;
- B. Other governmental liens;

C. Repayment of principal and interest on any borrowing or indebtedness incurred by the Borough and granted priority lien status, pursuant to N.J.S.A. 55:19-98 and/or section 11-13.26 of this Ordinance;

D. A reasonable development fee to the Borough consistent with the standards for development fees established for rehabilitation programs by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;

E. Other valid liens and security interests, in accordance with their priority; and,

F. The owner.

11-13.26 Public Officer; authority to place lien on property; remedies

A. The Public Officer, with the approval of the court, may place a lien on the property to cover any costs of the Borough in connection with a proceeding under N.J.S.A. 55:19-78 et seq. incurred prior to the grant by the court of an order of possession, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a Borough lien for the purposes of N.J.S.A. 54:5-9 with the rights and status of a Borough lien pursuant thereto.

B. With the exception of the holding of special tax sales pursuant to N.J.S.A. 55:19-101 and/or section 11-13.29 of this Ordinance, the remedies available under N.J.S.A. 55:19-78, et seq. shall be available to the Borough with respect to any abandoned property, whether or not the Borough has established an abandoned property list and whether or not the property has been included on any such list.

11-13.27 Court's denial of rights and remedies to lienholders and mortgage holders

Notwithstanding any provision to the contrary in N.J.S.A. 55:19-78 et seq., a court may, in its discretion, deny a lienholder or mortgage holder of any or all rights or remedies afforded lienholders and mortgage holders, if the court finds that the owner of a property owns or controls more than a fifty percent (50%) interest in, or effective control of, the lienholder or mortgage holder or that the familial or business relationship between the lienholder or mortgage holder and the owner precludes a separate interest on the part of the lienholder or mortgage holder.

11-13.28 Recourse of Borough against individuals or corporations

With respect to any lien placed against any real property pursuant to the provisions of N.J.S.A. 40:48-2.3 or N.J.S.A. 40:48-2.5 or N.J.S.A. 40:48-2.3a or any receiver's lien pursuant to N.J.S.A. 2A:42-114, et seq., the Borough shall have recourse with respect to the lien against any asset of the owner of the property if an individual, against any asset of any partner if a partnership, and against any asset of any owner of a ten percent (10%)

interest or greater if the owner is any other business organization or entity recognized pursuant to law.

11-13.29 Properties eligible for tax sales; Borough requirements; notice

The Borough may hold special tax sales with respect to those properties eligible for tax sale, pursuant to N.J.S.A. 54:5-19 which are also on an abandoned property list established by the Borough. If the Borough elects to hold a special tax sale, the Borough shall conduct that sale subject to the following:

A. The Borough shall establish criteria for eligibility to bid on properties at the sale, which may include, but shall not be limited to: documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with the Borough's plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with the Borough's plans and regulations; commitments by the bidder to take action to foreclose on the tax lien by a date certain; and such other criteria as the Borough may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;

B. The Borough may establish minimum bid requirements for a special tax sale that may be less than the full amount of the taxes, interest and penalties due. The amount of such minimum bid shall be at the sole discretion of the Borough in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;

C. The Borough may combine properties into bid packages and require that bidders place a single bid on each package and reject any and all bids on individual properties that have been included in the bid packages;

D. The Borough may sell properties subject to provision that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale pursuant to subsection A of this section or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the Borough, and any amount paid by the purchaser to the Borough at the special tax sale shall be forfeited to the Borough;

E. In the event there are two (2) or more qualified bidders for any property or bid package in a special tax sale, the Borough may designate the unsuccessful but qualified bidder whose bid was closest to the successful bid as an eligible purchaser;

F. In the event that the purchaser of that property or bid package fails to meet any of the conditions of sale established by the Borough pursuant to this section, and their interest in the property or properties reverts to the Borough, the Borough

may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.

G. The Borough shall provide notice of a special tax sale pursuant to N.J.S.A. 54:5-26. The notice shall include any special terms of sale established by the Borough, pursuant to subsections B, C and/or D of this section. Nothing shall prohibit the Borough from holding a special tax sale on the same day as a standard or accelerated tax sale.

