LAND USE ORDINANCE OF THE

TOWNSHIP OF MENDHAM

With Amendments through Ordinance 12-2010 adopted Effective August 12, 2010

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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 or 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. I3:9B-1 et seq., or in the Freshwater Wetlands Protection Act Rules promulgated by the New Jersey Department or 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 or 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 or 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, jalousies, 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 or 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 that 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; of (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 reminder 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 identity 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 of 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 know 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 of 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 of 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 a 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 is 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:

Ann L. Carlson

Ann L. Carlson, RMC

Township Clerk

TOWNSHIP OF MENDHAM

COUNTY OF MORRIS

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

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

Pursuant to subsection 15-8f for a Building not related to a street	$200

f. Appeals

Pursuant to subsection 15-81 or 15-8b	$200
Appeal to the Township Committee pursuant to Section 13-10	$200

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

Site plan	$250 plus $50 per acre of land affected or any portion thereof
Subdivision	$250 plus $50 per proposed lot
Other purpose	$250

h. Special Flood Hazard Development Permit * (Chapter XVIII) $150.

i. Land Disturbance Permit * (Chapter XIX) $50 per acre of area affected or any portion thereof

j. Soil Extraction Permit * (Chapter XX) $1.00 per cubic yard of soil proposed to be extracted as calculated by the township engineer.

* 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

(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.
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	$5,000. plus $150. per proposed dwelling
Non-Residential	$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 Floor area of proposed structures, square feet of lot area affected or any portion thereof	$2,000. Plus $300. per 1000 s.f. of gross plus $300. for each additional 10,000

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

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.

8. Special Flood Hazard Development Permit * (Chapter XVIII) $2,500.

9. Land Disturbance Permit * (Chapter XIX) $2,500.

10. Soil Extraction Permit * (Chapter XX) $2,500.

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

11. Lot Development Permit (Chapter XXIV) $3,000.

12. Wireless Telecommunications Towers and Antennas (Chapter XXI) $5,000

13. Other $2,000.
(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

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 l/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.

Estimated Cost of Improvements	Reasonably Anticipated Inspection Fees and Costs
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 l/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.

Application	Subsection
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 Appendix 1	Sheets 1 through 5 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

Section 13-17

Application No.

ITEM	SUBMISSION REQUIREMENTS: PLANNING BOARD OR BOARD OF ADJUSTMENT — MINOR — SUBDIVISION	MINOR — SITE PLAN	MAJOR PRELIM. — SUBDIVISION	MAJOR PRELIM. — SITE PLAN	MAJOR FINAL — SUBDIVISION	MAJOR FINAL — SITE PLAN	BOARD OF ADJUSTMENT VARIANCE 40:55D-70 (a) & (b)	(c)	(d)	ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
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 sec. 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.1.g
	•			•						Plat Signature Boxes as applicable and illustrated by Appendix 4.		COMPLIES N.A. WAIVER		16-8.5a

Adopted: _____

ITEM N	SUBMISSION REQUIREMENTS: PLANNING BOARD OR BOARD OF ADJUSTMENT — MINOR — SUBDIVISION	MINOR — SITE PLAN	MAJOR PRELIM. — SUBDIVISION	MAJOR PRELIM. — SITE PLAN	MAJOR FINAL — SUBDIVISION	MAJOR FINAL — SITE PLAN	BOARD OF ADJUSTMENT — VARIANCE 40:55D-70 (a) & (b)	(c)	(d)	ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
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		

ITEM #	SUBMISSION REQUIREMENTS: PLANNING BOARD OR BOARD OF ADJUSTMENT — MINOR: SUBDIVISION	MINOR: SITE PLAN	MAJOR PRELIM.: SUBDIVISION	MAJOR PRELIM.: SITE PLAN	MAJOR FINAL: SUBDIVISION	MAJOR FINAL: SITE PLAN	BOARD OF ADJUSTMENT — VARIANCE 40:55D-70: (a) 4.(b)	(c)	(d)	ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
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		
												N.A.		
												WAIVER		16-8.1.b.7; 16-5.9
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		
												N.A.		
												WAIVER		16-8.1.b.7; 16-5.9
31	●	●	●	●		●				Soil types based on Soil Survey of Morris County as prepared by the Soil Conservation Service.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.d.1
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		
												N.A.		
												WAIVER		16-8.1.d.1
33	●	●	●	●		●				Location of all existing and proposed water supply wells on the subject tract and those existing within 100 feet thereof.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.d.2
34	●	●	●	●		●				Location of all existing and proposed sewerage disposal systems on the subject tract and those existing within 100 feet thereof.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.d.2
35	●	●	●	●						Environmental Impact Study as required by Chapter XVII. of the Land Use Ordinance.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.e.1; 16-8.4.g
36	●	●	●	●		●				Environmental Constraints Map with all details required by 17-3.1(f) shown for the subject tract and within 200' thereof.		COMPLIES		
												N.A.		
												WAIVER		17-3.1(f);
37	●	●	●	●		●				Soil Erosion and Sediment Control Plan as required by Chapter XIX. of the Land Use Ordinance.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.e.2; 16-8.4.h
38	●	●	●	●		●				Site Grading Plan as required by section 16-8.4 (f) of the Land Use Ordinance.		COMPLIES		
												N.A.		
												WAIVER		16-8.1.e.3; 16-8.4.f
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		
												N.A.		
												WAIVER		Chapter XVII.
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		
												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		16-8.2; 16-8.4

ITEM	SUBMISSION REQUIREMENTS: PLANNING BOARD OR BOARD OF ADJUSTMENT — MINOR: SUBDIVISION	MINOR: SITE PLAN	MAJOR PRELIM.: SUBDIVISION	MAJOR PRELIM.: SITE PLAN	MAJOR FINAL: SUBDIVISION	MAJOR FINAL: SITE PLAN	BOARD OF ADJUSTMENT — VARIANCE 40:550-70: (a) & (b)	(c)	(d)	ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
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: PLANNING BOARD OR BOARD OF ADJUSTMENT — MINOR: SUBDIVISION	MINOR: SITE PLAN	MAJOR PRELIM.: SUBDIVISION	MAJOR PRELIM.: SITE PLAN	MAJOR FINAL: SUBDIVISION	MAJOR FINAL: SITE PLAN	BOARD OF ADJUSTMENT — VARIANCE 40:55D-70: (a) & (b)	(c)	(d)	ITEM DESCRIPTION	APPLICANT MARK	STATUS	TOWNSHIP MARK	NOTES / LAND USE ORDINANCE REFERENCE
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 Name .....Type 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	$2,500.		
Major (4 + lots)	$0	$5,000.		
Subdivision				
Minor (incl. Lot line adjust.)	$1,050.	$5,000.		
Major				
preliminary (1 - 6 lots)	$2,500.	$7,500.		
Preliminary (7 + lots)	$3,000.	$10,000.		
Final (1-6 lots)	$1,500.	$5,000.		
Final (7 + lots)	$2,000.	$5,000.		
PADA	$200.	$2,500.		
Site Plan				
Minor	$1,050.	$2,500. PLUS		
Residential - per dwelling		$100.		
Non-Residential - per 1000 sq. ft. floor area		$100.		
PLUS per 10,000 sq. ft. lot area affected		$100.		
Major Preliminary	$1,500.	$7,500. PLUS		
Residential - per dwelling		$200.		
Non-Residential - per 1000 sq. ft. floor area		$200.		
PLUS per 10,000 sq. ft. lot area affected		$200.		
Major Final	$1,000.	$5,000.		
Residential - per dwelling		$150.		
Non-Residential - per 1000 sq. ft. floor area		$150.		
PLUS per 10,000 sq. ft. lot area affected		$150.		
Variance				
Pursuant to subsection 15-8c	$200.	$1,000.		
Pursuant to subsection 15-8d(1)	$600.	$3,000.		

APPENDIX 1

FILING FEE CALCULATIONS

Pursuant subsection 15-8d(2-6)	$400.	$2,000.			
Appeals					
Pursuant to Section 15-8a-b	$200.	$1,000.			
Pursuant to section 13-10	$200.				
Pursuant to Section 24-9		[illegible]			
Permits/Approvals					
Approval of Environmental Impact Study*		$2,500.			
Site Plan	$250. Plus $50. Per acre				
Subdivision	$250. Plus $50. Per Lot				
Other purpose	$250.				
Land Disturbance Permit*	$50. Per acre affected	$2,500.			
Soil Extraction Permit*	$1. Per cu. ft. soil removed	$2,500.			
Special Flood Hazard Development Permit*	$150.	$2,500.			
Lot Development Permit	$150. OK	$3,000., ✓ OK			
Direction for issuance of permit (15-8e or f)	$200.	$2,000.			
Conditional Use Chapter XXI		$2,000. Plus			
Residential per dwelling unit	$100.	$250.			
Non-Residential per 1,000 sq. ft. floor area	$150. plus	$300. Plus			
Plus per 10,000 sq. ft. lot area affected	$150.	$300.			
Wireless Tele. Towers and Antennas Chapter XXI					
No new tower	$1,000.	$5,000.			
New tower proposed	$5,000.	$5,000.			
Resubmission of application (all types)					
within 6 months of original application	25% of original	make account whole			
between 6 mo and 1 yr after original app.	25% of original	100% of original			
1 yr after original application	as new	as new			
Other - any app. Requiring board/tech.. review	$0	$2,000.			
*For project not related to an application for subdivision or site plan approval.					
TOTAL CALCULATED FEES					

NO.	DATE	REVISION DESCRIPTION
4		
3		
2		
1		

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 _____
SIGNATURE SEAL IMPRINT

FILE NO.		SCALE: 1" = 50'	DRAWING NO. 1 OF 10
DWG:	CKD:	DATE: 1-1-00	

TYPICAL EXAMPLES:

*CROSS-SECTIONS, GRADING PLAN, LOT LAYOUT
**PRELIMINARY SUBDIVISIONPLAT, 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

APPENDIX 3
TYPICAL SIGNATURE BOX

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 — DATE
N.J.P.E. & L.S. NO. 99999

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

APPENDIX 4
TYPICAL SIGNATURE BOXES

ZONE SCHEDULE***
R-3 RESIDENTIAL ZONE

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

APPENDIX 5
TYPICAL ZONE SCHEDULE

TABULATION OF SLOPE AREAS & DISTRUBED AREAS

LAND SLOPE		AREA (ACRES)	DISTURBED AREAS		TOTAL AREA DISTURBED (ACRES)	PERCENT DISTURBED	MAXIMUM ALLOWABLE PERCENT DISTURBED (BY ORDINANCE)	COMMENTS
SYMBOL	CATEGORY		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 of 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 a 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 by 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 I, I988 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

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 ealth.

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 town ship. 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 l.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-l0.2.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 (l-l/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 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; 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 axia 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 obstructed at all times and which shall be designed to provide surface driveways or aisles to meet the following minimum standards:

Parking Plan	Aisle Width
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 regarding 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.

CHAPTER XVII

ENVIRONMENTAL IMPACT STUDY

17-1 PURPOSE.

In order that the Township of Mendham may assess the impact of proposed land use changes or developments on the environment of the municipality, particularly with respect to potable water, pollution of all kinds, drainage; waste disposal, landscape and other pertinent environmental factors, the Township Committee has determined that it is in the public interest that all persons who shall propose such changes or developments shall submit an environmental impact study (EIS) in accordance with the provisions of this chapter when required.

17-2 APPROVALS; EXEMPTIONS.

17-2.1 Planning Board or Zoning Board of Adjustment Approval. An environmental impact study relative to the proposed project prepared in accordance with the provisions of this chapter shall be submitted for approval to the Planning Board or Zoning Board of Adjustment of the Township in the following instances:

a. In connection with all applications for land subdivision;

b. In connection with all applications for site plan approval;

c. Prior to the change in the use of any land or building;

d. Prior to the removal of trees or other vegetation in an area of more than 1,000 square feet; or

e. Prior to the disturbance of earth by power driven equipment in an area of more than 1,000 square feet.

17-2.2 Township Engineer Approval. An environmental impact study relative to the proposed project in accordance with the provisions of this ordinance shall be submitted to the Township Clerk for approval by the Township Engineer in connection with all applications for a construction permit or a certificate of occupancy.

17-2.3 Exemptions. The following are exempt from the requirements of submitting an environmental impact study: agricultural uses conducted in accordance with a farm conservation plan approved by the state soil conservation service; single-family residential uses or structures accessory thereto in a residential zone whenever such residential uses or structures involve no more than 5,000 square feet of land disturbance; and minor subdivisions intended to re-align lot lines and which will not result in further development of any property involved.

17-3 CONTENTS OF STUDY

17-3.1 Matters to Be Included in Study. Every environmental impact study shall include the following:

An Inventory of Existing Environmental Conditions

Plan and Description of Development

Assessment of the Anticipated Impact of the Project

Statement of Alternatives

Statement of Impact on Resources

Statement of Permits Required

Environmental Constraints Map

The level of detail that will be required in the environmental impact study will be determined by the size and intensity of the proposed project. The minimum requirements are set forth below:

		Environmental Resources To Be Discussed (See a. Below)																	
Zone	Type	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16		
R	Minor	X			X	X	X		X		X		X		X	X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X		X	X	X		
R-1	Minor	X			X	X	X		X		X		X		X	X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X		X	X	X		
R-2	Minor	X			X	X	X		X		X		X			X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X		X	X	X		
R-3	Minor	X			X	X	X		X		X		X			X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X			X	X		
R-5	Minor	X			X	X	X		X		X		X			X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X			X	X		
R-10	Minor	X			X	X	X		X		X		X			X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X			X	X		
R-C	Minor	X			X	X	X		X		X		X		X	X	X		
	Major	X	X	X	X	X	X	X	X	X		X	X		X	X	X		
	CR-1	All		X	X	X	X	X	X	X	X	X		X	X	X	X	X	X
CR-2	All	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X		
B	All	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X		
G	All	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X		

X = TO BE DISCUSSED IN THE ENVIRONMENTAL IMPACT STUDY

The topics discussed in the EIS as noted above shall determine the completeness of an application. Items omitted or not specifically identified may be included at the discretion of the Planning Board or Zoning Board of Adjustment.

a. An Inventory of Existing Environmental Conditions. An inventory of existing environmental conditions at the project site and in the surrounding region which is affected by the project will be presented. The Inventory will be specific to the property under review. The contents of the inventory of each resource will include information as follows:

1. A description of the property and its surrounding area up to a 0.5 mile radius shall be provided that includes the current use of the land proposed for development and that of the surrounding area.

2. Air quality shall be described with reference to standards promulgated by the Department of Environmental Protection of the State of New Jersey at NJAC 7:27, *et seq.*, and in accordance with the Mendham Township Natural Resources Inventory.

3. Surficial and Bedrock Geology will be described according to the most recent information prepared by the New Jersey State Geologist. In particular ground water recharge areas, aquifers and reported ground water availability will be included in tabular form and shown on a map of the site. An illustration of the tabular format with example information is given below.

