

LAND USE ORDINANCE OF THE TOWNSHIP OF MENDHAM

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AN ORDINANCE RELATING TO MUNICIPAL PLANNING AND
ZONING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF
MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY

BE IT ORDAINED by the Township Committee of the Township of Mendham, in the County of Morris, New Jersey, as follows:

1. Chapter XI, Land Subdivision; Chapter XII, Zoning; Chapter XIII, Land Use Procedures; Chapter XIV, Environmental Impact Study; Chapter XV, Soil Erosion, Sediment Control and Flood Prevention; and Chapter XVI, Flood Hazard Regulations, of the Revised General Ordinances of the Township of Mendham, 1970, as amended and supplemented, are hereby revised, amended and supplemented to read as follows:

CHAPTER XI

TITLE, PURPOSE AND SCOPE OF
CHAPTERS XI THROUGH XXIV

11-1 TITLE

This chapter, together with Chapter XII, Definitions; Chapter XIII, Land Use Procedures and Fees; Chapter XIV, Planning Board; Chapter XV, Zoning Board of Adjustment; Chapter XVI, Subdivision and Site Plan Review; Chapter XVII, Environmental Impact Study; Chapter XVIII, Flood Hazard Area Regulations; Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention Regulations; Chapter XX, Soil Extraction Regulations; Chapter XXI, Zoning Regulations; Chapter XXII, Land Use Ordinance Enforcement, Violations, Penalties, Separability of Provisions and Effective Date; Chapter XXIII, Tree Preservation and Landscape Regulations; Chapter XXIV(A), Lot Development Permit and Chapter XXIV(B), Stormwater Management shall be known as the Land Use Ordinance of the Township of Mendham.

11-2 PURPOSE AND AUTHORITY

The purpose of the Land Use Ordinance of the Township of Mendham is to provide rules, regulations and standards for the use and development of land within the township so as to protect and promote the public safety, health, convenience and general welfare of the township and its neighboring communities. It shall be administered to insure orderly growth and development, conservation, protection and proper use of land as well as adequate provisions for circulation, utilities and services. Any requirements of other township ordinances relating to the use and development of land shall also be satisfied whenever applicable.

The principal authority for the Land Use Ordinance of the Township of Mendham is the Municipal Land Use Law, R.S. 40:55D-1 and following. Other statutory authorities include the Soil Erosion and Sediment Control Act, R.S. 4:24-39 and following, and the Flood Hazard Area Control Act, R.S. 58:16A-50 and following.

11-3 SCOPE

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically or impliedly repealed by this ordinance. It is not intended to affect any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto.

Where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage or requires greater lot area or longer yards or other open spaces than are imposed or required by such rules, regulations or by such private restrictions, then the provisions of this ordinance shall control.

CHAPTER XII

GENERAL DEFINITIONS

For purposes of the Land Use Ordinance of the Township of Mendham, any term defined in Section 3 of the Municipal Land Use Law, R.S. 40:55D-3 through 7, shall have the meaning as set forth in said Section 3.

Any term not defined in said Law or in this chapter shall have its customary meaning unless the context clearly indicates otherwise, except as to certain terms which relate only to a particular chapter and which are defined in the chapter in which they are used.

ACCEPTABLE AGRICULTURAL MANAGEMENT PRACTICES. The Agricultural Management Practices recommended or endorsed by the State Agriculture Development Committee, plus those practices complying with a Conservation Plan.

ACCESSORY APARTMENT. A self-contained residential accommodation, including a separate kitchen, bathroom and sleeping quarters, which is located within a single-family dwelling and occupied only by a family that includes a relative or domestic employee of the owner-occupant or tenant of the dwelling, all in compliance with the provisions set forth in subsection 21-4.5f.

ACCESSORY BUILDING. A building or structure used or devoted exclusively to an accessory use and on the same lot with and subordinate to a principal building. Where a structure which would otherwise constitute an accessory structure is attached to a principal building by a connecting permanent structure not exceeding 25 feet in length such structure shall be considered part of the principal building. A permanent connecting structure is one constructed with all weather protective roofing and solid supporting building materials with walls rather than canvas, screens, lattice work or other similar materials. Further, such structure shall only be considered part of the principal building provided: a) that such attached structure shall comply with Section 21-6.4b; and b) that neither the connecting permanent structure nor the building connected thereby to the principal building shall be located forward of the front façade of the principal building.

ACCESSORY USE. A use naturally and normally incident, customary and subordinate to a principal use upon any lot. More particularly, but not by way of limitation, an accessory use shall be construed to include the provision of a private swimming pool, driveway, private road, alley or other facility for ingress and egress.

ADMINISTRATIVE OFFICER. The township clerk unless a different municipal official or officials are designated by this ordinance or by statute.

AGRICULTURE. The production principally for the sale to others of plants, animals or their products, including, but not limited to, forage and sod crops, grain and feed crops, dairy animals and dairy products; livestock including dairy and beef cattle, poultry, sheep, swine, horses, ponies, mules and goats; including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping. Agriculture shall not include intensive poultry or swine production or extensive animal feedlot operations.

ALTERATION. As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ANTENNA. Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals,

analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

APPLICANT. A developer submitting an application for development.

APPLICATION FOR DEVELOPMENT. The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction for the issuance of a construction permit pursuant to Sections 25 or 27 of the Municipal Land Use Law, R.S. 40:55D-34 or 36.

APPROVING AUTHORITY. The township planning board unless a different agency is designated by ordinance when acting pursuant to the authority of this ordinance.

AREA OF SPECIAL FLOOD HAZARD. An area of special flood hazard within the Township of Mendham as determined by the provisions of Chapter XVIII, Flood Hazard Area Regulations, sections 18-7 and 18-14.

AS-BUILT PLANS or RECORD PLANS. Construction drawings which show the actual locations and condition of improvements as installed.

ATTIC. An uninhabitable part of a building which is immediately below and wholly or partly within the roof framing. See **STORY, HALF**.

AVERAGE LOT WIDTH FOR SIDE YARD DETERMINATION. The average of the lengths of the front and rear yard lines measured at the building. The front yard line shall be measured from side line to side line by the shortest distances, passing through the point of the building nearest the street. The rear yard line shall be measured from side line to side line by the shortest distance passing through the point of the building furthest from the street.

BACKHAUL NETWORK. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

BASE FLOOD. A flood having one percent chance of being equaled or exceeded in any given year.

BASEMENT. A space within a building, having a floor and walls, and located totally or partially below the grade of the adjoining ground surface. For purposes of this ordinance, any basement having 50 percent or more of the aggregate surface areas of all walls located above grade or having 50 percent or more of the surface area of the front wall located above grade shall be considered a story. On a corner lot any wall of the basement that faces a street shall be considered a front wall. In addition to the above, a basement located in a non-residential building shall be considered a story unless the basement is and remains unfinished and unutilized except for storage or utility purposes. The term "basement" shall include the term "cellar".

BEST MANAGEMENT PRACTICES (BMPs). Methods, measures, practices and design techniques which will prevent or reduce to the lowest reasonably practicable level the pollution or surface waters and adverse impacts on critical areas. BMPs proposed for any development must as a minimum meet all requirements of other applicable township ordinances.

BLOCK. A division of the tax map with a number assigned thereto. An area bounded by four connecting streets. A length of street on one side of the street between cross streets or between a junction or a street and a cul-de-sac or other street termination.

BREEZEWAY. A covered walkway connecting the principal building with an accessory building

and either enclosed or open.

BRUSH OUT AN UNDEVELOPED LOT. The removal of any brush, woody plants or other vegetation from an undeveloped lot in preparation for the construction of any improvement thereon. This term shall not include removal limited to (a) clearing of the minimum amount of brush necessary for lines of sight essential for the performance of necessary survey work; or (b) clearing of brush from a small area or areas for the performance of tests required to determine subsurface soil characteristics for a proposed individual subsurface sewage disposal system, provided that such removal is in accordance with all other applicable State and municipal regulations.

BUILDING. A structure having a roof supported by columns, walls or similar structural parts, used or intended to be used for the housing, enclosure or shelter of persons, animals or property of any kind.

BUILDING ENVELOPE.

a. **BUILDING ENVELOPE (BE).** The portion of any lot area which is exclusive of required minimum front, side and rear yard setback areas as defined in and required by this ordinance.

b. **NET BUILDING ENVELOPE AREA (NBEA).** The portion of any lot area which is exclusive of required front, side and rear yards, freshwater wetlands, required freshwater wetland transition areas, existing and/or proposed easements, storm water detention/retention basins, areas with slopes having grades of 25 percent or greater, flood hazard areas, or State open waters, as those terms are defined either in this ordinance, in the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., or in the Freshwater Wetlands Protection Act Rules promulgated by the New Jersey Department of Environmental Protection, N.J.A.C. 7:7A-1.1 et seq.

BUILDING ENVELOPE CIRCLE (BEC). A circle having a diameter of the size as provided in the Schedule of Requirements made a part of this ordinance by subsection 21-2.2., Zoning Map and Schedule of Requirements, and which can be inscribed within a lot in a manner as provided in subsection 21-4.8, Lot Geometry and Net Building Envelope Area Regulations, to be utilized for lot design purposes to regulate the shape of the contiguous net building envelope area (NBEA).

BULK. The word bulk means the volume and shape of a building or of a nonbuilding use in relation to lot lines, center lines of streets, other buildings and all open spaces appurtenant to a building or a nonbuilding use. Specifically, the term bulk shall include minimum lot area, lot frontage, lot width, lot depth, yards, setbacks, maximum building or structure height, minimum floor area, and usable open space for the district in which the building or nonbuilding use is located.

BULK, NONCONFORMING. Nonconforming bulk is that part of a building or nonbuilding use which does not conform to one or more of the applicable bulk regulations prescribing height of a building or nonbuilding use, minimum lot area per dwelling unit, lot frontage, yards usable open space on the lots for the district in which the building or nonbuilding use is located.

CAPITAL IMPROVEMENT. A governmental acquisition of real property or major governmental construction project.

CELLAR. See BASEMENT.

CHANGE IN USE. The use of a building or land which is in any manner different from the previous use by way of function, operation, extent, products sold or manufactured and the like, but not including a change in ownership or occupancy unless the nature of the use, as described above, is changed.

CHANNEL. A watercourse with definite bed and banks which confine and conduct continuously or intermittently flowing water.

CHURCH. A building or structure or groups thereof including facilities accessory thereto which by design and construction is principally intended for conducting organized religious services and customarily associated activities.

CIRCULATION. Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits; and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

COMMERCIAL VEHICLE. All commercially licensed vehicles, all vehicles with business identification signs or lettering, and all trucks, vans or other vehicles with a gross vehicle weight in excess of three (3) tons.

COMMON DRIVEWAY. A private roadway providing common access to a street for more than one lot.

COMMON FACILITIES. Common facilities shall include but not be limited to facilities for the common use of two or more dwelling units such as roads, sidewalks, swimming pools, playgrounds, trees, greens, fairways and parking areas.

COMMON OPEN SPACE. An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as area necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMMON OWNERSHIP. Ownership of two or more contiguous lots or parcels of real property by one person or by two or more persons owning such property as joint tenants, as tenants by the entirety, or as tenants in common.

CONDITIONAL USE. A use permitted in a particular zone district only upon a showing that such use in a specific location will comply with the conditions and standards for the location or operation of such use as contained in this ordinance and upon the issuance of an authorization therefor by the planning board.

CONSERVATION PLAN. A set of decisions regarding the use of soil and water resources. The plan is developed by the Natural Resources Conservation Service and approved by the Morris County Soil Conservation District.

CONSERVATION RESTRICTION. An interest in land less than fee simple absolute as defined in Section 2 of the New Jersey Conservation Restriction and Historic Preservation Restriction Act, R.S. 13:8B-2.

CONVENTIONAL DEVELOPMENT. Development other than planned development, such as a subdivision not involving residential cluster or a site plan not involving multi-family development.

CONVENTIONAL HOUSING. Any residential development other than Limited Income Housing (LIH) as defined in this chapter.

CRITICAL AREA. An area consisting of wetlands, flood hazard areas, areas of shallow water table soils, recharge soils or steep slopes.

CURB LEVEL. The officially established grade of the curb in front of the lot, or in the absence of an officially established curb level the mean level of any existing curb or of the lot at the street line.

DAYS. Calendar days.

DENSITY. The permitted number of dwelling units per gross area of land to be developed.

DENSITY, GROSS. A number expressing dwelling units per gross acre of land within a parcel or property, except that floodways, water bodies, watercourses and areas with seasonal high water tables at the surface of the ground shall be excluded from the calculation of gross density.

DENSITY, NET. A number expressing dwelling units per acre of land within a parcel of property, except that floodways, water bodies, watercourses, areas with seasonal high water tables at the surface of the ground, areas with slopes in excess of twenty percent (20%) and land devoted to public streets and/or private streets shall be excluded from the calculation of net density. Flood fringe areas, areas with slopes between ten percent (10%) and twenty percent (20%), and areas with seasonal high water tables between 0 and 1.5 feet shall receive half (50%) credit towards the calculation of net density.

DEVELOPED LOT. Any lot upon which a principal structure is located, except that the following shall not be deemed to be a developed lot: an undeveloped lot or a lot owned by the Township or another governmental entity or by a public utility regulated by the State Board of Utilities.

DEVELOPER. The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land. The term "developer" shall include the term "subdivider". The term "developer" is also used to refer to an applicant who has received final major subdivision approval or final major site plan approval and is responsible for the construction or installation of required subdivision or site plan improvements.

DEVELOPMENT. 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 other structure, or land or extension of use of land, or any use of land, for which approval or permission may be required by the provisions of this ordinance.

DEVELOPMENT REGULATION. A zoning, subdivision, site plan, official map or other regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to the Municipal Land Use Law, R.S. 40:55D-1 and following.

DIVISION. The Division of State and Regional Planning in the Department of Community Affairs.

DRAINAGE. The removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

DRAINAGE RIGHT-OF-WAY. The easement required for the installation and maintenance of storm water sewers or drainage ditches, or the easement required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein, and including lands intended as flood control basins.

DRIPLINE OF A TREE. An area circumscribed by the vertical projection to the ground of a line

connecting the tips of the outermost branches of a tree.

DRIVEWAY. A private roadway providing access from a public or private street for motor vehicles to a garage, dwelling or other building.

DWELLING. A building containing one or more dwelling units.

DWELLING UNIT. A building or part of a building containing complete housekeeping facilities for one family.

EMPLOYEE. Any person who works in any capacity, whether full-time or part-time, in any building in the township other than a single-family dwelling or accessory thereto.

ENCLOSED PORCH. A structural element to a building that has a roof, footings and supports, including columns or other vertical support structures, enclosed with screens, storms, glazing, windows, shutters, etc. The following shall not be considered to be an enclosed porch: porch-like structures with fewer than three walls; front or side porches with roofs only, but without sides; breezeways; porte cocheres; and carports.

EROSION. The detachment, wearing away or movement of soil or rock fragments by the action of water, wind, ice or gravity.

FAA. The Federal Aviation Administration.

FAMILY. One or more persons occupying dwelling accommodations as a single non-profit housekeeping unit residing together for indefinite periods of time and utilizing all rooms and cooking facilities in common on a domestic and permanent basis.

FARM. An area of land made up of single or multiple joining or non-joining parcels which is organized as a management unit actively devoted to agricultural or horticultural use, including, but not limited to, cropland, pasture, idle or fallow land, woodland, wetlands, farm ponds, farm roads and under farm buildings and other enclosures related to agricultural pursuits, which occupies a minimum of the lesser of five acres or five times the minimum lot size of the zone in which the property is located, exclusive of the land upon which the farmhouse is located and such additional land as may actually be used in connection with the farmhouse as provided in the Farmland Assessment Act of 1965, R.S. 54:4-23.3, 4-23.4, 4-23.5 and 4-23.11.

FCC. The Federal Communications Commission.

FINAL ACTION. Approval or denial by a municipal agency of an application for development, whether the application is preliminary or final.

FINAL APPROVAL. The official action of the planning board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

FINAL PLAT. The map or maps of a subdivision application for which final approval is sought pursuant to this ordinance.

FINAL SITE PLAN. The map or maps of a site plan application for which final approval is sought pursuant to this ordinance.

FLAG LOT. A lot not meeting minimum frontage requirements and where access to the public street is by a private right of way and/or driveway.

FLAG LOT STAFF. A portion of flag lot providing frontage on a street.

FLOOD or FLOODING. A general or temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of rivers, streams or other inland waters, and/or (b) the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE AREA. The portion of a flood hazard area as determined by the New Jersey Department of Environmental Protection pursuant to Section 3 of the New Jersey Flood Hazard Control Act, R.S. 58:16A-52, which is not delineated as a floodway.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than two-tenths of one foot.

FLOOR AREA. The calculation of permitted floor area shall include all floor areas of the first and second floors of all buildings, including enclosed porches and all accessory buildings over 200 sq. ft., and shall be computed by measuring the outside dimensions of the outside walls. It shall not include structural elements that do not substantially contribute to the visible scale of a building such as basements (unfinished or finished), decks, unenclosed porches, attics (unfinished or finished), and accessory structures less than 200 sq. ft.

FLOOR AREA RATIO. The sum of the areas of all floor areas as defined herein compared to the total area of the site.

FOOTPRINT. The maximum horizontal plan projection of all roofed areas.

FRONTLAND LOT. A lot proposed or resulting from subdivision under the provisions of section 21-9 and having frontage on a state, county or municipal road.

GARAGE. A detached accessory building, or a portion or a principal building, used primarily for the storage of motor vehicles owned or used by the occupant of the principal building to which the garage is an accessory.

GENERAL TERMS AND CONDITIONS. The terms and conditions upon which preliminary approval is granted to a subdivision or site plan application and upon which the applicant may rely to the extent provided in sections 37 and 40 of the Municipal Land Use Law, R.S. 40:55D-49 and 52.

GOVERNING BODY. The Township Committee of the Township of Mendham.

HEIGHT OF STRUCTURE. The vertical distance measured from the average elevation of the finished grade at the foundation of a structure to the horizontal projection of the highest point of a structure other than a building, or the highest point of the roof of a building, as computed by averaging such grade elevation at all corners of the structure, or at four (4) points ninety (90) degrees apart along the foundation of a circular structure.

HEIGHT OF TOWER OR ANTENNA. The distance measured from the lowest finished grade of the base of the tower or antenna to the highest point on the tower or antenna, including the base pad.

HOME OCCUPATION. An accessory use of a service character customarily conducted within a dwelling by residents thereof which is clearly incidental and secondary to the use of a dwelling for living purposes and which does not change the character or have any exterior evidence other than a small name plate, and in connection therewith there is not involved the keeping of a stock in trade. Home occupation includes, but is not limited to a real estate and insurance office; the studio of an artist, photographer, or music or dancing teacher giving instruction to not more than one pupil at a time; dressmaker, milliner, seamstress, building contractor, painter, plumber or electrician. Home

occupation specifically excludes professional practice as defined in this chapter, clinic, tearoom, tourist home, animal hospital, mortuary, musical instrument or dancing instruction in groups, beauty parlor, and a store, trade or business or any kind involving the sale or purchase of economic goods.

IMPERVIOUS SURFACE. Any man-made or natural material placed at or above the level of the ground that impedes or prevents the absorption of storm water and which renders the ground surface less permeable than the natural soil.

INDIGENOUS LIMITED INCOME HOUSEHOLD. A low income household or a moderate income household which includes at least one resident of the Township of Mendham, or at least one salaried employee of the Township of Mendham, or at least one salaried employee of the Mendham Township Board of Education, or at least one member of a fire company constituting a part of the Fire Department of the Township of Mendham.

INSTITUTIONAL USES. Public buildings, municipal and other nonprofit uses, including churches, schools teaching academic subjects and hospitals.

INTERESTED PARTY. In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the township, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this ordinance, or under any other law of the State of New Jersey or of the United States have been denied, violated or infringed by an action or a failure to act under the Municipal Land Use Law, R.S. 40:55D-1 and following.

LAND. Any ground, soil or earth including marshes, swamps, drainageways and areas not permanently covered by water.

LAND DISTURBANCE. Any activity involving the clearing, cutting, excavation, grading, filling, storing or transporting of land or any other activity which causes land to be exposed to the danger of erosion.

LANDSCAPING. The additions of lawns, trees, shrubs, plants, and other natural and/or decorative features to land.

LIMITED INCOME HOUSING (LIH). Dwelling accommodations made available to indigenous or non-indigenous low and moderate income households at costs not exceeding the limits provided in subsection 21-4.7.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while lading or unloading merchandise or material.

LOT. A parcel of land, the location, dimensions and boundaries of which are set forth on the latest township tax map. Despite what may be disclosed on the township tax map, however, if contiguous substandard lots are in common ownership and are needed to meet the requirements of the zone district in which located, the entire land area shall for the purposes of administering and enforcing this ordinance be construed to be one lot.

a. **LOT FRONTAGE.** The horizontal distance measured along the full length of that portion of the right-of way line of a street on which the lot fronts. For lots fronting on curves, frontage may be measured at the front setback line, provided that the lot side lines adjoining the front yard are perpendicular or radial to the street right-of-way line and that the actual street frontage measures at least seventy-five percent (75%) of the minimum specified for the district. In the B, R, CR-1 and CR-2 Zones, when a lot faces on two streets the required frontage shall be increased by a minimum of twenty-five (25) feet.

- b. **LOT DEPTH.** The mean distance between the front and rear property lines of any lot.
- c. **LOT WIDTH.** The shortest straight line distance between the two sidelines of any lot. If a lot shall not have parallel sidelines, the average of such widths taken at 10 foot intervals and parallel to the front street line throughout the depth of the lot shall constitute the width of the lot.
- d. **LOT AREA.** The total square unit contents of any lot as measured within the lot lines.
- e. **CORNER LOT.** A lot at the junction of and having frontage on two or more intersecting streets. A corner lot is also a lot bounded on two or more sides by the same street. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
- f. **THROUGH LOT.** In the case of a lot running though from one street to another, the frontage of such lot shall be considered that frontage upon which the majority of the buildings in the same block front; but in the case there has been no clearly defined frontage established, the owner may when applying for a construction permit specify on his permit application which lot line shall be considered the front lot line.

LOT GEOMETRY CIRCLE (LGC). A circle having a diameter as provided in the Schedule of Requirements made a part of this ordinance by subsection 21-2.2, Zoning Map and Schedule of Requirements, and which can be inscribed within a lot in a manner as provided in subsection 21-4.8, Lot Geometry and Net Building Envelope Area Regulations, to be utilized for lot design purposes to establish appropriate lot geometry.

LOW INCOME HOUSEHOLD. A household in which the total income is not more than that specified in subsection 21-4.7.

MAINTENANCE GUARANTEE. Any security which may be accepted by the township for the maintenance of any improvements required by this ordinance, including but not limited to a surety bond, an irrevocable letter of credit meeting the requirements of R.S. 40:55D-53.5, and cash.

MAJOR SITE PLAN. A plan of development in compliance with site plan design standards and site plan details as required by this ordinance and not classified as a minor site plan.

MAJOR SUBDIVISION. Any subdivision not classified as a minor subdivision, and any subdivision proposing the development of a private street or proposing subdivision of lots which are provided frontage by a private street.

MASTER PLAN. A composite of one or more written or graphic proposals for the development of the municipality as set forth and adopted pursuant to Section 19 of the Municipal Land Use Law, R.S. 40:55D-28.

MAY. The use of this word indicates a permissive action.

MINOR SITE PLAN. A plan of development in compliance with site plan design standards and site plan details as required by this ordinance of one or more lots or parcels of land, none of which are located in an area of special flood hazard and involving in the case of a residential use not more than one dwelling unit and in the case of a non-residential use a land area not exceeding 1500 square feet. A minor site plan shall not involve planned development, residential cluster nor any new street nor any extension of an existing street nor any off-tract improvement. A proposed development not conforming to Chapter XXI, Zoning Regulations, or the master plan shall not be classified as a minor site plan application.

MINOR SUBDIVISION. A minor subdivision is one of the following:

a. Any subdivision of a lot, tract or parcel into not more than three lots for single-family residential purposes, all of which lots front on an existing improved street and all of which are adequately drained, and not involving (1) a planned development; (2) a new street; (3) any extension of municipal facilities; (4) any adverse effects upon the development of the remainder of the parcel or adjoining property; (5) any conflict with any provision of this ordinance or of the master plan; or (6) any land which was the subject of minor subdivision application and approval granted less than five years before the current application.

b. Except as provided in paragraph c. below, any subdivision of a lot, tract or parcel into two lots for the sole purpose of merging one of the subdivided lots with an adjoining lot, tract or parcel provided all the following conditions are complied with:

1. The remaining subdivided lot will front on an existing improved street and conforms to the zoning ordinance.

2. The adjoining lot, tract or parcel fronts on an existing improved street.

3. The merging lot, although not required to front on an existing street or conform to the size or area requirements of Chapter XXI, Zoning Regulations, when combined with the adjoining lot forms a single lot, tract or parcel which is not in conflict with the requirements of Chapter XXI.

4. The subdivision will not adversely affect the development of the remainder of the subdivided parcel or the adjoining property and is not in conflict with any provision of this ordinance or the master plan.

5. The newly formed combined lot resulting from the combination or the merging lot and the adjoining lot is adequately drained.

c. Any subdivision as defined in paragraph b. above, where it appears that the remaining subdivided lot or the adjoining lot, or both, do not conform to the requirements of Chapter XXI, provided, however, that the planning board shall have determined that the subdivision will not adversely affect the development of the remainder of the subdivided parcel or the adjoining property and is not in conflict with any portion of the master plan and that the existing nonconformity of either or both such lots shall not be increased by such subdivision.

d. The installation of off-tract improvements may be required by the planning board as conditions for the approval of a minor subdivision, provided that such subdivision does not involve a new street.

e. Minor subdivision includes consolidation of lots as defined herein where the number of lots produced by such consolidation is not more than three.

MODERATE INCOME HOUSEHOLD. A household in which the total income is not less nor more than that specified in subsection 21-4.7.

MUNICIPAL AGENCY. The Township Planning Board, the Zoning Board of Adjustment and the Township Committee, as well as any other Township agency when such agency is acting pursuant to the provisions of this ordinance.

MUNICIPAL LAND. Any property owned in fee by the Township, any street right-of-way, and any Township easement (including but not limited to any conservation, drainage, walkway or utility easement). For purposes of this Chapter, a street right-of-way or utility easement which is dedicated for public use on a subdivision plat or site plan and in which improvements are required to be installed shall be deemed to be municipal property only upon and after the formal acceptance of such

right-of-way or easement by the Township.

NONCONFORMING STRUCTURE. A building which does not conform to the regulations for the zone district in which it is located and which was not prohibited by any zoning regulation at the time when the building was erected.

NONCONFORMING USE. A use of a building or land or both which does not conform to the use regulations for the zone district in which it is located and which was not prohibited by any zoning regulation at the time when the use was commenced.

NON-INDIGENOUS LIMITED INCOME HOUSEHOLD. A low income household or a moderate income household other than an indigenous limited income household as defined in this chapter.

NUISANCE. Any private action which unreasonably interferes with the comfortable enjoyment of another's property, which may be enjoined or abated and for which the injured or affected property owner may recover damages.

OFFSITE. Located outside the lot lines of the lot in question but within the property (of which the lot is a part) that is subject of a development application or within a contiguous portion of a street or right-of-way.

OFF-TRACT IMPROVEMENT. An improvement or facility which is not located on the property which is the subject of an application for development nor on a contiguous portion of a street or right-of-way and which is required in the public interest and the public need for which would not arise but for the improvement of the lands which are the subject of the applicant's application. Improvements required to maintain a safe flow of vehicular and pedestrian traffic are specifically declared to be necessary in the public interest. Off-tract improvements may consist of new improvements or facilities or the extension or modification of existing improvements or facilities.

ONSITE. Located on the lot in question.

ON-TRACT IMPROVEMENT. Any improvement which is located on the property which is the subject of an application for development or on a contiguous street or right-of-way.