11-13.30 Eminent domain proceeding; establishment of fair market value

With respect to any eminent domain proceeding carried out under N.J.S.A. 55:19-56, the fair market value of the property shall be established on the basis of an analysis which determines independently:

A. The cost to rehabilitate and reuse the property for such purpose as is appropriate under existing planning and zoning regulations governing its reuse or to demolish the existing property and construct a new building on the site, including all costs ancillary to rehabilitation including, but not limited to, marketing and legal costs;

B. The realistic market value of the reused property after rehabilitation or new construction, taking into account the market conditions particular to the neighborhood or subarea of the Borough in which the property is located; and,

C. The extent to which the cost exceeds or does not exceed the market value after rehabilitation, or demolition and new construction, and the extent to which any "as is" value of the property prior to rehabilitation can be added to the cost of rehabilitation or demolition and new construction without the resulting combined cost exceeding the market value as separately determined. If the appraisal finds that the cost of rehabilitation or demolition and new construction, as appropriate, exceeds the realistic market value after rehabilitation or demolition and new construction, there shall be a rebuttable presumption in all proceedings under this subsection that the fair market value of the abandoned property is zero, and that no compensation is due the owner.

11-13.31 Removal of property from abandoned property list

If a property, which an entity other than the Borough has purchased or taken assignment from the Borough of a tax sale certificate, is placed on the abandoned property list, the property shall be removed from the list if the owner of the certificate pays all Borough's taxes and liens due on the property within thirty (30) calendar days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate

foreclosure proceedings within six (6) months after the property was first placed on the list, the property shall be restored to the abandoned property list.

11-13.32 Request for property to be placed on abandoned property list

A. Any interested party may submit in writing a request to the Public Officer that a property be included on the abandoned property list, specifying the street address and block and lot number of the property to be included, and the grounds for its inclusion. Within thirty (30) calendar days of receipt of any such request, the Public Officer shall provide a written response to the party, either indicating that the property will be added to the list of abandoned properties or, if not, the reasons for not adding the property to the list. For the purposes of this section, "interested party" shall include any resident of the Borough, any owner or operator of a business within the Borough or any organization representing the interests of residents or engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

B. Any interested party may participate in any re-determination hearing held by the Public Officer pursuant to N.J.S.A. 55:19-55 and/or section 11-13.7 of this Ordinance. Upon written request by any interested party, the Public Officer shall provide the party with at least twenty (20) calendar days' notice of any such hearing. The party shall provide the Public Officer with notice at least ten (10) calendar days before the hearing of its intention to participate, and the nature of the testimony or other information that it proposes to submit at the hearing."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.
3. This Ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law,

unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: August 10, 2009

PASSED: August 10, 2009

PUBLISHED:

ADOPTED:

ROLL CALL: AYES:
NAYS:
ABSTAIN:
ABSENT:

ATTEST:

Richard Phoenix, RMC

Skip Stabile, Council President

Michael Giordano, Jr., Mayor

**ORDINANCE NO. 10-05
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT
THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
CHAPTER III, ENTITLED "POLICE REGULATIONS", BY ADDING A NEW
SECTION 3-15, ENTITLED, "CLOTHING DONATION BINS"**

WHEREAS, the New Jersey Legislature recently passed a law authorizing municipalities the power to regulate the use of clothing donation bins; and,

WHEREAS, the Borough Council of the Borough of North Plainfield believes that many such clothing donation bins are used for improper purposes and/or for non-charitable purposes; and,

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to enact an ordinance prohibiting the placement of such clothing donation bins within the Borough of North Plainfield.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey, that the Borough Code of the Borough of North Plainfield, Chapter III, entitled "Police Regulations", is hereby amended, revised and supplemented by adding a new Section 3-15, entitled "Clothing Donation Bins", as follows:

"3-15 CLOTHING DONATION BINS

3-15.1 Clothing Donation Bins Prohibited

A. Notwithstanding any other provision of law to the contrary, no person shall place, use and/or establish a clothing donation bin within the geographic boundaries of the Borough of North Plainfield.

B. All clothing donation bins currently existing within the geographic boundaries of the Borough of North Plainfield must be removed within ninety (90) calendar days after the effective date of this Ordinance.