Bedrock Geology

Formation	Area	Recharge Capability*	Ground Water Potential/Availability** Dry Year / Normal Year	
Kittatiny Limestone (Cok)	4 Ac.	10-12 (in/Yr.) 470,000-565,000 (gpd/sq.mile)	34-50,000 (gpd/sq.mile)	50-74,000 (gpd/sq.mile)

* Source: "Realty Improvement Sewage and Facilities Act" (Draft) NJDEP., April, 1990

**Source: NJDEP. Bureau of Geology and Topography Land Oriented Reference Data System Bulletin 74, August, 1974

4. Soils shall be described as found on the site using the nomenclature developed by the United States Department of Agriculture. The description shall be referenced to the Morris County Soil Conservation District Standards and Specifications and the Mendham Township Natural Resources Inventory. Specific note shall be taken where the attributes of on site soils are at variance with the published data. Limitation of the on site soils for community development shall be presented in a tabular form and on a topographic map of the site depicting the Soil Conservation Service Soils Mapping for the property and identifying those soils having moderate or severe limitations for septic effluent as described in NJAC 7:9-2.1, *et seq.* (PL199). The tabular format is illustrated as follows:

Soils					
	Typical		Septic Effluent Limitations*		
Soil Type	Classification	Area	Moderate	Severe	None
Rockaway	IIIHrWp	4 Ac.		Severe at a depth of 0-4 feet due to hydraulically restrictive horizon, permeable substratum and Severe at a depth of 0-2 feet due to perched zone of saturation	

* Source: NJAC 7:9A-2.1 *et seq.*

All soil logs performed on the site shall be included in the EIS and the location of each shall be identified and shown on the Environmental Constraints Map.

5. Topography

Describe and analyze slopes as set forth in Section 16-10.8 of Chapter XVI, Subdivision and Site Plan Review of the Mendham Township Land Use Ordinance.

6. Surface hydrology shall describe all man made or naturally occurring water bodies including lakes, ponds, wetlands, springs, seeps, perennial and intermittent streams. The description shall include the area of the upslope drainage basin tributary to the water body or the site.

7. The source of water to on-site surface water bodies, average annual flow expressed in cubic feet per second (CFS) through the site and its relationship to the major drainage basin within which it resides.

8. Ground water quality and supply shall be established with a search of Board of Health well records for all wells within 500' of the property. This data shall be presented in a tabular form and the location of the wells identified on a map of the area. Whenever a recorded adjoining well has a record of contamination, ground water quality on the site to be developed will be verified by installing a supply well. The supply shall be analyzed by a NJDEP Certified Laboratory for the compound(s) that resulted in the contamination of the nearby well and in addition pH, Nitrates, Phosphates, Chlorides, Fecal Coliform, Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Zinc and Mercury. In addition, any failed septic system within 1000' of the property shall be mapped and the cause of the septic system failure listed. In addition to descriptive text a figure presenting water supply and quality information shall be included in the format and example illustrated as follows:

Ground Water Quality

Lot & Block**	NJDEP Permit #*				
Current**					
Owner or Well #		Depth(Total)*	Yield (gpm)*	Formation*	Quality*
Bl.3, Lot 2	25	273.00	20.0	PC	Good*
Doe, John	23054				

Sources: *NJDEP Bureau of Geology & Topography and **Mendham Township Board of Health

9. The quality of surface water bodies found within 1000' of the property which are tributary to the site or receive flow from the site shall be described with reference to the standards promulgated by the NJDEP in NJAC 7:9-4 *et seq.* When required, the description will include an analysis by a NJDEP Certified Laboratory that contains levels of the following constituents: temperature, pH, dissolved oxygen, Nitrates, Phosphates, Chlorides, Fecal Coliform, Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Zinc and Mercury. These constituents shall be compared to appropriate NJDEP standards as described in the Statutes of the State of New Jersey.

10. An inventory of flora and fauna observed or typically associated with the ecological conditions of the property shall be presented. The inventory shall include a listing of rare, threatened or endangered species identified by NJDEP's Office of Natural Heritage as having been inventoried on the property or within the vicinity of the property. The flora inventory shall include a description of all vegetation communities (including wetlands) or associations observed on the property, a map depicting the extent of those communities or associations and a description of the methodology used to develop the inventory. All specimen trees which have a drip line that is located within an area of clearing, excavation or grading shall be inventoried in the EIS and located and identified on the Environmental Constraints Map. For the purposes of this provision a specimen tree is one that exceeds the breast height diameter (DBH) specified on the following chart.

Common Name	Scientific Name	DBH	
Flowering Dogwood	Cornus florida	5"	
Downy Serviceberry	Amelanchior arborea	12"	
Ironwood Carpinus caroliniana	5"		
American Holly	Ilex opaca		12"
All Other Coniferous and Deciduous Trees		18"	

11. An inventory of avian, terrestrial and aquatic flora and fauna species shall be presented along with the environmental requirements for the species survival. The flora inventory shall include a description of the methodology used, inventory locations (including a map), a description and mapping of the extent of all vegetation communities and known occurrences of unique communities, rare or imperiled plant species and critical breeding or feeding habitat for rare, threatened or endangered fauna as recorded by NJDEP Natural Heritage program or on-site analysis. The fauna inventory will include observed species, method of observation, other species probable to occur on the site, known occurrences of threatened, endangered or rare species both on-site and within the immediate vicinity of the site. All specimen trees

which have a drip line that is located within an area of clearing, excavation or grading shall be inventoried in the EIS; and located and identified on the Natural Resources Map. For the purposes of this provision a specimen tree is one that exceeds the breast height diameter (DBH) specified on the following chart.

Common Name	Scientific Name	DBH
Flowering Dogwood	Cornus florida	5"
Downy Serviceberry	Amelanchior arborea	12"
Ironwood Carpinus caroliniana	5"	
American Holly	Ilex opaca	12"
All Other Coniferous and Deciduous Trees		18"

12. Wetlands as regulated by NJDEP at NJAC 7:7A-1, *et seq.*, Freshwater Wetlands Protection Act Rules and floodplains as regulated by NJDEP at NJAC 7:13-1, *et seq.*, Flood Hazard Control Act Rules.

13. Light levels will be described in foot-candles at the property line adjacent to any Residential Zone.

14. Ambient Sound levels will be described in Decibels on the A weighted scale (dB(A)'s) at the property line in accordance with the methods described at NJAC 7:29 B-1, *et seq.* The description will include time of day during which the observation was made, length of the observation, type of equipment used (with accuracy and date of most recent calibration), sound energy level influences observed and a comparison to the noise standard stated in NJAC 7:29 B-1, *et seq.*

15. Known historic and archaeological sites occurring on the property or within 0.25 miles of the property will be listed along with the source of the information. Sources of information will include the Mendham Township Historic Preservation Committee, the Morris County Historical Society and NJDEP Historic Preservation Office. A survey of the property will be included depicting the location of all artifacts or structures indicative of prior development or habitation and other areas of archaeological interest.

16. Community facilities that will support the proposed project including police, fire and emergency services and public schools (residential development proposals).

b. Plan and Description of Development. The applicant shall provide a narrative description specifying the purpose of the project or changes of use; changes that will occur to the site from the proposed construction or use of the buildings and structures involved; and a comparison of the proposed changes to the zoning requirements of the Township. The narrative shall describe what is to be done and how it is to be done during the construction and operation of the project. The description shall include a schedule of construction and quantitatively enumerate the facts of the construction and operating systems of the proposal before the Planning Board or Zoning Board of Adjustment. This shall include but not be limited to land clearing, roadways/circulation/access, traffic generation, septage disposal, potable water supply, storm water management, solid waste disposal, hazardous waste disposal and public utilities. Inclusion of a map is unacceptable as a substitute for an adequate narrative description.

The description shall be illustrated by maps and drawings contained within the environmental impact study which shall include, but shall not be limited to, contours, buildings, roads, paved areas, grading and regrading, adjacent natural streams, stream encroachment boundaries, the relation of the project to surrounding property and existing utilities and buffer

zones for sound and light control. Maps and drawings illustrating features of the plan may be reduced and/or modified copies of the preliminary subdivision plat or site plan. However, they must be legible and clear.

c. Assessment of the Anticipated Impact of the Project. The applicant shall provide an assessment, supported by quantitative data, of the probable beneficial or adverse impact of the project upon all of the elements and topics set forth in paragraph a. of this Subsection 17-3.1. The assessment shall include a summary listing of short term and long term impacts in accordance with the chart following this section. This assessment shall contain a written description and quantitative evaluation of adverse primary and secondary environmental impacts which cannot be avoided and mitigating measures being employed to avoid, reduce or eliminate such adverse impacts as may be anticipated. The assessment will place particular emphasis upon air or water pollution, increase in sound, damage to vegetation and wildlife systems, alteration of geologic features, soil disturbance, increase in the amount of sedimentation and siltation, increase in storm water runoff velocity and amount, increase in peak flow, displacement of people and businesses, displacement of existing farms, increase in the amount of sedimentation and siltation, storm water runoff, increase in municipal services and consequences to municipal tax structure.

Environmental Impact Summary Chart

	SHORT TERM			LONG TERM		
	Impact	Mitigation		Impact	Mitigation	
Resource	1 2 3 4 5*	Yes	No	1 2 3 4 5*	Yes	No
Air Quality						
Noise						
Geology						
Topography						
Soils						
Water Resources:						
Ground						
Surface						
Vegetation						
Wildlife						
Historic						
Aesthetics						
Municipal Revenue						

Short Term = Construction Related
Long Term = Use Related

*Indicate the level of impact on the scale of 1 to 5

The assessment shall specifically contain the following reports:

1. Sewage Disposal Facilities. The report shall contain information demonstrating that sewage can be disposed of through facilities to preclude air and water pollution, and

(a) if disposal is on-site, data on underlying geology, soil analysis, soil stratigraphy, topography, water table, percolation tests for every sewage disposal site, location and depth of aquifers and capacity, type of construction of all wells within 500 feet of the site, and other pertinent data; or

(b) if disposal is off-site, a plan for disposal with a detailed description of expected quantity and classification of sewage effluent and acceptance approval in writing by the receiving facility; and

(c) compliance with all state and local sewage and health regulations.

2. Solid Waste Disposal. A plan for disposal by means of a facility operating in compliance with the State Sanitary Code, NJAC 7:9A-1/1, *et seq.*, including suitable temporary on-site storage.

3. Hazardous Waste Disposal (Where Applicable). Identification of and satisfactory provisions for disposal of hazardous materials as defined (by the State of New Jersey) at NJAC 7:26 *et seq.*. Proof of compliance with all applicable regulations must be provided.

4. Water Supply and Water Quality. Evidence that an adequate potable water supply is available and the ratio of total anticipated demand to available supply, with source, shall be indicated. By reference to any study of water quality in the Township, the degradation of water quality shall be analyzed and reported.

5. Surface Water Runoff. A calculation of the anticipated impacts to surface waters of the Township and plan to:

a. Comply with municipal ordinances (Drainage).

b. Prevent all point source and non-point source pollutants from entering the waters of the Township to the maximum extent practicable.

c. Prevent degradation of surface water quality from the criteria established by NJDEP for Category 1, FW-1 and FW-2 Trout Production Waters.

6. Air Quality. A calculation and statement of anticipated effects on air quality due to on-site activities such as: heating, incineration, any processing of materials and traffic. Compliance with Federal and New Jersey standards is required.

7. Traffic (Pedestrian and Vehicular). An inventory of existing traffic and a calculation and statement of the projected effect of anticipated traffic on [all] proposed or existing roads directly affected within the Township.

8. Sound. A statement of anticipated effects on ambient sound levels, magnitude and characteristics related to on-site activities and proposed methods of control.

9. Artificial Light. A statement of the anticipated effects on light levels, magnitude and characteristics related to on-site activities and proposed methods of control with particular attention to the control of sky glow.

10. Fire Protection. An assessment of the means to provide necessary fire protection for the proposed development. This shall include an analysis of the provisions for availability, source, quantity, storage, accessibility and delivery systems and methods of water for fire fighting purposes in accordance with Chapter XVI, Section 16-10.2(w) of the Mendham Township Land Use Ordinance.

11. Fiscal Impact and Demography. A description of the impact to the tax base of the municipality, fiscal impact to the municipal and local school district fiscal outlook, utilization of local schools, impact to manpower and facilities requirements of police, fire and emergency services. The report shall include a computation of the fiscal impact to both the municipality and the local school system based upon the methods developed by the Center for Urban Planning at Rutgers University.

12. Statement of Impact on Resources. A statement concerning any irreversible or irretrievable commitment of resources and unmitigated impacts which would be involved in the proposed project should it be implemented; the expected benefit derived to the Township shall be included.

d. Statement of Alternatives. A statement of alternatives shall include a description of steps to be taken to achieve minimal environmental damage during construction and operation both at the project site and in the surrounding regions. Alternatives analysis shall be accompanied by necessary maps, schedules and other explanatory data as may be needed to clarify and explain the action to be taken and the rationale for using it. Alternatives analysis for changes of use will include a planning analysis of alternative uses for the site prepared by a New Jersey licensed professional planner.

e. Statement of Permits Required. All municipal, county, state and federal permits required for the project shall be listed, together with a statement of the status of the applicant's efforts to comply with all such requirements and a project timetable for completion of compliance with all permit requirements.

f. Environmental Constraints Map. The Environmental Impact Study as well as the Plan Set of an application for development shall include an Environmental Constraints Map or Maps, as needed for clarity, showing the following minimum information required for the assessment of impact:

1. Topography at a contour of 2 feet (10 feet for slopes in excess of 25%).

2. State Open Waters, Wetlands and Wetland Transition Areas.

3. Flood Hazard Areas.

4. Areas of glacial sediment deposits or calcareous bedrock geology.

5. Soils information as specified in Section 17-3.1(a)4, herein.

6. Rock outcrops and depth to bedrock.

7. Depth to Seasonal High Water Table.

8. Forested areas.

9. Vegetation Communities mapped and predominant vegetation species for each community identified.

The above information shall be superimposed by the proposed lot lines and/or development layout plan at a scale of not greater than 1" = 100'. The absence of any natural feature enumerated above shall be so noted on the map.

17-4 FILING REQUIREMENTS AND FEE.

17-4.1 Filing for Planning Board or Zoning Board of Adjustment Review. For those applications requiring Planning Board or Zoning Board of Adjustment review, an original and thirteen (13) copies of the environmental impact study, including all maps and plans and other supporting documents and a reverse line sepia for any map or drawing submitted by the applicant shall be filed with the Planning Board or Zoning Board of Adjustment.

17-4.2 Filing for Township Engineer Review. For those applications requiring only Township engineer review, an original and six (6) copies of the environmental impact study, including all maps and plans and other supporting documents, shall be filed with the Township clerk, who shall distribute:

two (2) copies to the Township engineer,
one (1) copy to the construction official,
one (1) copy to the Planning Board or Zoning Board of Adjustment,
and one (1) copy to the Environmental Commission for information.