OPEN SPACE. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

OWNER. Any person having sufficient proprietary interest in the lot sought to be subdivided, developed or used to commence and maintain proceedings to subdivide, develop or use the lot under this ordinance.

PARKING AREA. An open area, other than a street or other public way, used for the parking of motor vehicles, including access drives or aisles for ingress and egress.

PARKING SPACE. A rectangular space either outdoors or within a structure and used to accommodate off-street motor vehicle parking and meeting the area, dimensional and other standards of this ordinance.

PERFORMANCE GUARANTEE. Any security which may be accepted by the township in lieu of a requirement that certain work be done or improvements be constructed or installed prior to the time that the planning board or other municipal agency grants final approval to an application for development. The performance guarantee may consist of but is not limited to a surety bond, an

irrevocable letter of credit meeting the requirements of R.S. 40:55D-53.5, and cash.

PERSON. Any individual, firm, co-partnership, corporation, company, association or other legal entity, including any trustee, receiver, assignee or other similar representative.

PLANNED DEVELOPMENT. Planned unit development, planned unit residential development or residential cluster.

PLAT. The map or maps of a subdivision.

PRELIMINARY APPROVAL. The conferral of certain rights pursuant to this ordinance prior to final approval after specific elements of a development plan have been agreed upon by the planning board.

PRELIMINARY BUILDING PLANS. Architectural drawings prepared to illustrate the functional scheme, the aesthetic concept of the building with its size, scale and relationship to its site and immediate environs, including structural and construction details only to the extent necessary to convey the broad architectural scheme, mass and finish of the building.

PRELIMINARY PLAT. A map indicating the proposed layout of the subdivision and meeting the requirements of this ordinance, which map is submitted to a municipal agency for consideration and preliminary approval.

PRELIMINARY SITE PLAN. A preliminary development plan indicating the proposed layout of the site and meeting the requirements of this ordinance, which plan is submitted to a municipal agency for consideration and preliminary approval.

PRINCIPAL STRUCTURE. A structure arranged, adapted or designed for the predominant or primary use for which a lot may be used.

PRINCIPAL USE. The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

PROFESSIONAL PRACTICE. An accessory use of a service character customarily conducted within a dwelling by residents thereof which is clearly incidental and secondary to the use of a dwelling for living purposes and which does not change the character or have any exterior evidence other than a small name plate, and in connection therewith there is not involved the keeping of a stock in trade. Professional practice includes but is not limited to the office of a medical doctor, dentist, engineer, architect, attorney or certified public accountant.

No more than two persons not residents of the property may be employed, and such persons shall be employees and not associates.

Professional practice specifically excludes the studio of an artist, photographer, music or dancing teacher, dressmaker, milliner or seamstress, beauty parlor, tearoom, tourist home, animal hospital, mortuary and a store, trade or business or any kind involving the sale or purchase of economic goods.

PROPERTY. Any lot. Each lot within a subdivision tract shall be considered as a separate property.

PUBLIC BUILDING. A building which is used by a governmental entity or authority.

PUBLIC UTILITY FACILITIES. Electric, telephone and cable television lines, poles, equipment and structures; water and gas pipes, mains, valves and structures; and sanitary sewer pipes, valves

and structures maintained, operated and conducted for the service, convenience, necessity, health and welfare of the general public, whether owned by a public utility corporation or by a governmental entity or authority.

QUORUM. A majority of the total authorized membership of a municipal agency.

RECHARGE SOILS. Permeable soils which have a high capacity or ability to absorb storm water and replenish ground water.

RELIGIOUS PRACTICE. A religious use, other than the conduct of an organized activity, performed by and intended solely for residents of a single family dwelling in association with that residential use.

RESIDENTIAL CLUSTER. An area to be developed as a single entity according to a plan incorporating residential housing units and common or public open space as an appurtenance.

RESUBDIVISION. (a) The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (b) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but not including conveyance so as to combine existing lots by deed or other instrument.

SCHEDULE OF REQUIREMENTS. The schedule constituting a part of Chapter XXI, Zoning Regulations, and adopted by subsection 21-2.2.

SCIENTIFIC BREEDING FARM FOR DOGS. An area devoted to the selective breeding for scientific purposes of dogs involving no profit or commercial motive, the purpose being to raise dogs physically and temperamentally suitable for assisting physically handicapped human beings in all possible ways.

SEASONAL HIGH WATER TABLE. The highest levels reached by ground water during the year, usually but not necessarily occurring during the months of January through April.

SECOND FLOOR. Any area with heat and/or finished interior walls immediately above a first story or above a garage.

SETBACK. The required yard or distance between a building and a property line.

SETBACK LINES. Lines within a lot showing all required setbacks.

SHALL. The use of this word indicates a mandatory requirement.

SHALLOW WATER TABLE SOILS. Soils having a seasonal high water table within two (2) feet of the ground surface.

SHOP, RETAIL. A building or part thereof in which or from which a service is rendered directly to the ultimate consumer.

SHRUB. Any woody perennial plant with multiple stems or trunks and a thicket of twiggy branches with a height between 2 ft. and 15 ft.

SIGN. Any device, free-standing or attached to a building or post or anything requiring support from the ground, or erected, painted, represented or reproduced upon or in any building or structure, which displays, reproduces or includes any letter, word, name, number, model, insignia, design, device or representation used for, but not limited to, one or more of the following purposes: to identify the premises or occupant or owner of the premises; to advertise any trade, business, profession,

industry, service or other activity; to advertise any product or item; or to advertise the sale or rental or use of all or any part of any premises, including that upon which it is displayed. A name painted upon or attached to a box for the delivery of mail or a notice to the public of any kind erected by or at the direction of the state, the county or the township shall not constitute a sign for purposes of this ordinance.

SIGN AREA. The area of a sign shall be computed by multiplying the greatest horizontal dimension of the display surface by the greatest vertical dimension of the display surface, and any framing or edging shall be considered as part of the display surface. In the case of a free-standing sign, posts or other supporting devices shall not be included in computing the area of the sign.

SINGLE OWNERSHIP. Ownership by one person or by two or more persons whether jointly, as tenants by the entirety, or as tenants in common, of a separate lot or parcel of real property not adjacent to land in the same ownership.

SITE PLAN. A plan of one or more lots on which is shown (a) the existing and proposed conditions of the lot, including, but not necessarily limited to, topography, vegetation, drainage, flood plains, marshes and waterways; (b) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures, signs, lighting and screening devices; and (c) any other information reasonably necessary and required in order to make an informed determination as to compliance with applicable requirements of this ordinance.

SOIL. All unconsolidated mineral and organic material of whatever origin which overlies bedrock and which can be readily excavated.

SOIL EXTRACTION. Any activity consisting of digging, excavating and removing soil from any property.

STEALTH TOWER STRUCTURE. Simulated trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

STEEP SLOPE. A slope with a grade of 15 percent or greater.

STORE, RETAIL. A building or part thereof in which or from which merchandise is sold directly to the ultimate consumer.

STORM WATER. Water produced by rain, flood, drainage, springs and seeps flowing over the land surface or in a stream.

STORM WATER RUNOFF. Any flow of water over the land surface.

STORM WATER RUNOFF DAMAGE. Any damage or harm to land, vegetation, water supplies or property values which results or is likely to result when the dispersion of surface water is increased in rate, velocity or quantity or when the water quality is degraded. Such damage or harm includes but is not limited to flooding, soil erosion, siltation and other pollution of watercourses and the diminished recharge of ground water.

STORY. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between any floor and the ceiling next above it. For purposes of this ordinance, any basement having 50 percent or more of the aggregate surface areas of all walls located above grade or having 50 percent or more of all walls located above the front wall located above grade shall be considered a story. In addition to the above, a basement located in a non-residential building shall be considered a story unless the

basement is and remains unfinished and unutilized except for storage or utility purposes.

STORY, HALF. A space in a building situated above a story and under a sloping roof, in which space the floor area with head room of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath.

STREAM. Any body, either natural or man-made, of constantly or intermittently flowing water whether designated as a stream, brook, rill or otherwise and consisting of bed, banks and watercourse.

STREET. "Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by law, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

- a. Arterial streets are those which collect and distribute traffic to and from collector streets and/or minor streets with inter-municipal origins or destinations.
- b. Collector streets are those which carry traffic from minor streets to the major system of arterial streets including the principal entrance streets of a residential development and streets for circulation within such a development.
- c. Minor streets and internal roads are those which are used primarily for access to the abutting properties.
- d. Marginal access streets are streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

STREET, EXISTING IMPROVED, AS APPLIED TO MINOR SUBDIVISION. Any street presently maintained by the state, county or township and which by reason of its condition can be traversed at all times of the year by modern motor vehicles and provides adequate access for fire-fighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety.

STREET LINE. The right-of-way line of a street as indicated by public usage, dedication or deed or record.

STRUCTURE. Anything constructed, erected or placed, permanently or temporarily, which require location on or support from the ground or attachment to something requiring such support, except trees, plantings, fences, hedges or currently licensed motor vehicles. Any part of any public utility facilities or any part or any other system which is entirely underground shall not be considered to be a structure. The term "structure" shall include the term "building".

SUBDIVIDER. Any person commencing proceedings under this ordinance to effect a subdivision of land hereunder for himself or for another. The term "subdivider" shall include the term "developer".

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this ordinance if no new streets are created: (1) divisions of land found by the planning board, or subdivision committee thereof appointed by the chairman, to be for agricultural purposes where all resulting parcels are 5 acres or larger in size; (2) divisions of property by

testamentary or intestate provisions; (3) divisions of property under court order, including but not limited to judgments of foreclosure; (4) consolidation of existing lots by deed or other recorded instrument; or (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the township clerk to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the Township of Mendham. The term "subdivision" shall also include the term "resubdivision".

SUBDIVISION AND SITE PLAN REVIEW COMMITTEE. A committee of at least three planning board members appointed by the chairman of the board for the purpose of reviewing subdivisions and site plans submitted to the board in connection with applications for development and for the purpose of performing such other duties relating to land development as may be assigned to this committee by the board.

THIS ORDINANCE. The Land Use Ordinance of the Township of Mendham consisting of Chapter XI through XXIV of the Revised General Ordinances of the Township of Mendham, 1970, as amended and supplemented.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar wireless telecommunication purposes, including self-supporting lattice towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

TOWNSHIP. The Township of Mendham, in the County of Morris.

TRANSCRIPT. A typed or printed verbatim record of the proceedings or reproduction thereof.

TREE. Any woody perennial plant with a main stem or trunk exceeding four (4) inches in diameter measured at a point four (4) feet above the existing or normal ground level for such plant, provided, however, that a dogwood, birch or American Hornbeam shall be considered a tree for purposes of this Chapter if the main stem or trunk exceeds two (2) inches in diameter measured at a point four (4) feet above the existing or normal ground level for such tree.

TREE REMOVAL PERMIT. A permit issued pursuant to the provisions of this Chapter authorizing the removal of a tree or trees located upon an undeveloped lot within the Township.

UNDEVELOPED LOT. Any lot upon which no principal structure is located or any lot upon which a principal structure is located but is to be removed or abandoned as a condition or in furtherance of a plan for development of said lot. A principal structure shall be considered as removed or abandoned when 25% or more of the floor area of the existing structure is removed, or if an addition containing more than 50% of the floor area of the existing structure is attached thereto, or if there is a change in use of the existing structure.

Whenever preliminary subdivision approval has been granted, each lot shown upon the subdivision plat that does not have a principal structure located thereon shall be deemed a separate undeveloped lot. Notwithstanding the foregoing, the following shall not be considered an undeveloped lot: (a) any municipal land as defined in this chapter; (b) any parcel of land owned in fee by another governmental entity or by a public utility company regulated by the State Board of Public Utilities; (c) any lot which is the subject of a farmland assessment; or (d) any lot upon which an income-producing nursery or orchard business is conducted as a permitted use under applicable zoning regulations or as a legally recognized nonconforming use.

VARIANCE. Permission to depart from the literal requirements of a zoning regulation.

WATER BODY. Any natural or artificial collection of water, whether permanent or temporary, including any area adjacent thereto subject to inundation by reason of overflow of flood water.

WATERCOURSE. A natural or artificial river, stream, brook, ditch, channel, conduit, gully, drain, culvert, ravine, wash or other waterway in which water flows in a definite direction or course, either continuously or intermittently, within a definite channel, and including any area adjacent thereto subject to inundation by reason of overflow of flood water.

WATERSHED. An area of surface water runoff related to a point of concentration.

WETLANDS. Those areas inundated or saturated by surface or ground water at a frequency and duration sufficient under normal circumstances to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Typical wetland vegetation includes (trees) red maple, yellow birch, ash, basswood, black gum; (shrubs) box elder, river birch, alder, willow, buttonbush, spicebush, witch hazel, viburnums, highbush blueberry, arrowwood; (herbs and grasses) skunk cabbage, spring herbs, sedges and mosses, cattail, ferns; and similar such trees, shrubs and herbs and grasses. Wetlands include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, streams, lakes, ponds as well as areas in which the seasonal high water table is within six inches of the ground surface.

WIRELESS TELECOMMUNICATIONS. Any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, paging and similar services that exist or that may be developed in the future.

WORD USAGE. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular. The word "lot" includes the word "plot". The word "building" includes the word "structure". The term "such as" where used herein shall be considered as introducing a typical or illustrative, rather than an entirely exclusive or inclusive designation of permitted or prohibited uses, activities, establishments or structures. The words "zone" and "district" are synonyms.

YARD. An open space, unoccupied except by a structure of use as specifically permitted by this ordinance, measured, respectively, from all points on the abutting street right-of-way line, side lot line and rear line to the foundation wall of the principal structure. All measurements are to be made at right angles to straight portions and to tangents of curved portions.

a. **FRONT YARD.** A yard situated between the principal structure and the street right-of-way line, extending across the full width of the lot.

b. **SIDE YARD.** A yard situated between the principal structure and a side line of the lot, extending between the front yard and the rear yard.

c. **REAR YARD.** A yard situated between the principal structure and the rear lot line, extending across the full width of the lot.

ZONING MAP. The map entitled: "Township of Mendham, Morris County, New Jersey, Zoning Map, March 2001" and adopted by Chapter XXI, Zoning Regulations.

ZONING PERMIT. A document signed by the zoning officer (1) which is required by this ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the zoning regulations or variance therefrom duly authorized by the planning board or the zoning board of

adjustment. The document required to be issued by the zoning officer prior to the issuance of a construction permit shall be known as a construction/zoning permit. The document required to be issued by the zoning officer prior to the issuance of a certificate of occupancy shall be known as an occupancy/zoning permit.

CHAPTER XIII

LAND USE PROCEDURES AND FEES

13-1 ADMINISTRATIVE PROCEDURES.

Every municipal agency shall adopt and may amend reasonable rules and regulations, not inconsistent with this ordinance, for the administration of its functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the township clerk and in the office of the secretary of the municipal agency.

13-2 CONFLICTS OF INTEREST.

No member of a municipal agency shall act on any matter in which he has, either directly or indirectly, any personal or financial interest or any other disqualifying interest.

13-3 MEETINGS OF MUNICIPAL AGENCIES.

13-3.1 Regular Meetings. Every municipal agency shall fix the time and place for holding its regular meetings for business authorized to be conducted by such agency. Regular meetings of the municipal agency shall be scheduled not less than once a month and shall be held as scheduled unless cancelled for lack of applications for development to process.

13-3.2 Special Meetings. The municipal agency may hold special meetings at the call of the chairman or on the request of any two of its members. Special meetings shall be held on notice to members and the public in accordance with all applicable legal requirements.

13-3.3 Quorum Required. No action shall be taken at any meeting without a quorum being present.

13-3.4 Majority Vote. All actions shall be taken by a majority vote of a quorum except as otherwise required by any provision of the Municipal Land Use Law, R.S. 40:55D-1 and following.

13-3.5 Meetings Open to the Public. The provisions of the Open Public Meetings Act, R.S. 10:4-6 and following, shall be adhered to in connection with meetings of every municipal agency.

13-4 MINUTES.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the municipal agency and of the persons appearing by attorney, the action taken by the municipal agency, the findings, if any, made by the municipal agency and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the township clerk. Any interested party shall have the right to compel reproduction of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his use as provided in the rules of the municipal agency.

13-5 APPLICATIONS.

13-5.1 Application Forms. An applicant shall obtain application forms from the secretary of the municipal agency to which the application is to be submitted. The secretary shall inform the applicant of the steps to be taken to initiate the application and of the meeting dates of the municipal agency.

13-5.2 Application Checklist. For the purposes of this ordinance an Application Checklist and supplemental Appendices 1 through 6, pursuant to Section 13-17 of this Chapter, is hereby made a part of this Chapter.

Whenever an Application Form is issued to a prospective applicant for development by the secretary of a municipal agency, the secretary shall also issue to the prospective applicant an Application Checklist with supplemental Appendices for execution and submission by the applicant.

13-5.3 Completeness of Application. An application for development shall be complete for purposes of commencing the applicable time period for action by a municipal agency when so certified by the municipal agency or its authorized committee or designee.

Certification as to the completeness of an application shall be in the form of a written notice mailed to the applicant at the address set forth in the application.

An application for development shall be incomplete if (a) the application lacks information indicated on the checklist supplied to the applicant and (b) the municipal agency or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. Notice of an incomplete application shall be mailed to the applicant by certified mail at the address set forth in the application. Such notice shall be effective upon mailing.

When submitting an application, an applicant may request that one or more of the submission requirements be waived, in which event the municipal agency or its authorized committee shall grant or deny the request within 45 days.

If no certification as to completeness and no notice as to incompleteness is mailed to the applicant within 45 days of submission of an application, then for purposes of the commencement of the time period for action by the municipal agency the application shall be deemed to be complete as of the expiration of such 45-day period.

13-5.4 Correction and Supplementation of Application. The fact that an application has been certified to be complete or is deemed complete by reason of a lack of notice of deficiencies does not diminish the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error as well as submission of additional information not specified in the checklist or in this ordinance and any revisions in the documents accompanying the application as may be reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents required by the municipal agency in accordance with this subsection.

13-6 HEARINGS.

13-6.1 Required Hearings. The municipal agency shall hold a hearing on each application for development, except for minor subdivision applications. The planning board shall also hold a hearing on the adoption, revision or amendment of a master plan. The governing body shall hold a hearing on the adoption or amendment of a development regulation, an official map or a capital improvement program.

a. Rules. The planning board and zoning board of adjustment shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of the Municipal Land Use Law, R.S. 40:55D-1 and following, or of this chapter.

b. Oaths; Subpoenas for Witnesses. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, R.S. 2A: 67A-1 and following, shall apply.

c. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

d. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the municipal agency may exclude irrelevant, immaterial or unduly repetitious evidence.

e. Records. Each municipal agency shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The municipal agency shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense. If the municipal agency furnishes a duplicate tape (not reformatted), the fee shall be \$35. per duplicate tape.

13-7 NOTICE REQUIREMENTS FOR HEARINGS.

13-7.1 Persons Entitled to Notice. Whenever a hearing is required on an application for development pursuant to the Municipal Land Use Law, R.S. 40:55D-1 and following, or whenever any hearing is scheduled by the zoning board of adjustment on any application or appeal, the applicant shall give notice thereof as follows:

a. Public Notice. Public notice shall be given by publication in the official newspaper of the township at least ten days prior to the date of the hearing.

b. Owners of Adjacent Property. Notice shall be given to the owners of all real property as shown on the current tax duplicate located within 200 feet in all directions of the property which is the subject of such hearing, and whether located within or without the township. Such notice shall be given by:

1. Serving a copy thereof on the owner as shown on the current tax duplicate or his agent in charge of the property, or

2. Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required.

Notice to a partnership owner may be made by service upon any partner.

Notice to a corporate owner may be made by service upon its president, vice-president, secretary or other person authorized by appointment or by the law to accept service on behalf of the corporation.

c. Adjoining Municipality. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to paragraph b. above to the owners of lands in such adjoining municipality which are located within 200 feet of the property subject to the hearing.

d. County Planning Board. Notice shall be given by personal service or certified mail to the county planning board of any hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of any township boundary.

e. Commissioner of Transportation. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of any hearing on an application for development of property adjacent to a state highway.

f. Division of State and Regional Planning. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of any hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be filed in accordance with the provisions of R.S. 40:55D-10(b).

g. Public Utilities, Cable Television Companies and Local Utilities. Notice shall be given by personal service or certified mail to each person who, as a representative of a public utility, cable television company or local utility which possesses a right-of-way or easement within the township, has registered his name, address and position with the township pursuant to R.S. 40:55D-12c as a person to receive notice of a hearing upon an application for development. A registration fee of \$10.00 shall be paid to the township for each registration pursuant to R.S. 40:55D-12c.

13-7.2 Time of Service; Proof of Service. All notices specified in the preceding subsections 13-7.1b through g shall be given at least ten days prior to the date fixed for hearing. The applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development. Such affidavit shall be filed prior to the commencement of the hearing.

13-7.4 Completion by Certified Mail. Any notice given by certified mail as hereinabove required shall be deemed to be complete upon mailing as provided in R.S. 40:55D-14.

13-7.4 Form of Notice. All notices required to be given pursuant to the terms of this chapter shall state:

- a. The date, time and place of hearing.
- b. The nature of the matters to be considered. The statement of the nature of the matters to be considered shall be sufficient to reasonably inform the public and recipients of the notice of the intended development and any variances requested, including a specific reference to those sections of the ordinance as to which any variances are sought.
- c. The identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate.
- d. The location and times at which any maps and documents for which approval is sought are available for public inspection as required by R.S. 40:55D-1 and following.

13-7.5 List of Property Owners and Other Persons to Receive Notices. Pursuant to the provisions of R.S. 40:55D-12(c), the township tax collector shall, within seven days after receipt of a request therefor and upon receipt of the payment of a fee of \$10.00 to the township, make and certify a list from the current tax duplicate of the names and addresses of owners to whom the applicant is required to give notice pursuant to subsection 13-7.1b. The list shall also include the name, address and position of each and every person who, not less than seven days prior to the date on which the applicant requested the list, has registered to receive notice pursuant to subsection 13-7.1g.

13-7.6 Notice of Farm Use.

- a. For the purpose of giving due notice of the within farm right to new residents of the municipality, the Planning Board shall require an applicant for every major or minor subdivision, or site plan review, as a condition of approval of such application, to provide every purchaser with a copy of this ordinance; and
- b. Whenever a farm as defined herein or a new major or minor subdivision abuts a farm or a new major or minor subdivision contains space which was not owned by individual homeowners or a homeowners association, and said space is at least five (5) acres in size, then the following language shall be inserted in the deed of all lots:

Grantee is hereby noticed there is, or may in the future be, farm use near the described premises from which may emanate noise, odors, dust and fumes associated with agricultural practices permitted under the "Right to Farm" section of the municipal zoning ordinance.

13-8 DECISIONS.

13-8.1 Findings and Conclusions. Each decision on any application for development or appeal shall be set forth in writing as a resolution of the municipal agency, and the resolution shall include findings of fact and legal conclusions.

Failure of a motion to receive the number of votes required for approval of an application for development, including any application under R.S. 40:55D-34 or R.S. 40:55D-70d requiring an exceptional vote, shall be deemed an action denying the application.

The resolution adopted by the municipal agency may be

- a. a resolution adopted at a meeting of the municipal agency held within the time period provided for action on the particular application for development, or
- b. a memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of the majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution.

The denial of an application resulting from the failure of a motion to approve the application shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.

The vote on any memorializing resolution shall be deemed to be a memorialization of the action of the municipal agency and not an action of the municipal agency, provided, however, that the date of the adoption of the memorializing resolution shall constitute the date of the decision for purposes of the mailings, filing and publication required by subsections 13-8.3 and 13-8.4.

In the event that a municipal agency fails to adopt either a resolution or a memorializing resolution as provided above, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time. The cost of the application, including attorney's fees, shall be assessed against the municipality.

13-8.2 Vote Following Absence. A member of a municipal agency who was absent from one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted notwithstanding his absence from one or more of the meetings, provided that such member has available to him the transcript or recording of all of the hearing from which he was absent and certifies in writing to the municipal agency that he has read such transcript or listened to such recording.

13-8.3 Mailing of Decision. Within 10 days of the adoption of the resolution setting forth the decision a copy of the decision shall be mailed by the municipal agency to the applicant, or if the applicant is represented by an attorney then to the attorney of the applicant. Such mailing shall be made without any separate charge therefor. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed therefor by subsection 13-14.5. A copy of the decision shall also be filed in the office of the township clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those fees established for copies of other public documents of the township.

13-8.4 Publication of Decision. A brief notice of every final decision shall be published in the official newspaper of the township. Such publication shall be arranged by the secretary of the planning board or zoning board of adjustment, as the case may be, without separate charge to the applicant. The notice shall be sent to the official newspaper for publication within ten days of the date of the adoption of the resolution setting forth the decision.

13-9 PAYMENT OF TAXES.

Pursuant to the provisions of R.S. 40:55D-39 and R.S. 40:55D-65 every application for development submitted to the planning board or zoning board of adjustment shall be accompanied by proof that no real property taxes or installments of special assessments for local improvements are due or delinquent on the property which is the subject of such application. In the event that it is determined that any such taxes or installments are due or delinquent on such property, then any approvals or other relief granted by either board shall be conditioned either upon the prompt payment of such taxes or installments or upon the making of adequate provision for the payment thereof in such manner that the township shall be adequately protected.

13-10 APPEALS TO THE GOVERNING BODY.

13-10.1 Decisions Which May Be Appealed. Appeals may be taken to the township committee from any final decision of the zoning board of adjustment granting a use variance pursuant to the provisions of R.S. 40:55D-80(d).

Such appeal shall be taken within 10 days of the date of publication of notice of such final decision in the official newspaper of the township.

Such appeal shall be made in accordance with the provisions of R.S. 40:55D-17.

Such appeal shall be decided by the governing body only upon the record established before the zoning board of adjustment.

13-10.2 Filing Appeal. An appeal to the governing body shall be made by serving the township clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and the name and address of his attorney, if represented.

13-10.3 Requirement for Transcript. Unless the appellant shall either

a. within 5 days of the service of a notice of appeal arrange for a transcript for the use of the governing body and pay a deposit of \$50 or the estimated cost of such transcript, whichever is less, or

b. within 35 days of the service of the notice of appeal submit a transcript as otherwise arranged to the township clerk, the appeal may be dismissed for failure to prosecute.

13-10.4 Notice of Hearing on Appeal. Notice of the meeting to review the record below shall be given by the governing body by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to subsection 13-8.3 and to the zoning board of adjustment from which the appeal was taken at least 10 days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the governing body shall provide for verbatim recording and transcripts of such meeting pursuant to subsection 13-6.1e.

13-10.5 Time for Decision. The governing body shall conclude a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to subsection 13-8.4 unless the appellant consents in writing to an extension of such period. Failure of the governing body to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the municipal agency which rendered the decision from which the appeal was taken.

13-10.6 Decision on Appeal. The appeal shall be decided by the township committee only upon the record established before the zoning board of adjustment.

The township committee by an affirmative vote of a majority of its full authorized membership may, by resolution which includes findings of fact and legal conclusions, (a) reverse the final action of the zoning board of adjustment, (b) remand the application to the zoning board of adjustment, or (c) impose conditions on or alter the conditions of the final action of the zoning board of adjustment. Otherwise, the final action of the zoning board of adjustment shall be deemed to be affirmed. A tie vote of the township committee shall constitute affirmance of the decision of the zoning board of adjustment.

13-10.7 Stay of Proceedings. An appeal to the governing body shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the zoning board of adjustment certified to the governing body, after the notice of appeal shall have been received by that board, that by reason of facts stated in the certificate a stay would in its opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court after application on notice to the zoning board of adjustment on good cause shown.

13-10.8 Notice of Decision on Appeal. The governing body shall mail a copy of the decision to the appellant or, if represented, then to his attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the township. Such publication shall be arranged by the township clerk, provided that nothing contained herein shall be construed as preventing the appellant from arranging such publication if he so desires. The governing body may make a reasonable charge for the publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication of notice of the decision whether arranged by the municipality or the appellant.