3-15.2 Violations and Penalties

Whenever it appears that a person has improperly placed and/or failed to remove a clothing donation bin in violation of §3-15.1 above, the person or entity who owns the clothing bin shall be issued a warning stating that if the clothing donation bin is not removed within ten (10) calendar days, the clothing bin will be seized and/or removed at the expense of the person or entity who owns the clothing bin, and any clothing or other donations collected via the clothing bin will be sold at public auction and/or otherwise disposed of. In addition to any other means used to notify the person or entity who owns the clothing bin, such warning shall be affixed to the exterior of the clothing bin itself. Any proceeds from the sale of the donations collected via the clothing bin shall be paid to the Borough's Chief Financial Officer for the benefit of the Borough."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This Ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the Mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: April 12, 2010
PASSED:
PUBLISHED:
ADOPTED:
ROLL CALL: AYES:
NAYS:
ABSTAIN:
ABSENT:

ATTEST:

Richard K. Phoenix, RMC

Skip Stabile, Council President

Michael Giordano, Jr., Mayor

ORDINANCE NO. 10-02

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

AN ORDINANCE REQUIRING DUMPSTERS AND OTHER REFUSE CONTAINERS THAT ARE OUTDOORS OR EXPOSED TO STORMWATER TO BE COVERED AT ALL TIMES AND PROHIBITS THE SPILLING, DUMPING, LEAKING OR OTHERWISE DISCHARGE OF LIQUIDS, SEMI-LIQUIDS OR SOLIDS FROM THE CONTAINERS TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM(S) OPERATED BY THE BOROUGH OF NORTH PLAINFIELD AND/OR THE WATERS OF THE STATE SO AS TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE AND TO PRESCRIBE PENALTIES FOR FAILURE TO COMPLY; THEREBY AMENDING, REVISING AND SUPPLEMENTING SECTION 14-13 OF THE BOROUGH CODE, ENTITLED "IMPROPER DISPOSAL OF WASTE"

WHEREAS, the Borough of North Plainfield has applied for a 2009 Stormwater Permit from the New Jersey Department of Environmental Protection; and,

WHEREAS, in order for such Stormwater Permit to be approved, the Borough of North Plainfield must revise its Ordinance with respect to the improper disposal of waste.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Section 14-13, entitled "Improper Disposal of Waste", is hereby revised, amended and supplemented as follows:

"14-13 REFUSE CONTAINERS/DUMPSTERS

14-13.1 Purpose.

This Ordinance requires dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or other discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of North Plainfield and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

14-13.2 Definitions.

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

- A. Municipal separate storm water system (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of North Plainfield or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.
- B. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- C. Refuse container – any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.
- D. Stormwater – means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.
- E. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

14-13.3 Prohibited Conduct.

- A. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

B. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of North Plainfield.

C. Additionally, no materials containing hazardous materials, as defined by Federal, State and/or local law, shall be placed in said dumpsters/containers unless the dumpsters/containers have clear markings on the dumpsters/containers themselves and the contents therein that they are hazardous and what hazardous materials are contained therein.

14-13.4 Exceptions to Prohibition.

- A. Permitted temporary demolition containers.
- B. Litter receptacles (other than dumpsters or other bulk containers).
- C. Individual homeowner trash and recycling containers.
- D. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
- E. Large bulky items (e.g. furniture, bound carpet and padding, white goods placed curbside for pickup).

14.13.5 Enforcement.

This ordinance shall be enforced by any and/or all of the following: the Borough Zoning Officer, the Borough Construction Officer, the Borough Property Maintenance Officer, the Borough Health Officer and/or any member of the Police Department of the Borough of North Plainfield or other official and/or entity designated by the Borough of North Plainfield.