17-4.3 Fee. Each applicant shall pay a filing fee to the Township clerk based on the schedule set forth in Chapter XIII, Subsection 13-14.1.g.

17-5 ACTION BY THE PLANNING BOARD OR ZONING BOARD OF ADJUSTMENT.

17-5.1 Review and Approval. The Planning Board or Zoning Board of Adjustment shall have a period of 60 days after the filing of a complete environmental impact study to review the study and act thereon, provided that whenever land subdivision or site plan approval is applied for the Planning Board or Zoning Board of Adjustment shall complete its review and action on the environmental impact study within the same period of time within which the Planning Board or Zoning Board of Adjustment is required to act upon the application for subdivision or site plan approval. The time within which the Planning Board or Zoning Board of Adjustment may act may be extended with the consent of the applicant.

In reviewing an environmental impact study, the Planning Board or Zoning Board of Adjustment shall take into consideration the effect of the applicant's proposal upon all aspects of the environment including, but not limited to, water quality, water supply, protection of water courses, protection of aquifers, sewage disposal, soil erosion, protection of trees and vegetation, protection of farm land and open space, protection of air, protection of wildlife and wildlife habitats, protection of aesthetics, historical sites and archeological features and the minimization of any nuisances or harmful effects upon ambient sound and light levels and characteristics. The Planning Board or Zoning Board of Adjustment shall submit the environmental impact study for review and comment to the environmental commission and to such other governmental bodies as it may deem appropriate. The Planning Board or Zoning Board of Adjustment shall take into consideration the effect of the applicant's proposed project upon all aspects of the environment as outlined above as well as the sufficiency of the applicant's proposals for dealing with any immediate or projected primary or secondary adverse environmental effects. In particular, the Planning Board or Zoning Board of

Adjustment must be satisfied that point and non-point pollution of streams and ground water can be avoided and storm water runoff from the site is controlled in compliance with the provisions of the New Jersey Flood Hazard Control Act (NJAC 7:13, *et seq.*). Additionally, the Planning Board or Zoning Board of Adjustment must conclude that the applicant's project will not result in undue adverse impacts to the local or regional environment. The Planning Board or Zoning Board of Adjustment shall not approve any submission under this chapter unless it determines and finds that the proposed development

a. will not result in undue adverse impacts to the environment,

b. has been designed and conceived with a view toward the protection of regional resources, and

c. will not place a disproportionate or excessive demand upon the total resources available for such proposal or for any future proposals.

17-5.2 Conditions. The steps to be taken to minimize adverse environmental impacts during construction and operation which may be approved by the Planning Board or Zoning Board of Adjustment shall constitute conditions of the approval of the environmental study, together with such other conditions as the Planning Board or Zoning Board of Adjustment may impose. All work may be stopped by the Township Engineer if specified construction restraints are not followed. No certificate of occupancy shall be issued until compliance shall have been made with all conditions.

17-6 ACTION BY THE TOWNSHIP ENGINEER.

17-6.1 Review and Approval by the Township Engineer. The Township Engineer shall have a period of 30 days after the filing of a complete environmental impact study filed pursuant to Subsection 17-2.2 to review the study and act thereon. The time within which the Township Engineer may act may be extended with the consent of the applicant.

In reviewing an environmental impact study, the Township Engineer shall take into consideration the effect of the applicant's proposed project upon all aspects of the environment as outlined above as well as the sufficiency of the applicant's proposal for dealing with any immediate or projected primary or secondary adverse environmental effects. In particular, they must be satisfied that point and non-point pollution of streams and ground water can be avoided and storm water runoff from the site is controlled in compliance with the provisions of the New Jersey Flood Hazard Control Act (NJAC 7:13, *et seq.*). Additionally, the Township Engineer must conclude that the applicant's project will not result in undue adverse impacts to the local or regional environment. The Township Engineer shall not approve any submission under this ordinance unless they determine and find that the proposed development:

a. will not result in undue adverse impacts to the environment,

b. has been designed and conceived with a view toward the protection of regional resources, and

c. will not place a disproportionate or excessive demand upon the total resources available for such proposal or for any future proposals.

17-6.2 Conditions. The steps to be taken to minimize adverse environmental impacts during construction and operation which may be approved by the Township Engineer shall constitute conditions of the approval of the environmental impact study, together with such other conditions as the Township Engineer may impose. All work may be stopped by the Township Engineer if specified construction restraints are not followed.

17-6.3 Approved Study to Accompany Applications. An environmental impact study approved by the Township Engineer shall accompany each application for a construction permit for a building or structure to which the provisions of this ordinance apply and no such construction permit shall be issued in the absence thereof. An application for a certificate of occupancy following the completion of any such construction shall be accompanied by a certificate issued by the Township Engineer stating that there has been compliance with the approved study and all conditions thereof, and no certificate of occupancy shall be issued in the absence of such certification. Upon the request of an applicant, the Township Engineer shall furnish to the applicant a written statement of action to be taken by the applicant to effect compliance.

17-6.4 Appeals. Any person aggrieved by any decision of action of [the Township in the administration of the provisions of this chapter may appeal to the Planning Board in writing, such appeal to be filed with the Township Clerk within thirty (30) days from the date of the decision or action of which there is a complaint. The appellant shall be entitled to a hearing before the Planning Board, which shall fix a date therefor not more than forty five (45) days from the date of the decision or action which is the subject of the appeal. Upon such hearing or within ten (10) days thereafter the] Planning Board shall affirm, alter or rescind the decision or action complained of by resolution setting forth written findings of fact and legal conclusions.

a. There shall be no filing fee.

b. If the appeal is not filed within thirty (30) days following the decision(s) or action(s) of the Township Engineer any decision(s) or action(s) made by him shall be deemed final.

17-7 PUBLIC AND QUASI-PUBLIC PROJECTS.

An environmental impact study as required by this chapter shall also be submitted as to all public or quasi-public projects unless they are exempt from the requirements of local law by supervening county, state or federal laws, provided, however, that the provisions of this chapter shall not apply to road and road shoulder maintenance work performed by the Township department of public works.

17-8 PERSONS PREPARING ENVIRONMENTAL IMPACT STUDIES.

Every environmental impact study required by this chapter shall be prepared by a licensed professional engineer in the State of New Jersey or such person as shall satisfy the Planning Board or Zoning Board of Adjustment or the Township Engineer, as the case may be, that he/she possesses expertise in the environmental field by virtue of training, experience or education.

17-9 WAIVER.

17-9.1 Planning Board or Zoning Board of Adjustment. The Planning Board or Zoning Board of Adjustment may waive the requirement for an environmental impact study, in whole or in part, if sufficient evidence is submitted to support a conclusion that the proposed project will have a negligible environmental impact or that a complete environmental impact study need not be prepared in order to evaluate adequately the environmental impact of a project.

17-9.2 Township Engineer. Where approval of the environmental impact study is within the authority of the Township engineer he may waive the requirement for an environmental impact study, in whole or in part, if sufficient evidence is submitted to support a conclusion that the proposed project will have a negligible environmental impact or that a complete environmental impact study need not be prepared in order to evaluate adequately the environmental impact of a project.

17-10 VIOLATIONS.

Any person who shall within the Township make any change in the use of any land or building, or remove any trees or other vegetation in an area of more than 1,000 square feet, or disturb earth by power driven equipment in an area more than 1,000 square feet without first having received approval of an environmental impact study in accordance with the provisions of this chapter shall be guilty of a violation of this chapter and shall be subject to the penalty set forth in Chapter VI, Section 6-7 of the Revised General Ordinances of the Township of Mendham, 1970; provided, however, that the foregoing shall not apply to any person engaged in an activity which is exempt under Subsection 17-2.3 or Section 17-7 or in an activity as to which the Planning Board or Zoning Board of Adjustment has waived the requirement for an Environmental Impact Study.

Any person who shall within the Township perform any work on any development or other project, with respect to which an environmental impact study has been approved in accordance with this ordinance, in a manner which is contrary to the provisions or conditions thereof designed to minimize adverse environmental impacts during construction and who shall not within five (5) days after receiving written notice from the Township Engineer of deviation from the aforesaid provisions and conditions undertaken to effect compliance with such provisions or conditions shall be guilty of a violation of this ordinance and shall be subject to the penalty set forth in Chapter VI, Section 6-7 of the Revised General Ordinances of the Township of Mendham, 1970.

CHAPTER XVIII

FLOOD HAZARD AREA REGULATIONS

18-1 AUTHORITY.

The Legislature of the State of New Jersey has by the Municipal Land Use Law, R. S. 40:55D-I and following, and by the Flood Hazard Area Control Act, R.S. 58:16A-50 and following, delegated the responsibility to local governmental units to adopt regulations designed to promote and protect the public health, safety and general welfare, including regulations relating to the use of land in flood prone areas.

18-2 FINDINGS OF FACT.

a. The flood hazard areas of the Township of Mendham are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which may adversely affect the public health, safety and general welfare.

b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

c. The Federal Insurance Administration has identified areas of special flood hazard within the Township of Mendham for purposes of the National Flood Insurance Program on maps hereinafter identified and incorporated in this chapter.

18-3 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. To insure that potential buyers are notified that property is in an area of special flood hazard; and

h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

18-4 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

d. Controlling clearing, filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

18-5 DEFINITIONS.

Unless specifically defined below or elsewhere in the Revised General Ordinances of the Township of Mendham, 1970, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

AREA OF SHALLOW FLOODING. A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain subject to a one percent or greater chance of flooding in any given year.

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

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

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

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving,

excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

ELEVATED BUILDING. A non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an Area of Special Flood hazard the term elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXCEPTION. A grant of relief by the planning board from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

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 or runoff of surface waters from any source.

FLOOD FRINGE AREA. The portion of the flood hazard area not delineated as floodway.

FLOOD HAZARD AREA. The floodway and the flood fringe area as determined by the New Jersey Department of Environmental Protection pursuant to Section 3 of the New Jersey Flood Hazard Area Control Act, R.S. 58:16A-52.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the township.

FLOOD INSURANCE STUDY. The official report hereinafter mentioned in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

FLOOD PLAIN. The relatively flat area of land which has been or may be hereafter covered by flooding.

FLOOD PLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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 2 tenths of one foot.

HISTORIC STRUCTURE. Any structure that is:

(a) Listed individually in the National Register of Historic Places
(a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in States without approved programs.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of this chapter.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

PLANNING BOARD. The planning board of the Township of Mendham.

RECREATIONAL VEHICLE. A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the longest horizontal projections; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION. (for other than new construction or substantial improvements under the coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of

construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

STRUCTURE. A walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

a. any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

b. any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

18-6 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the Township of Mendham.

18-7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Township of Mendham" dated January 5, 1982, as revised effective October 2, 1997, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps, which Study and Maps may be amended from time to time. The Flood Insurance Study is on file in the office of the township clerk, Township Hall, 2 West Main Street, Brookside, New Jersey, and is hereby adopted by reference and declared to be a part of this chapter. The areas of special flood hazard as delineated at the time of the adoption of this chapter are shown upon the FIRM Flood Insurance Rate Maps and the Flood Boundary-Floodway Maps which are hereby made a part of this chapter. Any amendments to such Study or Maps after the adoption of this chapter shall also be filed in the office of the township clerk.

The following areas as identified in the above-mentioned Study and Maps are areas of special flood hazard: Any A Zone (including any unnumbered A Zone, any zone number A-1 through A-30, and AH Zone or an A-99 Zone), as well as any area within the floodway or 100-year flood boundaries. Zones which are designated B or C and lands lying between the 100-year and 500-year flood boundaries are not considered areas of special flood hazard.

18-8 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, altered or used without full compliance with the terms of this chapter and other applicable regulations. Any person who violates this chapter or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than ninety (90) days, or both, for each violation, provided, however, that any offense which constitutes a violation of the New Jersey Flood Hazard Area Control Act, R.S. 58:16A-50, et seq., shall be punishable by the fines imposed by R.S. 58:16A-63 which provides a maximum fine of $2,500.00 to be collected by the New Jersey Department of Environmental Protection in an action commenced pursuant to such statute. Nothing herein contained shall prevent the Township of Mendham from taking such other lawful action as is necessary to prevent or remedy any violation.

18-9 ABROGATION AND GREATER RESTRICTION.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. In the event that the provisions of this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail.

18-10 INTERPRETATION.

In the interpretation and application of this chapter all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the Township of Mendham; and

c. Deemed neither to limit nor repeal any other powers granted under State statutes.

18-11 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Township of Mendham, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

18-12 REQUIREMENT FOR DEVELOPMENT PERMIT.

As to any lot which lies wholly or partially within any area of special flood hazard established in section 18-7 a Development Permit shall be obtained pursuant to this chapter prior to any of the following:

a. the issuance of a construction permit;

b. the grant of major or minor subdivision approval;

c. the grant of site plan approval; or

d. the grant of a conditional use.

An application for a Development Permit shall be made on forms available in the office of the township clerk in the Township Hall, 2 West Main Street, Brookside, New Jersey. Documents required to be submitted with an application for a Development Permit may include, but not be limited to: plans drawn to scale showing the nature, location, dimensions, and elevations of the lot and area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

Specifically, the following information shall be provided:

a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any structure has been flood-proofed;

c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in section 18-17b2; and

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

18-13 DESIGNATION OF THE ADMINISTRATIVE AGENCY.

The planning board is hereby appointed to administer and implement this chapter by granting or denying Development Permit applications in accordance with its provisions.

18-14 DUTIES AND RESPONSIBILITIES OF THE PLANNING BOARD.

The duties of the planning board shall include but not be limited to the following;

a. Review of Applications for Development Permits.

1. Review all applications for Development Permits to determine that the requirements of this chapter have been met.

2. Review all applications for Development Permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval may be required, provided that conditional approvals may be granted in accordance with the provisions of section 18-21.

3. Review all applications for Development Permits to determine if the proposed development, project or work is located in the floodway. If so located, the planning board shall assure that the encroachment provisions of section 18-17c are met.

b. Use of Other Base Flood Data

When base flood elevation and floodway data has not been provided in accordance with Section 18-7, the planning board shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer sections 18-17b1 and 18-17b2.

c. Information to Be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or improved structures, and whether or not the structure contains a basement.

2. For all new or improved flood-proofed structures:

verify and record the actual elevation (in relation to mean sea level); and

maintain the flood-proofing certifications required in section 18-17b2.

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

d. Alteration of Watercourses.

1. Notify affected adjacent communities and the New Jersey Department of Environmental Protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries.

Make interpretation where needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 18-22.

18-15 EXCEPTION PROCEDURE.

The planning board shall hear and decide requests for exceptions from the requirements of this chapter.