13-10.9 Court Review. Nothing in this ordinance shall be construed as restricting the right of any party to obtain a review of the action of a municipal agency by any court of competent jurisdiction according to law.

13-11 EXCLUSIVE AUTHORITY OF PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT.

Any power expressly authorized by statute to be exercised by the planning board or the zoning board of adjustment shall not be exercised by any other body, except as otherwise provided in this ordinance.

13-12 TOLLING OF RUNNING OF PERIOD OF APPROVAL.

In the event that during the period of approval heretofore or hereafter granted to an application for development the developer is barred or prevented, directly or indirectly, from proceeding with the development otherwise permitted under such approval by a legal action instituted by any state agency, political subdivision or other party to protect the public health or welfare or by a directive or order issued by any state agency, political subdivision or court of competent jurisdiction to protect the public health or welfare and the developer is otherwise ready, willing and able to proceed with the development, then the running of the period of approval provided by statute shall be suspended for the period of time said legal action is pending or such directive or order is in effect.

13-13 APPROVALS SUBJECT TO CONDITIONS.

13-13.1 Contingent Approvals. In the event that a developer submits an application proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any state agency, political subdivision or other party to protect the public health or welfare or by a directive or order issued by any state agency, political subdivision or court of competent jurisdiction to protect the public health or welfare, the municipal agency shall process such application for development, and if such application meets all applicable requirements the municipal agency shall approve such application conditioned upon the removal of such legal barrier to development.

13-13.2 Approvals with Conditions. In the event that the development proposed by an application for development requires an approval by a governmental agency other than the municipal agency, the municipal agency shall in appropriate instances condition its approval upon the subsequent approval of such governmental agency, provided that the municipal agency shall make a decision on any application for development within the time period provided or within an extension of such period as agreed to by the applicant, unless the municipal agency is prevented or relieved from so acting by operation of law.

Whenever review or approval of the application by the county planning board is required by R.S. 40:27-6.3, in the case of a subdivision, or by R.S. 40:27-6.6, in the case of a site plan, the municipal agency shall condition any approval that it may grant upon timely receipt of a favorable report on the application by the county planning board or upon approval by the county planning board by its failure to report thereon within the time period provided by law.

13-14 APPLICATION FEES AND RELATED CHARGES.

The following schedule of fees is hereby established for applications for development, other applications and matters relating to land use and development and appeals:

13-14.1 Filing Fees.

a. Subdivision and Site Plan (Chapter XVI).

Concept plan	No fee required
Minor subdivision (including a lot line adjustment or a reapproval)	\$1,000.

TOWNSHIP OF MENDHAM

ORDINANCE 18-2009

**AN ORDINANCE TO AMEND AND
SUPPLEMENT THE LAND USE ORDINANCE
OF THE TOWNSHIP OF MENDHAM TO
AUTHORIZE THE WAIVER OF APPLICATION
FEES FOR CERTAIN QUALIFYING
NONPROFIT ORGANIZATIONS PURSUANT
TO THE MUNICIPAL LAND USE LAW**

WHEREAS, the Municipal Land Use Law provides at N.J.S.A. 40:55D-8 for the adoption of an ordinance to provide for the waiver of application fees in connection with applications by nonprofit, charitable, philanthropic and similar entities; and

WHEREAS, the Township Committee of the Township of Mendham desires to provide for the waiver of application fees for all applications by qualifying entities to the land use boards of the Township which currently own property within the Township.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Mendham, in the County of Morris and the State of New Jersey, as follows:

Section 1. Subsection 13-14.1 entitled "Application Fees and Related Charges" is hereby amended to include the following:

"13-14.1(p) Notwithstanding the fees set forth in this Section 13-14.1, no application filing fee shall be charged to any charitable, philanthropic, fraternal and/or religious nonprofit organization holding tax exempt status under the Federal Internal Revenue Code of 1954 (25 U.S.C. Section 501 (c) or (d) which acquired real property in the Township on or before the effective date hereof."

Section 2. If any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion, and such holding shall not affect the validity of the remaining portions hereof.

Section 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 4. This Ordinance shall take effect immediately upon final passage and publication in the manner according to law.

Introduced: July 28, 2009

Adopted: September 14, 2009

Effective: September 17, 2009

Attest:

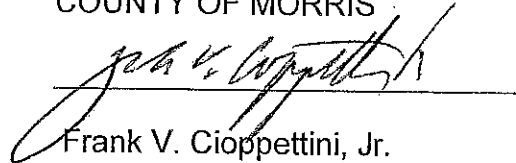
TOWNSHIP OF MENDHAM

COUNTY OF MORRIS



Ann L. Carlson, RMC

Township Clerk



Frank V. Cioppettini, Jr.

Mayor

Major subdivision --	
Preliminary plat	
1 to 6 lots	\$2,500.
7 or more lots	\$3,000.
Major subdivision --	
Final plat	
1 to 6 lots	\$1,500.
7 or more lots	\$2,000.
Preliminary Approval Developer's Agreement (PADA)	\$ 200
Minor site plan	\$1,000.
Preliminary major site plan	\$1,500.
Final major site plan	\$1,000.

The filing fee for an application to amend a previously granted minor, preliminary or final subdivision or site plan approval shall be the same as the fee for a minor or preliminary subdivision or site plan application as the case may be.

b. Conditional Use (Chapter XXI)

Residential	\$100 per proposed dwelling unit
Non-residential	\$150. per 1000 square feet of gross floor area of proposed structures, plus \$150 per 10,000 square feet of lot area affected or any portion thereof

c. Variance

Pursuant to subsection 15-8c	\$ 200.
Pursuant to subsection 15-8d(1)	\$ 600.
Pursuant to subsection 15-8d(2) to (6)	\$ 400.

d. Resubmission of Application

Any application enumerated in subsections 13-14.1a through c	25% of fee for original application
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e. Direction for Issuance of Permit

Pursuant to subsection 15-8e for a Building in a mapped street or public drainage way, flood control basin or public area reserved on the official map	\$200
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Pursuant to subsection 15-8f for a Building not related to a street	\$200
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f. Appeals

Pursuant to subsection 15-81 or 15-8b	\$200
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Appeal to the Township Committee pursuant to Section 13-10	\$200
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g. Approval of Environmental Impact Study *
(Chapter XVII)

Site plan	\$250 plus \$50 per acre of land affected or any portion thereof
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Subdivision	\$250 plus \$50 per proposed lot
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Other purpose	\$250
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h. Special Flood Hazard Development Permit *
(Chapter XVIII)

i. <u>Land Disturbance Permit *</u> (Chapter XIX)	\$50 per acre of area affected or any portion thereof
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j. <u>Soil Extraction Permit *</u> (Chapter XX)	\$1.00 per cubic yard of soil proposed to be extracted as calculated by the township engineer.
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* For project not related to an application for subdivision or site plan approval.

k. Lot Development Permit
(Chapter XXIV)

\$150.

l. Fees for Accessory Apartment Permits.

The application for an initial permit for the occupancy of an accessory apartment in accordance with the provisions of subsection 21-4.5f. shall be accompanied by a fee of \$150.00. An application for the renewal of a permit for the continued occupancy of an accessory apartment shall be accompanied by a fee of \$25.00. No fee shall be prorated by reason of the date upon which the application is filed. No fee shall be charged for a permit for the occupancy of an accessory apartment by a household with low or moderate income as qualified under the terms defined in the substantive rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:93-1.1 et seq.

m. Wireless Telecommunications Towers and Antennas (Chapter XXI)

Filing Fee

(a) Where no new tower is proposed	\$1,000
Plus an escrow deposit of	\$5,000

(b) Where a new tower is proposed	\$5,000
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(c) Plus an escrow deposit of \$5,000

- n. Any application not otherwise provided for and not in conjunction with any other application for which a filing fee is required, which requires full board and/or committee review/approval and/or professional review \$150.

13-14.2 Calculation of Certain Filing Fees by Township Engineer. Whenever a filing fee is based upon the extent of a land area that is affected by the application, a determination of the extent of such area by the township engineer shall be controlling and the applicant may be required to pay an increased filing fee after the review of the application by the township engineer.

13-14.3 Filing Fees Cumulative. Filing fees required by subsection 13-14.1 are cumulative, and an applicant shall pay the total of the filing fees for all aspects of any application.

13-14.4 Fees for Verification. The fee for a certificate of subdivision approval pursuant to R.S. 40:55D-56 shall be the maximum amount permitted by R.S. 54:5-14 or R.S. 54:5-15.

13-14.5 Fees for Transcripts and Copies of Documents. For the preparation of a transcript from a recording of proceedings pursuant to subsection 13-6.1e the fee shall be \$.60 for each folio of the original or the maximum permitted for the original by R.S. 2A:11-15, whichever is greater. The fees for copies shall be the same as for copies of other public documents of the township. The fee for furnishing and mailing a copy of a decision in accordance with subsection 13-8.3 shall be \$10.

13-14.6 Fee for Stenographic Record. Whenever it appears that the public hearing or hearings on an application will require more than one meeting of the planning board or zoning board of adjustment, as the case may be, the applicant shall be required to pay, in addition to the filing fees hereinabove set forth, the actual cost incurred for the stenographic recording and transcription of all of the public hearing or hearings upon the application and the furnishing of a copy of the transcript to the planning board or zoning board or adjustment, as the case may be.

13-14.7 Fees for Professional Services Rendered to Municipal Agencies in Connection with an Application for Development. The filing fee for an application for development set forth in subsection 13-14.1 or incorporated in that subsection does not cover any of the following expenses which shall be borne by the applicant:

a. Expenses incurred by a municipal agency of the Township for professional services rendered to the municipal agency in connection with an application for development, including review, study, research, reports and/or testimony deemed necessary by the municipal agency in order to assure compliance with applicable State laws and regulations and Township ordinances, rules, regulations and standards;

b. Expenses incurred by a municipal agency of the township for professional services for the review and preparation of documents necessary in connection with the processing of an application for development, including but not limited to resolutions, developer's agreements, performance guarantees and deeds, as well as conferences and correspondence relating to the foregoing;

c. Expenses incurred by the township for inspections by the township engineer or consulting engineers of improvements constructed and installed by a developer, which expenses are the subject of section 13-15; or

d. Expenses incurred by the township for inspections by the township engineer in connection with a request by a developer for a reduction in a performance guarantee as provided in subsection 16-7.4d.

This subsection 13-14.7 applies only to the expenses referred to in a. and b. above, and for convenience the funds to be paid to the township by an applicant in order to cover such expenses are hereinafter referred to as "professional service fees".

Professional service fees shall be calculated at hourly rates established by a schedule adopted and from time to time amended by resolution of the township committee, which schedule shall be maintained in the office of the township clerk for public inspection. The hourly rate established for a particular professional shall not exceed the hourly rate charged to the township by that professional for other work of the same nature.

At the time of filing an application for development, the applicant shall pay the following amounts to the township as an initial deposit for professional service fees for the following matters: (these fees shall be cumulative and certain of these fees shall be calculated by the township engineer as in sections 13-14.2 and 13-14.3)

1. Subdivision and Site Plan (Chapter XVI).

Concept plan (When technical/professional review requested)

Minor (1-3 lots proposed)	\$2,500.
Major (4 + lots proposed)	\$5,000.

Subdivision

Minor (including a lot line adjustment or a re-approval)	\$5,000.
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Major

Preliminary plat

1 to 6 lots	\$7,500.
7 or more lots	\$10,000.

Major

Final plat

1 to 6 lots	\$5,000.
7 or more lots	\$5,000.

Preliminary Approval Developer's Agreement (PADA)

\$ 2,500.

Site Plan

Minor site plan

Residential

\$2,500. plus \$100. per proposed dwelling

Non-Residential

\$2,500. plus \$100. Per 1,000 s.f.
floor area plus \$100 per 10,000 s.f. lot area affected.

Preliminary major

Residential

\$7,500. plus \$200. per proposed dwelling

Non-Residential

\$7,500. plus \$200. per 1000 sq. ft.
floor area plus \$200. per 10,000 sq. ft. lot area affected

Final major
Residential
Non-Residential

\$5,000. plus \$150. per proposed dwelling
\$5,000. plus \$150. per 1000 sq. ft.
floor area plus \$150. per 0,000 sq. ft. lot area affected

2. Conditional Use (Chapter XXI)

Residential	\$2,000. plus \$250. per proposed dwelling
Non-residential	\$2,000. Plus \$300. per 1000 s.f. of gross
Floor area of proposed structures,	plus \$300. for each additional 10,000
square feet of lot area affected or any portion thereof	

3. Variance

Pursuant to subsection 15-8c	\$1,000.
Pursuant to subsection 15-8d(1)	\$ 3,000.
Pursuant to subsection 15-8d(2) to (6)	\$ 2,000.

4. Resubmission of Application

Concept, Subdivision, Site Plan, Variance, Conditional Use	100% of original within 6 months
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5. Direction for Issuance of Permit

Pursuant to subsection 15-8e for a building in a mapped street or public drainage way, flood control basin or public area reserved on the official map	\$2,000.
Pursuant to subsection 15-8f for a Building not related to a street	\$2,000.

6. Appeals

Pursuant to subsection 15-8a-b from decision of construction official or zoning officer in the enforcement of Chapter XXI, Zoning Regulations, or interpretation of Chapter XXI, or the zoning map or decisions on special questions	\$1,000
Pursuant to subsection 13-10 (appeal to the Township Committee from decision of the Zoning Board of Adjustment granting a use variance)	\$2,000.
Pursuant to subsection 24-9 (appeal of a LDP denial)	\$3,000.

7. Approval of Environmental Impact Study * (Chapter XVII)

\$2,500.

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| 8. <u>Special Flood Hazard Development Permit *</u>
(Chapter XVIII) | \$2,500. |
| 9. <u>Land Disturbance Permit *</u>
(Chapter XIX) | \$2,500. |
| 10. <u>Soil Extraction Permit *</u>
(Chapter XX) | \$2,500. |

* For project not related to an application for subdivision or site plan approval.

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|--|----------|
| 11. <u>Lot Development Permit</u>
(Chapter XXIV) | \$3,000. |
| 12. <u>Wireless Telecommunications Towers and Antennas</u>
(Chapter XXI) | \$5,000 |
| 13. <u>Other</u>
(any application not otherwise provided for and not in conjunction with any other application for which a filing fee is required, which requires full board and/or committee review/approval and/or professional review) | \$2,000. |

Each deposit for professional service fees shall be held in escrow by the township in an account separate from the general funds of the township and separately identified. The escrow account shall be in a banking institution or savings and loan association in this state insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The township treasurer shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. All interest earned on any account shall be retained in the account until paid over as hereinafter provided.

Every person who renders professional services to be paid by an applicant pursuant to the provisions of this subsection shall submit a voucher to the township for such services setting forth the name of the applicant, the nature of the services, the hourly rate and any disbursements. After review and approval by the township administrator, all such vouchers shall be forwarded to the township treasurer.

Prior to any payment of a voucher from an escrow account for professional service fees, the township treasurer shall cause a copy of the voucher to be sent by certified mail, return receipt requested, to the applicant named in the voucher. Within ten (10) days of the receipt of a voucher, the applicant may file written objections to payment with the township treasurer and township clerk requesting a hearing thereon before the township committee. Otherwise, the voucher shall be paid from the appropriate escrow account. Any hearing shall be held within twenty (20) days after the receipt of the request by the township clerk. Written notice of the hearing shall be given by the township clerk to all parties in interest. At the conclusion of the hearing the township committee may determine to approve payment of the voucher as submitted, or the township committee may determine to approve payment of the voucher as modified with the consent of all parties in interest. If the township committee shall determine to approve payment of the voucher as submitted over the objection of the applicant, the township committee shall authorize such payment by a resolution adopted at its next regular meeting, which resolution shall set forth findings of fact and conclusions.

Upon request an applicant may at any time obtain complete information from the township treasurer as to the status of his escrow account for professional service fees, including deposits and payments from the account.

Deposits for professional service fees shall be made in an escrow account prior to the performance of the professional services which the deposit is intended to cover.

Whenever a payment is made from an applicant's escrow account for professional services rendered in connection with a proposed development application, the applicant shall make such further deposit as may be necessary to restore the balance in the applicant's escrow account to the full amount of the initial deposit. Such further deposit shall be made within ten (10) days of the date of the mailing by certified mail, return receipt requested, of a notice to the applicant setting forth the amount necessary to restore the escrow account to the amount of the initial deposit. No further professional services shall be performed with respect to the applicant's proposed development until the required further deposit is made. In the event that the applicant fails to make the required further deposit within ten (10) days of the mailing of the written notice, the applicant shall be deemed to have granted an extension of time within which the planning board may act with respect to the application, such extension being for the period of time beyond the ten (10) days until the required further deposit is received, provided, however, that if the required further deposit is not made within thirty (30) days of the date of the mailing of the written notice, the planning board shall deem the application abandoned and shall adopt a resolution denying the application.

Whenever the interest earned on any escrow account for professional services shall exceed \$100 in any calendar year, the township treasurer shall pay to the applicant who deposited the funds 66 2/3% of the interest earned during that calendar year, and the remaining 33 1/3% of such interest shall be paid over to the township for administrative expenses. Such payments shall be made within thirty (30) days after the termination of the calendar year in which the interest was earned or upon the termination of the account in the event that the escrow account shall be terminated prior to the end of the calendar year. Whenever the interest earned is no more than \$100 in any calendar year, all of such interest shall remain in the account until the termination of the account, at which time all such interest shall be paid over by the township treasurer to the township for administrative expenses.

After payment for all professional services in connection with an application for development has been made, the township treasurer shall refund to the applicant all monies in the escrow account, including interest which the applicant is entitled to receive. The copies of the vouchers for professional services previously forwarded to the applicant shall constitute an accounting to the applicant on the use to which all deposits to the escrow account were put. After the interest in the account which the township is entitled to receive has been paid over to the township, the escrow account shall be terminated. The provisions of this paragraph regarding termination of an escrow account shall not be applicable if the escrow account is being used or will be used for purposes of satisfying the requirements of section 13-15.

13-14.8 Payment of Fees. All required fees shall be paid by check drawn to the order of the Township of Mendham. For fees in excess of \$250 a certified check or bank cashier's check may be required.

13-14.9 Time of Payment of Fees. All filing fees set forth in subsection 13-14.1 shall be paid at the time of the filing of the application or appeal.

The fees required by subsections 13-14.4 for verification and 13-14.5 for transcripts and copies of documents shall be paid prior to the receipt of the documents requested.

The fee under subsection 13-14.6 for a stenographic record and transcription shall be paid within 20 days after the township submits a statement to the applicant or appellant.

Deposits for technical review fees and for technical inspection fees shall be made prior to the performances of services by the professional experts or consultants.

All permits, determinations, resolutions or certificates of approval are subject to the payment of all required fees and no application shall be deemed to be complete nor shall any final action be taken by the planning board, zoning board of adjustment or the township committee, as the case may be, until proof has been submitted that the required fees in connection with the application for development or appeal have been paid to the township.

13-14.10 Refund of Fees. Except as otherwise specifically provided, fees paid to the township are not refundable in whole or in part.

13-15 INSPECTION FEES AND COSTS.

A developer shall pay to the township fees equal to the expenses incurred by the township with respect to

a. the inspection of all improvements constructed or installed by the developer in accordance with the terms and conditions of subdivision and/or site plan approval, except such improvements as will be automatically owned by public utilities or other governmental agencies;

b. the testing of materials or construction work performed by the developer on all improvements subject of inspection under a. above in the event that such testing is deemed necessary by the township;

c. the analyses or tests to determine compliance by the developer with any monitoring standards established by the terms and conditions of subdivision and/or site plan approval; and

d. the inspection of improvements constructed and installed by the developer and subject of inspection under a. above for purposes of determining compliance with any maintenance obligations of the developer.

The improvements constructed or installed to meet the requirements of subdivision or site plan approval which are the subject of inspection include but are not necessarily limited to the following: pavement subgrade, base course pavement, surface or top course pavement, curbing, sidewalks, storm drainage facilities, sanitary sewerage facilities, street signs, topsoil and erosion protection, grading, landscaping and monuments

Whenever feasible, a developer shall give notice at least 24 hours in advance of the undertaking of any work which is the subject of inspection. Overtime inspection will not be provided unless special arrangements are made prior to the overtime period.

Inspection fees shall be calculated at hourly rates established by a schedule adopted and from time to time amended by resolution of the township committee, which schedule shall be maintained in the office of the township clerk for public inspection. The hourly rate established for inspection fees shall not exceed the hourly rate charged to the township for the inspection of improvements of a similar nature made by the township.

Inspection costs shall be reasonable expenses for analyses and tests by a recognized qualified firm plus 15% for administration.

At the time of the grant of final subdivision or site plan approval, or prior to the commencement of any work on subdivision or site plan improvements if such work is undertaken before final

approval, the developer shall make an initial deposit with the township based upon the reasonably anticipated inspection fees and costs. The initial deposit shall be as hereinafter provided with the estimated cost of improvements being based upon documented construction costs for public improvements prevailing in the general area of the township.

<u>Estimated Cost of Improvements</u>	<u>Reasonably Anticipated Inspection Fees and Costs</u>
Less than \$5,000	Seven percent (7%) of the estimated cost
\$5,000 to \$49,999	\$350 plus six percent (6%) of excess over \$5,000
\$50,000 to \$150,000	\$3,050 plus four percent (4%) of excess over \$50,000
Over \$150,000	\$7,050 plus two percent (2%) of excess over \$150,000

For those developments for which the reasonably anticipated inspection fees and costs are less than \$10,000, the developer may elect to make an initial deposit on only fifty percent (50%) of the reasonably anticipated inspection fees and costs, provided that when the amount on deposit drops to ten percent (10%) of the reasonably anticipated inspection fees and costs the developer shall deposit the balance with the township.

For those developments for which the reasonably anticipated inspection fees and costs are \$10,000 or more, the developer may elect to make an initial deposit of only twenty-five percent (25%) of the reasonably anticipated inspection fees and costs, provided that whenever the amount on deposit drops to ten percent (10%) of the reasonably anticipated inspection fees and costs the developer shall make a further deposit of no less than twenty-five percent (25%) of the reasonably anticipated inspection fees and costs.

Each deposit for inspection fees and costs shall be held in escrow by the township in an account separate from the general funds of the township and separately identified by the name of the developer. The escrow account shall be in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The township treasurer shall notify the developer in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. All interest earned on any account shall be retained in the account until paid over as hereinafter provided.

The township engineer or any person who renders inspection services to be paid by a developer pursuant to the provisions of this subsection shall submit a voucher to the township for such services setting forth the name of the developer, the nature of the services, the hourly rate and any disbursements. After review and approval by the township administrator, all such vouchers shall be forwarded to the township treasurer.

Prior to any payment of a voucher from an escrow account for inspection fees or costs, the township treasurer shall cause a copy of the voucher to be sent by certified mail, return receipt requested, to the developer named in the voucher. Within ten (10) days of the receipt of a voucher, the developer may file written objections to payment with the township treasurer and township clerk requesting a hearing thereon before the township committee. Otherwise, the voucher shall be paid from the appropriate escrow account. Any hearing shall be held within twenty (20) days after the

receipt of the request by the township clerk. Written notice of the hearing shall be given by the township clerk to all parties in interest. At the conclusion of the hearing the township committee may determine to approve payment of the voucher as submitted, or the township committee may determine to approve payment of the voucher as modified with the consent of all parties in interest. If the township committee shall determine to approve payment of the voucher as submitted over the objection of the developer, the township committee shall authorize such payment by a resolution adopted at its next regular meeting, which resolution shall set forth findings of fact and conclusions.

Upon request a developer may at any time obtain complete information from the township treasurer as to the status of his escrow account for inspection fees and costs, including deposits to and payments from the account.

The calculation of reasonably anticipated inspection fees and costs for a particular development shall not establish a maximum amount which may be required to be paid to the township by the developer for inspection fees and costs. Upon request by the township treasurer the developer shall make such a further deposit or deposits as may be necessary to cover further necessary inspection fees and costs. Each request shall be reasonable in regard to the nature and scope of the inspection or tests which may be necessary.

A deposit for inspection fees and costs shall be made in an escrow account prior to the performance of the services which the deposit is intended to cover, and inspection services shall not be performed unless sufficient funds therefor are on deposit in the escrow account.

Whenever the interest earned on any escrow account for inspection fees and costs shall exceed \$100 in any calendar year, the township treasurer shall pay to the developer who deposited the funds 66 2/3% of the interest earned during that calendar year, and the remaining 33 1/3% of such interest shall be paid over to the township for administrative expenses. Such payments shall be made within thirty (30) days after the termination of the calendar year in which the interest was earned or upon the termination of the account in the event that the escrow account shall be terminated prior to the end of the calendar year. Whenever the interest earned is no more than \$100 in any calendar year, all of such interest shall remain in the account until the termination of the account, at which time all such interest shall be paid over by the township treasurer to the township for administrative expenses.

After payment for all inspection fees and costs in connection with a development has been made, the township treasurer shall refund to the developer all monies in the escrow account which the developer is entitled to receive. The copies of the vouchers for inspection fees and costs previously forwarded to the developer shall constitute an accounting to the developer on the use to which all deposits to the escrow account were put. After the interest in the account which the township is entitled to receive has been paid over to the township, the escrow account shall be terminated.

Inspection shall not relieve the developer from the obligation of performing all work strictly in accordance with the plans, specifications or standards therefor or the obligation of performing work in a workmanlike manner using first-class materials. Unless the township committee shall have approved the construction and installation of any improvement by resolution, any improvement not meeting applicable plans, specifications or standards shall be replaced, reconstructed or repaired by the developer despite any previous oversight or error in inspection.

In the event that final approval is granted by sections, then the provisions of this subsection shall be applied on a section by section basis.

13-16 TIME LIMITS FOR ACTION ON APPLICATIONS.

The respective periods of time within which approvals must be granted or denied to complete applications for development are set forth in Chapter XIV, Planning Board, and Chapter XV, Zoning Board of Adjustment.