14-13.6 Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed One Thousand Two Hundred Fifty Dollars (\$1,250.00) for every day that a violation of this Ordinance occurs. Each day of violation shall be considered a separate violation. In addition; violations may be subject to up to ninety (90) days of imprisonment or ninety (90) days of community service, or both, for every day of violation in addition to the fine above.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

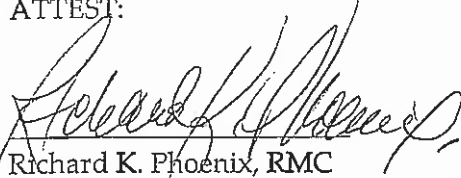
1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

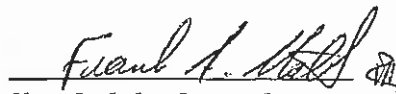
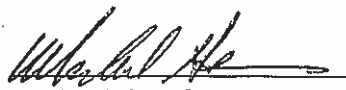
3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED:	March 8, 2010
PASSED:	March 8, 2010
PUBLISHED:	March 12, 2010
ADOPTED:	March 22, 2010
ROLL CALL:	AYES: Forbes, Hitchcock, La Ronde, Merrill, Righetti, Singleterry, NAYS: None ABSTAIN: None ABSENT: None

ATTEST:



Richard K. Phoenix, RMC
Borough Clerk


Skip Stabile, Council President
Michael Giordano, Mayor
22 March 2010

ORDINANCE NO. 10-01

BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY

AN ORDINANCE REQUIRING THE RETROFITTING OF EXISTING STORM DRAIN INLETS WHICH ARE IN DIRECT CONTACT WITH REPAVING, REPAIRING, RECONSTRUCTION OR RESURFACING OR ALTERATIONS OF FACILITIES ON PRIVATE PROPERTY, TO PREVENT THE DISCHARGE OF SOLIDS AND FLOATABLES (SUCH AS PLASTIC BOTTLES, CANS, FOOD WRAPPERS AND OTHER LITTER) TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM(S) OPERATED BY THE BOROUGH OF NORTH PLAINFIELD SO AS TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PRESCRIBE PENALTIES FOR THE FAILURE TO COMPLY, THEREBY, AMENDING, REVISING AND SUPPLEMENTING CHAPTER 22 OF THE BOROUGH CODE, ENTITLED "WATER RUN-OFF CONTROL"

WHEREAS, the Borough of North Plainfield has applied for a 2009 Stormwater Permit from the New Jersey Department of Environmental Protection; and,

WHEREAS, in order for such Stormwater Permit to be approved, the Borough of North Plainfield must revise its Ordinance with respect to water run-off control.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Chapter 22-101, entitled "Water Run-Off Control", is hereby revised, amended and supplemented to add a new Section 22-101.4 as follows:

"22-101.4 Private Storm Drain Inlet Retrofitting

22-101.4.1 Purpose.

This Ordinance requires the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Borough of North Plainfield so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

22-101.4.2 Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this

Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

A. Municipal separate storm sewer system (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by [insert name of municipality] or other public body, and is designed and used for collecting and conveying stormwater. "MS4s do not include combined water systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

B. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

C. Storm drain inlet – an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

D. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

22-101.4.3 Prohibited Conduct.

No person in control of private property (except a residential lot with one (1) single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- A. Already meets the design standard below to control passage of solid and floatable materials; or,
- B. Is retrofitted or replaced to meet the standard in Section 22-101.4.4 ("Design Standard") below prior to the completion of the project.

22-101.4.4 Design Standard.

Storm drain inlets identified in Section 22-101.4.3 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard, see Section 22-101.4.5 below.

A. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

1. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or,

2. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than one-half (0.5) inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (con-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two (2) or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

C. This standard does not apply:

1. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

2. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of

all solid and floatable materials that could not pass through one of the following:

a. A rectangular space four and five-eighths ($4 \frac{5}{8}$) inches long and one and one-half ($1 \frac{1}{2}$) inches wide (this option does not apply for outfall netting facilities); or,

b. A bar screen having a bar spacing of one-half (0.5) inches.

3. Where flows are conveyed through a trash rack that has parallel bars with one (1) inch spacing between the bars; or,

4. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

22-101.4.5 Enforcement

This Ordinance shall be enforced by any and/or all of the following: the Borough Zoning Officer, the Borough Construction Officer, the Borough Property Maintenance Officer, the Borough Health Officer and/or any member of the Police department of the Borough of North Plainfield, and/or any other official and/or entity designated by the Borough of North Plainfield for such enforcement.