In passing upon such applications, the planning board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a. the danger that materials may be swept onto other lands to the injury of others;

b. the danger to life and property due to flooding or erosion damage;

c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. the importance of the services provided by the proposed facility to the community;

e. the necessity to the facility of a waterfront location, where applicable;

f. the availability of alternative locations for proposed use which are not subject to flooding or erosion damages;

g. the compatibility of the proposed use with existing and anticipated development;

h. the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

i. the safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Upon consideration of the above-mentioned factors and the purposes of this chapter, the planning board may attach such conditions to the granting of an exception as it may deem necessary to further the purposes of this chapter.

The planning board shall maintain the records of all requests for exceptions, including technical information, and shall report any exceptions granted to the Federal Insurance Administration upon request.

18-16 CONDITIONS FOR EXCEPTIONS.

a. Generally, exceptions may be granted for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the factors enumerated in section 18-15 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for granting an exception increases.

b. Exceptions may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the exception is the minimum necessary to preserve the historic character and design of the structure.

c. Exceptions shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.

d. An exception shall only be granted upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

e. Exceptions shall only be granted upon:

1. a showing of good and sufficient cause;

2. a determination that failure to grant the exception would result in exceptional hardship to the applicant; and

3. a determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 18-15, or conflict with existing local laws or ordinances.

f. Any applicant to whom an exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

18-17 PROVISIONS FOR FLOOD HAZARD REDUCTION.

a. General Standards.
In all areas of special flood hazard the following standards are required:

1. Anchoring.

All new construction and structural improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

There are presently no existing mobile homes within the Township of Mendham and mobile homes are not a permitted use under Chapter XXI, Zoning Regulations. Should Chapter XXI ever be revised to permit mobile homes, this Chapter XVIII will be amended to comply with Section 1910.3(b) (8) of Subchapter B of Chapter 10 of Title 24 of the Code of Federal Regulations relative to such structures.

All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring shall include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local requirements for resisting wind forces.

2. Construction materials and methods.

All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Utilities.

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. Subdivision, site plan and conditional use proposals.

The proposed development shall be consistent with the need to minimize flood damage;

The proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

The proposed development shall have adequate drainage provided to reduce exposure to flood damage; and

Base flood elevation data shall be provided for any proposed development which contains at least 10 lots or 5 acres, whichever is less.

5. Enclosure Openings.

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

b. Specific Standards for Areas of Special Flood Hazard.

In all areas of special flood hazard where base flood elevation data have been provided as set forth in Section 18-7 Basis For Establishing the Areas of Special Flood Hazard, the following standards are required:

1. Residential construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, one foot above base flood elevation.

All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

2. Nonresidential construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or

(a) be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) be certified by a registered professional engineer or architect that the

design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certifications shall be provided to the planning board as set forth in section 18-14c.

c. Floodways.

Located within the areas of special flood hazard established in section 18-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following standards apply:

Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge, in which case all new construction and substantial improvements shall comply with all applicable flood hazard provisions of this section 18-17.

18-18 NEED FOR STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION APPROVAL.

Notwithstanding the provisions of this chapter, the following New Jersey statutory provisions shall apply to applications for Development Permits:

a. No structure within an area which would be inundated by the 100-year design flood of any nondelineated stream shall be erected, altered, rebuilt or renewed by any person without the approval of the New Jersey Department of Environmental Protection and without complying with such conditions as the Department may prescribe for preserving such area and providing for the flow of water therein to safeguard the public against danger from waters impounded or affected by such structure or alteration.

b. No application for development as defined in the Municipal Land Use Law, R.S. 40:55D-3 through 7, for a structure within an area which would be inundated by the 100-year design flood of any nondelineated stream or for a change in land use within a delineated floodway or any State-administered and delineated flood fringe area, when such change would require Departmental approval, may be granted by any municipality to any person without application to and approval by the New Jersey Department of Environmental Protection pursuant to the Flood Hazard Area Control Act, R.S. 58:16A-50 and following.

18-19 TIME PERIODS FOR ACTION ON APPLICATIONS FOR DEVELOPMENT PERMITS.

The planning board shall grant or deny a Development Permit within 45 days of the submission of a complete application to the secretary of the planning board or within such further time as may be consented to by the applicant, provided, however, that whenever a Development Permit is requested for purposes of a subdivision, site plan or conditional use approval the planning board shall grant or deny a Development Permit within 95 days or within such further time as may be consented to by the applicant.

18-20 HEARINGS.

The planning board shall hold a hearing on each application for a Development Permit requested for purposes of a major subdivision, site plan or conditional use approval.

Notice of hearings, hearings and decisions shall meet the requirements set forth in Chapter XIII, LAND USE PROCEDURES AND FEES.

18-21 CONDITIONAL APPROVAL.

In the event that the project, development or work proposed by the applicant for a Development Permit requires approval by a governmental agency other than the planning board, the planning board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency, provided, however, that the planning board shall make a decision on any application for a Development Permit within the time period provided in section 18-19 or within an extension of such period as has been agreed to by the applicant unless the planning board is prevented or relieved from so acting by operation of law.

18-22 APPEALS.

Any interested person may take an appeal to the township committee with respect to

a. any FIRM boundary line interpretation made by the planning board pursuant to section 18-14e;

b. any finding of the planning board pursuant to section 18-14b; or

c. any final decision of the planning board on any application for a Development Permit.

Any such appeal shall be made and acted upon in accordance with the provisions of Chapter XIII, LAND USE PROCEDURES AND FEES.

This right of appeal shall not restrict the right of any interested person to obtain a review by any court of competent jurisdiction according to law.

18-23 FEES.

Each applicant for a Development Permit shall pay a filing fee to the township clerk based upon the schedule set forth in subsection 13-14.1h.

CHAPTER XIX

SOIL EROSION, SEDIMENT CONTROL AND FLOOD PREVENTION

19-1 PURPOSE.

The general purpose of this chapter is to promote the public health, safety, convenience and general welfare of the Township of Mendham through the protection of environmental resources by preventing floods and controlling soil erosion, sedimentation and related environmental damage resulting from but not necessarily limited to the disturbance of land or earth by construction activities such as those for housing, commercial, utility, highway, public works and other similar developments.

The specific purposes of this chapter are to require adequate provisions for

a. The protection of the water quality of streams.

b. The prevention of danger to life and property from flooding resulting from excessive runoff and sedimentation of waterways and drainage facilities.

c. The detention of surface waters, including both temporary and permanent measures.

d. Maintaining the useful life of brooks, streams, ponds and lakes by preventing sedimentation.

e. Preserving the recreational use of water bodies for swimming and fishing.

f. Reducing public expenditures for repair and maintenance of public facilities resulting from flooding, soil erosion and sedimentation.

g. Conserving the taxable value of property by preserving the environmental character of the township.

19-2 DEFINITIONS.

For purposes of interpretation and enforcement of this chapter the following words, terms and phrases shall have the meanings set forth below except when the context clearly indicates otherwise.

APPLICANT. A person requesting the issuance of a land disturbance permit.

APPLICATION. A submission meeting the requirements of a COMPLETE APPLICATION, as hereinafter defined.

APPROVED PLAN. A Plan, as hereinafter defined, which has been reviewed and approved by the proper township authority.

CERTIFICATION. A written and signed statement by the township engineer that specific construction and/or land treatment measures required by a Plan, as hereinafter defined, have been performed in accordance with all of the terms and conditions therefor and in accordance with STATE STANDARDS, as hereinafter defined, and the provisions of this ordinance.

COMPLETE APPLICATION. The submission to the township clerk of the following: (1) an application form completed and executed by the applicant, (2) a Plan, as hereinafter defined, (3) all required accompanying documents, and (4) the appropriate filing fee.

CONDITIONAL USE. A land use permitted by Chapter XXI, Zoning Regulations, but only upon the issuance of an authorization therefor by the township planning board or zoning board of adjustment.

CONSTRUCTION PERMIT. A permit issued for a building or structure in accordance with the State Uniform Construction Code Act and Regulations promulgated thereunder.

CRITICAL AREA. An area which has a high potential for erosion, sedimentation or related environmental damage, or an area which has experienced such damage.

CUT. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface.

DETENTION POND OR BASIN. A pond, basin or other structure or measure that provides for temporary storage of storm water and which includes a spillway or other facility to release the water at a controlled rate of flow.

DIVERSION. A channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope.

EMBANKMENT. A man-made deposit of soil, rock or other materials.

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

EXCAVATION. Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

EXISTING GRADE. The vertical location of the existing ground surface prior to cutting or filling.

FARM CONSERVATION PLAN. A plan developed in accordance with the Morris County Soil Conservation District which provides for use of land, within its capabilities and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources.

FILL. A man-made deposit of soil, rock or other materials.

FINISHED GRADE. The final grade or elevation of the ground surface conforming to a proposed design.

FLOOD PLAIN. The land bordering or adjacent to a river, stream, brook, lake, pond, swamp or other waterway which is subject to flooding as evidenced by (1) observed or recorded flood events, (2) alluvial soil as shown on soil maps, or (3) as determined by other soil or hydraulic studies.

GOVERNMENT AGENCY. Any department, commission, independent agency or instrumentality of the United States or of the State of New Jersey, and any county or other governmental unit.

GRADING. Any stripping, cutting, filling or stockpiling, or any combination thereof, this term including the land in its cut or filled condition.

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, transporting of land or any other activity which causes land to be exposed to the danger of erosion.

LAND DISTURBANCE PERMIT. A permit issued pursuant to the provisions of this ordinance authorizing land disturbance subject to the terms and conditions of the permit.

MORRIS COUNTY SOIL CONSERVATION DISTRICT. A governmental subdivision of this State, which encompasses the township, organized in accordance with the provisions of R.S. 4:24-1 and following.

MULCHING. The application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover.

NATURAL GROUND SURFACE. The existing surface of land prior to any land disturbance.

PERMIT. See LAND DISTURBANCE PERMIT.

PERSON. Any individual, partnership, corporation or other legal entity, including a government agency.

PLAN. See SOIL EROSION, SEDIMENT CONTROL AND FLOOD PREVENTION PLAN.

PLANNED DEVELOPMENT. Any planned development that may be permitted under the provisions of Chapter XXI, Zoning Regulations.

PROFESSIONAL ENGINEER. An engineer duly registered or licensed by the State of New Jersey to practice in the field of civil engineering.

PROJECT. Any activity, undertaking, construction or work of any nature which involves land disturbance. The term includes but is not limited to the improvement or development of land pursuant to any conditional use, construction permit, planned development, site plan, subdivision or zoning variance.

SEDIMENT. Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site or origin by erosion.

SEDIMENT BASIN. A pond, basin or other structure or measure that provides for the detention of water and the deposit of sediment.

SITE. A lot, tract or parcel of land or a combination of contiguous lots, tracts or parcels of land.

SITE PLAN. A plan for the development off one or more lots required to be reviewed and approved in accordance with the provisions of Chapter XVI, Subdivision and Site Plan Review.

SLOPE. The degree of deviation of a surface from the horizontal usually expressed in percent or degree.

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

SOIL EROSION, SEDIMENT CONTROL AND FLOOD PREVENTION PLAN. A Plan (referred to in this ordinance by the term "Plan") which indicates construction and/or land treatment measures, including a schedule of the timing for their performance, to effectively prevent floods and minimize soil erosion and sedimentation. Every Plan shall meet or exceed STATE STANDARDS as hereinafter

defined.

SOILS ENGINEER. A professional engineer who is qualified by education, training and experience to practice applied soil mechanics and foundation engineering.

STANDARDS. See STATE STANDARDS.

STATE STANDARDS. Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee.

STRIPPING. Any activity which removes or significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations.

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts or parcels in accordance with the provisions of Chapter XVI, Subdivision and Site Plan Review.

TEMPORARY PROTECTION. Stabilization of erosive or sediment-producing areas of land.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas of land by covering the soil with one or more of the following: (1) permanent seeding or permanent plantings producing long-term vegetative cover, (2) short-term seeding or short-term plantings producing temporary vegetative cover, and (3) sodding, producing areas covered with a turf of perennial sod-forming grass.

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.

ZONING VARIANCE. Any land use which may be permitted as a departure from the provisions of Chapter XXI, Zoning Regulations.

19-3 REGULATED ACTIVITIES.

No person shall within the Township of Mendham undertake or commence any project within the meaning of that term as defined in section 19-2, except a project which is exempt under the provisions of section 19-4, without first having obtained a land disturbance permit.

19-4 EXEMPT ACTIVITIES.

The following projects are exempt from the provisions of this chapter.

a. The construction of a single-family dwelling unit where such unit is not part of a proposed subdivision, site plan, conditional use, zoning variance, planned development, or construction permit application involving two or more such single-family dwelling units.

b. Land disturbance in accordance with a farm conservation plan.

c. The planting and harvesting of crops, plants, flowers or shrubs in fields or areas devoted to such use prior to the adoption of this ordinance.

d. Road and road shoulder maintenance work performed by the township department of public works.

e. Projects exempted by State law from the requirements of this ordinance.

19-5 APPLICATIONS FOR LAND DISTURBANCE PERMITS.

19-5.1 Jurisdiction over Applications. If the project subject of the application involves a conditional use, planned development, site plan, subdivision, or zoning variance, the application for land disturbance permit shall be reviewed and acted upon by the township planning board. All other applications for land disturbance permits shall be reviewed and acted upon by the township engineer.

Notwithstanding the provisions of the preceding paragraph of this subsection 19-5.1, whenever the zoning board of adjustment is reviewing an application for approval of a use variance pursuant to the provisions of R.S. 40:55D-70(d) such board shall review and act upon any application for a land disturbance permit, and accordingly in such cases whenever the words "planning board" appear in this ordinance they shall be read as "zoning board of adjustment".

19-5.2 Application Forms. An applicant shall obtain an application form from the township clerk. The form shall require among other information the name, address and telephone number(s) of the applicant, the project site location by street address and block and lot number, the proposed use of the site, any related applications for land use development approval and sufficient information for calculation of the filing fee required by subsection 19-5.4. The form shall also provide adequate space for approval or disapproval as well as the insertion of special provisions as terms and conditions of approval and the amount of any performance guarantee required.

19-5.3 Plan to Accompany Application. Every application for a land disturbance permit shall be accompanied by a Plan meeting the requirements set forth in this subsection 19-5.3.

a. The Plan. The Plan shall comprise maps showing the project and site and a written report (together with whatever other instruments, writings, drawings, plans or specifications are necessary or appropriate under the circumstances) which fully and adequately describe both temporary and permanent measures to be employed to control, minimize and protect against soil erosion, sedimentation and flooding from a proposed land disturbance, taking into account the particular nature and characteristics of the land, the surrounding area, the watercourses, the land disturbance and the development involved. The Plan shall cover all stages and aspects of the proposed land disturbance and planned development from grading, stripping, excavation and other site preparation through and including both finished grade and the installation of permanent improvements. It shall accordingly include a timing schedule or schedules indicating both: (1) the anticipated starting and completion dates of each step in the land disturbance and development sequence and the time of exposure of each land area prior to the completion of effective erosion and sediment control measures, and (2) the sequence of installation of planned erosion and sediment control measures as related to the disturbance and development sequence referred to in (1) above, including anticipated starting and completion dates of such installations.