<u>Application</u>	<u>Subsection</u>
Minor subdivision	14-12a
Preliminary major subdivision	14-12b
Final major subdivision	14-12c
Minor site plan	14-12d
Preliminary major site plan	14-12d
Final major site plan	14-12d
Variance	15-10.1
Direction for issuance of permit	15-10.1
Exercise of ancillary powers	14-12e
Separate consecutive applications	14-12f; 15-10.01

13-17 APPLICATION CHECKLIST

The Mendham Township Application Checklist consists of Sheets 1 through 5 and Appendices 1 through 6 as follows:

Application Checklist	Sheets 1 through 5
Appendix 1	Filing Fee Calculations
Appendix 2	Typical Title Box
Appendix 3	Typical Signature Box
Appendix 4	Typical Signature Boxes
Appendix 5	Typical Zone Schedule
Appendix 6	Typical Slope Analysis

ITEM	SUBMISSION REQUIREMENTS										ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
	PLANNING BOARD OR BOARD OF ADJUSTMENT						BOARD OF ADJUSTMENT								
	MINOR			MAJOR			VARIANCE 40:55D-70								
	SUBMISSION	SITE PLAN	SUBMISSION	SITE PLAN	SUBMISSION	SITE PLAN	(a) & (b)	(c)	(d)						
1	•	•	•	•	•	•	•	•	•	•	Twenty(20) copies of completed application form.	COMPLIES			
												N.A.			
												WAIVER			
2	•	•	•	•	•	•	•	•	•	•	20 copies to Planning Board, 11 copies to Board of Adjustment of requisite plats prepared, signed and sealed by N.J. licensed professional in compliance with N.J. A.C.13:40-7.1 et seq. folded with title block exposed to view. Plat sheets shall be no larger than 24"x36"	COMPLIES			
												N.A.			
												WAIVER			
3	•	•	•	•	•	•	•	•	•	•	20 copies to Planning Board, 11 copies to Board of Adjustment of documents other than plats necessary to accompany the application.	COMPLIES			
												N.A.			
												WAIVER			
4	•	•	•	•	•	•	•	•	•	•	Completed Filing Fees Calculation Sheet and payment of required filing fees inclusive of application fees and escrow deposits. See Appendix 1.	COMPLIES			
												N.A.			
												WAIVER			
5	•	•	•	•	•	•	•	•	•	•	Certification issued by the Tax Collector that no taxes or assessments for local improvements are due or delinquent on the subject property.	COMPLIES			
												N.A.			
												WAIVER		16-5.8	
6	•	•	•	•	•	•	•	•	•	•	Certification of submittal to the Morris County Planning Board and the Morris County Soil Conservation District as applicable.	COMPLIES			
												N.A.			
												WAIVER		16-5.4	
7	•	•	•	•	•	•	•	•	•	•	Title block placed in the lower right corner of each sheet containing all information drawn in a format shown in Appendix 2.	COMPLIES			
												N.A.			
												WAIVER		16-8.5g; 16-8.1a,1a,b,c,d	
8	•	•	•	•	•	•	•	•	•	•	Name(s) and address(es) of the owner(s) and applicant(s) of the subject tract.	COMPLIES			
												N.A.			
												WAIVER		16-8.5g; 16-8.1a,1e,f	
9	•	•	•	•	•	•	•	•	•	•	North arrow and graphic scale appearing on all plat sheets as applicable.	COMPLIES			
												N.A.			
												WAIVER		16-8.1.a.2	
10	•	•	•	•	•	•	•	•	•	•	Key Map showing the subject tract and its relation to the surrounding area at a scale of not less than 1"=500'.	COMPLIES			
												N.A.			
												WAIVER		16-8.1.a.9	
11	•	•	•	•	•	•	•	•	•	•	Area Map based on Tax Map information at scale of 1"=200' with the following information: 1. Adjoining property owners Lot and Block No. 2. Block limits, Zoning districts and municipal boundary lines.	COMPLIES			
												N.A.			
												WAIVER		16-8.1.a.10	
12	•	•	•	•	•	•	•	•	•	•	A list of the full names and addresses, with Block and Lot numbers, of owners of all land within 200' of the subject tract, as furnished by the Mendham Township Tax Assessor and keyed to the Area Map.	COMPLIES			
												N.A.			
												WAIVER		16-8.1.a.8	
13	•	•	•	•	•	•	•	•	•	•	Plat Signature Box as applicable and illustrated by Appendix 3.	COMPLIES			
												N.A.			
												WAIVER		16-8.1.a.1g	
	•			•							Plat Signature Boxes as applicable and illustrated by Appendix 4.	COMPLIES			
												N.A.			
												WAIVER		16-8.5a	

Adopted: _____

SUBMISSION REQUIREMENTS										ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
ITEM N	PLANNING BOARD OR BOARD OF ADJUSTMENT						BOARD OF ADJUSTMENT							
	MINOR		MAJOR		VARIANCE 40:55D-70	(a) (b)	(c)	(d)						
	SUBDIVISION	SITE PLAN	SUBDIVISION	SITE PLAN					PRELIM.					
15	•	•	•	•	•	•	•	•	•	Lot lines, Tax Map Block and Lot numbers of each adjoining property, including properties across a street or a municipal boundary line.	COMPLIES			
											N.A.			
											WAIVER			
16	•	•	•	•	•	•	•	•	•	The area, Lot and Block number as assigned by the Township Engineer, of each existing and/or proposed lot within the subject tract.	COMPLIES			
											N.A.			
											WAIVER			
17	•	•	•	•	•	•	•	•	•	The bearing, length, or arc description of each course of the tract boundary.	COMPLIES			
											N.A.			
											WAIVER			
18			•	•						The dimensions of each course of all lots, easements and rights-of-way comprising the subject tract.	COMPLIES			
											N.A.			
											WAIVER			
19	•	•			•	•	•	•	•	The bearing, length or arc description of each course of all lots, easements and rights-of-way comprising the subject tract.	COMPLIES			
											N.A.			
											WAIVER			
20	•	•	•	•	•	•	•	•	•	Any protective covenants and/or deed restrictions applying to the subject tract.	COMPLIES			
											N.A.			
											WAIVER			
21	•	•	•	•	•	•	•	•	•	Required front, side and rear setback lines shown for each lot.	COMPLIES			
											N.A.			
											WAIVER			
22	•	•	•	•	•	•	•	•	•	Tabular zoning schedule of required bulk conditions and identification of any non-conforming conditions in a format illustrated by Appendix 5.	COMPLIES			
											N.A.			
											WAIVER			
23	•	•	•	•	•	•	•	•	•	Tabulation of the original area of the subject tract and any component parcel and each individual lot and parcel of land proposed including open space and rights-of-way areas.	COMPLIES			
											N.A.			
											WAIVER			
24	•	•	•	•	•	•	•	•	•	The footprint and uses of all existing structures and facilities within 200' of the subject tract including access ways, parking areas, walks, fences and walls, drawn to scale.	COMPLIES			
											N.A.			
											WAIVER			
25	•	•	•	•	•	•	•	•	•	The footprint, setbacks, dimensions and uses of all existing and proposed structures and facilities on the subject tract including access ways, parking and/or loading areas, walks, fences and walls, drawn to scale.	COMPLIES			
											N.A.			
											WAIVER			
26	•	•	•	•	•	•	•	•	•	Wooded areas indicating predominant species and sizes, and any areas to be cleared in and within 200' of subject tract.	COMPLIES			
											N.A.			
											WAIVER			
27	•	•	•	•	•	•	•	•	•	The location and identification of utility easements, other easements or rights-of-way on and within 200' of the subject tract.	COMPLIES			
											N.A.			
											WAIVER			
	•	•	•	•	•	•	•	•	•	Wetlands and wetland transition areas delineated by qualified professional on tract and within 150' thereof and described by metes and bounds, (unless an absence of wetlands determination by N.J.D.E.P.E. is furnished).	COMPLIES			
											N.A.			
											WAIVER			

SUBMISSION REQUIREMENTS										ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
ITEM N	PLANNING BOARD OR BOARD OF ADJUSTMENT						BOARD OF ADJUSTMENT							
	MINOR		MAJOR		VARIANCE 40:55D-70									
	SUBDIVISION	SITE PLAN	SUBDIVISION	SITE PLAN	SUBDIVISION	SITE PLAN	(a)	(b)	(c)					
29										Bodies of water, streams and wetlands and wetland transition areas as verified by L.O.I. (or absence of wetlands determination by N.J.D.E.P.E.) and waterways within the subject tract.	COMPLIES			16-8.1.b.7; 16-5.9
											N.A.			
											WAIVER			
30										Bodies of water, streams, wetlands, wetland transition areas, State open waters, water ways, swales, ditches, bridges, culverts, storm drainage piping and other structures on and within 200' of the subject tract.	COMPLIES			16-8.1.b.7; 16-5.9
											N.A.			
											WAIVER			
31										Soil types based on Soil Survey of Morris County as prepared by the Soil Conservation Service.	COMPLIES			16-8.1.d.1
											N.A.			
											WAIVER			
32										Location of all soil permeability test pits with respective soil log and permeability data to include date of test, depths and identification of horizons, depth to ground water and bedrock.	COMPLIES			16-8.1.d.1
											N.A.			
											WAIVER			
33										Location of all existing and proposed water supply wells on the subject tract and those existing within 100 feet thereof.	COMPLIES			16-8.1.d.2
											N.A.			
											WAIVER			
34										Location of all existing and proposed sewerage disposal systems on the subject tract and those existing within 100 feet thereof.	COMPLIES			16-8.1.d.2
											N.A.			
											WAIVER			
35										Environmental Impact Study as required by Chapter XVII. of the Land Use Ordinance.	COMPLIES			16-8.1.e.1; 16-8.4.g
											N.A.			
											WAIVER			
36										Environmental Constraints Map with all details required by 17-3.1(f) shown for the subject tract and within 200' thereof.	COMPLIES			17-3.1(f);
											N.A.			
											WAIVER			
37										Soil Erosion and Sediment Control Plan as required by Chapter XIX. of the Land Use Ordinance.	COMPLIES			16-8.1.e.2; 16-8.4.h
											N.A.			
											WAIVER			
38										Site Grading Plan as required by section 16-8.4 (f) of the Land Use Ordinance.	COMPLIES			16-8.1.e.3; 16-8.4.i
											N.A.			
											WAIVER			
39										Development Permit or application therefore as required by Chapter XVII. for the Subject tract, if any portion thereof lies within an area of special flood hazard.	COMPLIES			Chapter XVII.
											N.A.			
											WAIVER			
40										Proof of approval by or proof of submission for approval, to the Mendham Township Board of Health and/or other agency of jurisdiction for individual or central sewerage disposal system(s)	COMPLIES			
											N.A.			
											WAIVER			
41										Proof of approval by or proof of submission for approval, to the Mendham Township Board of Health and/or other agency of jurisdiction for individual or central potable water supply system(s).	COMPLIES			16-8.2; 16-8.4
											N.A.			
											WAIVER			
										Plats and plans drawn at a scale not less than 1"=50' (A scale of 1"=100' may be used in instances when the standard 24"x36" sheet size will not properly accommodate the tract.)	COMPLIES			
											N.A.			
											WAIVER			

SUBMISSION REQUIREMENTS										ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
ITEM	PLANNING BOARD OR BOARD OF ADJUSTMENT					BOARD OF ADJUSTMENT								
	MINOR		MAJOR			VARIANCE 40:55D-70	(a) & (b)	(c)	(d)					
	SUBMISSION	SITE PLAN	SUBMISSION	PRELIM.	FINAL									
43		•	•	•	•	•	•	•	•	Lot line and/or lot development layout plan. Proposed development features shall be represented graphically by solid lines, existing features to be removed shall be represented by dashed lines, "joining symbols" shall be used to indicate lot consolidation or common ownership where appropriate.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.a.4
44	•	•	•	•	•	•	•	•	•	Engineering details of any proposed improvements at an appropriate scale and, where mandated, in compliance with Mendham Township "Standard Construction Details."		COMPLIES		
												N.A.		
												WAIVER		16-8.4.k
45	•	•	•	•	•	•	•	•	•	Topographic Map of the subject tract and lands within 200' thereof at a contour interval of 2 feet with elevation data referenced to sea level. (A contour interval of 5 feet may be used for areas sloped 15% or more.)		COMPLIES		
												N.A.		
												WAIVER		16-8.4.b
46			•	•	•	•	•	•	•	Cross sections of all existing and proposed streets at 50' station intervals within and adjoining the subject tract at a 1"=5' horizontal and vertical scale.		COMPLIES		
												N.A.		
												WAIVER		16-8.4.c
47			•	•	•	•	•	•	•	Street Plans and Profiles for all existing and proposed streets within and adjoining subject tract, with R.O.W. and pavement widths, sanitary and storm sewer facilities with sizes, grades and invert elevations, drawn in a "plan over profile" format at a scale of 1"=30' horizontal and 1"=5' vertical.		COMPLIES		
												N.A.		
												WAIVER		16-8.4.c
48			•	•	•	•	•	•	•	Existing and proposed storm drainage information including: streams, water courses, swales, bridges, culverts, drainage pipes, inlets, man holes, detention facilities and any other structures.		COMPLIES		
												N.A.		
												WAIVER		16-8.4.e.2
49	•	•	•	•	•	•	•	•	•	Location and description of existing and proposed utility facilities including: water mains, fire hydrants, gas mains, electric, telephone and C.A.T.V. service lines.		COMPLIES		
												N.A.		
												WAIVER		16-8.4.i
50			•	•	•	•	•	•	•	Surface and storm water drainage calculations and data with information relating to storm water management as required by Section 16-8.4(e) and Section 16-10.9.		COMPLIES		
												N.A.		
												WAIVER		16-8.4e; 16-10.9
51	•	•	•	•	•	•	•	•	•	Slope Analysis Map and tabulation as required by Section 16-10.8 in a format illustrated by Appendix 6.		COMPLIES		
												N.A.		
												WAIVER		16-10.8
52		•	•	•	•	•	•	•	•	Landscaping plan showing existing and proposed vegetation and screening, including plant material schedule identifying species, number, spacing and sizes.		COMPLIES		
												N.A.		
												WAIVER		16-8.6a.4; 8.6b.6
53		•	•	•	•	•	•	•	•	Location of existing and proposed area lighting, including type of fixture(s), and luminaire(s), number, lumen power, time of use, mounting and illumination details with direction and Isolux diagram.		COMPLIES		
												N.A.		
												WAIVER		16-8.6a.5; 8.6b.4
54		•	•	•	•	•	•	•	•	Location, dimension and setbacks of all existing and proposed signs, including details of materials, finishes, mounting, illumination, lettering and message.		COMPLIES		
												N.A.		
												WAIVER		16-8.6b.3
55	•	•	•	•	•	•	•	•	•	Architectural drawings, including dimensioned building floor plans, showing layout of interior uses and functions and calculation of floor areas, and elevations showing building heights, finishes, materials and colors drawn to a scale of not less than 1/8"=1'		COMPLIES		
												N.A.		
												WAIVER		16-8.6b.8
	•	•	•	•	•	•	•	•	•	Statement of facts in support of a conditional use pursuant to Section 21-4.6.		COMPLIES		
												N.A.		
												WAIVER		21-4.6.

ITEM NO.	SUBMISSION REQUIREMENTS										ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
	PLANNING BOARD OR BOARD OF ADJUSTMENT						BOARD OF ADJUSTMENT								
	MINOR		MAJOR		VARIANCE 40:55D-70										
	PRELIM.		FINAL												
	SUBDIVISION	SITE PLAN	SUBDIVISION	SITE PLAN	SUBDIVISION	SITE PLAN	(a) & (b)	(c)	(d)						
57										Existing and proposed streets within and adjoining the subject tract, including names, R.O.W. and pavement widths and any R.O.W. dedication.		COMPLIES			
												N.A.			
												WAIVER			
58										The location and identification of all existing and proposed monuments.		COMPLIES			
												N.A.			
												WAIVER		16-8.5c	
59										Construction drawings entitled "Improvement and Utility Plans" pursuant to Section 10-4.2.		COMPLIES			
												N.A.			
												WAIVER		16-8.5f	
60										Verification of denial by the Zoning Officer or Construction Official of the intended use, occupancy and/or construction.		COMPLIES			
												N.A.			
												WAIVER			
61										Information and data to indicate compliance with required fire protection systems pursuant to Section 16-10.2 (w) including location, sizes and rating of any hydrants and/or water storage tanks and distances thereof to all proposed buildings.		COMPLIES			
												N.A.			
												WAIVER		16-8.4e	
62										Design and identification of any proposed private streets, labeled "Not Dedicated for Public Use" in compliance with Section 16-10.4, including proximity to nearest existing private street and special requirements applicable to backland development.		COMPLIES			
												N.A.			
												WAIVER		16-8.1.a.12; 16-8.5e	
63										Landscape Plan and Plant Material Schedule in accordance with Chapter XXIII of the Land Use Ordinance.		COMPLIES			
												N.A.			
												WAIVER		16-8.1.(b)8;	
64										RESERVED		COMPLIES			
												N.A.			
												WAIVER			
65										RESERVED		COMPLIES			
												N.A.			
												WAIVER			
66										RESERVED		COMPLIES			
												N.A.			
												WAIVER			

Name of Applicant.....

Name of Owner

Project NameType of Application.....

Location: Block #.....Lot #.....Street Address

Signature of Applicant Date.....

TOWNSHIP MENDHAM
FILING FEE/PROFESSIONAL FEE CALCULATION SHEET

Type of Application	Fees per LUO			Calculated Fees	
	App. Fee	Tech Review Fee		App. Fee	Fee
Concept Plan					
Minor (1 - 3 lots)	\$0				
Major (4 + lots)	\$0	\$2,500.			
Subdivision		\$5,000.			
Minor (incl. Lot line adjust.)					
Major	\$1,050.	\$5,000.			
preliminary (1 - 6 lots)					
Preliminary (7 + lots)	\$2,500.	\$7,500.			
Final (1-6 lots)	\$3,000.	\$10,000.			
Final (7 + lots)	\$1,500.	\$5,000.			
PADA	\$2,000.	\$5,000.			
Site Plan	\$200.	\$2,500.			
Minor					
Residential - per dwelling	\$1,050.	\$2,500. PLUS			
Non-Residential - per 1000 sq. ft. floor area		\$100.			
PLUS per 10,000 sq. ft. lot area affected		\$100.			
Major Preliminary		\$100.			
Residential - per dwelling	\$1,500.	\$7,500. PLUS			
Non-Residential - per 1000 sq. ft. floor area		\$200.			
PLUS per 10,000 sq. ft. lot area affected		\$200.			
Major Final		\$200.			
Residential - per dwelling	\$1,000.	\$5,000.			
Non-Residential - per 1000 sq. ft. floor area		\$150.			
PLUS per 10,000 sq. ft. lot area affected		\$150.			
Variance		\$150.			
Pursuant to subsection 15-8c	\$200.				
Pursuant to subsection 15-8d(1)	\$600.	\$1,000.			
		\$3,000.			

APPENDIX 1

FILING FEE CALCULATIONS

4		
3		
2		
1		
NO.	DATE	REVISION DESCRIPTION
TITLE OF SHEET*		
NATURE OF APPLICATION** PROJECT IDENTIFICATION*** BLOCK 1997 LOT 19 TAX MAP SHEETS 50 & 51 TOWNSHIP OF MENDHAM MORRIS COUNTY NEW JERSEY		
PROFESSIONAL OR FIRM WHO PREPARED PLAT ARCHITECTS – ENGINEERS – SURVEYORS – PLANNERS EASY STREET ANYTOWN, N.J. 00000 (000) 555-0000		
NAME OF RESPONSIBLE PROFESSIONAL, P.E., L.S.		
N.J.P.E.LIC. NO. 99999		
FILE NO.	SIGNATURE	SEAL IMPRINT
	SCALE:	DRAWING NO.
	1" = 50'	1 OF 10
DWG:	CKD:	DATE:
		1-1-00

TYPICAL EXAMPLES:

*CROSS-SECTIONS, GRADING PLAN, LOT LAYOUT

**PRELIMINARY SUBDIVISION PLAT, MINOR SITE PLAN

***LANDS OF JOHN Q. PUBLIC, COUNTRY ESTATES

APPROVED BY THE PLANNING BOARD OF THE TOWNSHIP OF MENDHAM ON _____ :	
PLANNING BOARD* CHAIRMAN	DATE
PLANNING BOARD* SECRETARY	DATE
TOWNSHIP ENGINEER	DATE

*OR BOARD OF ADJUSTMENT, WHERE APPROPRIATE

TOWNSHIP ENGINEER

I HAVE CAREFULLY EXAMINED THIS MAP AND FIND IT CONFORMS WITH THE PROVISIONS OF "THE MAP FILING LAW" AND THE MUNICIPAL ORDINANCES AND REQUIREMENTS APPLICABLE THERETO

TOWNSHIP ENGINEER OF
THE TOWNSHIP OF MENDHAM

DATE

SURVEYOR

I HEREBY CERTIFY THAT THIS MAP AND SURVEY HAS BEEN MADE UNDER MY SUPERVISION AND COMPLIES WITH THE PROVISIONS OF "THE MAP FILING LAW"

I.M.ZAMOST, P.E.,L.S
N.J.P.E. & L.S. NO. 99999

DATE

TOWNSHIP CLERK

THE ABOVE PLANNING BOARD*APPROVAL FOR FILING SHALL EXPIRE IF THIS MAP IS NOT PROPERLY FILED WITH THE CLERK OF THE COUNTY OF MORRIS ON OR BEFORE _____

TOWNSHIP CLERK OF
THE TOWNSHIP OF MENDHAM

DATE

OWNER

THE SUBDIVISION SHOWN HEREON IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE OWNER WHO HEREBY CONSENTS TO THE FILING THEREOF.

JOHN Q. PUBLIC

DATE

PLANNING BOARD

I HEREBY CERTIFY THAT THIS MAP COMPLIES WITH THE PROVISIONS OF THE "MAP FILING LAW" AND FURTHER CERTIFY THAT IT HAS BEEN APPROVED FOR FILING IN THE OFFICE OF THE COUNTY CLERK OF MORRIS COUNTY BY THE PLANNING BOARD* OF THE TOWNSHIP OF MENDHAM

CHAIRMAN, PLANNING BOARD* DATE

SECRETARY, PLANNING BOARD* DATE

TOWNSHIP CLERK

I CERTIFY THAT A BOND HAS BEEN GIVEN TO THE TOWNSHIP OF MENDHAM TO GUARANTEE THE FUTURE SETTING OF THE MONUMENTS SHOWN ON THIS MAP AND SO DESIGNATED, AND THE CONSTRUCTION OF ALL REQUIRED IMPROVEMENTS.

TOWNSHIP CLERK OF
THE TOWNSHIP OF MENDHAM

DATE

*OR BOARD OF ADJUSTMENT WHERE APPROPRIATE

ZONE SCHEDULE*
R-3 RESIDENTIAL ZONE**

ORDINANCE ITEM	REQUIRED	PROPOSED				
		LOT 1	LOT 2	LOT 3	LOT 4	LOT 5
LOT AREA						
NET BUILDING ENVELOPE AREA (NBEA, MIN.)	3.0 AC	3.22	4.15	3.76	6.12	2.90*
LOT FRONTAGE (MIN.)	40,000 SF	42,500	46,500	51,000	43,000	39,500*
LOT GEOMETRY CIRCLE (LGC, MIN.)	100 FT	250	302	256	275	415
BUILDING ENVELOPE CIRCLE BEC, MIN.)	250 FT. DIAM.	250	250	250	250	250
SIDEYARD SETBACK (MIN.)	150 FT. DIAM	150	115*	150	150	150
FRONT YARD SETBACK (MIN.)	50 FT.	50	50	50	50	50
REAR YARD SETBACK (MIN.)	60 FT	60	60	60	60	60
	50 FT	50	50	50	50	50

*VARIANCE REQUIRED

**BACKLAND LOT, DOUBLE LOT AREA REQUIRED

***THIS TYPICAL SCHEDULE IS FOR A SUBDIVISION IN THE R-3 ZONE, SHOWING 5 PROPOSED LOTS, ONE OF WHICH IS A BACKLAND LOT.

TABULATION OF SLOPE AREAS & DISTURBED AREAS

SYMBOL	LAND SLOPE	AREA (ACRES)	DISTURBED AREAS		TOTAL AREA DISTURBED (ACRES)	PERCENT DISTURBED	MAXIMUM ALLOWABLE PERCENT DISTURBED (BY ORDINANCE)	COMMENTS
			PUBLIC IMPROVEMENTS (ACRES)	HOUSE, YARD SEPTIC & DRIVE (ACRES)				
	0-10%	36.00	2.10	5.25	7.35	20.4%	NO LIMIT	O.K.
	10-15%	6.30	0.40	0.25	0.65	10.3%	25.0%	O.K.
	15-25%	3.60	0.60	0.00	0.60	16.7%	15.0%	WAIVER REQUESTED
	>25%	1.50	0.00	0.00	0.00	0.0%	5.0%	O.K.

APPENDIX 6 TYPICAL SLOPE ANALYSIS

CHAPTER XIV

PLANNING BOARD

14-1 ESTABLISHMENT AND MEMBERSHIP.

There is hereby established in the Township of Mendham a planning board consisting of seven regular members and two alternate members. The seven regular members shall be divided into the following four classes:

- Class I. The mayor of the Township of Mendham.
- Class II. One of the officials of the municipality other than a member of the township committee to be appointed by the mayor.
- Class III. A member of the township committee to be appointed by the township committee.
- Class IV. Four other citizens of the municipality to be appointed by the mayor. The members of Class IV shall hold no other municipal office, position or employment, except that the member of the environmental commission who is also a member of the Planning Board as required by R.S. 40:56A-1 shall be a Class IV member.

The two alternate members shall be citizens of the municipality to be appointed by the mayor. Alternate members shall hold no other municipal office. Alternate members shall be designated by the chairman at the time of appointment as "Alternate No. 1" and "Alternate No. 2" and shall serve in rotation during the absence or disqualification of any regular member or members of any class.

For purposes of this section, membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

14-2 TERMS.

The term of the member composing Class I shall correspond to his official tenure. The terms of members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first. The term of a regular Class IV member who is also a member of the environmental commission shall be for three years or terminate at the completion of his term of office as a member of the environmental commission, whichever occurs first. The terms of other regular Class IV members shall be four years. The term of each alternate member shall be two years, provided that the term of no more than one alternate member shall expire in any year. All terms shall run from January 1 of the year in which the appointment is made.

14-3 VACANCIES.

If a vacancy in the position of a regular or alternate member shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term.

14-4 ORGANIZATION OF PLANNING BOARD.

The planning board shall elect a chairman and a vice-chairman from the members of Class IV and select a secretary who may or may not be a member of the planning board or a township employee.

14-5 PLANNING BOARD ATTORNEY.

There is hereby created the office of planning board attorney. The planning board may annually appoint and, subject to the appropriation of funds, fix the compensation of the planning board attorney, who shall be an attorney other than the township attorney or zoning board of adjustment attorney.

14-6 EXPERTS AND STAFF.

The planning board may employ or contract for the services of experts and other staff and services as it may deem necessary. The board shall not, however, exceed the amount appropriated by the township committee for its use, exclusive of gifts or grants.

14-7 GENERAL POWERS AND DUTIES.

The planning board shall have the following general powers and duties:

a. To make and adopt and from time to time amend a master plan for the physical development of the township including any areas outside its boundaries which, in the judgment of the planning board, bear an essential relation to the planning of the township in accordance with the provisions of R.S. 40:55D-28.

b. To administer the provisions of Chapter XVI, Subdivision and Site Plan Review, and other land use regulations as to which the planning board is given responsibility under ordinances of the township, all in accordance with the provisions of such ordinances and the Municipal Land Use Law, R.S. 40:55D-1 and following.

c. To participate in the preparation and review of programs or plans required by state or federal law or regulations.

d. To assemble data on a continuing basis as part of a continuous planning process.

e. To annually prepare a program of township capital improvement projects projected over a term of six years, and amendments thereto, and recommend the same to the township committee.

f. To consider and make reports to the township committee within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of R.S. 40:55D-26(a), and also to pass upon other matters specifically referred to the planning board by the township committee pursuant to the provisions of R.S. 40:55D-26(b).

g. Whenever reviewing an application requiring approval of a subdivision, site plan or conditional use but not a variance or departure pursuant to R.S. 40:55D-70(d), to grant to the same extent and subject to the same restrictions as the zoning board of adjustment variances specified in subsection 15-8c 1 and 2. Whenever relief is requested pursuant to this paragraph, notice of a hearing on the application for development shall include reference to the request for a variance.

h. Whenever reviewing an application requiring approval of a subdivision, site plan or conditional use but not a variance or departure pursuant to R.S. 40:55D-70(d), to grant to the same extent and subject to the same restrictions as the zoning board of adjustment directions pursuant to R.S. 40:55D-34 for the issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on an official map, or directions pursuant to R.S. 40:55D-36 for the issuance of a permit for a building or structure not related to a street. Whenever relief is requested pursuant to this paragraph, notice of a hearing on the application

for development shall include reference to the request for the direction.

i. To perform such other advisory duties as are assigned to the planning board by ordinance or resolution of the township committee for the aid and assistance of the township committee or other agencies or officers.

j. To adopt such rules and regulations as may be necessary of carry into effect the provisions and purposes of this chapter.

14-8 SEPARATE CONSECUTIVE APPLICATIONS.

An applicant may elect to submit a separate application requesting approval of a variance or direction for the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction shall be conditioned upon the grant of all required subsequent approvals by the planning board. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning regulations.

14-9 CITIZENS ADVISORY COMMITTEE.

The mayor of the township may appoint one or more persons as a citizen's advisory committee to assist or collaborate with the planning board in its duties, but such person or persons shall have no power to vote or take other action required by the board. Such person or persons shall serve at the pleasure of the mayor.

14-10 REFERRAL TO ENVIRONMENTAL COMMISSION.

Whenever the environmental commission has prepared and submitted to the planning board an index of the natural resources of the township, the planning board shall make available to the environmental commission an informational copy of every application for development submitted to the planning board. Failure of the planning board to make such informational copy available to the environmental commission shall not invalidate any hearing or proceeding.