22-101.4.6 Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed One Thousand Two Hundred Fifty Dollars (\$1,250.00) for each storm drain inlet that is not retrofitted to meet the design standard for every day that a violation occurs. Each day of violation shall be considered a separate violation. In addition, violations may be subject to up to ninety (90) days of imprisonment or ninety (90) days of community service, or both, for every day of violation in addition to the fine above.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

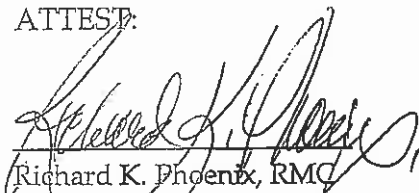
2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions

or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

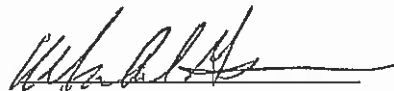
3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: March 8, 2010
PASSED: March 8, 2010
PUBLISHED: March 12, 2010
ADOPTED: March 22, 2010
ROLL CALL: AYES: Forbes, Hitchcock, La Ronde, Merrill, Righetti, Singleterry, Stabile
NAYS: None
ABSTAIN: None
ABSENT: None

ATTEST:


Richard K. Phoenix, RMC
Borough Clerk


Skip Stabile, Council President


Michael Giordano, Mayor

22 March 2010

**ORDINANCE NO. 08-22
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT
THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
CHAPTER XXII, ENTITLED "LAND DEVELOPMENT," ARTICLE VIII,
ENTITLED "ZONING BOARD OF ADJUSTMENT," SPECIFICALLY
SECTION 22-101, ENTITLED "WATER RUN-OFF CONTROL"**

WHEREAS, the Borough Council of the Borough of North Plainfield adopted Ordinance 06-16, a stormwater control ordinance, and submitted such to the County of Somerset for approval; and

WHEREAS, the County of Somerset has conditionally approved Ordinance 06-16 but has requested that changes to the Ordinance be made prior to receiving final approval; and

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to amend the Ordinance in order to obtain final approval for such from the County of Somerset.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey, that the Borough Code of the Borough of North Plainfield, Chapter XXII, entitled "Land Development," Article VIII, entitled "Zoning Board of Adjustment," specifically Section 22-101, entitled "Water Run-Off Control," is hereby amended, revised and supplemented as follows:

22-102 Regulation

"f. Stormwater Control.

1. Scope and Purpose.

A. Policy Statement: Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon

physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose: It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for "major development," as defined in Section 2.

C. Applicability:

1. This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

- a. Non-residential major developments; and,
- b. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This ordinance shall also be applicable to all major developments undertaken by the Borough of North Plainfield.

D. Compatibility with Other Permit and Ordinance Requirements: Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

2. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2:

"CAFRA Planning Map" means the geographic depiction of the boundaries for Coastal Planning Areas, CAFRA Centers, CAFRA Cores and CAFRA Nodes pursuant to N.J.A.C. 7:7E-5B.3.

"CAFRA Centers, Cores or Nodes" means those areas within boundaries accepted by the Department pursuant to N.J.A.C. 7:8E-5B.

"Compaction" means the increase in soil bulk density.

"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"County review agency" means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or,

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Department" means the New Jersey Department of Environmental Protection.

"Designated Center" means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

"Design engineer" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A 4:1C-1 et seq.

"Drainage area" means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

"Environmentally critical areas" means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

"Empowerment Neighborhood" means a neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

"Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

"Infiltration" is the process by which water seeps into the soil from precipitation.

"Major development" means any "development" that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

"Municipality" means any city, borough, town, township, or village.

"Node" means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

"Nutrient" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

"Person" means any individual, corporation, company, partnership, firm, association, The Borough of North Plainfield, or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

"Recharge" means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

"Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

"Site" means the lot or lots upon which a major development is to occur or has occurred.

"Soil" means all unconsolidated mineral and organic material of any origin.

"State Development and Redevelopment Plan Metropolitan Planning Area (PA1)" means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

"State Plan Policy Map" is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

"Stormwater" means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

"Stormwater runoff" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

"Stormwater management basin" means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"Tidal Flood Hazard Area" means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but which is primarily caused by the Atlantic Ocean.