The scale of maps used within the Plan shall be sufficiently large to show the details of the work being done in the project. Key maps of smaller scale shall be used to show the location of the project with respect to site boundaries, roads, streams, bodies of water, and dwellings and structures which may be affected by the project.

The Plan shall include a soil map as prepared by the United States Department of Agriculture Soil Conservation Service upon which the proposed development shall be superimposed. The soil boundaries shall also be shown on the Plan.

b. General Conditions. (1) It shall be the responsibility of the applicant to design his project so as to maintain as nearly as possible in its present state and condition any stream, watercourse, swale, flood plain, wetland, swamp, pond or lake.

(2) The maintenance or repair of any of the above or of drainage facilities damaged or otherwise adversely affected by reason of the applicant's project shall be the responsibility of the applicant. Such maintenance or repair work shall be promptly performed.

(3) It shall be the responsibility of the applicant to promptly remove sediment from any stream or watercourse, pond, lake, or drainage facility resulting from the applicant's project.

(4) No person shall block, impede the flow of, alter or construct any structure or deposit any material or thing or commit any act which will affect normal or flood flow in any stream or watercourse without having obtained a land disturbance permit and, where required, prior approval from the Morris County Soil Conservation District or other state agency.

(5) All drainage or storm water facilities proposed by the applicant or to be utilized by the applicant, including the discharge area, shall have the capacity to transport runoff from the drainage area as if such area were fully developed in accordance with the master plan and zoning ordinance of the township.

(6) An objective of the Plan shall be to maximize groundwater recharge and to minimize runoff, as well as the retention of sediment to the maximum extent feasible.

c. Soil Erosion and Sediment Control Measures. Soil erosion and sediment control measures shall as a minimum utilize and meet Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee.

In addition, to the extent applicable in particular situations, the following measures or considerations shall be incorporated in the Plan;

(1) The smallest practicable area of land shall be disturbed at any one time during development and the duration of such disturbance shall be kept to a practical minimum.

(2) Whenever feasible, natural vegetation and the natural ground surface shall be retained and protected.

(3) Temporary vegetative protection plant cover or mulching, or a combination of both, shall be used to protect erosion areas during development.

(4) Diversions and outlets, both temporary and permanent, shall be constructed or installed to accommodate the runoff caused by the changed soil and surface conditions during and after development.

(5) Disturbed soil shall be stabilized as quickly as practicable.

(6) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped and removed by the use of debris basins, sediment basins, desilting basins, silt traps or other acceptable methods.

(7) Whenever feasible, development shall preserve natural features and existing grades, thereby keeping grading, stripping and excavation to a minimum.

(8) Adequate provisions shall be made to minimize surface water damage to slopes and embankments. Diversions may be utilized for this purpose.

(9) Fill shall be placed and stabilized so as to minimize erosion and shall encroach on areas within 100 feet of watercourses or water bodies unless specifically approved.

(10) During grading operations, approved methods for dust control shall be exercised.

(11) During grading, excavation and other construction activities, slopes and embankments shall be stabilized by mulching with straw sprayed with an asphalt mixture, or jute matting staked in position, or a seeding of annual rye grass, or a combination of the foregoing, or other acceptable method.

(12) Permanent (final) vegetative protection, plant cover, lawn or ground cover, and mechanical erosion control devices and measures shall be installed or constructed and completed, as soon as practicable.

(13) Permanent improvements, such as pavement, catch basins, curbs and the like, shall be installed or constructed and completed as soon as practicable.

(14) Permanent detention ponds shall be constructed whenever feasible to temporarily retain the increased runoff resulting from modifications to the land. Such detention facilities shall conform with standards and criteria established or approved by the township engineer and shall be designed to control runoff from all storms recurring in 100 years except where adverse site conditions prevent the practical construction of such facilities and such requirement is waived by the township planning board upon recommendation of the township engineer. The township engineer shall approve all plans for detention facilities and such plans shall also be approved by the County of Morris and agencies of the State of New Jersey when required.

d. Qualifications of Preparer of Plan. The Plan shall be prepared by a professional engineer or soils engineer and shall be signed and sealed by the person who prepared it.

19-5.4 Fee to Accompany Application. Every applicant shall pay a fee to the township clerk at the time of filing an application for a land disturbance permit based upon a schedule set forth in subsection 13-14.1i.

19-5.5 Application Procedure. A complete application for a land disturbance permit shall be filed with the township clerk.

If the application is within the jurisdiction of the township planning board, an applicant shall file 7 copies of the application form accompanied by 13 copies of the Plan and any other required documents.

If the application is within the jurisdiction of the township engineer, the applicant shall file 6 copies of the application form accompanied by 6 copies of the Plan and any other required documents.

All applications within the jurisdiction of the planning board shall be filed at least 21 days before a monthly meeting of the board at which formal action is taken, provided that no application shall be accepted by the township clerk more than 28 days prior to the date of the meeting selected to meet such 21-day requirement.

Upon receiving an application within the jurisdiction of the planning board, the township clerk shall note the date of submission on all copies of the application form, shall retain 1 copy of the application form together with 1 copy of the Plan and any other accompanying documents, shall forward 1 copy of the application form together with 1 copy of the Plan and any other accompanying documents to the township engineer, and shall deliver 4 copies of the application form together with 10 copies of the Plan and any other accompanying documents to the secretary of the planning board. The township clerk shall also forward 1 copy of the application form together with 1 copy of the Plan

and any other accompanying documents to the township environmental commission.

Upon receiving an application within the jurisdiction of the township engineer, the township clerk shall note the date of submission on all copies of the application form, shall retain 1 copy of the application form together with 1 copy of the Plan and any other accompanying documents, shall forward 1 copy of the application form together with 1 copy of the Plan and any other accompanying documents to the planning board for informational purposes, and shall deliver 4 copies of the application form together with 4 copies of the Plan and any other accompanying documents to the township engineer.

19-5.6 Incomplete Applications. Whenever it appears subsequent to submission to the township clerk that an application is incomplete, the secretary of the planning board or the township engineer, as the case may be, shall promptly notify the applicant of the deficiencies, but if such notice is not given to the applicant within 28 days after submission the application shall be deemed to be complete.

Whenever an incomplete application is supplemented so as to make it complete, the period of time limitation set forth in subsection 19-6.3 shall commence to run from the date when the application becomes complete. The new date shall be noted on the original application forms and upon the supplementing instruments received.

19-5.7 Time of Submission of Application. Whenever an applicant is seeking one or more related approvals for a project from the township planning board, zoning board of adjustment or township engineer, the application for a land disturbance permit shall be submitted as directed by the planning board or township engineer at a time when the status of the related approval or approvals will permit the application for a land disturbance permit to be properly evaluated. Premature submission of an application for a land disturbance permit constitutes grounds for denial of the application accompanied by a direction for re-submission at an appropriate time.

19-6 ACTION ON APPLICATIONS.

19-6.1 Review of Applications. Applications for land disturbance permits within the jurisdiction of the planning board shall be reviewed by the planning board and the township engineer. The township engineer shall furnish comments on the application to the planning board within 14 days after the submission of the application unless the planning board advises the township engineer of a longer period of time for his review. The planning board may refer an application to the Morris County Soil Conservation District, the township environmental commission or any other qualified governmental agency or agencies or consultants for review and comments within a period of time indicated by the planning board.

Applications within the jurisdiction of the township engineer shall be reviewed by the township engineer. An application may be referred by the township engineer to the Morris County Soil Conservation District or any other qualified governmental agency or agencies or consultants for review and comments within a period of time indicated by the township engineer.

The purpose of every review shall be to determine whether or not the application, Plan and any other accompanying documents meet the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee and any higher standards established by this chapter.

The filing fee for an application for a land disturbance permit 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 the township for professional services rendered in connection with an application for a land disturbance permit, including review, study, research, reports and/or testimony deemed necessary in order to assure compliance with applicable laws and regulations and township ordinances, rules, regulations and standards;

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

c. Expenses incurred by the township for inspections by the township engineer of improvements constructed and installed by an applicant and/or inspections by the township engineer of measures required to be undertaken by the applicant pursuant to the land disturbance permit, all of which expenses are the subject of subsection 19-8.2.

This subsection 19-6.1 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".

The provisions of subsection 13-14.7, Fees for Professional Services Rendered to Municipal Agencies in Connection with an Application for Development, of Chapter XIII, Land Use Procedures and Fees, respecting the deposit of funds to cover professional service fees, the administration of such funds and their disbursement shall be applicable and shall be adhered to by the applicant and the township, provided, however, that the initial deposit for professional service fees made at the time of filing an application for a land disturbance permit shall be in an amount which equals five (5) times the amount of the filing fee required to be paid pursuant to the provisions of subsection 13-14.1.

It is not intended that an applicant for a land disturbance permit, who has also filed an application for development pursuant to another Chapter of the Land Use Ordinance of the Township of Mendham with respect to the same property and who has provided escrow funds pursuant to the provisions of subsection 13-14.7, shall be required to provide other escrow funds pursuant to this subsection 19-6.1 solely by reason of the application for a land disturbance permit, provided that the escrow funds already on deposit with the township are deemed sufficient to cover the costs of the professional services in connection with the application for the land disturbance permit. If such funds are deemed to be insufficient, the applicant shall deposit such further funds as may be requested by the township, which request shall be reasonable in regard to the nature and scope of the professional services which may be necessary. No professional review or other services shall be performed by the township with respect to the application until such deposit is made.

19-6.2 Approval of Applications. An application within the jurisdiction of the planning board shall be approved by the planning board if upon review the board determines that the application meets the standards referred to in subsection 19-6.1. An application within the jurisdiction of the township engineer shall be approved by the township engineer if upon review he determines that the application meets such standards.

In the event that an application does not meet the standards referred to in subsection 19-6.1, the planning board or the township engineer, as the case may be, may approve the application subject to the imposition of terms and conditions which will provide for compliance with such standards. Any such terms and conditions shall be endorsed upon or attached to the application before approval is granted.

Other special terms and conditions may be imposed upon an application by the approving authority in order to assure proper implementation of the Plan in accordance with the intent and purposes of this chapter and may include fixing the time schedule for exposure of land areas and for

the construction and installation of improvements or the taking of other measures to prevent soil erosion, sedimentation and flooding and may require that such work be completed prior to any site development work.

All terms and conditions imposed by the planning board or township engineer, as the case may be, shall become a part of the approved Plan for all purposes of the provisions of this chapter.

As to every application which is approved, the approving authority shall endorse thereon the amount of the performance guarantee required pursuant to the provisions of subsection 19-7.1.

If an application is disapproved, the reason for disapproval shall be endorsed upon or attached to the application.

As soon as any application has been reviewed and acted upon, 3 copies of the application with endorsements or attachments shall be forwarded to the township clerk. The township clerk shall promptly notify the applicant in writing of the action taken by the planning board or township engineer, as the case may be, indicating whether the application was approved as submitted, approved subject to attached conditions, or denied for reasons stated. In cases of approval, the township clerk shall also notify the applicant of the amount of the performance guarantee required to be furnished to the township.

The township clerk shall also notify the township environmental commission of action taken by the planning board on applications within its jurisdiction.

19-6.3 Time Limitations. The township planning board or township engineer, as the case may be, shall approve or disapprove an application for a land disturbance permit within a period of 30 days after the submission of a complete application to the township clerk, unless by mutual agreement in writing between the applicant and the reviewing authority the period of 30 days is extended for an additional period of 30 days.

Failure to approve or disapprove a complete application within such period or such extension thereof shall constitute approval of the application, and the applicant shall be entitled to the issuance of a land disturbance permit by the township clerk as though the application had been approved pursuant to the provisions of subsection 19-6.2 in the form in which the application was submitted.

For purposes of this subsection, a major revision by the applicant of the Plan accompanying the application shall constitute a new submission of an application by the applicant.

The provisions of this subsection shall not relieve an applicant of the obligation to furnish a performance guarantee as required by subsection 19-7.1, nor shall the provisions of this subsection relieve an applicant of any other obligation imposed by this chapter upon a person to whom a land disturbance permit is issued.

19-6.4 Notification of Morris County Soil Conservation District. Immediately following action by the township planning board or township engineer, as the case may be, pursuant to subsection 19-6.2, whether such action constitutes approval or disapproval, the township clerk shall forward 1 of the 3 complete applications received from the planning board or township engineer to the Morris County Soil Conservation District, together with such other information as the District may require.

In the event that an applicant obtains approval by inaction under the provisions of subsection 19-6.3, the township clerk shall obtain from the planning board or township engineer, as the case may be, 2 complete applications, and the township clerk shall forward 1 complete application to the Morris County Soil Conservation District, together with a statement of approval by inaction and such other information as the District may require.

19-7 ISSUANCE OF PERMITS.

19-7.1 Requirements for Developer's Agreement and Performance Guarantee. Following approval of an application for a land disturbance permit and prior to the issuance of the permit, the applicant shall enter into an agreement with the Township of Mendham with respect to the construction or installation of any required improvements and/or the undertaking of any required measures, which agreement shall include provisions respecting compliance with the terms and conditions of approval, the schedule of work and completion date, the inspection and approval of work and/or measures by the township engineer, the payment of inspection fees, the correction of any defective work and/or measures, the furnishing of a performance guarantee in an amount specified by the board or official having jurisdiction over the application, or as fixed by the township engineer in event of approval by inaction as provided in subsection 19-6.3, 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.

The performance guarantee shall be in favor of the township and shall be equal to one hundred twenty percent (120%) of the total estimated costs of (1) any required improvements called for by the approved Plan and (2) any required measures called for by the approved Plan. The total estimated costs shall be determined by the township engineer. In determining the estimated costs of any improvements and/or measures, the township engineer shall prepare an itemized cost estimate of the improvements and/or measures to be 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 any required improvements and/or the cost of any required measures 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.

The performance guarantee shall set forth the date or dates on or before which any improvements are to be constructed or installed and/or the date or dates before which specified measures are to be undertaken. The performance guarantee shall run for a term not to exceed two (2) years from the date of the approval of the application for the land disturbance permit. Upon the request of an applicant, 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 and/or measures 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 and/or measures as hereinabove provided.

The performance guarantee shall also assure the furnishing of a maintenance guarantee as required by section 19-9.

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 performance guarantee for land disturbance improvements and/or measures may be included in a performance guarantee provided pursuant to the provisions of subsection 16-7.4 when the applicant is simultaneously being granted other approvals pursuant to chapter XVI.

A separate performance guarantee for land disturbance shall be released as provided in section 19-9.3.

19-7.2 Issuance of Permit. Upon receipt of an approved application, or upon approval by reason of inaction as provided in subsection 19-6.3, and the receipt of a performance guarantee meeting the requirements of subsection 19-7.1, the township clerk shall issue a land disturbance permit to the applicant. The township clerk shall attach to the permit a copy of the complete application as approved, including the Plan and all accompanying documents.