14-11 REVIEW OF CAPITAL PROJECTS.

Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district or other authority, redevelopment agency, school board or other similar public agency, state county or municipality.

14-12 TIME LIMITS FOR ACTION ON APPLICATIONS.

a. Minor Subdivision Approval. Minor subdivision approval shall be granted or denied within 45 days of the date of the submission of a complete application to the planning board or within such further time as may be consented to by the applicant.

b. Preliminary Approval of Major Subdivision. Upon submission of a complete application for a

subdivision of ten or fewer lots, the planning board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon submission of a complete application for subdivision of more than ten lots, the planning board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer.

c. Final Approval of Major Subdivision. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the developer.

d. Site Plan Approvals. Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application or within such further time as may be consented to by the developer.

Upon the submission of a complete application for a major site plan for ten acres of land or less, the planning board shall grant or deny preliminary approval within 45 days of the date of submission or within such further time as may be consented to by the developer.

Upon the submission of a complete application for a major site plan of more than ten acres, the planning board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer.

Application for final major site plan approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the developer.

e. Ancillary Powers. Whenever the planning board is called upon to exercise its ancillary powers pursuant to paragraphs 14-7g or 14-7h, the planning board shall grant or deny approval of the application within 120 days after submission by the developer of a complete application or within such further time as may be consented to by the applicant.

f. Separate Consecutive Applications. In the event that an applicant elects to submit separate consecutive applications as permitted by section 14-8, the 120-day time limit shall apply to granting or denying the application for approval of the variance or direction of issuance of a permit. The time for granting or denying any subsequent approval shall be as otherwise provided in this ordinance or in the Municipal Land Use Law.

g. Conditional Approvals. Whenever review or approval of an application by the county planning board is required by R.S. 40:27-6.3 in the case of a subdivision, or by R.S. 40:27-6.6 in the case of a site plan, the planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.

h. Failure of the Planning Board to Act. Failure of the planning board to act within the respective periods set forth in paragraphs a, b, d, d and e of this subsection, whichever is applicable, shall constitute the approval applied for, and a certificate of the township clerk as to the failure of the planning board to act shall be issued upon request of the applicant, and such certificate shall be sufficient in lieu of written endorsement or other evidence of approval.

Whenever an applicant wishes to claim approval of his application for development by reason of the failure of the Planning Board to grant or deny approval within the applicable time period, the applicant shall comply with the procedural requirements of R.S. 40:55D-

14-13 PERIODIC REEXAMINATIONS OF MASTER PLAN AND DEVELOPMENT REGULATIONS.
On or before August 1, 1988 the Planning Board shall complete a general reexamination of the master plan and Township development regulations. Such reexamination shall meet the requirements of Section 76 of the Municipal Land Use Law, R.S. 40:55D-89.

The planning board shall prepare and adopt by resolution a report on the finding of such reexamination, and copies of the report and resolution shall be filed with the county planning board and forwarded to the municipal clerk of each adjoining municipality.

Subsequent reexaminations shall be completed at least once every six (6) years from the previous reexamination.

The absence of the adoption by the planning board of any reexamination report as required by this section shall constitute a rebuttable presumption that the township development regulations are no longer reasonable.

14-14 TEMPORARY SERVICE ON PLANNING BOARD BY MEMBERS OF THE ZONING BOARD OF ADJUSTMENT.

In the event that the planning board shall lack a quorum because any of its regular or alternate members is prohibited by section 13-2 from acting on a matter, regular members of the zoning board of adjustment shall be called upon to serve, for that matter only, as temporary members of the planning board in order of seniority of continuous service on the zoning board of adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between regular members of equal seniority, the chairman of the zoning board of adjustment shall make the choice.

CHAPTER XV

ZONING BOARD OF ADJUSTMENT

15-1 ESTABLISHMENT AND MEMBERSHIP.

There is hereby established in the Township of Mendham a zoning board of adjustment consisting of seven regular members and two alternate members, all of whom shall be appointed by the township committee. All members of the zoning board of adjustment shall be residents of the township. No member of the zoning board of adjustment shall hold any elective office or position under the municipality. Alternate members shall be designated by the chairman at the time of appointment as "Alternate No. 1" and "Alternate No. 2" and shall serve in rotation, during the absence or disqualification of any regular member or members.

15-2 TERMS.

The term of office of each regular member of the zoning board of adjustment shall be four years. The term of each alternate member shall be two years, provided that the term of no more than one alternate member shall expire in any year. All terms shall run from January 1 of the year in which the appointment is made.

15-3 VACANCIES.

If a vacancy in the position of a regular or alternate member shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term.

15-4 ORGANIZATION OF ZONING BOARD OF ADJUSTMENT.

The zoning board of adjustment shall elect a chairman and a vice chairman from its members and select a secretary who may or may not be a member of the board or a township employee.

15-5 ZONING BOARD OF ADJUSTMENT ATTORNEY.

There is hereby created the office of zoning board of adjustment attorney. The zoning board of adjustment may annually appoint and, subject to the appropriation of funds, fix the compensation of the zoning board of adjustment attorney, who shall be an attorney other than the township attorney or the planning board attorney.

15-6 EXPERTS AND STAFF.

The zoning board of adjustment may employ or contract for the services of experts and other staff and services as it may deem necessary. The board shall not, however, exceed the amount appropriated by the township committee for its use, exclusive of gifts or grants.

15-7 RULES AND REGULATIONS.

The zoning board of adjustment shall adopt such rules and regulations as may be necessary to carry into effect the provision and purposes of this chapter.

15-8 POWERS OF ZONING BOARD OF ADJUSTMENT.

The zoning board of adjustment shall have the following powers:

- a. To hear and decide appeals where it is alleged by the appellant that there is error in any

order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of Chapter XXI, Zoning Regulations.

b. To hear and decide requests for interpretation of Chapter XXI, Zoning Regulations, or the zoning map or for decisions upon other special questions upon which such board is authorized by ordinance to pass.

c. 1. Where (i) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (ii) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (iii) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, to grant upon application or appeal relating to such property a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

2. Where in an application or appeal relating to a specific piece or property the purposes of the Municipal Land Use Law, R.S. 40:D-1 and following, would be advanced by a deviation from the requirements of the provisions of Chapter XXI, Zoning Regulations, and the benefits of the deviation would substantially outweigh any detriment, to grant variance to allow departure from such zoning regulations.

No departure from the zoning regulations enumerated in paragraph d below shall be granted under the authority of this paragraph c.

No variance shall be granted by the zoning board of adjustment under this paragraph c if the proposed development requires approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board has power to review a request for a variance pursuant to subsection 14-7g.

d. In particular cases and for special reasons, to grant a variance to allow departure from the provisions of Chapter XXI, Zoning Regulations, to permit

1. a use or principal structure in a district restricted against such use or principal structure;
2. an expansion of a nonconforming use;
3. a deviation from a specification or standard pertaining solely to a conditional use;
4. an increase in the permitted floor area ratio; or
5. an increase in the permitted density, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
6. a height of a principal structure which exceeds by 10 feet or ten percent (10%) the maximum height permitted in the district for the particular structure, whichever is the lesser.

No variance shall be granted under this paragraph d except by an affirmative vote of at least 5 members of the zoning board of adjustment.

No variance or other relief may be granted under the provisions or paragraphs a through d

above unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning regulations.

If an applicant for development requests one or more variances but not a variance for a purpose enumerated in this subsection 15-8d, the decision on the requested variance or variances shall be rendered under subsection 15-8c.

e. To direct the issuance of a permit pursuant to R.S. 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved on the official map, provided, however, that the zoning board of adjustment shall not exercise this power if the proposed development requires approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board has power to direct the issuance of a permit pursuant to R.S. 40:55D-60b.

f. To direct the issuance of a permit pursuant to R.S. 40:55D-36 for a building or structure not related to a street, provided, however, that the zoning board of adjustment shall not exercise this power if the proposed development requires approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board has power to direct the issuance of a permit pursuant to R.S. 40:55D-60c.

g. To grant, to the same extent and subject to the same restriction as the planning board, subdivision or site plan approval pursuant to R.S. 40:55D-37 through 59 or conditional use approval pursuant to R.S. 40:55D-67 whenever the board is reviewing an application for approval of a variance or departure pursuant to paragraph d of this section.

h. Separate Consecutive Applications. An applicant may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon the grant of all required subsequent approvals by the zoning board of adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning regulations. The number of votes of board members required to grant any such subsequent approval shall be as otherwise provided in this ordinance for the approval in question, and the special vote pursuant to the aforesaid subsection 15-8d shall not be required.

i. Reference of Applications. Any application under any paragraph of this subsection may be referred to any appropriate person or agency, including the planning board, for a report provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

15-9 APPEALS AND APPLICATIONS.

15-9.1 Appeals. Appeals to the zoning board of adjustment may be taken by an interested party affected by any decision of an administrative officer of the township based on or made in the enforcement of the zoning chapter or official map. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken, specifying the grounds of such appeal. At the same time ten copies of such notice shall be filed with the secretary of the zoning board of adjustment. The officer from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken.

15-9.2 Applications. Applications addressed to the original jurisdiction of the zoning board of adjustment, without prior application to the administrative officer, shall be filed with the secretary of the zoning board of adjustment. Ten copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than ten days prior to the date set for hearing, the applicant

shall also file all plot plans, maps and other papers required by virtue of any provision of this chapter or any rule of the zoning board of adjustment.

An applicant shall obtain all necessary forms from the secretary of the zoning board of adjustment, who shall inform the applicant of the steps to be taken to institute proceedings and of the meeting dates of the board.

15-9.3 Stay of Proceedings. An appeal to the zoning board of adjustment shall stay all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the zoning board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to the life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

15-10 TIME LIMITS FOR ACTION ON APPLICATIONS.

15-10.1 Time Limit. The zoning board of adjustment shall render its decision not later than 120 days after the date an appeal is taken from the decision of an administrative officer or the submission of a complete application for development to the board pursuant to the provisions of R.S. 40:55D-72(b) is made.

In the event that an applicant elects to submit separate consecutive applications as permitted by section 15-8, the aforesaid time limit shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this ordinance or in the Municipal Land Use Law.

15-10.2 Failure to Render Decision. Failure of the zoning board of adjustment to render a decision within such 120-day period, or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant.

Whenever the applicant wishes to claim approval of his application for development by reason of the failure of the zoning board of adjustment to grant or deny approval within the applicable time period, the applicant shall comply with the procedural requirements of R.S.40:55D-

15-11 REVERSAL OR MODIFICATION ON APPEAL.

The zoning board of adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from, and may make such other requirements, decision or determination as should be made in its opinion, and to that end the board shall have all the powers of the administrative officer from whom the appeal was taken.

15-12 EXPIRATION OF VARIANCE.

Any variance hereafter granted by the zoning board of adjustment permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises, shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by such variance, or unless such permitted use has actually been commenced, within one year from the date of entry of the determination of the zoning board of adjustment; provided, that the running of the period of limitation hereby established shall be tolled from the date of the filing of an appeal from the decision of the zoning board of adjustment to the township committee or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

Whenever any variance hereafter granted by the zoning board of adjustment or the planning board is related to subdivision or site plan approval, such variance shall remain in effect so long as the related final subdivision or final site plan approval remains in effect, whereupon such variance shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced.

15-13 REFERRAL TO OTHER AGENCIES.

An application may be referred by the zoning board of adjustment to any appropriate person or agency, including the planning board pursuant to R.S. 40:55D-26, for study and report, provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

15-14 VOTE NECESSARY FOR DECISION.

The final disposition by the zoning board of adjustment on any matter shall require the concurring vote of a majority of a quorum except as provided in subsection 15-8d and as provided in R.S. 40:55D-26, 32 and 34.

15-15 ANNUAL REPORTS ON VARIANCE REQUESTS.

The zoning board of adjustment shall, at least once a year review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The zoning board of adjustment shall send copies of each report and resolution to the Township Committee and Planning Board.

15-16 TEMPORARY SERVICE ON ZONING BOARD OF ADJUSTMENT BY MEMBERS OF THE PLANNING BOARD.

In the event that the zoning board of adjustment shall lack a quorum because any of its regular or alternate members is prohibited by section 13-2 from acting on a matter, regular members of the planning board shall be called upon to serve, for that matter only, as temporary members of the zoning board of adjustment. The Class IV members of the planning board shall be called upon in order of seniority of continuous service on the planning board until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the chairman of the planning board shall make the choice.

CHAPTER XVI

SUBDIVISION AND SITE PLAN REVIEW

16-1 AUTHORITY AND PURPOSE.

This chapter is adopted pursuant to the Municipal Land Use Law, R.S. 40:55D-1 and following, for the purposes among others of providing rules, regulations and standards for guiding land subdivision and development within the Township of Mendham in a manner which will promote the public health, safety, convenience and general welfare of the Township and its neighboring communities. It shall be administered to insure orderly growth and development, conservation, protection and proper use of land as well as adequate provisions for circulation, utilities and services.

This chapter is one of several chapters comprising the Land Use Ordinance of the Township of Mendham which regulates the use and development of land, and the applicable requirements of all such chapters shall be satisfied in connection with any application for development.

16-2 REQUIREMENT FOR SUBDIVISION APPROVAL.

Subdivision approval shall be applied for and granted prior to the subdivision or resubdivision of land.

16-3 REQUIREMENT FOR SITE PLAN APPROVAL

Site plan approval shall be applied for and granted prior to the issuance of a construction permit of any new building or structure or any addition to or alteration of an existing building or structure whenever the use of the building or structure will be for any of the following uses in accordance with this ordinance:

- conditional use;
- institutional use;
- commercial use in the B Neighborhood Business District;
- public utility use;
- agricultural or horticultural use;
- park or playground;
- private recreation club;
- conventional multi-unit housing;
- limited income multi-unit housing;
- any non-residential use permitted by variance; or
- planned development, including residential cluster.

Site plan approval shall also be applied for and granted prior to the issuance of a new certificate of occupancy whenever there is any change in the nature of the use of a building or structure or part thereof and the new use is one of the uses enumerated in this subsection.

16-4 APPROVING AGENCY.

The provisions of this chapter shall be administered by the Township Planning Board, except that the provisions of this chapter shall be administered by the township zoning board of adjustment whenever such board is reviewing an application to grant a variance or allow departure from zoning regulations pursuant to R.S. 55D-70(d). For convenience, reference to the municipal agency administering this chapter are generally to the planning board.

16-5 GENERAL PROVISIONS RESPECTING APPLICATIONS.

16-5.1 Concept Plan for Development. Prior to the filing of a formal application for development, an applicant may request, and the planning board shall grant, an informal review of a concept plan of the intended development. The concept plan shall be in sufficient detail to clearly show the intended scope and design of the proposed development. A concept plan should contain sufficient information for informal discussion and evaluation by the planning board. The informal review shall not be binding on either the planning board or the applicant. This step is particularly recommended for major subdivisions and site plans in order to help later compliance with ordinance requirements and planning board satisfaction with basic elements of the plan.

The plan may be prepared by the applicant. The plan should be drawn to scale but detailed dimensions need not be shown, provided, however, that any dimensions critical to the plan should be shown. In general the plan should provide the following information, as applicable;

a. Key map, indicating at an appropriate scale the location of the site to be developed and its relation to streets and highways. The key map should show lakes, streams, and drainage ways, wooded and cleared areas, significant topographic features, boundaries of adjoining lots, and municipal boundaries.

b. Developed portions. The illustration shall convey the development scheme including all buildings, circulation, parking and landscaping, whether existing or proposed.

c. Preliminary building plans, including conceptual floor plans of all floors and conceptual elevations of all proposed structures.

d. Evaluation statement, consisting of a general description of the intended project and an assessment of its anticipated broad impact on the neighborhood, the community and the environment including but not necessarily limited to considerations of land use, visual qualities, traffic, drainage, utilities and natural resources.

The planning board shall determine when an informal review of a concept plan has been completed, and thereafter the applicant shall file a formal application for development before further consideration by the planning board.

16-5.2 Time for Filing Application for Development. A complete application for development shall be filed with the secretary of the planning board not later than the 15th day of the month preceding the month in which the application will be considered by the planning board. The secretary of the planning board shall record on the application the date upon which the application is received. Any fee accompanying the application shall be forwarded to the township treasurer.

16-5.3 Review to Determine Completeness of Application. Every application for development shall be reviewed by the secretary of the planning board in accordance with the applicable checklists established by subsection 13-5.2 or Chapter XIII, Land Use Procedures and Fees, in order to determine whether the application is complete, and any notice required by that subsection shall be forwarded to the applicant by the secretary of the planning board within the time provided.

16-5.4 County Planning Board Review. The secretary of the planning board shall submit to the county planning board applicable applications and fees provided by the applicant in all cases which are subject to review by that board.

16-5.5 Water Supply. a. In the event that any new vacant lot to be created by any proposed subdivision or any lot shown upon any site plan for a use requiring a potable water supply will not be served by a public water supply system, then minor or preliminary subdivision approval or minor or preliminary site plan approval shall not be granted until the township board of health has approved

the plans for water supply to each new vacant lot or for the proposed development, as the case may be.

b. When service is proposed to be provided by a public water supply system, minor or preliminary subdivision approval or minor or preliminary site plan approval, as the case may be, shall not be granted until the applicant has presented evidence that all necessary approvals and/or commitments for such service have been issued and/or obtained.

c. Any applicant for development approval may file applications with the township board of health and the New Jersey Department of Environmental Protection for approvals with respect to proposed water supply facilities simultaneously with the filing of an application with the planning board for subdivision or site plan approval.

16-5.6 Sewage Disposal. a. In the event that a new vacant lot to be created by any proposed subdivision or any lot shown upon any site plan for a use requiring the disposal of sanitary sewage is proposed to be served by an individual sewage disposal system, then minor or preliminary subdivision approval or minor or preliminary site plan approval, as the case may be, shall not be granted until the township board of health has approved the plans for sewage treatment and disposal for any such lot or for the proposed development, as the case may be.

b. When sewage disposal is proposed to be accomplished by a means other than an individual sewage disposal system or systems, minor or preliminary subdivision approval or minor or preliminary site plan approval, as the case may be, shall not be granted until the applicant has presented evidence that all necessary approvals and/or commitments for the proposed system for disposal have been issued and/or obtained.

c. Any applicant for development approval may file applications with the township board of health and the New Jersey Department of Environmental Protection for approvals with respect to proposed sewage disposal facilities simultaneously with the filing of an application with the planning board for subdivision or site plan approval.

16-5.7 Variations for Planned Developments. In the case of a planned development of fifty (50) acres or more which is to be developed in stages over a period of years, the planning board may waive the requirement for submission of a preliminary plan for the entire development and accept a preliminary plan for each stage of the development provided that the applicant shall have first submitted and the planning board shall have first approved an overall plan of the entire development. The overall plan shall generally contain the details and information required for preliminary approval in sufficient detail to make an informed decision on the overall plan of development.

16-5.8 Payment of Taxes and Assessments. All real property taxes and assessments for local improvements shall be paid to date on land which is the subject of a development application as provided in section 13-9.

16-5.9 Tree Removal Requirements. Approval of any application for development shall be subject to the review and recommendation by the Tree Preservation and Landscape Committee pursuant to the provisions of Chapter 23-5.2, Authority of the Tree Preservation and Landscape Committee.

16-6 APPLICATION PROCESSING PROCEDURES.

16-6.1 Distribution of Applications Upon Submission. Upon receipt of a complete application for development the secretary of the Approving Authority shall forward copies of the application as well as copies of the accompanying plat or plan to each member of the Approving Authority and for report and recommendation to each of the following:

Township Engineer, Planner, Environmental Consultant and Board Attorney
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Environmental, Historic Preservation, and Tree Preservation and Landscape Committees
Fire Official, Chief of Police, Director of the Department of Public Works.
Such other Federal, State, County and Municipal Officials and agencies as may be directed by the subdivision and site plan review committee,.

16-6.2 Review by the Subdivision and Site Plan Review Committee. The subdivision and site plan review committee shall review all applications for development along with reports from any officials or agencies and shall report its findings and recommendations to the planning board.

16-6.3 Distribution after Approval. Upon approval of an application copies of the signed plat or site plan shall be forwarded by the secretary of the planning board to each of the following:

Township Clerk;
Township Engineer;
Township Construction Official;
Township Zoning Officer;
Township Tax Assessor; and
Township Board of health.

16-7 APPLICATION REQUIREMENTS AND PROCEDURES.

16-7.1 General. Every applicant shall examine and comply with the provisions set forth in the Application Checklist and supplemental Appendices established by Chapter XIII of this Ordinance and shall execute same as appropriate for submission to the secretary of the municipal agency.

16-7.2 Submission of Subdivision Plat for Classification and Approval as Minor Subdivision or Submission of Site Plan for Classification and Approval as Minor Site Plan.

a. The minor subdivision plat or minor site plan shall be prepared according to the requirements of section 16-8, Subdivision Plat and Site Plan Details, using applicable standards according to section 16-10, Design Standards.

b. Whenever the planning board is to review an application for minor subdivision or minor site plan approval for which there is a request for variance from lot area, lot dimension, setback or yard requirements, there shall be a hearing on the application with notice in accordance with Chapter XIII, Land Use Procedures and Fees.

c. If the application is approved as a minor subdivision or as a minor site plan by the subdivision and site plan review committee, the application shall be referred to the planning board for its consideration. If the planning board shall find that the development is adequately drained and will not adversely affect the development of the remainder of the parcel or the adjoining property and is not in conflict with any portion of the master plan or official map and that any existing nonconformity of lots shall not be increased by such development the plat shall then be classified as a minor subdivision or as a minor site plan, as applicable, and shall be approved when all other required approvals have been received by the planning board and when all conditions of approval imposed by the planning board have been satisfied by the applicant. After such approvals are received or waived, the plat or plan shall be signed by the chairman and secretary of the planning board and forwarded to the township clerk for signature and returned to the subdivider within one (1) week following the next regular meeting of the planning board. This approval is the final approval. No such approval shall be granted nor shall the plat or site plan be signed unless and until:

1. The applicant submits to the secretary of the planning board a certificate from the Township Tax Collector satisfying the provisions of section 13-9;

2. For a development in which an individual water supply and/or an individual sewage disposal system are/is proposed, the applicant submits to the secretary of the planning board a resolution or certificate of approval for the proposed system by the appropriate municipal, county or state health agency.

3. The Morris County Planning Board approves the application by its timely report, fails to report within the required time period or waives approval of the application;

4. Where applicable, the subdivider demolishes any structure shown upon the plat to be demolished and clears the debris from the tract; and

5. Where applicable, the applicant submits to the planning board secretary any required deed(s) for dedication of road right-of-way or required easements and such deed(s) have been approved by the township engineer and township attorney.

6. There is accurately shown on the plat or site plan or in the Deed perfecting the approval the maximum allowable slope disturbance as approved by the Planning Board for each lot and parcel comprising the development application.

d. Conditional approvals shall be pursuant to section 13-13.

e. Approval of a minor subdivision shall expire 190 days from the date upon which the planning board resolution of approval is adopted unless the applicant complies with the filing provisions of R.S. 40:55D-47d or unless an extension of the 190-day period is granted by the planning board pursuant to the provisions of R.S. 40:55D-47f.

f. If the subdivision or site plan is classified as a major subdivision or major site plan, as the case may be, the applicant shall be so notified. The applicant shall follow the procedures for the processing of a major subdivision or a major site plan, as the case may be.

16-7.3 Submission of Preliminary Major Subdivision Plat or Preliminary Major Site Plan.

a. The preliminary plat of a major subdivision or a preliminary major site plan shall be prepared according to the requirements of section 16-8, Subdivision Plat and Site Plan Details, using applicable standards according to section 16-10, Design Standards.

b. The planning board shall consider the application and all reports and documents regarding the application and, if satisfied with the submission, shall schedule a public hearing on the application.

c. If the planning board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of the hearing, an amended application shall be submitted and processed, as in the case of the original application.

d. When the planning board is satisfied that the proposed application, together with any conditions as imposed by the planning board, meets all required conditions, it shall grant preliminary approval. No such approval shall be granted nor shall the plat or plan be signed unless and until:

1. The applicant submits to the secretary of the planning board a certificate from the tax collector satisfying the provisions of section 13-9;

2. For a development in which an individual water system and/or an individual

sewage disposal system are/is proposed, the applicant submits to the secretary of the planning board a resolution or certification of approval for the proposed system by the appropriate municipal, county, or state health agency; and

3. All appropriate municipal, county, or state agencies have submitted timely favorable reports for the development, failed to report within the required time period or waived approval of the application.

16-7.4 Installation of On-tract Improvements; Developer's Agreement; Performance and Maintenance Guarantees; As-Built Plans.

a. Installation of Improvements or Guarantee Prior to Grant of Final Major Subdivision or Site Plan Approval. Prior to the filing of an application for final major subdivision approval or final major site plan approval the applicant shall have installed all required improvements unless the applicant has furnished to the township a performance guarantee in an amount approved by the planning board to assure the installation on or before a date approved by the board of all improvements required for the whole or any section of the subdivision or site plan tract which are not already inspected and approved by the township engineer.

The planning board may waive this requirement with respect to any improvement required by preliminary major site plan approval if it finds that the public does not have sufficient interest in the improvement to warrant such a guarantee in order to insure completion as a condition for issuance of a construction permit.

In the event that following the grant of preliminary major subdivision approval or preliminary major site plan approval and prior to the grant of final approval and the filing of the final plat or execution of the final plan, as the case may be, an applicant elects to proceed with the construction or installation of any required improvements or the performance of any other work required for development of the property subject of preliminary approval, the applicant shall, before commencing the construction or installation of improvements or the performance of any other work,

(1) submit to the planning board for review and approval detailed construction plans for the improvements or work, which plans shall meet the final subdivision or final site plan application standards, as the case may be, for such plans, and

(2) after approval of such plans by the planning board, enter into an agreement with the Township of Mendham with respect the construction or installation of improvements and the performance of other work, which agreement shall include provisions respecting compliance with the approved plans and specifications, the schedule of work and completion date, the inspection and approval of work by the township engineer, the payment of inspection fees, the correction of any defective work, and the rights of the township to enforce compliance with the agreement and to alleviate any adverse conditions or impacts caused by the applicant and not corrected after due notice, with the costs of the foregoing to be borne by the applicant.

No performance guarantee other than a performance guarantee pursuant to section 19-7 of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention, need be furnished in connection with the construction and installation of improvements or any other work performed prior to the grant of final approval. Neither the inspection and approval of any improvements by the township engineer nor the release of any performance guarantee provided pursuant to section 19-7 shall be deemed to be an acceptance of any improvement by the township. In no event shall any improvement or any maintenance guarantee for any improvement, except a maintenance guarantee

pursuant to section 19-9 of Chapter XIX, be accepted by the township prior to the grant of final subdivision or final site plan approval and the filing of the final plat or execution of the final plan, as the case may be.

b. Performance Guarantee. The performance guarantee shall be in favor of the Township and shall be equal to one hundred twenty percent (120%) of the total estimated cost of the required improvements not already completed, inspected and approved by the township engineer. Ten percent (10%) of the performance guarantee shall be in the form of a cash deposit with the township pursuant to a cash deposit agreement between the applicant and the township. The balance of the performance guarantee may be in the form of an irrevocable letter of credit or a surety bond in favor of the township issued by a banking institution or a surety company, as the case may be, authorized to do business in the State of New Jersey and in good financial standing and acceptable to the township. A bank issuing an irrevocable letter of credit shall meet or exceed capital requirements of regulatory agencies, shall not be operating under any type of supervisory constraint or agreement, and shall not be financing the development as to which the irrevocable letter of credit is issued. A surety company shall not be operating under any judicial orders or constraints.

The township engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, and the itemized cost estimate shall be appended to each performance guarantee posted by the applicant. The cost of the construction and installation of the required improvements shall be estimated by the township engineer based upon documented construction costs for public improvements prevailing in the general area of the township.

The applicant may appeal the township engineer's estimate to the township committee. The township committee shall decide the appeal within 45 days of the receipt of the appeal in writing by the township clerk. After the applicant posts the performance guarantee with the township based upon the estimated cost as determined by the township committee, the applicant may institute legal action within one (1) year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the performance guarantee.