"Urban Coordinating Council Empowerment Neighborhood" means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

"Urban Enterprise Zones" means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

"Urban Redevelopment Area" is defined as previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and,
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

"Waters of the State" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Wetlands" or "wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

3. General Standards.

A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity,

and stormwater runoff quality standards in Section 4. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

4. Stormwater Management Requirements for Major Development

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 10.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.F and 4.G:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and,
3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 4.F and 4.G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 4.F and 4.G to the maximum extent practicable;
3. The applicant demonstrates that, in order to meet the requirements of Sections 4.F and 4.G, existing structures currently in use, such as homes and buildings, would need to be condemned; and,
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 4.F and 4.G that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies:

1. To the maximum extent practicable, the standards in Sections 4.F and 4.G shall be met by incorporating nonstructural stormwater management strategies set forth at Section 4.E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Paragraph 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

- a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- c. Maximize the protection of natural drainage features and vegetation;
- d. Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
- e. Minimize land disturbance including clearing and grading;
- f. Minimize soil compaction;
- g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:

(1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section 4.E.3. below;

(2) Site design features that help to prevent discharge of trash and debris from drainage systems;

(3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and,

(4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 *et seq.*, and implementing rules.

3. Site design features identified under Section 4.E.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 4.E.3.c below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or,

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard does not apply:

(1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows from the water quality design storm as specified in Section 4.G.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or,

(b) A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in Section 4.G.1; or,

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 4.F and 4.G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at www.njstormwater.org.

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b. The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 5, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or,

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and,

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source

materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or downgradient of the groundwater recharge area.

c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or,

(4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (1), (2) and (3) above shall only be applied if

the increased volume of stormwater runoff could increase flood damages below the point of discharge.

2. Any application for a new agricultural development that meets the definition of major development at Section 2 shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater Runoff Quality Standards

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution			
Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.

3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs	
Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Infiltration Structure	40-60
Extended Detention Basin	80
Manufactured Treatment Device	See Section 6.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent

feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 4.F and 4.G.

6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.

7. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

8. Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

(1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

(2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment

Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

c. If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
- (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
- (3) Temperature shall be addressed to ensure no impact on the receiving waterway;
- (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
- (5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and,
- (6) All encroachments proposed under this section shall be subject to review and approval by the Department.

d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section 4.G(8) has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to G.8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in G.8.a.(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

e. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February

2, 2004, provided that the construction begins on or before February 2, 2009.

5. Calculation of Stormwater Runoff and Groundwater Recharge

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:

a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or,

b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Section 5.A.1.a and the Rational and Modified Rational Methods at Section 5.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.

4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 – Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the

design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

6. Standards for Structural Stormwater Management Measures

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.D.

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 8.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section 4 of this ordinance.

C. Manufactured treatment devices may be used to meet the requirements of Section 4 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

7. Sources for Technical Guidance

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;

2. The Rutgers Cooperative Extension Service, 732-932-9306; and,

3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

8. Safety Standards for Stormwater Management Basins

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

Note to the Applicant: The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater

management basins to be retrofitted to meet one or more of the safety standards in Sections 8.B.1, 8.B.2, and 8.B.3 for trash racks, overflow grates, and escape provisions at outlet structures.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

- a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
- b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
- c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
- d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.

2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

- a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
- b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
- c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

- a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 8.C a free-standing outlet structure may be exempted from this requirement.
- b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and

one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 8.D for an illustration of safety ledges in a stormwater management basin.

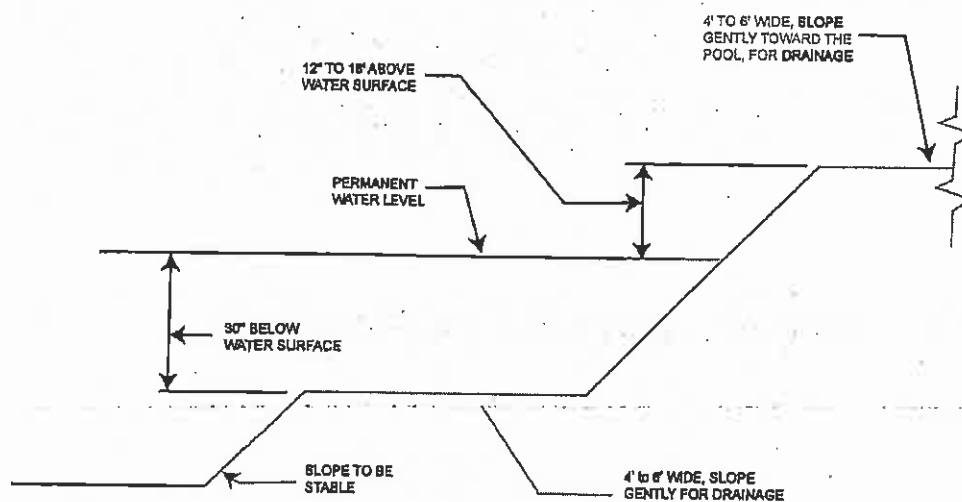
c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin

Depicted is an elevational view.



NOTE: NOT DRAWN TO SCALE

NOTE: FOR BASINS WITH PERMANENT
POOL OF WATER ONLY

9. Requirements for a Site Development Stormwater Plan

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 9.C below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit [specify number] copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 9.C of this ordinance.

B. Site Development Stormwater Plan Approval: The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements: The following information shall be required:

1. Topographic Base Map: The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
2. Environmental Site Analysis: A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
3. Project Description and Site Plan(s): A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s)

shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan: This plan shall provide a demonstration of how the goals and standards of Sections 3 through 6 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map: The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 4 of this ordinance.

b. When the proposed stormwater management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan: The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.

8. Waiver from Submission Requirements: The municipal official or board reviewing an application under this ordinance may, in consultation with the Borough Engineer, waive submission of any of the requirements in Sections 9.C.1 through 9.C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

10. Maintenance and Repair

A. Applicability: Projects subject to review as in Section 1.C of this ordinance shall comply with the requirements of Sections 10.B and 10.C.

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
4. If the person responsible for maintenance identified under Section 10.B.2 above is not a public agency, the maintenance plan and any future revisions based on Section 10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
6. The person responsible for maintenance identified under Section 10.B.2 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
7. The person responsible for maintenance identified under Section 10.B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.

8. The person responsible for maintenance identified under Section 10.B.2 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 10.B.6 and 10.B.7 above.

9. The requirements of Sections 10.B.3 and 10.B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

11. A two year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 shall be posted for the maintenance of the stormwater facilities.

12. Guidelines for developing a maintenance and inspection program are provided in the New Jersey Stormwater Best Management Practices Manual and the NJDEP Ocean County Demonstration Study, Stormwater Management Facilities Maintenance Manual, dated June 1989 available from the NJDEP, Watershed Management Program.)

B. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

11. Penalties

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this ordinance shall be subject to the general penalty provisions of the Borough Code regarding ordinance violations. Each day a violation occurs shall be a separate penalty.

12. Effective Date

This ordinance shall take effect immediately upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the county review agency if the county review agency should fail to act.

13. Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance."

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.


2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.


INTRODUCED: September 8, 2008
PASSED: September 8, 2008
PUBLISHED: September 12, 2008
ADOPTED: September 22, 2008
ROLL CALL: AYES: Forbes, Habeeb, Hitchcock, Righetti, Singleterry, Giordano
NAYS: None
ABSTAIN: None
ABSENT: Stabile

APPROVED BY ACTING MAYOR: September 22, 2008

ATTEST:


Gloria Pflueger, RMC/MMC
Borough Clerk


Michael Giordano Jr., Council Vice President


David E. Hollod, Acting Mayor

**ORDINANCE NO. 08-25
BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT
THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD,
CHAPTER VII, ENTITLED "TRAFFIC," MOST NOTABLY SECTION 7-4.2,
"GENERAL PROHIBITIONS FOR PARKING OF CERTAIN VEHICLES" AND
CHAPTER XXII, ENTITLED "LAND DEVELOPMENT," MOST NOTABLY
SECTION 22-115.7, "COMMERCIAL VEHICLES IN RESIDENTIAL ZONES"**