19-8 PERFORMANCE OF WORK.

19-8.1 General. A person to whom a land disturbance permit has been issued shall be responsible for the performance of all work in strict conformity with the approved Plan and all terms and conditions thereof, including the time schedule for exposure of land areas and for the construction and installation of improvements or the taking of other measures to prevent soil erosion, sedimentation and flooding.

19-8.2 Inspections by Township Engineer. The township engineer shall inspect every project for which a land disturbance permit has been issued. The township engineer shall be responsible for enforcing compliance with the permit and the provisions and requirements of this chapter.

To assist in making inspections, a copy of the land disturbance permit to which is attached a complete copy of the application with the accompanying Plan and other documents as well as any terms and conditions imposed by the approving authority shall be kept at the site at all times during construction.

Generally, inspections shall be conducted at the following times:

a. Prior to any construction or measures, in order to check details of location and field conditions.

b. Intermittently during construction and vegetative protection measures.

c. After completion of all construction and establishment of vegetation.

d. At least three times during the maintenance period.

e. At other times as may be necessary because of unsatisfactory conditions.

The township engineer shall bring to the attention of the person to whom a land disturbance permit has been issued, or to his agent in charge of work at the site, any deviations from the approved Plan and any other violations of this chapter in order that such deviations and violations may be immediately corrected.

All of the costs of inspections by the township engineer shall be borne by the applicant. The provisions of Section 13-15, Inspection Fees and Costs, of Chapter XIII, Land Use Procedures and Fees, respecting the deposit of funds to cover inspection fees, the administration of such funds and their disbursement shall be applicable and shall be adhered to by the applicant and the township.

It is not intended that an applicant to whom a land disturbance has been issued, who has also received approval for development pursuant to another Chapter of the Land Use Ordinance of the Township of Mendham with respect to the same property and who has provided escrow funds pursuant to the provisions of Section 13-15, shall be required to provide other escrow funds for similar expenses to be borne by the applicant solely by reason of the issuance of the land disturbance permit, provided that the escrow funds on deposit with the township are deemed sufficient to cover the inspection costs in connection with work pursuant to the land disturbance permit. If such funds are deemed to be insufficient, the applicant shall deposit such further funds as may be requested by the township, which request shall be reasonable in regard to the nature and scope of the inspection which may be necessary. No work or further work shall be performed by the applicant until such deposit is made, and, if necessary, a stop work order may be issued by the township.

19-8.3 Stop Work Orders. When in his judgment the circumstances warrant such action, the township engineer may issue a stop work order to a person to whom a land disturbance permit has been issued or to his agent in charge of work at the site. Thereupon, until all deviations from the approved Plan and any other violations of this chapter have been corrected, no work shall be carried on at the site except such work as is necessary to effect such correction. If such deviations and violations are not promptly corrected, the township engineer shall bring the matter to the attention of the township administrator for appropriate action by the township.

19-8.4 Minor Modifications. When deemed necessary or appropriate by reason of conditions arising in the field during the course of the performance of work, the township engineer may order or approve amendments, changes or modifications of a minor nature in an approved Plan.

19-8.5 Hours of Work. All work shall be carried on between the hours of 8 A.M. and 4:30 P.M., prevailing time, Monday through Friday, inclusive. No work shall be carried on at any other time unless permission therefor is granted by the township engineer to a person holding a land disturbance permit.

19-8.6 Certificate of Completion. When the township engineer finds that all construction or installation work and all measures required under an approved Plan have been fully performed in accordance with all the terms and conditions thereof, the township engineer shall issue a certification to that effect.

The township engineer shall deliver 5 copies of every such certification to the township clerk, who shall retain 1 copy and forward a copy to each of the following: the person to whom the land disturbance permit was issued, the township construction official, the secretary of the township planning board, and the Morris County Soil Conservation District.

No certificate of occupancy shall be issued for any building or structure which is part of a project for which a land disturbance permit has been issued until the aforementioned certification has been received by the township construction official.

19-8.7 Completion or Correction of Improvements and/or Measures by Township. If an applicant shall fail to complete any required improvements or shall fail to undertake and maintain any required measures in accordance with the terms and conditions of a land disturbance permit, or if the applicant shall fail to correct any deficiencies or defects in such improvements or measures, the applicant, any other obligor and any surety on a performance bond provided in accordance with the

provisions of subsection 19-7.1 shall be liable thereon to the township for the reasonable cost of the improvements not completed or corrected and/or the reasonable cost of undertaking and maintaining the required measures, and the township may, either prior to or after the receipt of the proceeds thereof, complete or correct such improvements and/or undertake and maintain such measures. Such completion or correction of improvements and/or undertaking and maintaining required measures 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 and/or undertaking and maintaining the required measures shall include all expenses incurred by the township for the preparation of bidding documents and award of a contract or contracts.

19-9 MAINTENANCE; MAINTENANCE GUARANTEE.

19-9.1 Maintenance Obligation. The person to whom a land disturbance permit has been issued and the subsequent owners of the property subject of the permit shall be responsible for and shall maintain all construction and installation work and measures performed pursuant to the permit in good order for a period of two (2) years following the issuance of the certification by the township engineer as provided in subsection 19-8.6.

19-9.2 Maintenance Guarantee. At the time of and prior to the issuance of the certification of completion under subsection 19-8.6, the person to whom the land disturbance permit was issued, or if such person is no longer the owner of the land comprising the project then the current owner or owners, shall furnish the township with a maintenance guarantee to assure compliance with the provisions of subsection 19-9.1. The maintenance guarantee shall be in an amount equal to fifteen percent (15%) of the total cost of the improvements and/or measures required by the approved Plan. The amount of the maintenance guarantee shall be calculated by the township engineer by the same method used for the calculation of the cost of improvements and/or measures as provided in subsection 19-7.1. The maintenance guarantee shall be in the form of an irrevocable letter of credit or a surety bond, provided that all of the requirements of subsection 19-7.1 for such guarantees shall be satisfied. A maintenance guarantee may be furnished, at the election of the person providing it, wholly or partly in the form of a cash deposit pursuant to a cash deposit agreement with the township.

In the event of a failure of compliance with the provisions of subsection 19-9.1, the township shall have the same rights with respect to the maintenance guarantee as are provided in subsection 19-8.7 with respect to a performance guarantee.

The maintenance guarantee shall be released by the township at the end of the 2-year period for maintenance, provided that all of the maintenance obligations set forth in subsection 19-9.1 have been satisfied.

19.9.3 Release of Performance Guarantee. Upon the acceptance of a maintenance guarantee in accordance with the provisions of this section, the township shall release the performance guarantee furnished in accordance with the provisions of section 19-7.

19-10 APPEALS.

Any person aggrieved by any decision or action of the township planning board or the township engineer in the administration of the provisions of this chapter may appeal to the township committee in writing, such appeal to be filed with the township clerk within ten (10) days from the date of the decision or action complained of. The appellant shall be entitled to a hearing before the township committee, which shall fix a date therefor not less than twenty (20) days nor more than thirty (30) days from the date of the decision or action which is the subject of the appeal. Upon such hearing or within ten (10) days thereafter the township committee shall affirm, alter or rescind the decision or action complained of by resolution setting forth written findings of fact and legal conclusions.

19-11 PENALTIES AND INJUNCTIVE RELIEF.

If any person violates any of the provisions of this chapter any of the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee, or any standard established by this chapter or if any person fails to comply with the provisions of an approved Plan, or any terms or conditions imposed by the municipal authority approving such Plan, the Township of Mendham may institute a civil action in the Superior Court of New Jersey for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner.

Any person who violates any of the provisions of this chapter any of the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee, or any standard established by this chapter and any person who fails to comply with the provisions of an approved Plan, or any terms or conditions imposed by the municipal authority approving such Plan shall be liable to a penalty of not less than $25.00 nor more than $3,000.00 to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (R.S. 2A:58-1 and following). The Superior Court, County Court, County District Court and Municipal Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

19-12 RELATIONSHIP TO OTHER ORDINANCE PROVISIONS.

In the event of any inconsistency between the provisions of this chapter and any other provision of the Revised General Ordinances of the Township of Mendham, 1970, as amended and supplemented, the provisions of this chapter shall be controlling, provided, however, that this section 19-12 shall not be interpreted as relieving an applicant for a land disturbance permit or a person to whom a land disturbance permit has been issued from compliance with other ordinance provisions which set higher or more detailed standards than those set forth in this chapter.

CHAPTER XX

SOIL EXTRACTION REGULATIONS

20-1 PURPOSE.

The purpose of this chapter is to protect the public health, safety and general welfare against the adverse effects, including erosion, decreased fertility of soil, surface water drainage problems and other damages to the ecology, which may result from the unregulated and uncontrolled excavation and removal of soil from property in the township when such excavation and removal is not incidental to and in accordance with plans for the use or development of land which have been approved under another chapter of this ordinance.

20-2 REGULATED ACTIVITIES.

No person shall undertake soil extraction for purposes of the sale of soil or for the use of soil other than on the premises from which the soil shall be taken without first having procured a soil extraction permit issued pursuant to the provisions of this chapter.

20-3 EXEMPT ACTIVITIES.

The following projects are exempt from the provisions of this chapter:

a. Soil extraction in the course of excavating for a foundation for a building for which a construction permit has been issued by the township construction official;

b. Soil extraction necessary to meet grades established by subdivision approval;

c. Soil extraction necessary for compliance with the terms and conditions of site plan approval;

d. Soil extraction necessary for compliance with the terms and conditions of a land disturbance permit issued by the township; or

e. Soil extraction involving the removal of less than 10 cubic yards of soil from any property in any twelve-month period.

20-4 APPLICATION FOR SOIL EXTRACTION PERMIT.

20-4.1 Application Forms. Every application for a soil extraction permit shall be submitted on forms which may be obtained from the office of the township clerk and shall include an original and 12 copies. Applications shall set forth the following information:

a. Designation of the property which is the subject of the application by block and lot number as shown on the tax map of the township.

b. Name, address and telephone number of the owner of the subject property.

c. Name, address and telephone number of the person to be in charge of the proposed soil extraction operation, if other than the owner.

d. The reason or reasons for the proposed soil extraction.

e. The type or types of soil proposed to be extracted.

f. The volume in cubic yards of soil proposed to be extracted.
g. The capacity of any trucks to be used in the operation.

h. Haul routes and the location where soil will be deposited.

i. A description of the measures that will be undertaken to prevent road damage, traffic problems and the dropping of soil onto public streets or roads while in transit.

j. The proposed commencement and completion dates of the soil extraction operation.

k. The signature of the applicant.

l. If the applicant is other than the owner, the signature of the owner consenting to the filing of the application.

20-4.2 Documents to Be Submitted with Application. Every application for a soil extraction permit shall be accompanied by 13 copies of the following documents prepared by a licensed professional engineer:

a. A topographic site survey with a scale of not more than 100 feet to the inch which shows all land from which any soil is proposed to be extracted and all land within 200 feet thereof; the existing contours as of the date of the application of all land shown, the contour interval being no greater than 2 feet; all roads, wooded areas and other prominent natural factors upon the land shown; and all ponds, streams, brooks, drainage ways and storm drainage facilities upon the land shown. The topographic site survey shall be based upon township topographic maps when such maps of the subject area are available.

b. A soil extraction plan map which shows all of the information contained on the topographic site survey, except that as to the area or areas from which any soil is proposed to be extracted the map shall show the contours proposed to exist when the soil extraction operation has been completed with final cover; the plans for the handling of surface water drainage designed so as to be compatible and integrated with existing conditions and facilities upon adjacent land; the nature of the proposed final cover; and the plan for the preservation of topsoil to be used as final cover, including the location for storage thereof during the course of the soil extraction operation.

c. Whenever applicable, a soil erosion, sediment control and flood prevention plan meeting the requirements of subsection 19-5.3.

d. An environmental impact study meeting the requirements of Section 17-3 when the proposed soil extraction will require:

(1) the removal of trees or other vegetation in an area of more than 1,000 square fee; or

(2) the disturbance of earth by power driven equipment in an area of more than 1,000 square feet.

20-4.3 Fees. Every applicant shall pay to the township clerk a filing fee at the time of filing an application for a soil extraction permit. A permit fee shall also be paid prior to the issuance of a permit. The fees shall be determined in accordance with subsection 13-14.1.j.

20-4.4 Filing of Application; Time. An application shall be considered as filed when it has been properly completed and delivered to the township clerk with the required accompanying documents and filing fee.

An application shall be filed at least 21 days before a monthly meeting of the planning board in order to be included on the agenda for that meeting.

20-4.5 Distribution of Applications. Upon receiving an application the township clerk shall note the date of submission on all copies of the application form, shall retain 1 copy of the application form together with 1 copy of the other accompanying documents, shall forward 1 copy of the application form together with 1 copy of any accompanying documents to the township engineer, and shall deliver 10 copies of the application form together with 10 copies of the accompanying documents to the secretary of the planning board. The township clerk shall also forward 1 copy of the application form together with 1 copy of any other accompanying documents of the township environmental commission.

20-4.6 Incomplete Applications. Whenever it appears subsequent to submission that an application is incomplete, the secretary of the planning board shall notify the applicant of the deficiencies.

Thirteen copies of any documents furnished for purposes of supplementing an application shall be submitted by the applicant to the township clerk, who shall distribute such documents in accordance with the provisions of subsection 20-4.5.

Whenever an incomplete application is supplemented so as to make it complete, the period of the time limitation set forth in subsection 20-5.6 shall commence to run from the date when the application becomes complete. The new date shall be noted on the original application forms and upon the supplementing documents.

20-5 ACTION UPON APPLICATIONS.

20-5.1 Review of Applications. All applications for soil extraction permitted shall be reviewed by the planning board and the township engineer. The township engineer shall furnish comments on the application to the planning board within 14 days after the submission of the application unless the planning board advises the township engineer of a longer period of time for his review. The planning board may refer an application to the Morris County Soil Conservation District or any other qualified governmental agency or agencies or consultants for review and comments within a period of time indicated by the planning board.

20-5.2 Public Hearing. Following receipt of a report from the township engineer on an application for a soil extraction permit the planning board shall schedule a public hearing following the procedures set forth in Sections 13-6 and 13-7.

20-5.3 Factors to Be Considered When Acting Upon Applications. In acting upon any application for a soil extraction permit, the planning board shall give consideration to the following:

a. Protection of soil fertility;

b. Adequate and proper drainage;

c. Protection against soil erosion;

d. Compatibility of proposed final grades and contours with the surrounding area, including lateral support;

e. Land values and future land uses of those properties affected directly or indirectly by the proposed extraction of soil;

f. Traffic, road damage and weather conditions;

g. Comments and recommendations of the township engineer;

h. Comments and recommendations of the township environmental commission and any other agency or consultant to which the application may have been referred.

i. Comments and recommendations of the public;

j. Such other factors respecting the application as may bear upon and relate to the coordinated, adjusted and harmonious physical development of the township; and

k. Such other factors respecting the application as may bear upon and relate to the general health, safety and welfare of the public.