In the event that other governmental agencies or public utilities will automatically own certain utilities to be installed, or if the improvements are covered by a performance guarantee given to another governmental agency, no performance guarantee shall be required by the township for such utilities or improvements, provided, however, that the township may require evidence that the applicant has entered into an appropriate contract with any such other governmental agency or public utility and has paid any charges which may be required pursuant to such contract, including any refundable deposits.

If the applicant has also applied for a land disturbance permit pursuant to the provisions of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention, the performance guarantee required by subsection 19-7.1 may be included in the performance guarantee furnished pursuant to this subsection 16-7.4b.

The performance guarantee shall run for a term not to exceed two (2) years from the date of final approval. Upon the request of a developer, and with the consent of any other obligor and the surety on any performance bond, the time allowed for the completion of improvements may be extended by the township committee by resolution. The planning board shall have a 30-day period in which to comment upon any proposed extension. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the estimated cost of the installation of the remaining improvements as determined by the township engineer as of the time of the adoption of the resolution. Such determination shall be made by the same method used for the original calculation of the estimated cost of improvements as hereinabove provided.

c. Completion of Improvements by Township. If the required improvements are not completed or corrected in accordance with the performance guarantee, the developer, any other obligor and any surety on a performance bond shall be liable thereon to the township for the reasonable cost of the improvements not completed or corrected and the township may, either prior to or after the receipt of the proceeds thereof, complete or correct such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, R. S. 40A:11-1 and following. The reasonable cost of completing and/or correcting the required improvements shall include all expenses incurred by the township for the preparation of bidding documents and award of a contract or contracts.

d. Reduction in Performance Guarantee. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of the same to the public system, the developer may request of the governing body in writing by certified mail addressed in care of the township clerk that the township engineer prepare, in accordance with the itemized cost estimate prepared by the township engineer and appended to the performance guarantee, a list of all uncompleted or unsatisfactory completed improvements. A copy of any such request shall also be sent to the township engineer. The request shall indicate which improvements are claimed to have been completed and which improvements remain uncompleted in the judgment of the developer. Thereupon the township engineer shall inspect all improvements covered by the request. Prior to making any inspection, the township engineer shall notify the township administrator and township superintendent of the department of public works as to the date and time when the inspection will be undertaken. Following completion of the inspection, the township engineer shall file a detailed list and report in writing with the township committee and shall simultaneously send a copy thereof to the developer not later than forty-five (45) days after receipt of the request.

The list prepared by the township engineer shall state in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and the remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the township engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of the reduction to be made in the performance guarantee relating to the completed and satisfactory improvement in accordance with the itemized cost estimate prepared by the township engineer and appended to the performance guarantee.

The township committee shall by resolution either approve the improvements determined to be complete and satisfactory by the township engineer, or reject any or all of such improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted in accordance with the itemized cost estimate prepared by the township engineer and appended to the performance guarantee. Such resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the township engineer. Upon adoption of the resolution by the township committee, the developer, any other obligor and any surety on a performance bond shall be released from all liability pursuant to the performance guarantee with respect to the approved improvements, except for the portion adequately sufficient to secure completion and correction of the improvements not yet approved, provided, however, that thirty percent (30%) of the total amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

If the township engineer fails to send or provide the list and report as requested by the developer within forty-five (45) days from receipt of the request, the developer may apply to the court in a summary manner for an order compelling the township engineer to provide the

list and report within a stated time, and the cost of applying to the court, including reasonable attorney's fees may be awarded to the prevailing party.

If the township committee fails to approve or reject the improvements determined by the township engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days within receipt of the township engineer's list and report, the developer may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the township engineer and appended to the performance guarantee, and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

In the event that the developer has made a cash deposit as part of the performance guarantee, then any partial reduction granted in the performance guarantee shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.

If any portion of the required improvements is rejected, the township may require the developer to complete or correct such improvements and, upon completion or correction, the same procedure of notification as set forth in this subsection shall be followed.

No provision of this subsection shall be construed to limit the right of the developer to contest by legal proceedings any determination of the township committee or the township engineer.

The developer shall bear the reasonable expenses incurred by the township for the aforementioned inspection of improvements made for purposes of this subsection 16-7.4d, which expenses shall be paid from the escrow account previously established by the developer for inspection fees and costs pursuant to the provisions of section 13-15.

In the event that final approval is granted by sections, then the provisions of this subsection shall be applied on a section by section basis.

To the extent that any of the improvements shown upon the subdivision plat or site plan have been dedicated to the township, the township committee shall be deemed, upon the release of any required performance guarantee with respect thereto, to accept dedication for public use of streets or roads and any other improvements made thereon according to the plans approved by the township planning board, provided that such improvements have been inspected and have received final approval by the township engineer.

e. Developer's Agreement. Prior to final approval and coincident with the furnishing of the performance guarantee by the developer, there shall be executed an agreement between the developer and the Township of Mendham incorporating all of the terms and conditions of approval imposed by the planning board.

f. Requirements for As-Built Plans. Prior to the acceptance by the township of any improvements installed for any subdivision or site plan, the developer shall furnish to the township engineer as-built plans for the following drawn on translucent tracing cloth or its equivalent on sheets not larger than 24" x 36":

1. Roads (plans and profiles).
2. Surface and storm water drainage facilities in roads and easements (plans and profiles).

3. Water mains, gas mains and underground electric and telephone facilities in roads and easements.

All of the foregoing improvements and utilities may be shown on the same location plans with appropriate legends.

g. Maintenance Guarantee. The agreement shall provide for a maintenance guarantee to be posted with the governing body for a period of two (2) years after final acceptance of improvements in an amount not to exceed fifteen percent (15%) of the total cost of the improvements. The amount of the maintenance guarantee shall be calculated by the same method used for the calculation of the cost of improvements as provided in subsection 16-7.4b. In the event that other governmental agencies or public utilities will automatically own the utilities installed or the improvements are covered by a maintenance guarantee to another governmental agency, no maintenance guarantee shall be required by the municipality for such utilities or improvements. The maintenance bond shall be expressly conditioned on the repair, correction of defects, replacement or restoration of the improvement or any part thereof whenever defects appear during the period of the obligation for maintenance, regardless of whether the defects arise from faulty materials, poor workmanship or from natural causes. Maintenance shall also include the plowing of snow on streets or portions of streets not yet accepted by the township for maintenance in order that vehicular access is at all times provided to lots for which certificates of use and occupancy have been issued.

If the developer so elects, the maintenance guarantee may be provided wholly or partly in the form of a cash deposit pursuant to a cash deposit agreement between the developer and the township. A surety bond or irrevocable letter of credit furnished as a maintenance guarantee shall meet the requirements for such guarantees as set forth in subsection 16-7.4b.

h. Approval of Developer's Agreement and Guarantees: Forms. The township attorney shall review and approve every developer's agreement, performance guarantee, maintenance guarantee and cash deposit agreement. Standard forms for such documents may be obtained from the office of the secretary of the planning board.

Ten percent (10%) of any performance guarantee shall be in cash pursuant to a cash deposit agreement between the developer and the township.

i. Township Design Standards and Specifications. All improvements required by subdivision or site plan approval shall be designed, constructed and installed in accordance with township design standards and specifications which are applicable thereto. Such standards and specifications are contained in "Standard Construction Details, Township of Mendham" copies of which are on file in the office of the township clerk and in the office of the township engineer.

16-7.4A Off-site and Off-tract Improvements

- a. Pursuant to N.J.S.A. 40:55D-1, et seq., where the need for off-site or off-tract improvements is deemed necessary as a result of the proposed development application, and where there is a rational nexus between the proposed development and the need for the off-tract improvement, the Planning Board or Board of Adjustment may require the applicant, as a condition of subdivision or site plan approval, to construct or contribute its prorata share of the cost of such off-site or off-tract improvements in accordance with the provisions of this Chapter. Off-site or off-tract improvements shall include:

1. Street improvements, water, fire cistern, sewer, drainage or other facilities or improvements of the types described in this Chapter for on-site installation, where the need for the provision of such improvements off-site or off-tract is, in whole or part, made necessary by the proposed development application.
 2. Any improvement or facility, the installation of which is required in the public interest and the public need for which would not arise but for the improvement of the property which is the subject of the development application. In addition to improvements of the type described in this Chapter and referred to above, improvement required to maintain a safe flow of vehicular and pedestrian traffic are specifically declared to be necessary in the public interest.
 3. The installation of new or the extension or modification of existing improvements made necessary in whole or in part by the development application.
- b. Prior to the granting of final approval of any subdivision or site plan and prior to the issuance of any building permits for any land use requiring site plan approval pursuant to this Chapter, or for any residence or other use of land on an unimproved street or where any off-site or off-tract improvements have not yet been installed, the developer shall pay its pro-rata share of the cost of providing any reasonable and necessary street improvements, water, fire cistern, sewer or drainage facilities, and easements therefore, located outside the property limits of the development but which are necessitated or required by construction or improvements within the development. All payments shall be made in the manner set forth hereinafter, it being the intent of this section that the developer shall bear that portion of the cost of the improvements which bears a rational nexus to the needs created by the development and/or the benefits conferred upon such development.
- c. The Planning Board or Board of Adjustment, as the case may be, shall review each development application and determine the need for off-site or off-tract improvements and the total cost therefore. The Board shall determine the amount, if any, by which all properties serviced thereby, including the applicant's property, will be specially benefited therefrom.
1. In cases where reasonable and necessary off-site or off-tract improvements are required and where no other property owners will be specially benefited by the installation of such improvements, the Board shall require that the applicant, as a condition of approval, and at the applicant's expense, provide for and construct such improvements as if such improvements were located on-site.
 2. In cases where the need for any off-site or off-tract improvements are required and where the Board determines that properties other than the applicant's will be benefited by the improvement, the Board shall forward to the Township Committee, a report containing a list and description of all such improvements, together with its request that the Township Committee determine, as set forth hereinafter, how the improvements should be undertaken.
- d. Where the Planning Board or Board of Adjustment has determined that properties other than the applicant's will specially benefit from the installation of

off-site or off-tract improvements, and has forwarded a report to the Township Committee, the Township Committee shall, within 45 days, make the following determinations:

1. That the recommended off-site or off-tract improvement should be undertaken in the manner recommended by the Board or whether the Committee is of the opinion that an alternative improvement should be considered by the Board.
2. The extent to which the improvement should be constructed or installed by the Township as a general improvement or as a local improvement.
3. Whether the improvement is to be constructed or installed by the developer under a formula providing for partial reimbursement by the Township or otherwise for benefits to properties other than that which is the subject of the development, where appropriate.
4. The Township Engineer shall estimate, with the aid of such Township officials or departments or other persons having pertinent information or expertise, the cost of the improvement and the amount by which all properties to be serviced thereby, including the developer's property, will be specially benefited therefrom.
5. Once the Township Committee has made the determinations described above, the developer shall be required, as a condition of final approval of the development, to provide a combination of performance and maintenance guaranties, cash contributions, developer's agreements and/or other forms of surety permitted by law, to insure payment to the Township of one of the following amounts:
 - (a) If the improvement is to be constructed by the Township as a local improvement, the developer's proportionate share of the total cost of the improvement.
 - (b) If the improvement is to be constructed by the developer, the total cost of the off-site or off-tract improvement less an offset for the value of the special benefit, if any, to properties other than the developer's.
- e. The amounts of money required pursuant to this section shall be estimated sums, and such amounts shall be redetermined by the Township Engineer following completion of all off-site and off-tract improvements to ensure that the developer shall pay only its prorata share of the cost thereof. In the event that the payment made by the developer is less than its share of the actual cost of the improvements, then the developer shall be required to pay its additional proportionate share of the cost thereof.
- f. Should the developer pay the portion of the cost of improvements determined to be its prorata share under protest, legal action shall be instituted within one (1) year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.
- g. In the event that the developer shall not be required to install the off-site or off-tract improvements but is required to pay its prorata share of the cost therefore, then in that event there shall be paid to the Township Treasurer the amount of

the developer's share of the determined cost of the off-site or off-tract improvement. All moneys received by the Township in accordance with the provisions of this section shall be deposited in an interest bearing account, and such funds shall only be used for improvements for which they are deposited or improvements serving the same purpose. If the improvements are not initiated within ten (10) years from the date of payment, or other mutually agreeable period of time, all deposited funds shall be returned to the developer, or its legal successor in interest, together with accumulated interest, less ten percent (10%) of accumulated interest for administrative costs. If after reasonable and diligent inquiry, the Township is unable to locate the developer or its successor in interest in order to return said funds, then the funds shall be placed in the Township's general capital improvement fund and shall not be returnable to the developer thereafter.

16-7.5 Submission of Final Major Subdivision Plat or Final Major Site Plan.

a. The final plat of a major subdivision or the final major site plan and all supporting documents as required by this ordinance shall be submitted to the secretary of the planning board within three (3) years from the date on which the resolution granting preliminary approval was adopted unless an extension of the preliminary approval has been applied for and granted by the planning board pursuant to the provisions of R.S. 40:55D-49. The application may be for the whole or a section or sections of the preliminary subdivision plat or preliminary site plan, as the case may be. The plat or plan shall meet the requirements of subsection 16-8.5.

b. The subdivision and site plan review committee and the township engineer shall review the final subdivision plat or final site plan and all documents pertaining to the application and shall report to the planning board on the application.

c. If the application is found to be in compliance with the requirements of this ordinance and with all conditions of preliminary approval imposed by the planning board, the planning board may grant final approval. If the applicant proposes any substantial amendment in the layout of improvements as shown on the preliminary plat or plan previously approved, an amended application shall be submitted and proceeded upon as in the case of the original application for preliminary approval.

d. The final plat or plan shall not be signed by the chairman or the secretary of the planning board until:

1. The timely approval of the plan by any appropriate state, county or municipal agency.

2. The approval by the township attorney of the developer's agreement furnished in accordance with subsection 16-7.4e.

3. The approval by the township attorney of a performance guarantee for uncompleted required improvements in accordance with subsection 16-7.4b.

4. The submission to the secretary of the planning board of a certificate from the tax collector satisfying the provisions of section 13-9.

5. The submission to the secretary of the planning board of any required deed(s) for dedication of road right-of-way or required easements, which deed(s) have been approved by the township engineer and township attorney.

6. The approval by the township attorney of any required maintenance and tax liability covenant for applications under subsection 16-10.4, Backlands Provisions, Private Street Development.

7. There is accurately shown on the plat or plan the maximum allowable slope disturbance as approved by the Planning Board for each lot and parcel comprising the development application.

e. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The signing of the plat, the filing of the plat and any extension of time granted for filing shall be pursuant to R.S. 40:55D-54.

f. The effect of the grant of any final approval shall be as follows:

1. The zoning requirements applicable to the preliminary approval previously granted and other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date on which the resolution of final approval is adopted; provided that in the case of a major subdivision the rights conferred shall expire if the plat has not been duly recorded as provided in subsection 17-7.5e. If the developer has followed the standards prescribed for final approval and, in the case of a subdivision, has duly recorded the plat, the planning board may extend such period of protection for extensions of 1 year but not to exceed three extensions. Notwithstanding any other provisions of this chapter, the granting of final approval terminates the period of preliminary approval for the section granted final approval.

2. In the case of a subdivision or site plan for a residential cluster of 50 acres or more or conventional subdivision or site plan for 150 acres or more, the planning board may grant the rights referred to in subsection 16-7.5f.1 for such period of time, longer than 2 years, as shall be determined by the planning board to be reasonable taking into consideration the number of dwelling units, economic conditions and the comprehensiveness of the development. The developer may apply thereafter for, and the planning board may grant, an extension of final approval for such additional period of time as shall be determined by the board to be reasonable taking into consideration the number of dwelling units permissible under final approval, the number of such units remaining to be developed, economic conditions and the comprehensiveness of the development.

3. Whenever the planning board grants an extension of final approval pursuant to 1 or 2 above and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

4. The planning board shall grant an extension of final approval for a period determined by the board but not exceeding one (1) year from what would otherwise be the expiration date if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued such approvals. A developer shall apply for the extension before (a) what would otherwise be the expiration date of final approval or (b) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this

paragraph shall not preclude the planning board from granting an extension pursuant to paragraphs 1 or 2 above.

16-7.6 Final Plat for Township Clerk. After final approval and filing in the county clerk's office, one translucent tracing and one cloth print shall be filed with the township clerk. The original tracing and one cloth print shall be returned to the developer.

16-7.7 Requirements for Construction Permits.

a. No construction permit shall be issued until the final major subdivision approval has been granted by the planning board and the final plat has been filed with the county recording officer within the time permitted for filing. Proof of filing shall be submitted to the secretary of the planning board together with the map number assigned by the county recording officer. The construction official shall not issue a construction permit until he has been notified by the secretary of the planning board that proof of filing of the plat has been received.

b. No construction permit for any building or structure which is the subject of site plan approval shall be issued until final site plan approval is granted and all improvements have been completed or guarantees have been furnished to the township to insure completion in accordance with subsection 16-7.4b.

c. The Township Construction Official shall not grant a construction permit for any new structure on any undeveloped lot or a demolition permit for a single family dwelling unless the applicant shall have first applied for and been granted a tree removal permit and/or lot development permit. The applicant shall not be required to obtain a tree removal permit if the Tree Preservation and Landscape Committee has advised the Township Construction Official in writing that a tree removal permit is not required for the site. The applicant shall not be required to obtain a lot development permit if the Township Engineer has advised the Township Construction Official in writing that a lot development permit is not required for the site.

16-7.8 Improvements Required for Certificates of Occupancy. No certificate of use and occupancy shall be issued for any building on any lot in a subdivision or on a site plan until the construction and installation of the following improvements required for such lot have been completed, inspected and approved by the township engineer:

1. Street Improvement. A curbed street having a consolidated and firm subgrade with a base and intermediate course meeting township road specifications shall have been constructed and installed along the entire frontage of the lot and between the lot and a street which has previously been accepted by the township for maintenance or between the lot and a county road. The height of manholes and valve boxes at the time of completion of the intermediate course shall be determined by the township engineer.

2. Drainage Facilities. All storm and surface water drainage facilities required for the drainage of the lot shall have been constructed and installed.

3. Sanitary Sewerage Facilities and Water Supply Facilities. Any public, common or individual sanitary sewerage facilities and water supply facilities to serve the lot shall have been constructed, connected and placed in service.

4. Other Utilities. All other utilities required to serve the lot shall have been constructed and installed with service available.

5. Sidewalks. If any sidewalk is required to be installed along the frontage of the lot, then the sidewalk area along the entire frontage of the lot shall have been cleared and graded in preparation for the installation of the sidewalk.

6. Soil Erosion Measures. All work and/or improvements required by the approved soil erosion and sediment control plan has been performed or constructed, as the case may be.

Whenever final approval is obtained for a section of a subdivision or a section of a site plan, then all of the improvements for that section shall be completed in all respects and inspected and approved by the township engineer before any certificate of use and occupancy shall be issued for any building on any lot in any succeeding section of the subdivision or for any building in any succeeding section of the site plan.

16-8 SUBDIVISION PLAT AND SITE PLAN DETAILS.

16-8.1 General.

a. In addition to the details specified by subsections 16-8.2, 16-8.3, 16-8.4 and 16-8.5 for the preparation of subdivision plats and site plans, the following details, items or standards are required as applicable:

1. The subdivision plat or site plan shall show within blocks along the right-hand margin of the first sheet, or along the lower margin of the sheet if demanded by the configuration of the plat or plan:

(a) The title of the plat or plan, in caps, and in the lower right-hand corner of the sheet, as a title block.

CONCEPT (or MINOR, PRELIMINARY, FINAL) SUBDIVISION PLAT, or CONCEPT (for MINOR, PRELIMINARY, FINAL) SITE PLAN, as applicable
NAME OF SUBDIVISION (or DEVELOPMENT), if applicable
BLOCKS _____ LOTS _____ TAX MAP SHEETS
TOWNSHIP OF MENDHAM, MORRIS COUNTY

and the scale to which the plat or plan is drawn.

(b) The sheet number and the number of sheets provided as a single plat or in a complete set of plans in the lower right-hand corner of the title block. The title block will be required on additional sheets of the plat or plans.

(c) The name and address of the person or firm that prepared the plat or plan, including signature, qualification and license number (The preliminary and final subdivision plats and the preliminary and final site plans shall be drawn only by persons qualified to do so as set forth in Subchapter 7 of Chapter 40 of Title 13 of the New Jersey Administrative Code, N.J.A.C. 13:40-7.1 et seq. entitled "Permissible Division of Responsibility in Submission of Site Plans and Major Subdivision Plats".)

(d) The dates of the sheets of the original plat or plan and the dates of revisions thereof, including a brief description of each revision, except for the final plat of a major subdivision or of a major site plan which shall show only the date of preparation.

1. The plat or plan or deed perfecting the minor subdivision shall

accurately show the maximum allowable slope disturbance as approved by the Planning Board for each lot and parcel comprising the development application.

- (e) The name(s) of the owner(s) of the tract being subdivided or developed.
- (f) The name and address of the applicant, if other than the owner.
- (g) Lines for signatures and dates of approval for the township engineer, planning board chairman, planning board secretary, and the township clerk, preferably above the title block.

2. The direction of North.
3. The N-S bearing and length in feet of each line (course) required to plot the entire tract.
4. The subdivision plat or site plan shall include a lotline and/or lot development layout plan. Proposed development features shall be represented graphically by solid lines, existing features to be removed shall be represented by dashed lines, "joining symbols" shall be used to indicate lot consolidation or common ownership where appropriate. Each lot within the development shall bear a lot number as assigned by the Township Engineer. Block numbers shall be shown.
5. Where the center line of a stream serves as a lot line, such symbol shall be used and a note indicating such a boundary shall be placed on the plat or plan.
6. Lot sidelines and dimensions for lot sidelines shall terminate at the sideline of the street right-of-way. Lot frontage shall be measured along the sideline of the street right-of-way. Lot area shall not contain any portion of the road right-of-way.
7. The Building Envelope (BE) and Net Building Envelope Area (NBEA) shall be shown for each lot on all plats except for the concept plan. In addition, each lot shall have inscribed therein a Lot Geometry Circle (LGC) and a Building Envelope Circle (BEC) as provided in subsection 21-4.8 of Chapter XXI, Zoning Regulations.
8. Lot lines, lot numbers, and the full names of the owners of adjoining properties, including properties across a street or across a municipal boundary line, and including all properties within 200 feet of the boundaries of the entire tract subject of the application for development shall be shown. Information from the most recent township tax records shall be used.
9. A key map showing the entire development and its relation with the surrounding area, at a small scale.
10. Block limits, zone district boundaries and municipal boundaries, where applicable, shall be shown within the tract being developed and within 200 feet thereof, by light lines that will not be confused with lot lines.
11. A schedule in the margin area shall state required lot area, frontage,

width, depth, and required front, side and rear yards for the applicable zone districts.

12. Existing or proposed private streets as defined by this ordinance shall be labeled and marked "NOT DEDICATED TO PUBLIC USE". Private lanes which provide access to one or more properties shall be shown and identified as to use.

b. In addition to the details specified in a. above for all subdivision plats and site plans, the following details, items or standards are also required:

1. The area of the tract to be developed to the nearest one hundredth of an acre, or in square feet for small lots in the R, CR-1, CR-2 and B zone districts, shall be shown in margin area information.

2. For exceptionally large tracts, the location of that portion which is designated for development in relation to the entire tract shall be shown.

3. All existing structures within the entire tract being developed, including any structures which are to be demolished, and all structures within two hundred (200) feet of the entire tract being developed. Where appropriate, set back in feet of existing buildings or structures from the lot lines within the tract being developed shall be shown and the use of such buildings or structure shall be noted on the plat.

4. Wooded area and cleared area by symbol or by note within the tract being developed and within two hundred (200) feet thereof shall be shown on the plat or plan.

5. When several lots are included in a development, the lot lines and lot numbers of such original lots shall be shown on a map of small scale, or on the subdivision plat or site plan if such lot lines will not be confused with proposed lot lines. Joining symbols or notes may be used.

6. The location of utility lines, utility easements, easements or rights-of-way within the tract being developed and which may affect lot titles shall be shown on the plat or plan with the use specified.

7. The plat shall show all rock formations, water bodies, marshes or swamps, streams, water ways, bridges, culverts, drainage courses including drainage improvements within the township and any adjoining municipalities, as well as all roads within five hundred (500) feet of the tract being developed.

8. A proposed plan and schedule in connection with the intended development showing the location, caliper/size, species and quantity of trees and shrubs to be planted and/or to be removed, and the design of other landscape elements pursuant to Chapter XXIII, Tree Preservation and Landscape Regulations.

c. In addition to site plan details required by subsections 16-8.3, 16-8.4, 16-8.5 and by this subsection for the preparation of site plans, information and drawings in large scale as listed in subsection 16-8.6, Site Plan Details, Engineering and Architectural Drawings, shall be provided with the site plan.

d. The plat of a minor subdivision, minor site plan, preliminary plat of a major subdivision and preliminary major site plan shall show the following:

1. The plat or plan shall accurately show the location of all percolation test pits with each pit bearing an assigned number. Data shall include soil types both as indicated by the Soil Survey of Morris County, New Jersey, and by excavation. Data shall include the date of each test, weather conditions which may affect the test, depth of top soil and depth of subsoils, depth of encountered fragipans, ground water, and bed rock, depth at which percolation test was made, percolation rate and the name(s) of the township official(s) observing the test.

2. The plat or plan shall accurately show the locations of all water supply wells within the subdivision and within one hundred (100) feet thereof, and shall show the locations of existing sewage disposal systems as accurately as possible within the subdivision or development and within one hundred (100) feet thereof.

e. An application for the approval of a minor subdivision, minor site plan, preliminary plat of a major subdivision, or a preliminary major site plan shall be accompanied by studies and plans according to the requirements of

1. Chapter XVII, Environmental Impact Study.

2. Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention.

3. Site Grading Plan pursuant to subsection 16-8.4f.

f. A copy of any protective covenants or deed restrictions applying to the land being developed shall be submitted with the plat or plan.

16-8.2 Minor Subdivision Plat. The plat shall be clearly and legibly drawn. The scale shall be 1 inch equals 50 feet, provided, however, that the entire tract and information as required below can be shown on a single sheet 24" x 36". For exceptionally large tracts a scale of 1 inch equals 100 feet may be used. On the small scale plat, details which require greater definition shall be shown as inserts on the sheet or shall be shown on a second sheet with orienting or reference means provided.

The minor subdivision plat shall include the information listed in subsection 16-8.1 a through f and shall also include the following information:

a. The N-S bearing and lot length in feet of each line (course) required to plot each lot within the subdivision.

b. Lot areas shall be to the nearest one hundredth of an acre for lots in the R-1, R-2, R-3 and R-5 zone districts, and in square feet for small lots in the R, CR-1, CR-2 and B zone districts.

16-8.3 Minor Site Plan. The plan shall be clearly and legibly drawn. The scale shall be 1 inch equals 50 feet, provided, however, that the entire tract and information as required below can be shown on a single sheet 24" x 36". For exceptionally large tracts a scale of 1 inch equals 100 feet may be used. On the small scale plat, details which require greater definition shall be shown as inserts on the single sheet or shall be shown on a second sheet with orienting or reference means provided.

The plan shall include the information required by subsection 16-8.1 a through f.

16-8.4 Preliminary Major Subdivision Plat or Preliminary Major Site Plan. The preliminary plat or plan shall be clearly and legibly drawn. The scale shall be 1 inch equals 50 feet, provided, however, that the entire tract can be shown on a single sheet 24" x 36" or on joining sheets of that size which can be readily oriented. For exceptionally large tracts a scale of 1 inch equals 100 feet

may be used. On the small scale plat or plan, details which require greater definition shall be shown as inserts on the single sheet or shall be shown on additional sheets with orienting or reference means provided.