WHEREAS, the Borough Council of the Borough of North Plainfield wishes to continue to address the proliferation of commercial vehicles within the Borough and the enforcement of ordinances as to such.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey, that the Borough Code of the Borough of North Plainfield, Chapter VII, entitled "Traffic," most notably Section 7-4.2, "General Prohibitions for Parking of Certain Vehicles" and Chapter XXII of the Borough Code, entitled "Land Development," most notably Section 22-115.7 "Commercial Vehicles in Residential Zones" shall be amended, revised and/or supplemented as follows:

1. As to Section 7-4.2, it shall now read as follows:

"No person shall park any commercial vehicle with a gross registered weight over six thousand five hundred (6,500) pounds or any other vehicle with a gross registered weight over eight thousand (8,000) pounds on any street within the Borough, irrespective of the control of the street (i.e. State of New Jersey and/or Somerset County) at any time, with the exception of a vehicle, as defined herein, providing a specific service on a short term or temporary

basis for a period not to exceed twenty-four (24) hours, such as but not limited to, moving vans, landscaping trucks and delivery vehicles. Commercial vehicles, as defined herein, shall include vehicles which have a commercial license plate or omnibus license plate or have affixed, either permanently or temporarily, lettering and/or other description of a business entity, agency and/or occupation and/or show signs of a business occupation (such as, but not limited to, ladders, tools and/or equipment).”

2. As to Section 22-115.7, it shall now read as follows:

“Commercial vehicles [may] shall not be kept, parked or stored in any residential zone[s] within the Borough, except that one (1) such commercial vehicle may be garaged on such premises unless [provided] it is kept in a fully enclosed garage, [it does not exceed a rated capacity of three quarter (3/4) ton and it is used by a resident of the premises; and it is not parked on the street, the driveway or any exposed portion of the lot.]. Said commercial vehicle shall not exceed six thousand five hundred (6,500) pounds; shall not be used by anyone other than a resident of the premises; and, shall not be parked on any street, driveway or exposed portion of any residential lot. Commercial vehicle, as defined herein, shall include vehicles which have a commercial license plate or omnibus license plate or have affixed, either permanently or temporarily, lettering and/or other description of a business entity, agency and/or occupation and/or show signs of a business occupation (such as, but not limited to, ladders, tools, and/or equipment). Furthermore, the provisions of this Section are to be primarily enforced by sworn law enforcement

personnel of the Borough or other applicable sworn law enforcement personnel. The mere existence of this Section under Land Development does not give primary and/or exclusive enforcement jurisdiction of this Section to the Zoning Officer; but, in fact gives the Zoning Officer concurrent powers to enforce with the Borough's and other sworn law enforcement personnel.

3. Furthermore, as to Section 22-115.7, the following paragraph shall be added:

"If a homeowner or renter wishes to place said commercial vehicle on the homeowner's/renter's driveway only, other than in their garage, said homeowner/renter must petition the Zoning Board of Adjustment for a waiver of the garage requirements to allow no more than one (1) specific commercial vehicle per property. If the waiver is approved, it shall only be for the specific commercial vehicle only and shall only exist while the homeowner/renter has possession and/or ownership of said commercial vehicle. Furthermore, at no time shall said commercial vehicle be parked anywhere other than a specifically approved driveway and said commercial vehicle shall not show any signs of a business occupation (such as, but not limited to, ladders, tools and/or equipment). The homeowner/renter, if a waiver is granted, shall be required to show any Borough enforcement officer/employee a copy of the waiver granted by the Zoning Board of Adjustment."

[Brackets] means deletions; Underlines means additions

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this ordinance shall be repealed as to their inconsistencies only.

2. If any provision or paragraph of this ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.

3. This ordinance shall take effect, after final passage, twenty (20) calendar days following action or inaction by the mayor as provided by law or an override of a mayoral veto by the council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to N.J.S.A. 40:69A-181(b), declaring an emergency and providing that this ordinance shall take effect at an earlier date.

INTRODUCED: September 8, 2008
PASSED: September 8, 2008
PUBLISHED: September 13, 2008
ADOPTED:
ROLL CALL: AYES:
NAYS:
ABSTAIN:
ABSENT:

APPROVED BY ACTING MAYOR:

ATTEST:

Gloria Pflueger, RMC/MMC
Borough Clerk

Michael Giordano Jr., Council Vice President

David E. Hollod, Acting Mayor