20-5.4 Approval of Application. If after reviewing an application and accompanying documents, and after having held a public hearing thereon, the planning board finds that the proposed soil extraction operation will not create conditions inimical to the public health, general welfare and safety and will not produce adverse effects upon the present and future use of land, the planning board shall approve the application in whole or in part upon such terms and conditions as it deems appropriate and shall authorize the issuance of a soil extraction permit in accordance with the provision of this chapter.

As to every application which is approved, the planning board shall fix the amount of the performance guarantee required pursuant to the provisions of subsection 20-6.1 and shall fix the date by which the soil extraction operation shall be completed.

In addition to mailing its decision pursuant to subsection 13-8.3, the approved application and accompanying documents shall be delivered to the township clerk together with a certified copy of the resolution granting approval.

20-5.5 Submission of Amended Application. In the event of the disapproval of an application in whole or in part, the applicant may submit an amended application. The procedure to be followed with respect to an amended application shall be the same as the procedure provided for an original application.

20-5.6 Time Limitations. The township planning board shall approve in whole or in part or disapprove an application for a soil extraction permit within a period of 65 days after the submission of a complete application to the township clerk, unless further time is consented to in writing by the applicant.

Failure of the planning board to act upon a complete application within such period or such extension thereof shall constitute approval of the application, and the applicant shall be entitled to the issuance of a soil extraction permit by the township clerk as though the application had been approved pursuant to the provisions of subsection 20-5.4 in the form in which the application was submitted.

20-5.7 Notice of Decision. A brief notice of every final decision of the township planning board on an application for a soil permit shall be published in the official newspaper of the township. Such publication shall be arranged by the township clerk without separate charge to the applicant. The notice shall be sent to the official newspaper for publication within 10 days of the date upon which the township clerk receives notice of the final decision of the planning board from the secretary of the planning board.

20-6 ISSUANCE OF PERMITS.

20-6.1 Requirement for Performance Guarantee. After the approval of an application and before the issuance of a soil extraction permit, the applicant shall file with the township a guarantee sufficient in amount to insure the installation of any drainage or other improvements shown upon the approved soil extraction plan map and to assure the alleviation of any adverse conditions upon the property subject of the application in the event that the soil extraction operation or any part thereof is undertaken and not carried on or completed in accordance with, or within the time provided in the terms and conditions of the soil extraction permit as established by the planning board. Such guarantee may be in the form of a bond issued by a corporate surety licensed to do business in the State of New Jersey, an irrevocable letter of credit or a cash deposit with the township. The guarantee shall be approved by the township attorney as to form and execution. The amount of the guarantee shall be fixed by the planning board and shall not be in excess of the cost estimated by the township engineer for the installation of improvement and for the alleviation of adverse conditions which might result from the aforementioned failure to complete the operation.

Upon completion of a soil extraction operation as provided in subsection 20-6.3 and certification by the township engineer pursuant to subsection 20-7.5, the guarantee furnished by the applicant shall be release by resolution of the township committee.

20-6.2 Issuance of Permit. Upon receipt of an approved application (or upon approval by reason of inaction as provided in subsection 20-5.6), a performance guarantee meeting the requirements of subsection 20-6.1 and the fees required by subsection 20-4.3, the township clerk shall issue a soil extraction permit to the applicant. The township clerk shall attach to the permit such documents as are necessary and appropriate to set forth all of the terms and conditions of the permit.

20-6.3 Term of Permit. Every soil extraction permit shall have a term equal to the period of time approved by the planning board for the completion of the soil extraction operation. Every soil extraction operation shall be completed within the period specified in the permit issued therefor The operation shall be considered as completed when the township engineer has issued a certificate of completion as provided in subsection 20-7.5.

20-7 PERFORMANCE OF WORK.

20-7.1 Soil Extraction Operations. Every soil extraction operation shall be conducted in accordance with the following standards:

a. All of the top six (6) inches of existing soil shall be retained on the property subject of the soil extraction permit. Such soil shall be set aside and protected, and upon completion of the soil extraction operation such soil shall be redistributed as final cover in accordance with the terms and conditions of the soil extraction permit.

b. To the extent feasible and consistent with future use of the property healthy mature trees shall be preserved. Trees which are taken down shall be removed from the property. No trees, parts of trees or stumps shall be buried upon any land within the township.

c. Upon the completion of a soil extraction operation or any part thereof the final cover shall, as soon as weather permits, be seeded or planted with grass or other suitable ground cover to prevent erosion.

d. Only such public streets and roads approved or designated by the planning board shall be used for the transportation of soil.

e. The permittee shall cause public streets and roads to be kept free from dirt resulting from such soil extraction operation and shall take appropriate measures to avoid violations of Section 10-4, Street and Sidewalk Protection.

f. All operations shall take place only between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

20-7.2 Inspection by Township Engineer. The township engineer shall inspect every project for which a soil extraction permit has been issued. The township engineer shall be responsible for enforcing compliance with the permit and the provisions and requirements of this chapter.

To assist in making inspection, a complete copy of the soil extraction permit issued by the township clerk shall be kept at the site at all times during the operation.

20-7.3 Stop Work Orders. When in his judgment the circumstances warrant such action, the township engineer may issue a stop work order to a person to whom a soil extraction permit has been issued or to his agent in charge of work at the site. Thereupon, until all deviations from the permit and any other violations of this chapter have been corrected, no work shall be carried on at the site except such work as is necessary to effect such correction. If such deviations and violations are not promptly corrected, the township engineer shall bring the matter to the attention of the township administrator for appropriate action by the township.

20-7.4 Minor Modifications. When deemed necessary or appropriate by reason of conditions arising in the field during the course of the performance of work, the township engineer may order or approve amendments, changes or modifications of a minor nature in an approved soil extraction permit.

20-7.5 Certificate of Completion. When the township engineer finds that all operations are complete, all measures required under the permit have been fully performed in accordance with all the terms and conditions thereof, and the grass or other groundcover planted in the final cover is in existence, the township engineer shall issue a certificate of compliance.

The township engineer shall deliver 4 copies of every such certification to the township clerk, who shall retain 1 copy and forward a copy to each of the following: the person to whom the soil extraction permit was issued, the township construction official and the secretary of the planning board.

20-8 APPEALS.

Any person aggrieved by any decision or action of the township planning board or the township engineer in the administration of the provisions of this chapter may appeal to the township committee in writing, such appeal to be filed with the township clerk within 10 days from the date of the publication of the notice of the decision or action complained of in the event that notice thereof is not required to be published. The appellant shall be entitled to a hearing before the township committee, which shall fix a date therefor not less than 20 days nor more than 30 days from the date of the filing of the appeal. Upon such hearing or within 10 days thereafter the township committee shall affirm, alter or reverse the decision or action complained of by resolution setting forth written findings of fact and legal conclusions.

The provisions of this section shall not be construed a as restricting the right of any person to obtain a review of any decision or action of the township planning board or township engineer by any court of competent jurisdiction according to the law.

20-9 PENALTIES AND INJUNCTIVE RELIEF.

20-9.1 Penalties. Any person who violated any provision of this chapter shall be subject to a fine of not more than $500.00 or imprisonment in the county jail for a term not exceeding 90 days, or both, for each offense. Each and every day that any provision of this chapter shall be violated shall constitute a separate and distinct violation.

20-9.2 Injunctive Relief. Notwithstanding the provisions of subsection 20-9.1, the township may also proceed to obtain injunctive relief to abate any violation and correct any adverse conditions resulting from such violations.

[1]CHAPTER XXI

ZONING REGULATIONS

21-1 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 regulating the appropriate use of land in a manner which will promote the public health, safety, morals and general welfare; securing safety from fire, flood and other natural and man-made disasters; providing adequate light, air and open space; establishing appropriate population densities; promoting the preservation of the environment; promoting a desirable visual environment; promoting the conservation of open space and valuable natural resources; and preventing urban sprawl and degradation of the environment resulting from the improper use of land.

21-2 ESTABLISHMENT OF DISTRICTS.

21-2.1 Zone Districts. For purposes of this ordinance the Township of Mendham is divided into 11 zone districts known as

R	One Family Residence District
R-1	One Family Residence District
R-2	One Family Residence District
R-3	One Family Residence District
R-5	One Family Residence District
R-10	One Family Residence District
R-C	One Family Residence District
CR-1	Combination Residential District
CR-2	Combination Residential District
G	Golf District
B	Neighborhood Business District

21-2.2 Zoning Map and Schedule of Requirements. The map entitled "Township of Mendham, Morris County, New Jersey, Zoning Map, March 27, 2001 including the Schedule of Requirements appearing thereon, is hereby declared to be a part of this chapter.

21-2.3 Rules for Interpretation of District Boundaries.

a. Where a boundary line is shown as approximately following the center line of a street or highway, a street line or highway right-of-way line, such center line, street line or right-of-way line shall be construed to be such boundary. The boundary line will be changed automatically whenever the centerline, street line or highway right-of-way line is changed, if the change does not exceed 20 feet.

b. Where a boundary line is shown as following a lot line, the lot line shall be construed to be the boundary.

c. Where a boundary line follows a stream, the boundary shall be deemed to be the centerline of the stream.

d. Where a boundary line is shown as approximately parallel to a street, highway or stream, the boundary shall be construed as being parallel thereto and at such distance from the center line as indicated on the zoning map.

e. In cases of doubt, the boundary line will be determined by the board of adjustment.

21-3 APPLICATION OF REGULATIONS.

No land shall be used or occupied and no building or part thereof shall be used, occupied, erected, moved or altered unless in conformity with the regulations hereinafter specified for the district in which it is located and in conformity with the Schedule of Requirements which accompanies this chapter and which is hereby made a part of this chapter.

There shall be provided for every lot a front, a rear and side yards as required in the zone district in which the lot is located. All front yards must face upon a dedicated public street or a private street meeting the requirements of this chapter and shall be of the size required for the particular district in which the lot is located. On existing streets less than 50 feet in width, the required front yard shall be

increased by one-half the difference between the width of the street and 50 feet.

No building shall be erected or altered to accommodate or house a greater number of families or have narrower or smaller front yards, rear yards or side yards than is specified for the district in which the building is located.

No open space which has been counted or included as a part of a front yard, side yard, rear yard or other open space as required by this chapter for one building shall by reason of change of ownership or for any other reason be counted or included in order to comply with the yard or other open space requirement for any other building.

No lot shall be so reduced in area that it does not meet the area requirements, or that any required open space will be smaller, than prescribed in the regulations for the district in which the lot is located.

21-4 RESIDENCE DISTRICTS.

21-4.1 Uses. In the residence districts R, R-1, R-2, R-3, R-5, R-10 and R-C the following uses are permitted:

a. Single detached house used as a residence by not more than one family with a minimum floor area of not less than 800 square feet.

b. Horticulture or agriculture as a livelihood, subject to Subsection 21-4.5 and provided that commodities offered for sale upon the premises are grown on the premises.

c. Parks and playgrounds not associated with any building.

d. Accessory uses and buildings as regulated by Subsection 21-4.4 (Accessory Uses and 21-4.5 (Supplementary Regulations) of this Chapter provided that no accessory building shall exceed 2,000 square feet of footprint by itself or when the footprints of all accessory buildings aggregated together exceed 2,000 square feet unless approved in accordance with paragraph 21- 4.6(g) (Conditional Uses).

d. Conditional uses as regulated by Subsection 21-4.6 of this Chapter.

e. Agricultural uses, meaning the right to engage in agriculture as defined herein, shall be permitted in every residential zone, and it shall be presumed that such uses, activities and structures in connection therewith shall not constitute a public or private nuisance, provided that such agricultural uses are conducted in conformance with Acceptable Agricultural Management Practices as defined herein.

1. All uses and structures customarily incidental to agricultural shall be permitted accessory uses in all residential zones, including, but not limited to:

   a. The storage, processing and sale of farm products where produced;
   b. The use of irrigation pumps and equipment
   c. The application of manure, chemical fertilizers, insecticides, pesticides and herbicides;
   d. On site disposal of organic agricultural waste
   e. Installation of soil and water conservation practices in accordance with a Conservation Plan approved by the Morris County Soil Conservation District.
   f. Transportation of slow moving equipment over roads within the municipality.
   g. Utilization of tractors and other necessary equipment;
   h. The employment of farm laborers;
   i. The creation of noise, dust, odors and fumes inherently associated with such uses;
   j. The conduction of farm practices at any and all times when necessary;
   k. Recreational use (snowmobiling, off-highway vehicle use, hunting, etc.) as permitted by the farm owner, with the provision that any recreational use of farm land that changes the underlying agricultural nature of the land shall be subject to the usual site plan review, variance application and all permits where otherwise required.
   l. Provisions for the wholesale and retail marketing of the agricultural output of the farm which include the building of temporary and permanent structures and parking areas for said purpose which all must conform with municipal land development standards; and
   m. The raising and keeping of farm animals including pets, pastoral farm animals (dairy and beef cattle, sheep and goats), swine, fowl, horses, ponies and mules, provided that proper sanitation standards, minimum acreage limits and boundary sizes between fencing or enclosures and joining properties are established.

21-4.2 CR-1 Combination Residential District.

a. Permitted Uses.

   1. The CR-1 Zone is designed for and permits conventional detached single dwelling unit residential development, in combination with limited income housing (LIH), as well as conditional uses as regulated by subsection 21-4.6 of this chapter, and accessory uses as regulated by subsection 21-4.4 of this chapter.

   2. Additional accessory Uses. Housing facilities, as an accessory use to dedicated common open space as required in the CR-1 Zone, shall be permitted in accordance with the following limitations and regulations:

      One (1) single family detached dwelling shall be permitted for each 250 acres of dedicated common open space, or part thereof, to be situated within the common open space at locations to be approved by the Planning Board. Such housing facilities shall be for the use and occupancy of caretakers (and their families) employed for the purpose of providing security and maintenance for the said common open space area.

b. Intensity of Development. The maximum gross density of any tract inclusive of conventional housing development and LIH shall not exceed .214 dwelling units per acre, provided, however, that any development in the CR-1 Zone shall provide for LIH at the rate of .026 dwelling units per acre.

c. Conventional detached single dwelling unit residential development shall meet the following requirements:

1. Minimum Lot Area. No lot shall contain less than 35,000 square feet, provided that the average lot area (exclusive of any open space parcel) in any development shall not be less than 40,000 square feet.

2. Lot Frontage and Depth. The dimensions and geometry of each lot shall be as approved by the planning board.

3. All other bulk requirements shall be as established for the CR-1 Zone as set forth in the Schedule of Requirements on the Zoning Map which is incorporated in this chapter, provided, however, that the required front yard setback of 35 feet set forth in said schedule, may be reduced in instances and locations where the presence of severe physical constraints on the lot are verified by the township engineer. In no event, however, shall such reduction result in a front yard setback of less than 25 feet.