The plat or plan shall include the information required by subsection 16-8.1 a through f and shall also include the following information:

a. The area of each lot in the R-1, R-2, R-3 and R-5 zone districts shall be to the nearest one-tenth of an acre, or in square feet for lots in the R, CR-1, CR-2 and B zone districts when lots are of small area.

b. Contours shall show the general slope and natural drainage of the tract and areas within two hundred (200) feet of the tract, where appropriate. Contour interval shall be two (2) feet, except that the contour interval shall be five (5) feet for slopes averaging fifteen percent (15%) or greater.

c. Street center line profiles, street cross sections and street plans shall be shown. Elevation data shall be referenced to sea level.

d. Data relating to environmental considerations as follows:

1. A topographic map showing the following ranges of slope:

0 to 15 percent
15 to 25 percent
25 percent and over.

2. All flood hazard areas, wetlands, wooded areas and areas of recharge soils.

3. Rock outcrops and approximate depths to bedrock.

4. The seasonal high water table in ranges of depth based on field measurement as follows:

0' - 1/2'
1/2' - 2'
2' - 6'
6' and greater.

5. Types and species of vegetation.

e. Surface and storm water drainage calculations and data and information relating to storm water management as follows:

1. The size and the limits of watershed(s) and the location of the site within the watershed(s).

2. Location, description and quantification of significant natural and man-made features on and surrounding the site, including topography, all impervious surfaces, soil and drainage characteristics, with particular attention to the location and description of presently existing surface water runoff control devices, mechanisms or areas, flood hazard areas, wetlands, swales, woods and vegetation, recharge soils and other features relating to storm water management control.

3. The location and size of the nearest culvert or bridge downstream of

discharge from the site.

4. Location, description and quantification of proposed changes to the site whether of a permanent or temporary nature with particular attention to impervious surfaces and interception of presently dispersed flow which may impact upon the capacity of the soil, vegetation cover and drainageways to absorb, retard, contain or control storm water runoff.

5. Computation of the total surface water runoff before, during and after any land disturbance and/or construction of impervious surfaces. Computations shall be made in accordance with the Soil Conservation Service Method or the Rational Method depending upon which is more appropriate in the particular instance. Computations shall cover the 25-year storm frequency, except that the computations shall cover the 100-year storm frequency whenever required by Chapter XVIII, Flood Hazard Area Regulations.

6. Proposed measures for storm water management using best management practices (BMPs).

7. A schedule of the sequence of implementation of the storm water management plan, related to the starting and completion dates of the project and the seasons of the year.

8. Proposed maintenance schedule for all storm water management structures, stipulating current maintenance, continued maintenance and responsibility therefor.

f. Site Grading Plan. The applicant shall file a site grading plan with the preliminary plat or preliminary site plan. Such grading plan shall have the following details and shall meet the standards of this subsection:

1. The site grading plan shall show the existing contours, proposed finished grade elevations at street intersections and breaks in grade, proposed rates of grades of streets, locations of drainage sub-basin limits, proposed method of block drainage including proposed (down) slope arrows, all drainage systems and structures including sizes and invert and inlet elevations. The plan shall be accompanied by a set of drainage computations certified by a licensed professional engineer of the State of New Jersey.

2. The drainage of all lots shall be designed to provide adequate disposition of surface water run-off in accordance with accepted engineering principles and the standards set forth in subsection 16-10.9. There shall be a minimum two percent (2%) slope away from all buildings to be erected upon such lots. Where drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted or otherwise controlled as required by the planning board. The slope, shape and capacity of such drainage swales shall conform to good engineering practice and principles.

3. Concentration of surface water run-off shall only be permitted in swales, basins, ditches or watercourses, and unless otherwise approved by the planning board, there shall be no ponding upon the lands being developed nor upon adjoining lands.

g. Environmental Impact Study. A study according to the requirements of Chapter XVII, Environmental Impact Study, shall be conducted and the documentation resulting from

such study shall be filed with the preliminary plat or site plan at the time application for preliminary plat or site plan approval is made.

h. Drainage, Soil Erosion and Sedimentation Control Plan.

1. The applicant shall file a soil erosion and sediment control plan with the preliminary plat or site plan. The soil erosion and sedimentation control plan shall be prepared according to the requirements of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention. The plan shall consist of a map of the proposed development together with other lands affecting the drainage or affected by the drainage from such proposed development, which map shall be superimposed on the Mendham Township Soil Map and which shall show the soil boundaries. There shall be submitted with the soil erosion and sedimentation control plan a written report which fully and adequately sets forth the measures which the applicant proposes to take to effectively minimize soil erosion and sedimentation within the lands to be developed as well as any other lands affected by the drainage from such development.

(The Mendham Township Soil Map is contained within the Master Plan Revision 1978, adopted January 1979, and is contained in Soil Survey of Morris County, New Jersey (issued August 1976) on map sheets 26, 27, 32, 33 and 36. This map is prepared by the United States Department of Agriculture Soil Conservation Service.)

2. The planning board shall require where appropriate, detention or retention basins pursuant to the requirements of Chapter XIX to retain storm waters.

3. Top soil shall not be removed from the tract nor shall it be used for spoil unless such removal or spoil is specifically, by volume, approved by the planning board. Subsoils and topsoils shall not be used for spoil in wooded areas.

4. The plan shall state the volumes of soil disturbance in cubic yards, for top soil and for subsoil, and shall show the areas in which soils are to be stored. The plan shall state in cubic yards the volume of subsoil to be removed from the tract and the manner in which state, county, or municipal roads shall be protected during soil removal.

5. The plan shall state the sequence of events during the construction period.

i. Utilities.

1. For all major subdivisions or site plans the applicant shall arrange with the serving utility for the underground installation of the utility distribution supply lines, appurtenant equipment and service connections in accordance with the provisions of the applicable Standard Terms and Conditions Incorporated as part of its Tariff as the same are then on file with the State of New Jersey Board of Public Utility Commissioners and shall submit to the planning board prior to the granting or preliminary approval a written instrument from each serving utility which shall evidence full compliance with the provisions of this paragraph; provided, however, that lots of such subdivisions which abut existing streets where overhead electric or telephone distribution supply lines have theretofore been installed on any portion of the streets involved may be supplied with electric and telephone service from such overhead lines or extensions thereof but the service connections from the utilities overhead lines shall be installed underground. The location of access facilities for servicing the utility in the proposed development shall be developed in conjunction

with and as part of the complete subdivision plat or site plan.

2. Wherever the utility is not installed in the public right-of-way, an appropriate utility easement not less than twenty (20) feet in width shall be provided.

3. Any proposed facilities for a subdivision or development such as public or common water or sewer lines, collecting stations, storage tanks, pumping stations, treatment plants, detention or retention basins, access drives for maintenance purposes, may be shown in block form on plat or site plan to promote simplicity and understanding of concept, provided, however, that the application for the development shall not be granted approval until completely detailed design plans of the foregoing have been submitted, which plans shall include contours and profiles of connecting lines, swales, drives, etc. for such facilities.

4. All utility structures servicing underground utility distribution systems (i.e. transformers, junction boxes, meters) shall be installed underground. Appurtenances of such installations and above ground fixtures of underground water storage facilities shall be shielded from view by suitable plant material landscaping, pursuant to a plan approved by the Planning Board.

j. Refer to subsection 16-8.1 a through f for additional details for the preliminary plat of a major subdivision or preliminary site plan.

k. Engineering Details for Improvements. The details for improvements shall be in accordance with "Standard Construction Details, Township of Mendham" which are incorporated in and made a part of this ordinance, and the requirements of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention, shall be applicable.

l. Fire Protection Systems - Proposed location and details of fire protection systems pursuant to Section 16-10.2.w.

16-8.5 Final Major Subdivision Plat and Final Major Site Plan. The final plat or plan shall be drawn in black waterproof ink on tracing cloth and on tracing mylar at a scale not smaller than 1 inch equals 100 feet for exceptionally large tracts, and not larger than 1 inch equals 50 feet, provided, however, that small lot areas demanding larger scales for clarity may be shown in larger scale. A scale of 1 inch equals 50 feet is the preferred scale. The plat or plan shall comply with all provisions of Chapter 141, Laws of New Jersey 1960, R.S. 46:23-9.1 and following.

The final plat or final site plan shall include the information required by subsection 16-8.1 as applicable and appropriate and shall also include the following:

a. Certifications with appropriate places for names (printed), signatures and dates

1. of approval by the township engineer regarding the conformity of the plat with the provisions of the map filing law and applicable municipal ordinances;

2. by the authorized preparer as to the accuracy of the subdivision plat and plat details, or as to the accuracy of the site plan, and the conformity of the plat with the map filing law;

3. by the township clerk regarding bonding or for guarantee for required improvements;

4. by the applicant that he is the owner of the tract being developed;

5. of approval, when required, by any officer, body, agency, municipality, county or state;

6. by the township clerk that a guarantee has been furnished to the township for the installation of all monuments, or that all monuments have been set to the satisfaction of the township engineer;

7. in the event of approval of a revised final plat, after the original plat has been filed with the county clerk, by owners of lots affected by the revision(s), stating consent;

8. by the township clerk setting forth the date by which the plat may be filed with the county clerk; and

9. of approval by the planning board chairman and the planning board secretary.

b. Tract boundary lines and lot boundary lines, street right-of-way lines, and required setback lines, watercourses, existing streets and street names, bridges and/or culverts, flood hazard areas, sight easements, drainage easements, easements and other rights-of-way, land to be reserved for or dedicated to public use, with accurate dimensions, bearings or deflection angles, radii, arcs, and central angles of all curves shall be shown.

c. The location and description of all monuments shall be shown.

d. The purpose of any easement or right-of-way or land reserved or dedicated to public use shall be noted. The proposed use of sites for purposes other than residential use shall be noted.

e. Any special notes shall be provided regarding conditions of approval not contrary to the map filing law, including those notes required for subdivision pursuant to subsection 16-10.4, Backlands Provisions, Private Street Development, where applicable.

f. Final construction plans shall accompany the final plat and shall include cross sections and profiles of streets, and plans and profiles of water and other utility mains, and storm drains.

g. Refer to subsection 16-8.1 a., c., and f. for additional details for the final subdivision plat or the final site plan.

16-8.6 Site Plan Details, Engineering and Architectural Drawings. In addition to the details required by subsections 16-8.1, 16-8.3, 16-8.4 and 16-8.5, for the preparation of site plans, the plans shall include information as listed below and drawings in large scale to adequately describe the proposed development:

a. Existing facilities on site:

1. Location of uses and outlines of structures, drawn to scale, on the subject property as well as all adjacent properties.

2. Paved area, sidewalks and vehicular access between the site and public streets.

3. Locations, dimensions, grades and flow direction of existing sewers, culverts, water lines as well as other underground and above ground utilities within and adjacent to the property.

4. Existing development including fences, landscaping and screening.

5. Location and design of outdoor lights and lighted areas.

b. Proposed facilities on site:

1. Location of proposed buildings or improvements or structures or additions thereto.

2. Location and design of all uses not involving structures, such as off-street parking and loading areas.

3. Location and plans for outdoor signs.

4. Location, direction, type, power and time of use for proposed outdoor lighting.

5. Location and arrangement of proposed means of access, including sidewalks, driveways or other paved areas. Profiles indicating grading and cross-sections and width of sidewalks.

6. Proposed grading, walls, fencing, guard rails, screening and landscaping.

7. Locations of proposed waterlines, valves and of all sewer lines or alternate means of water supply and sewage disposal and treatment, and including plans for such facilities and their components.

8. Preliminary but essentially firm building and floor plans and building elevations.

9. Contemplated public improvements on the property, and the complete plans for such improvements.

10. Location, type and size of existing and proposed catch basins, storm drainage and retention facilities, and all utilities both above and below ground and any erosion and siltation control facilities, and including the plans for such facilities.

16-9 IMPROVEMENTS REQUIRED FOR MAJOR SUBDIVISIONS AND SITE PLANS.

16-9.1 Improvements for Major Subdivisions and Major Site Plans. Prior to the grant of final major subdivision or final major site plan approval the developer shall have installed or furnished performance guarantees as set forth in subsection 16-7.4 for the installation of all of the following improvements in accordance with the conditions of preliminary approval:

a. Streets, including the removal of any portion of a previously constructed cul-de-sac and the reconstruction of existing street area and curb to regular width.

b. Curbs and shoulders.

c. Sidewalks and/or walkways.

d. Street signs.

- e. Street lighting.
- f. Shade trees and/or screens.
- g. Guard rails.
- h. Surface and storm water drainage facilities.
- i. Underground utilities, including water lines, gas lines, telephone lines, power transmission lines, with individual lot utility connections to a minimum of 10 feet beyond the curb line.
- j. Monuments.
- k. Any other improvement required under the terms of preliminary approval.
- l. Fire Protection Systems.

16-9.2 Additional Improvements for Major Site Plans. In addition to the improvements specified in subsection 16-9.1, the following on-site improvements shall be installed for major site plans as may be required by the conditions of preliminary approval:

- a. Pavement or other surfacing of all driveways, parking areas, loading areas and other vehicular service areas, with curbing if required.
- b. Marking of paved parking and loading areas with painted lines.
- c. Lighting.
- d. Screening.
- e. Walkways.
- f. Utilities.
- g. Landscaping.
- h. Other improvements including retaining walls, guard rails, safety fencing, traffic barricades or other devices necessary in the interests of public safety and convenience.

16-9.3 Design Standards for Improvements. All improvements shall be designed in accordance with the standards established by section 16-10 of this chapter.

16-9.4 Construction Materials and Methods. Construction materials and methods shall be in accordance with the provisions of Chapter X, Streets and Sidewalks.

16-9.5 Inspection of Improvements.

- a. All on-site and off-site or off-tract improvements constructed or installed in accordance with the requirements of this Chapter shall be subject to inspection and approval by the Township Engineer, who shall be notified by the applicant at least twenty-four (24) hours prior to the start of construction. No underground installation shall be covered until inspected and approved.
- b. Inspection by the Township Engineer or other Township officials of the

installation of improvements and utilities by the applicant shall not operate to subject the Township to liability for claims or suits of any kind that may arise because of defects or negligence during construction or at any time thereafter, it being recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the applicant and his contractors.

- c. The applicant shall reimburse the Township for all reasonable inspection fees paid to the Township Engineer and other Township officials for the foregoing inspections of improvements and for the administration thereof, as set forth in Section 13-15 for subdivisions and site plans.

16-10 DESIGN STANDARDS

The developer shall observe the following requirements and principles in the design of each subdivision or site plan, as the case may be.

16-10.1 General.

a. The subdivision plat or site plan shall conform to design standards that will encourage good development patterns within the township. The subdivision or plan shall conform to the proposals and conditions shown in the township master plan. The streets, drainage rights-of-way, school sites, public parks, walking rights-of-way and playgrounds shown on the master plan shall be considered. Where no specific plan for the aforementioned exists on the master plan,, streets and drainage rights-of-way shall be so located as to lend themselves to the harmonious development of the township and enhance the public welfare in accordance with the design standards set forth in this section 16-10.

b. The requirements of this chapter with respect to the minimum lot areas, frontage, depth, width and required open spaces and maximum height, and other standards and limitations shall be identical with those provisions of Chapter XXI, Zoning Regulations. Each lot shall contain a Net Building Envelope Area (NBEA) and a Building Envelope Circle (BEC) as provided in the Schedule of Requirements set forth on the Zoning Map. Such area and circle shall be provided so that

1. not less than 75 percent of the required NBEA shall be contiguous, and
2. a BEC can be inscribed entirely within the contiguous area of the NBEA.

c. "Standard Construction Details, Township of Mendham" are incorporated in and made a part of this ordinance and chapter. Copies are available in the offices of the township clerk and township engineer.

16-10.2 Public Streets; Streets Required in Development by Subdivision or by Site Plan. Where appropriate, the requirements and provisions of Chapter X, Streets and Sidewalks, are applicable to this chapter and subsection, as are the requirements and provisions of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention.

a. The arrangement of streets not shown on the master plan shall be such as to provide for the appropriate extension of existing streets, and rights-of-way shall be provided to permit such extension in future development.

b. Minor streets shall be so designed as to discourage through traffic.

c. Subdivisions and site plans that abut arterial streets or any street having heavy

traffic during morning and afternoon busy hours shall provide reverse frontage or a marginal service road with a buffer strip for planting, or some other means of separation of through and local traffic as the planning board may determine appropriate.

d. The right-of-way width shall be measured from lot line to lot line and shall not be less than the following:

1. arterial streets, 80 feet
2. collector streets, 66 feet
3. minor and marginal access street, 50 feet
4. internal roads, 50 feet.

e. No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the planning board.

f. When subdivisions adjoin or include existing streets that do not conform to widths as shown on the master plan or the street width requirements of this chapter, the applicant shall be requested to dedicate additional width along either one or both sides of the road. If the subdivision is along one side only, one half of the required extra width shall be requested to be dedicated.

g. Grades of arterial and collector streets shall not exceed six percent (6%). Grades on other streets shall not exceed ten percent (10%). No street shall have a minimum grade of less than one-half of one percent (.5%).

h. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than sixty (60) degrees. The block corners at intersections shall be rounded at the property line with a curve radius of not less than twenty-five (25) feet. Sight easements shall be provided.

i. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall not be permitted.

j. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

k. When connecting street lines deflect from each other at any one point by more than ten (10) degrees and not more than forty-five (45) degrees, they shall be connected by a curve with a center line radius of not less than one hundred (100) feet for minor streets and three hundred (300) feet for arterial and collector streets.

l. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.

m. Dead-end streets (cul-de-sac) shall not be longer than nine hundred (900) feet in the R, R-1, CR-1 and CR-2 Zones, twelve hundred (1200) feet in the R-2 Zone, fifteen hundred (1500) feet in the R-3 Zone and seventeen hundred (1700) feet in the R-5 Zone and the R-10 Zone unless otherwise approved by the planning board. The street shall provide for turn around at the end with a right-of-way radius of not less than fifty-five (55) feet and tangent whenever possible to the right side of the street right-of-way.

n. If a cul-de-sac is of a temporary nature, the completed cul-de-sac with all appropriate improvements shall be provided and provisions shall be made in any approval for future extension of the street and the reversion of the excess right-of-way to the adjoining

properties.

o. Pavement shall have a radius of not less than forty-five (45) feet centered upon the cul-de-sac. Center islands are not permitted.

p. Developers shall submit proposed street names to the Planning Board for approval. No street shall have a name which will duplicate or so nearly duplicate in spelling or phonetic sound as to be confused with the name of an existing street within the township or within an adjoining municipality. The continuance of an existing street shall have the same name. The names of streets shall be chosen to reflect the historical, geographical, topographical or natural features of the site. Except for street names approved by the Planning Board in connection with the approval of a subdivision, all street names and changes in street names shall be subject to the approval of the Township Committee.

q. The intersection of a street with a state or county roadway including required turning radius, shall conform to the requirements of the Morris County Planning Board or other appropriate agency for such intersection.

r. The top of a cut or the bottom of a fill shall not be closer than ten (10) feet to an adjoining property line or proposed lot line, unless otherwise approved by the planning board. Where appropriate, slope rights shall be reserved. Graded slopes at cuts and fills shall have a ratio of 3 to 1 where practicable, but shall not be more steep than the ratio of 1.5 to 1 unless otherwise approved by the planning board. Any slope having a grade more steep than 1.5 to 1 shall be conditioned by retaining wall, cribbing or terracing, as recommended by the township engineer.

s. On sloping land, streets shall parallel elevation contours insofar as practicable.

t. Public Street Pavement.

1. The pavement of a public street as required for a major subdivision shall conform to the requirements of Chapter X, Streets and Sidewalks; provided, however, that when in the opinion of the township engineer the requirements of Chapter X are inadequate for the conditions encountered, the planning board may impose additional requirements for materials and/or methods in the construction of the street.

2. Notwithstanding any requirements of Chapter X for street width, the planning board may, after consideration of probable and possible future uses for a proposed public street within a major subdivision, require streets of lesser improved width than that specified by Chapter X, depending upon the density of the proposed development, the length of the street, and the probability for future development and continuation or extension either as a street terminating in a cul-de-sac or as a through street, and depending upon the requirement of the area for emergency vehicles. The above and following criteria shall be used:

- (a) In the R-zone district (20,000 square feet) the pavement width for a minor street shall be thirty (30) feet, with vertical granite block curbing, as required by Chapter X.
- (b) In the R-1, R-2, R-3, R-5 Zone and R-10 Zone districts, through minor streets shall have pavements of not less than twenty-four (24) feet nor more than thirty (30) feet in width, with vertical granite block curbing. For pavement widths of twenty-four (24) feet to twenty-six

(26) feet, mountable forty-five (45) degrees angle granite block curbing may be required where recommended by the township engineer.

(c) In the R-1, R-2, R-3 and R-5 zone districts, streets terminating in a cul-de-sac and with little or no probability for extension and depending upon the number of lots provided frontage by the street shall have pavements of not less than twenty-four (24) nor more than twenty-six (26) feet in width with vertical granite block curbing. The improved (pavement) radius at the cul-de-sac shall be forty-five (45) feet. Mountable forty-five (45) degree angle granite block curbing may be required where recommended by the township engineer.

(d) When streets of different pavement widths junction or intersect, the planning board may require increased pavement width(s) at the junction /intersection of the streets as recommended by the township engineer. Such increased width shall not include required turning radii, and the pavement width shall be tapered to the required pavement width(s) one hundred (100) feet from the intersection of the tangents of the street right-of-way lines. Pavement width shall not be increased beyond thirty (30) feet for minor streets. In reaching such decision for requirements of increased width the planning board shall consider the nature of the terrain, slopes of the streets, sight distances, and present and expected traffic conditions.

u. Street Storm Drainage and Water Control; Development by Subdivision or by Site Plan.

1. Where appropriate and practicable, detention basins and/or retention basins shall be required pursuant to the requirements of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention.

2. Where detention basins or retention basins are not practicable for the control of storm water, the planning board may require the installation of dry wells or other detention structures. Where installed in pairs, the output of each second dry well shall be directed by a spreader to the nearest water way or drainage course, or to other storm water drains.

3. Where street grade exceeds six percent (6%) side hill type catch basins shall be installed at a forty-five (45) degree angle to the curb.

4. Where recommended by the township engineer and approved by the planning board, roof drains of residences and buildings to be erected within a development shall be directed to dry wells. Roof drain dry wells shall not be discharged into the storm drainage system for the development unless specifically approved by the planning board.

5. Where lots are developed by either minor or major subdivision or by site plan along existing streets for which curbing does not exist, the planning board may require the developer to widen the improved portion of the street and to install curbing as required to control erosion, to aid in maintenance and to prevent the blockage of storm drains by debris, and to provide for improved traffic flow.

6. All storm drainage systems shall be designed for at least a twenty-five (25) year storm.

7. A storm sewer system shall have a maximum water velocity of eight (8) feet per second at inlets and outlets and fifteen (15) feet per second within the drains.

v. Underground utilities shall be installed across streets for service connections to the various lots prior to any improvement of the subgrade and prior to the installation of the base.

w. Fire Protection Systems. While recognizing that it may not be possible to assure complete fire protection in every given case, in order to provide the Mendham Township Fire Department with some minimum fire fighting capability, all major subdivisions and all major site plans shall provide for a source of water for fire fighting purposes in systems approved by the Township of Mendham Fire Official and in accordance with the following criteria:

1. Where an existing public or private central water supply is available and has been approved by the Mendham Township Fire Department for minimum fire fighting purposes, fire hydrants shall be installed at appropriate locations as recommended by the Mendham Township Fire official and at distances between hydrants not exceeding 1000 feet. The entire existing central water supply system and each new hydrant shall have a capacity to provide a minimum flow rate of 1500 gpm at 20 psi residual pressure for a minimum duration of two hours. Hydrants shall be installed in accordance with ANSI/AWWA C 502, "Dry Barrel Fire Hydrants", latest edition; painted as directed by the Mendham Township Fire Official; and tested in accordance with NFPA 291, "Recommended Practice for Fire Flow Testing and Marking of Hydrants," latest edition, to ensure compliance with fire flow requirements. Acceptance test data shall be provided to the Mendham Township Fire Official for review and approval. In areas where public or private central water supply is available, but such water supply does not have the capacity to satisfy the foregoing minimum standards, such central water supply system shall be supplemented with additional measures to satisfy the minimum fire protection requirements of the Township. Such additional measures may involve any one or a combination of the following: installation of booster pumps with appurtenances, installation of underground water storage tanks with appurtenances, creation of drafting points with appurtenances, or such other means of increasing fire fighting capability as may be recommended and approved by the Mendham Township Fire Official.

2. Where public or private central water supply is not available, underground water storage tanks shall be installed to provide a source of water for fire fighting. For subdivisions in the residential zone districts, underground water storage tanks shall be located and installed so that no dwelling is farther than 2000 linear feet from any such tank as measured along the street, either public or private, and the access driveway to the dwelling. In no event shall the distance between tanks be greater than 2000 linear feet. At least one tank shall be installed for each 2000 linear feet of street length or fraction thereof. For site plans, underground water storage tanks shall be located and installed not farther than 500 feet from any principal structure. The minimum capacity of every underground water storage tank within residential zone districts shall be 30,000 usable gallons. Tank capacities for non-residential developments shall be based on the degree of hazard of the proposed structures to be protected but shall in no event be less than 30,000 usable gallons.

The locations of all fire protection systems and appurtenances shall be approved by the Mendham Township Fire Official. Unless an equivalent alternate fire protection system is authorized by the Planning Board and the Mendham Township Fire Department, underground water storage tank systems shall be provided and shall be constructed and installed in accordance with the following and in accordance with the Township of Mendham Standard Construction Details for such systems:

All underground water storage tanks shall be constructed of precast steel reinforced concrete and shall be sized to provide the minimum capacity required pursuant to subparagraph 16-10.2.w.2. All tanks shall be installed in accordance with manufacturer's specifications for installation and shall be provided with all necessary appurtenances and equipment which shall be readily accessible to fire fighting equipment. Riser connections shall be capable of producing 1000 gpm for a minimum of 75 percent of the tank capacity. All underground tanks shall have a system for maintaining a refill capability and shall be equipped with means for preventing accumulations of silt and debris. The design, location and installation of underground water storage tanks shall be approved by the Township of Mendham Fire Official. A permanent sign, approved by the Mendham Township Fire Official, shall be installed at every tank location to show the existence and capacity of such tank. In addition, "No Stopping or Standing" zones shall be delineated at each tank location for a distance of 75 feet in each direction from such tank on both sides of the street. Such delineation shall be appropriately identified by signs meeting New Jersey Department of Transportation design standards.

In all cases where a fire protection system is required, no construction permit shall be issued for a dwelling or principal structure upon any lot within the subdivision or site plan until, to the extent necessary to afford fire protection to such dwelling or principal structure, such system is installed and its operability tested and approved by the Mendham Township Fire Official.

16-10.3 Design Standards for Site Plans. The developer shall observe the following requirements in the development of a site plan:

a. Other Requirements. Where appropriate the requirements and provisions of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention, are applicable to this chapter and subsection.

b. Fills and Slopes. The top of a cut or the bottom of a fill shall not be closer than ten (10) feet to an adjoining lot line or a proposed lot line, unless otherwise approved by the planning board. Graded slopes of cuts and fills shall have a ratio of three (3) to one (1) where practicable, but shall not be steeper than the ratio of one and one-half (1-1/2) to one (1), unless otherwise approved by the planning board. Any slope having a grade steeper than one and one-half (1-1/2) to one (1) shall be conditioned by retaining wall, cribbing or terracing, as recommended by the township engineer.

c. Off-Street Parking. Adequate provisions shall be made for off-street parking in accordance with requirements set forth below, and adequate traffic circulation and protection to adjoining property shall be provided. Off-street parking areas that are designed to serve other than a single-family detached residential dwelling unit shall meet the following requirements.

1. Off-street parking areas and access drives shall be improved with either
 - (a) Base course of four (4) inches of soil aggregate, New Jersey Department of Transportation Type 5, Class A (quarry process) plus three (3) inches of bituminous stabilized base course, New Jersey Department of Transportation Mix 1-2, plus one

and one-half (1-1/2) inches of bituminous surface course, New Jersey Department of Transportation Mix I-5 (FABC), all thoroughly rolled and compacted; or (b) Four (4) inches of bituminous stabilized base course, New Jersey Department of Transportation Mix I-2, plus one and one-half (1-1/2) inches of bituminous surface course, New Jersey Department of Transportation Mix I-5 (FABC), all thoroughly rolled and compacted.

All of the foregoing pavement thickness shall be compacted thickness. The sub-base shall be approved by the township engineer as suitable for the foregoing specifications. Parking areas shall be graded and drained so as to dispose of surface water as recommended by the township engineer.

2. Parking spaces within any parking area shall be clearly marked to show the parking arrangement within the parking area. Arrows shall be painted in aisles and driveways to show direction of traffic flow.

3. Lighting for off-street parking areas shall be so arranged and shielded as to reflect the light downward and prevent any light from shining directly on adjoining streets, buildings, or across property lines.

4. Entrance or exit driveways connecting the parking area and street shall not exceed twenty-two (22) feet in width, and no entrance or exit drive shall be closer than sixty (60) feet to another entrance or exit at the street right-of-way line, nor closer than fifty (50) feet to the property line of an abutting property not included in the development.

5. Entrance or exit drive shall be at least sixty (60) feet distant, measured along the street right-of-way line, from the point of intersection of two (2) intersecting streets, or from a bend in the street line of one street, where the change in direction is thirty (30) degrees or greater.

6. Entrance or exit drives shall have on each side a triangular sight area formed by the intersection of the driveway line, the street right-of-way line and a straight line joining said lines at points twenty (20) feet distant from their point of intersection. Within such triangular area no parking, loading or unloading shall be permitted, nor shall there be located therein any sign, fence, structure or plant material over two and one-half (2-1/2) feet in height above curb level.

7. Parking areas shall be effectively screened on any side which abuts or faces any premises situated in any residential zone by a fence, wall or hedge up to six (6) feet in height, maintained in good condition; provided, however, that natural features of the land such as rock outcroppings or wooded areas may be substituted for fence, wall or hedge, and that such features shall be a part of the plan.

8. If any fence, wall or hedge shall have been required for any parking area, then the fence, wall or hedge shall be protected by a concrete curb or bumper guard, or the equivalent, which shall run parallel to the fence, wall or hedge, be at least five (5) inches in height above the paved surface adjacent to the fence, wall or hedge and be of sufficient distance therefrom to protect the fence, wall or hedge from the impact of motor vehicles. Curbs shall conform to the requirements of Chapter X, Streets and Sidewalks.

9. Parking areas shall be used only for the parking of automobiles. No sign other than entrance, exit identification and conditions of use signs shall be placed or maintained in any parking area. No sign shall be larger than two (2) square feet in

area.

10. An entrance to or exit from a non-residential use parking area shall be at least fifty (50) feet distant from any abutting property not included in the development.

11. All off-street parking areas required by this chapter shall be furnished upon the same lot as the principal building or use, or on other property or properties owned by the applicant, provided that at least fifty percent (50%) of the required parking spaces shall be on the lot which contains the primary building or use. No parking space shall occupy any required front, side or rear yard of any lot.

12. Off-street parking in a non-required front yard may be permitted, depending on the size of the area, the effectiveness of proposed screening, and relative distance from building and street. Approval of such off-street parking shall not be granted in the approval of a minor site plan.

13. Design of Parking Area. Each parking space for off-street parking shall be rectangular with an area of not less than one hundred eighty (180) square feet, shall be a minimum of nine (9) feet in width measured perpendicular to the axis of the length, and shall have a minimum depth of twenty (20) feet. Whenever a parking space abuts along its length an obstruction more than six (6) inches high the minimum width of the parking space shall be twelve (12) feet. All parking spaces shall be provided with adequate means of ingress and egress which shall be kept open and unobstructed at all times and which shall be designed to provide surface driveways or aisles to meet the following minimum standards:

<u>Parking Plan</u>	<u>Aisle Width</u>
Parallel parking on one side only (1 way)	12 feet
Parallel parking on one side only (2 way)	24 feet
30 degree angle parking (aisle one-way)	11 feet
30 degree angle parking (aisle two-way)	24 feet
45 degree angle parking (aisle one-way)	13 feet
45 degree angle parking (aisle two-way)	24 feet
60 degree angle parking (aisle one-way)	18 feet
60 degree angle parking (aisle two-way)	24 feet
90 degree angle parking (aisle one or two-way)	24 feet

(see explanatory diagram in Appendix E)

If approved by the planning board, two (2) feet of the twenty (20) feet minimum length requirement may be satisfied by vehicular overhang over a landscaped area which is protected by curbing.

14. Off-Street Loading and Unloading Spaces. In all zone districts, for every building or premises or parts thereof the use of which involves the delivery or

loading or unloading of materials, merchandise or goods or other use similarly requiring the receipt or distribution in vehicles of material or merchandise, there shall be provided and maintained on the same premises with such use one (1) off-street loading space which shall be at least twelve (12) feet wide, forty (40) feet long and have a fourteen (14) foot overhead clearance. A loading space shall only be permitted in a side or rear yard but not in a required yard. A loading space may be located in the required off-street parking area.

15. Joint Parking Facilities. Owners of properties in the B zone district may meet the required parking provisions by participating in a joint parking program involving two or more business uses; provided that plans for such a joint program shall have been approved by the planning board and provided, further, that the area for the parking facilities shall equal the collective parking area requirements for the participating properties to be served.

d. Parking Improvement Exemptions. If any applicant can clearly demonstrate to the planning board that because of the nature of his operation or use the parking requirements of this section are unnecessary or excessive, the planning board shall have the power to approve a site plan showing less paved parking area than is required by this section, provided, however, that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved for the purpose of meeting future off-street parking requirements in the event that a change of use of the premises shall make additional off-street parking space necessary. No certificate of occupancy shall be valid except for the particular use for which it was issued, and any change in use on the premises previously improved under this subsection shall be permitted only after a new site plan shall have been submitted to and reviewed and approved by the planning board.

e. Public Safety. The location, design, width, construction and alignment of parking spaces, access ramps, aisles and pedestrian ways as well as the circulation pattern and all other features of any parking area shall be provided in such a way as to minimize the risks of traffic congestion, safety hazards and inconvenience to the public.

16-10.4 Flag Lot Provisions, Flag Lot Driveway.

a. General. The creation of a flag lot and a flag lot driveway shall be permitted as approved by the Planning Board under Chapter XXI, Zoning Regulations and shall meet the requirements of this Section.

b. Flag Lot Driveway Design

1. The design of the flag lot driveway, construction materials and construction methods shall be, where applicable and where the requirements of this subsection are insufficient, according to the requirements of Chapter X, Streets and Sidewalks. Requirements stated within this section are considered as minimum.

2. A flag lot driveway shall intersect a public street as nearly at right angles as is practicable but in no case shall the intersection be less than sixty (60) degrees. Where possible turning radii shall be provided at the street intersection. The geometry and alignment of flag lot driveways shall be consistent with sound planning practices as approved by the Planning Board.

3. Provisions for sight easements at the intersection of a flag lot with a public street shall be made as deemed appropriate by the planning board.

4. A flag lot driveway shall not be longer than seventeen hundred (1700) feet unless otherwise approved by the Planning Board

5. A flag lot driveway shall have, generally, a minimum grade of one percent (1%) and shall not have a grade of less than one-half percent (.5%) nor greater than ten percent (10%). Grades shall be no more than two percent (2%) within thirty-five (35) feet of the point of intersection with a public street right-of-way.

6. A flag lot driveway shall terminate in a turnaround designed to accommodate Township fire equipment.

7. Drainage structures for a flag lot driveway shall be of a type, size and location (on-site, on-tract, off-site or off-tract) as reasonably required to provide proper drainage.

8. The flag lot shall bear a house number which shall be placed at the intersection with the public roadway.

9. The flag lot driveway shall be continuous with neither fork nor junction.

9. Flag lot driveways and Common Driveways shall be graded to a width of eighteen (18) feet and shall be improved to a width of twelve (12) feet. The entire driveway shall be improved with four (4) inches of quarry-processed stone plus two (2) inches of bituminous concrete. The sub-base shall be approved by the township engineer as suitable for these specifications. An apron shall meet the pavement requirements or as otherwise recommended by the Township Engineer.

c. No Municipal Services. IN the case of flag lot driveways, no municipal services other than police, fire and first aid protection shall be provided by the Township of Mendham. The foregoing shall be considered as a restriction on and a condition of approval on any such subdivision containing a flag lot driveway, and a statement to this effect shall be placed upon the subdivision plat thereof before final approval is given.

d. Deed Provisions. In appropriate instances, the Planning Board shall require that the subdivision plat and the deeds for conveyance of title shall note and/or stipulate in the covenants thereof that any conditions of approval be recited in addition to any provisions for the allocation of taxes or the cost of maintenance of properties utilizing a common flag lot driveway.

16-10.5 Blocks; Walk-Through Rights-of Way.

a. Block Design. Block length and width or acreage within bounding public roads shall be such as to accommodate the sizes of lots required in the area by Chapter XXI, Zoning Regulations, and to provide for convenient access, circulation control and safety for street traffic and pedestrian traffic.

b. Walk-Through Rights-of-Way.

1. In blocks where public streets are over six hundred (600) feet in length, public walk-through rights-of-way may be required along lot lines in locations as deemed necessary by the planning board. Such rights-of-way shall be at least twenty (20) feet in width and shall not be more than fifty (50) feet in width and shall be straight from street to street, where practicable. Improvements within such rights-of-way may be required by the planning board for safety and convenience.

2. The planning board, in its consideration of developments which abut lands yet to be developed, shall consider the possibilities of future development of the abutting lands and may require the establishment of rights-of-way, as above, to the common boundaries of the abutting lands.

3. Walk-through rights-of-way shall be required from public roads to recreation areas, parks, school grounds or other public areas when deemed necessary for public convenience and safety by the planning board.

4. The planning board shall encourage the provision of walk-through rights-of-way between private streets where appropriate.

16-10.6 Lots.

a. Lot dimensions and area shall not be less than the requirements of Chapter XXI, Zoning Regulations.

b. Insofar as practical, side lot lines shall be at right angles to straight streets and radial to curved streets.

c. Each lot within a subdivision shall front upon a state or county roadway, or upon an existing improved municipal street, or upon an approved street of at least fifty (50) feet width within the subdivision.

d. Where extra right-of-way width has been dedicated for widening of existing streets, lots shall begin at such setback front line, and all front building setbacks shall be measured from such line.

e. Where there is a question as to suitability of a lot or lots for their intended use due to factors such as rock formation, flood conditions, high water table, where percolation tests or test borings, as determined by the board of health, show the ground conditions to be inadequate for proper sewage disposal, or similar circumstances, the planning board may after adequate investigation withhold approval of such lots. Any lot for which approval was or is withheld shall be consolidated with an adjoining approved lot. The planning board may also require that provision be made for conservation restrictions or easements in critical areas.

f. In areas of steep slope, a lot shall be so designed to permit the construction of a driveway with a grade of less than fifteen percent (15%) to the parking area of the proposed residence site. A driveway of steep grade and long length shall be designed to permit the passage and turn-around of emergency vehicles.

g. No lot in a residence zone shall be so reduced in width or in depth in its front area as to prevent the construction of a residence of minimum permitted size at the front building line and within the building envelope.

h. Lots in Minor Subdivisions and Minor Site Plans.

1. Utilities. The undeveloped lots of a minor subdivision or the undeveloped lot of a minor site plan that abut(s) streets on which overhead utilities exist may be served by the overhead electric, cable and telephone service lines, but service connections from the utilities overhead lines to the residences or units constructed on such lots shall be installed underground.

2. Topsoil and Subsoil Removal. No topsoil shall be removed from lots, sites or tracts. Unless previously approved by the planning board, subsoils shall not be used for spoil nor removed from the lots, sites or tracts without the approval of the township engineer.

16-10.7 Driveways for Lots Developed by Subdivision or Site Plan Approval.

a. All driveways shall have a minimum width of nine (9) feet.

b. All driveways shall be constructed in such a manner as to prevent erosion or deposit of soil upon any street or road or in gutters, catch basins, inlets, drains or culverts.

c. All driveways shall be constructed in such a manner that the driveways will not interfere with the drainage along the existing pavement or traveled way. Runoff from a driveway shall not discharge on the traveled way. Where curbs are installed and no ditch or gutter exists, water may not be discharged more than two (2) feet beyond the curb. Under no circumstances shall the driveway be allowed to extend beyond the edge of the existing pavement and traveled way thereby creating a hump or uneven driving surface on the pavement or traveled way.

d. All driveways shall meet the abutting roadway at a horizontal angle of not less than sixty (60) degrees. All driveways shall have a minimum sight distance of oncoming vehicles in each direction of two hundred fifty (250) feet when observed at a point ten (10) feet back from the existing pavement at a height of four (4) feet above the ground. Where the posted speed limit along the roadway is greater than twenty-five (25) miles per hour, the minimum sight distance shall be ten (10) feet for each mile per hour.

e. Driveways for corner lots shall be located at least one hundred twenty-five (125) feet from the centerline of the road intersection.

f. For driveways which enter upon paved streets or roads, the portion of the driveway constructed within the street or road right-of-way shall be paved in accordance with subsection 16-10.7i.

g. No portion of any driveway shall be constructed at a grade exceeding fifteen percent (15%). Furthermore, the first thirty (30) feet of the driveway measured from the edge of the street or road pavement shall not exceed a grade of five percent (5%). Changes in vertical grades shall be made with smooth vertical curves at least twelve (12) feet in length.

h. Where a driveway is at a higher elevation than the street and where the driveway grade exceeds eight percent (8%) at any point within one hundred (100) feet of the public right-of-way, the following requirements shall be met:

1. The driveway shall be paved in accordance with subsection 16-10.7i.

2. The driveway pavement shall extend from the right-of-way line to a point at which the grade is less than eight percent (8%) or for a distance of one hundred (100) feet, whichever is the lesser distance.

3. The pavement required beyond the right-of-way line shall be in addition to the pavement required within the street right-of-way.

i. All driveways constructed within municipal, county or state rights-of-way shall be minimally constructed of the following materials:

1. Driveways entering upon unpaved roads: six (6) inches of soil aggregate, New Jersey Department of Transportation Type 5, Class A (quarry process) thoroughly rolled and compacted, except where pavement is required by subsection 16-10.7h.

2. Driveways entering upon paved roads:

- (a) Base course of four (4) inches of soil aggregate, New Jersey Department of

Transportation Type 5, Class A (quarry process) thoroughly rolled and compacted.

(b) Surface course of two (2) inches of bituminous concrete, New Jersey Department of Transportation Mix I-5 (FABC).

All pavement thickness indicated above shall be compacted thickness.

j. Notwithstanding the provisions of subsection 16-10.7i, all driveways constructed within county or state rights-of-way shall meet any stricter requirements imposed by the county or the state, as the case may be.

16-10.8 Protection of Critical Areas. All subdivision and site plans shall be designed so that, to the greatest extent possible, critical areas, the disturbance of which could result in flooding, erosion, sedimentation, loss of valuable vegetation, impairment of water quality or quantity, or other substantial harm to the environment or to human habitation, shall be left undisturbed. Development techniques, including BMP's (Best Management Practices), shall be employed so that development can take place without causing adverse impacts on the environment and without detriment to the public health, safety and general welfare. Vegetation shall be preserved to the extent practical. All subdivision plans and site plans shall comply strictly with all Federal and New Jersey State rules and regulations including, but not limited to, rules and regulations of the New Jersey Department of Environmental Protection applicable to the development of land.

The minimum information and data necessary to evaluate and assure the above stated purposes shall include the following:

a. Environmental Impact Study. A study according to the requirements of Chapter XVII, Environmental Impact Study, shall be conducted and the documentation resulting from such study shall be filed with the preliminary plat or site plan at the time an application for preliminary subdivision or site plan approval is made.

b. Flood Hazard Areas. The overall extent of regrading and/or striping of native or existing vegetation on steep slopes on any tract of land which is the subject of an application for subdivision or site plan approval shall be limited by the following standards established in this paragraph. When granting preliminary minor subdivision or minor site plan approval or preliminary or final subdivision or site plan approval, the Planning Board shall establish the extent of allowable slope disturbance for each individual lot and parcel in such manner that the aggregate slope disturbance for all the individual lots and parcels comprising the development application does not exceed the allowable slope disturbance for the entire tract.

c. Soil Erosion and Sediment Control Plan. The soil erosion and sediment control plan shall be filed with the preliminary plat or site plan. The soil erosion and sediment control plan shall be prepared according to the requirements of Chapter XIX, Soil Erosion, Sediment Control and Flood Prevention.

d. Steep Slopes Map. A map establishing the limits of all disturbance on any lot to be created by subdivision and/or any lot for which preliminary site plan approval is requested according to the requirements of Section 16-10.13, "Steep Slope Disturbance Limits."

e. Wetlands and Transition Areas. A map with appropriate notes providing for the protective measures according to the requirements of Section 16-10.14, "Protection of Wetlands and Transition Areas during Construction."

f. Conservation Easements. Conservation easements, as described in Section 16-10.10, in favor of the Township may be required as a condition of approval of a subdivision or site plan to protect natural resources of special character or environmentally sensitive areas. Resources to be

protected may include, but are not limited to, the following:

1. wetlands and wetland transition areas.
2. streams and stream corridors.
3. steep slopes.

16-10.9 On-Site Storm Water Management. The developer shall establish adequate measures for on-site storm water management, including BMP's, meeting the following requirements:

a. The rate of the runoff from the site following completion of the development shall not exceed that which existed prior to development and every practical effort shall be made to minimize any increase in volume and to maintain and/or improve the quality of runoff which existed prior to the development.

b. Maximum use shall be made of presently existing storm water runoff control devices, mechanisms or areas such as existing berms, terraces, grass waterways, favorably hydrologic soils, swamps, swales, water courses, woodlands, flood plains, as well as any proposed retention structures.

c. The plans shall avoid the concentration of flow and shall provide for dissipation of velocities at all concentrated discharge points.

d. For calculating runoff and controls, the applicant may use the Soil Conservation Service Method or the Rational Method depending upon which is more appropriate in the particular instance. Computations shall cover the 25-year storm frequency, except that the computations shall cover the 100-year storm frequency whenever required by Chapter XVIII, Flood Hazard Area Regulations.

e. All outfalls are to be designed in a manner to retard velocities at the outfall and provide stream channel protection.

f. Due consideration shall be given to the relationship of the subject property to the natural or established drainage pattern of the watershed(s) of which it is a part.

g. The use of conservation restrictions is encouraged.

h. Surface water runoff shall generally not be transferred from one watershed to another.

i. All water carrying structures and/or retention areas shall be completed and stabilized prior to diversion of water to them.

j. Innovative storm water runoff control and recharge devices, such as rooftop storage, drywells, cisterns, roof drain infiltration trenches, are encouraged provided they are accompanied by detailed engineering plans and performance capabilities.

k. The on-site storm water management measures shall be coordinated with any required soil erosion and sediment control plan.

16-10.10 Conservation and Utility Easements.

a. Utility Easements. In large scale development by subdivision or by site plan, easements along rear property lines or elsewhere for utility installation may be required. The easements shall be at least twenty (20) feet wide and located in consultation with the companies or municipal departments concerned.

b. Stormwater Easements. When property shown on a subdivision or site plan is traversed or bordered by a drainage way, a stormwater easement or drainage right-of-way conforming substantially with the outer limits of such drainage way shall be dedicated to the Township by the developer.

c. Stream Easements. When property shown on a subdivision or site plan is traversed or bordered by a stream, a stream conservation easement based on the centerline of the stream shall be dedicated to the Township by the developer. For perennial streams, the conservation easement shall be one hundred fifty (150) feet in width on either side of the stream centerline. The minimum width for a conservation easement for a watercourse of intermittent nature shall be fifty (50) feet on either side of the centerline.

d. Steep slope areas. Conservation easements for steep slope areas shall encompass areas containing slopes of twenty-five (25) percent or greater.

e. All other conservation easements. The extent of area(s) to be covered by all other conservation easements shall be determined by the appropriate board, in consultation with the applicant, to be sufficient to protect the resource in question.

f. Map, Metes and Bounds Descriptions and Form of Conservation Easement. A map showing the size, shape, location and purpose of any required conservation easement (including the proposed location of required boundary markers, which shall be in accordance with Mendham Township Standard Detail G-10) shall be submitted by the applicant. The accuracy of the map shall be confirmed prior to approval of any easement agreement. Easements or rights-of-way as required by the appropriate board shall be described by metes and bounds. Conservation easements shall be consistent with the form provided in Appendix F, entitled "Approved Form of Conservation Easement", which Appendix is hereby approved and incorporated herein, except that such easements may be modified or adjusted based on the particular circumstances of a specific development application or property. Any easements prepared in favor of the Township shall be approved as to form and substance by the Township attorney.

16-10.11 Water Service. Whenever a subdivision or site plan development is served by a public water system, hydrants are to be located and fire flows are to be such that they meet the minimum standards of the Insurance Services Office of New Jersey and certification to that effect from that office shall be submitted.

Domestic water supplies for each house shall have a residual pressure in the water main in front of the dwelling of not less than 30 psi. Certification to that effect from either the serving utility or the Insurance Services Offices of New Jersey shall be submitted.

16-10.12 Energy Conservation. All subdivisions and site plans shall to the greatest extent possible follow energy efficient design principles and maximize the use of renewable energy sources. Within the limits of practicability and feasibility, the criteria listed below shall be followed:

a. Energy Conservation for Subdivisions.

1. Streets and lots shall be so oriented as to permit the buildings to be constructed thereon to maximize solar gain. Where possible, streets shall run in an east-west direction and the long access of a lot shall run in a north-south direction.

2. The development shall take advantage of topographic features to maximize solar gain and afford protection from winter winds. Where possible, development shall be oriented to southerly slopes.

3. Maximum use shall be made of natural vegetation which will afford protection from winter winds and provide shading in summer.

b. Energy Conservation for Site Plans.

1. Buildings shall be oriented to maximize solar gain. Where possible, building walls with the greatest number of windows or window area shall face in a southerly direction. The use of active and passive solar energy gain systems in buildings is encouraged.
2. Buildings shall be arranged to provide maximum protection to each other in terms of energy consuming elements.
3. The use of energy efficient building materials and colors is encouraged.
4. Site arrangement shall take advantage of topographic features to maximize solar gain and afford protection from winter winds.
5. Natural vegetation and landscaping, including fences, walls and earthworks shall be utilized to maximize protection from wind, channel breezes and shade buildings and pavement.
6. The site shall be designed to minimize pavement and afford efficient circulation. The use of footpaths and bike paths in housing developments, in order to reduce motor vehicle use, is encouraged.

16-10.13 Steep Slope Disturbance Limits

- a. The overall extent of regading and/or stripping of native or existing vegetation on steep slopes on any tract of land which is the subject of an application for subdivision or site plan approval shall be limited by the following standards:

Slopes Regraded or Stripped of Vegetation	Maximum Portion of Tract
i. Less than 10%	i. Any area necessary for driveway, landscaping or impervious coverage
ii. 10% - 15%	ii. 25% of slope area
iii. Greater than 15% up to 25%	iii. 15% of slope area
iv. Greater than 25%	iv. 5% of slope area

- b. When granting preliminary subdivision approval, the Planning Board shall establish the extent of allowable slope disturbance for each individual lot in such manner that the aggregate slope disturbance for all of the individual lots does not exceed the allowable slope disturbance for the entire tract.
- c. All construction activity on any lot created by subdivision approval where the Planning Board has fixed the extent of allowable slope disturbance when granting preliminary subdivision approval shall be conducted strictly in accordance with the limits of disturbance established for such lot and shown on the approved drawings.

- d. All construction activity on any lot for which preliminary site plan approval has been granted shall be conducted strictly in accordance with the limits of disturbance established for such lot and shown on the approved site plan.
- e. All construction activity on lots, created by subdivision approval or otherwise, for which the Planning Board has not fixed the limits of allowable slope disturbance when granting preliminary subdivision approval, shall be conducted so that such activity will not result in grading and/or stripping of natural or existing vegetation in excess of the limitation standards established in this section.

16-10.14 Protection of Conservation Easements, Wetlands and Wetland Transition Areas

- a. All boundaries of conservation easements, wetlands and transition areas shall be delineated with a sufficient number of permanent markers to clearly identify the boundaries of the easement, so that encroachment into the easement does not occur. All such markers shall be in accordance with Mendham Township Standard Detail G-10.
- b. To prevent adverse impacts on conservation easements and delineated wetlands and transition areas during construction, the following guidelines shall be employed:
 - 1. All boundary markers shall be installed prior to the commencement of onsite construction.
 - 2. A snow fence and hay bales shall be installed downslope from any construction disturbance adjacent to the wetlands and transition areas so as to prevent the transport of silt into these areas.
 - 3. The applicant or developer of the property shall not encroach into state-regulated wetland and transition areas. All existing on-site vegetation within the wetland and transition areas shall be preserved.
 - 4. All conservation easement boundaries on approved sites shall be delineated with a sufficient number of permanent markers to ensure that future encroachment and destruction of wetlands and transition areas does not occur. All such markers shall be in accordance with Mendham Township Standard Detail G-10.

16-11 PLANNED DEVELOPMENTS.

16-11.1 Mandatory Findings for Planned Developments. In the case of a subdivision or site plan for a planned development, including residential cluster, the planning board shall find the following facts and conclusions prior to granting subdivision or site plan approval.

a. Departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning standards in Chapter XXI, Zoning Regulations, established in accordance with the provisions of Section 52e of the Municipal Land Use Law.

b. The proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate.

c. Provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate.

d. The proposed development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.

e. In the case of a proposed development which contemplates construction over a period of years, the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

16-11.2 Circulation Plan. The arrangement and location of internal roadways, parking areas and garages shall be subject to approval of the planning board and shall be designed to insure maximum safety, proper circulation and maximum convenience for residents and their guests.

16-11.3 Common Open Spaces. All common open spaces shall be attractively landscaped with grass lawns, trees and shrubs. When appropriate, provision shall be made for the preservation of desirable existing trees and natural features.

16-12 TEMPORARY CONSTRUCTION AND SALES OFFICES FOR DEVELOPMENT PROJECTS; TEMPORARY SIGNS.

16-12.1 Temporary Construction and Sales Offices for Development Projects. Upon application the planning board may grant permission in connection with a development project for the temporary use of a trailer or a single-family dwelling as a construction office and/or a real estate sales office. In granting approval, the planning board may establish conditions deemed necessary for the protection of the environment and the use and enjoyment of residential properties in the neighborhood. Permission granted pursuant to this section shall not be for a period exceeding one (1) year. Such permission may be renewed annually upon re-application, but the total period of temporary use shall not exceed three (3) years.

16-12.2 Temporary Signs for Development Projects. Whenever work is undertaken upon any lot, one (1) sign may be maintained on that lot during such construction work. In the event of a subdivision only one (1) sign may be maintained on the same street frontage. No sign shall have an area greater than twelve (12) square feet, and no sign shall have a setback of less than ten (10) feet from the street right-of-way line. The sign and its supports shall be removed upon the issuance of a certificate of occupancy for the building on the lot upon which the sign is located.

16-13 ADMINISTRATION EXCEPTIONS.

The planning board when acting upon applications for subdivision approval or for site plan approval shall have the power to grant such exceptions from the requirements for subdivision approval or site plan approval, as the case may be, as may be reasonable and within the general purpose and intent of the provisions governing such approvals if the literal enforcement of one or more of such provisions is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

16-14 PENALTIES FOR SALES BEFORE FINAL APPROVAL.

If before final subdivision approval has been granted any person transfers or sells, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision, such person shall be subject to a penalty not to exceed \$1,000.00, and each lot disposition so made may be deemed a separate violation.

In addition to the foregoing, the township may institute and maintain a civil action:

For injunctive relief; and

To set aside and invalidate conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with Section 44 of the Municipal Land Use law.

In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within 2 years after the date of the recording of the instrument of transfer, sale or conveyance of said land or within 6 years, if unrecorded.