4. The aggregate area of all impervious surfaces shall not exceed twenty percent (20%) of the lot area.

5. Applications for preliminary subdivision and preliminary site plan approval shall address the entire development area inclusive of conventional residential, LIH and common open space.

d. LIH as defined in this chapter shall meet the following requirements:

1. Building Size. No new LIH structure shall contain more than eight (8) nor less than four (4) dwelling units. No LIH structure resulting from the alteration of an existing building shall contain more than nine (9) dwelling units.

2. Setbacks. No new LIH building or structure shall be erected to be within one hundred (100) feet from any property line. No existing building or structure altered for use as LIH shall be within fifty (50) feet from any property line unless the location thereof is found by the planning board to be reasonably necessary to the overall plan of development, in which case the setback limitation shall not apply. Structures necessary in connection with vehicular access to the interior of the site and directional signs shall be located as approved by the planning board.

3. Building Height. No building shall be erected or altered to exceed a height of thirty-five (35) feet or two and one-half (2-1/2) stories, whichever is the lesser.

4. Buffer Areas. Those setbacks required in paragraph 2 above shall be attractively landscaped unless native vegetation is deemed appropriate by the planning board.

5. Rooms and Minimum Floor Areas. Any room other than living room, dining room, kitchen, bathroom, laundry room, utility room, foyer or hallway shall be construed as a bedroom, and every unit shall have at least one (1) bedroom. At least fifty percent (50%) of the residential units shall have more than one (1) bedroom, provided, however, that at least ten percent (10%) of the residential units shall have more than two (2) bedrooms. Minimum floor areas shall be as follows: one-bedroom unit, 540 square feet; two-bedroom unit, 750 square feet; three-bedroom unit, 900 square feet. The bedroom mix for the low income and the moderate income household units shall be substantially similar.

6. Facilities. Each residential unit shall contain, as a minimum, a separate living room, a separate bedroom, a separate bath, storage area, utilities, a separate kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with the exception of the dining room.

7. Distance between Buildings. There shall be a minimum distance between residential structures of sixty (60) feet, except that where an exterior side wall of one dwelling structure faces an exterior side wall of another dwelling structure there shall be a minimum distance of forty (40) feet.

8. Architecture and Construction. The architecture employed shall be aesthetically congruous with the surrounding area as approved by the planning board. All buildings shall be constructed in accordance with the State Uniform Construction Code and shall comply with all other applicable municipal or state requirements.

   (a) All exterior of perimeter walls of dwelling structures shall be of wood, brick, stone or other accepted durable material, provided, however, that asbestos shingle or cinder block as an exterior finish is prohibited.

   (b) The exterior of any accessory structures shall harmonize architecturally with and be constructed of materials of a like character to those used in principal structures.

9. Parking. There shall be one and one-half (1-1/2) off-street parking spaces for each one-bedroom unit, two (2) off-street parking spaces for each two bedroom unit, and two and one-half (2-1/2) off-street parking spaces for each three-bedroom unit.

10. All sales or rentals of LIH units shall be in accordance with the eligibility and other requirements and regulations contained in this Chapter.

11. Required LIH shall be constructed concurrently and in proportion with the conventional units built. To assure compliance with this requirement, after the issuance of twenty-five percent (25%) of the conventional housing units certificates of occupancy, the following schedule shall be complied with:

   (a) The applicant may obtain construction permits for up to thirty-seven and one-half percent (37.5%) of

the total conventional units, provided, however, no certificates of occupancy above the initial twenty-five percent (25%) shall be issued for any additional conventional units until certificates of occupancy are issued for fifty percent (50%) of the LIH units.

(b) The applicant shall be entitled to obtain construction permits for fifty percent (50%) of the total conventional dwelling units and may obtain certificates of occupancy for such units without constructing additional LIH units above the fifty percent (50%) referred to in paragraph (a) above.

(c) The applicant may obtain construction permits for sixty-two and one-half

(d) percent (62.5%) of the total conventional dwelling units, provided, however, no additional certificates of occupancy shall be issued above the fifty percent (50%) of the conventional units referred to in paragraph (b) above until certificates of occupancy are issued for all of the LIH units.

Nothing contained herein shall preclude the applicant from constructing LIH units prior to the construction of conventional units as provided in the foregoing schedule.

At every stage of the development not less than fifty percent (50%) of the LIH units shall be made available exclusively to low income households.

12. Notwithstanding requirements of this or any other ordinance of the Township of Mendham concerning fees, the Township of Mendham shall waive the following fees otherwise due in connection with LIH portions of a development.

(a) Subdivision and/or site plan application fees as applicable;

(b) Construction permit fees, except state and third party fees not waived;

(c) Fees for certificates of occupancy; and

(d) Any utility connection fees otherwise due to the Township of Mendham.

e. Utilities.

1. Every dwelling unit within the development must be connected to a central water supply and sewage disposal systems, as approved by the township board of health or such other governmental agency having jurisdiction thereover.

2. Fire hydrants shall be installed by the developer in adequate numbers and at locations approved by the township engineer.

f. Access. No access to any residential structure shall be permitted directly from Pleasant Valley Road, Union Schoolhouse Road or Roxiticus Road. Internal access to individual structures and/or residential units shall be provided by way of driveways or streets under private ownership. Private driveways and streets shall be installed in accordance with requirements of site plan approval.

g. 1. No less than fifty nine percent (59%) of the gross lot area of any development in the CR-1 Zone shall be set aside and remain in common open space and shall meet the following standards:

(a) No common open space area shall contain less than fifty (50) acres, unless said area is to be annexed to an existing or proposed publicly owned common open space within the Township of Mendham, the aggregate area of which shall not be less than fifty (50) acres, unless a smaller area is shown on the master plan of the township.

(b) The area remaining in common open space shall be of a shape and at a location as approved by the planning board.

(c) Common open space may be used for sub-surface utilities, including but not limited to sewage disposal facilities, provided that the manner of the use will not diminish or interfere with the intended purpose or enjoyment of the open space.

(d) In calculating the required area for open space, areas adjacent to LIH structures shall be included as open space, provided, however, that the actual building sites, together with all walkways, sidewalks, driveways and parking areas serving the LIH shall not qualify as required open space.

2. The common open space required by subsection 21-4.2 g.1. shall be set aside in perpetuity for land conservation purposes and the use thereof shall be limited to nature and hiking trails. Picnicking and overnight camping shall be permitted pursuant to regulations approved by the planning board. All construction, installations, uses and activities inconsistent with the foregoing shall be prohibited.

3. The Township of Mendham may, if the township committee deems it to be in the public interest, accept the dedication of the common open space area required to be set aside pursuant to subsection 21-4.2 g.1. for public use and maintenance, and in such case the developer shall convey the title to the lands contained in such common open space area to the Township of Mendham in fee simple absolute by suitable deed of conveyance, provided, however, that the planning board shall not require as a condition of approval of any development in the CR-1 Zone that lands set aside for common open space be dedicated or made available to public use.

4. If the lands set aside for common open space as required by subsection 21-4.2 g.1. are not dedicated to the Township of Mendham as provided in subsection 21-4.2g.3 the developer shall provide for an organization for the ownership, management and maintenance of the said lands required to be set aside for common open space for the benefit of owners or residents of the development, provided, however, that the developer may permit the limited use of such common open space area by such other persons as the developer may deem appropriate upon such terms and conditions as the developer may reasonably

establish. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own, manage and maintain the open space for the uses and purposes set forth in this section, and thereafter such organization shall not be dissolved or dispose of any of its open space without the prior approval of the township committee. In the event that such organization shall fail to maintain the open space in a reasonable order and condition, the planning board may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be remedied within thirty-five(35) days thereof and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the planning board may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time, not to exceed sixty-five (65) days, within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within the said thirty-five (35) days or any permitted extension thereof, the township, in order to preserve the open space and maintain the same for a period of one (1) year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the planning board shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing, upon fifteen (15) days written notice to such organization and to the owners of the development, to be held by the planning board, at which hearing such organization and the owners of the development shall show cause why such maintenance by the township shall not, at the election of the township, continue for a succeeding year. If the planning board shall determine that such organization is ready and able to maintain said open space in reasonable condition, the township shall cease to maintain said open space at the end of said year. If the planning board shall determine that such organization is not ready and able to maintain said open space in a reasonable condition, the township may, in its discretion, continue to maintain said open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the planning board in any such case shall constitute a final administrative decision subject to judicial review. The cost of such maintenance by the township shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space in accordance with assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and shall be added to and be a part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officers and in the same manner as other taxes.

h. Prior to the approval of any development in the CR-1 Zone, the planning board shall have approved development plans verifying compliance with the purposes of this section and all the requirements established in this chapter. The information submitted in this regard shall include but not be limited to:

1. Environmental impact study consistent with the standards and requirements of Chapter XVII, Environmental Impact Study.

2. All property boundary, topographic and soil information and other applicable details required in connection with preliminary plats under subsection 16-8.4 of

Chapter XVI, Subdivision and Site Plan Review.

3. Building floor plans and elevations for all structures intended for other than detached single dwelling residential use.

4. Area lighting data, provisions for trash, garbage and refuse disposal, landscaping plans and utility information.

5. Deed restrictions, covenants or other suitable instruments designed to implement plans and requirements in connection with open space ownership and provisions for the funding of the management and maintenance thereof as well as in connection with eligibility for rental of required LIH to be provided as part of the development.

21-4.3 CR-2 Combination Residential District.

a. Permitted Uses. The CR-2 Zone is designed for and permits conventional detached single dwelling unit residential development in combination with limited income housing (LIH), as well as conditional uses as regulated by subsection 21-4.6 of this chapter, and accessory uses as regulated by subsection 21-4.4 of this chapter.

b. Intensity of Development. The maximum gross density of any tract inclusive of conventional housing and LIH shall not exceed 1.30 dwelling units per acre, provided, however, that any development in the CR-2 Zone shall provide for LIH at the rate of 0.20 dwelling units per acre.

c. Conventional detached single dwelling unit residential development shall meet the bulk requirements applicable in the R Zone, provided, however, that the aggregate area of all impervious surfaces on any lot shall not exceed thirty (30%) of the lot area.

d. LIH as defined in this chapter shall meet the following requirements:

1. Building Size. No LIH structure shall contain more than eight (8) nor less than four (4) dwelling units.

2. Setbacks. No building or structure shall be erected, installed or altered to be within one hundred (100) feet from any property line, except for those structures necessary in connection with vehicular access to the interior of the site and directional signs as approved by the planning board.

3. Building Height. No building shall be erected or altered to exceed a height of thirty-five (35) feet or two and one-half (2-1/2) stories, whichever is the lesser.

4. Buffer Areas. Those setbacks required in paragraph (2) above shall be attractively landscaped unless native vegetation is deemed appropriate by he planning board.

5. Rooms and Minimum Floor Areas. Any room other than living room, dining room, kitchen, bathroom, laundry room, utility room, foyer or hallway shall be construed as a bedroom, and every unit shall have at least one (1) bedroom. At least fifty percent (50%) of the residential units shall have more than one (1) bedroom, provided, however, that at least ten percent (10%) of the residential units shall have more than two (2) bedrooms. Minimum floor areas shall be as follows: one-bedroom unit, 540 square feet; two-bedroom unit, 750 square feet; three-bedroom unit, 900 square feet. The bedroom mix for the low income and the moderate income household units shall be substantially similar.

6. Facilities. Each residential unit shall contain, as a minimum, a separate living room, a separate bedroom, a separate bath, storage area, utilities, a separate kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with the exception of the dining room.

7. Distance between Buildings. There shall be a minimum distance between residential structures of sixty (60) feet, except that where an exterior side wall of one dwelling structure faces an exterior side wall of another dwelling structure there shall be a minimum distance of forty (40) feet.

8. Architecture and Construction. The architecture employed shall be aesthetically congruous with the surrounding area as approved by the planning board. All buildings shall be constructed in accordance with the State Uniform Construction Code and shall comply with all other applicable municipal or state requirements.

(a) All exteriors of perimeter walls of dwelling structures shall be of wood, brick, stone or other accepted durable material, provided, however, that asbestos shingle or cinder block as an exterior finish is prohibited.

(b)The exterior of any accessory structures shall harmonize architecturally with and be constructed of materials of a like character to those used in principal structures.

9. Utilities.

(a) Every dwelling unit within the development must be connected to a public potable water system as approved by the township board of health.

(b) Fire hydrants shall be installed by the developer in adequate numbers and at locations approved by the township engineer.

10. Access. No access to any residential structure shall be permitted directly from State Highway Route 24, Tempe Wick Road or Cold Hill Road, provided, however, that a common driveway for access to LIH units shall be permitted from Tempe Wick Road or Cold Hill Road. All streets shall be constructed to meet the requirements of Chapter X of the Revised General Ordinances of the Township of Mendham, 1970, as amended and supplemented, and upon compliance with the provisions of Chapter X, Paragraph 10-2.2, shall be accepted by the township. All driveways and streets shall be installed in accordance with the requirements of site plan approval.

11. Parking. There shall be one and one-half (1-1/2) off-street parking spaces for each one-bedroom unit, two (2) off-street parking spaces for each two bedroom unit, and two and one-half (2-1/2) off-street parking spaces for each three-bedroom unit.

12. All sales or rentals of LIH units shall be in accordance with the eligibility and other requirements and regulations contained in this chapter.

13. Required LIH shall be constructed concurrently and in proportion with the coventional units built. To assure compliance with this requirement, after the issuance of twenty-five percent (25%) of the conventional housing units certificates of occupancy, the following schedule shall be complied with:

(a) The applicant may obtain construction permits for up to thirty-seven and one-half percent (37.5%) of the total conventional units, provided, however, no certificates of occupancy above the initial twenty-five percent (25%) shall be issued for any additional conventional units until certificates of occupancy are issued for fifty percent (50%) of the LIH units.

(b) The applicant shall be entitled to obtain construction permits for fifty percent (50%) of the total conventional dwelling units and may obtain certificates of occupancy for such units without constructing additional LIH units above the fifty percent (50%) referred to in paragraph (a) above.

(c) The applicant may obtain construction permits for sixty-two and one-half percent (62.5%) of the total conventional dwelling units, provided, however, no additional certificates of occupancy shall be issued above the fifty percent (50%) of the conventional units referred to in paragraph (b) above until certificates of occupancy are issued for all of the LIH units.

Nothing contained herein shall preclude the applicant from constructing LIH units prior to the construction of conventional units as provided in the foregoing schedule.

At every stage of the development not less than fifty percent (50%) of the LIH units shall be made available exclusively to low income households.

14. Notwithstanding requirements of this or any other ordinance of the Township of Mendham concerning fees, the Township of Mendham shall waive the following fees otherwise due in connection with LIH portions of a development:

(a) Subdivision and/or site plan application fees as applicable;

(b) Construction permit fees, except state and third party fees not waived;

(c) Fees for certificates of occupancy;

(d) Any utility connection fees otherwise due to the Township of Mendham.

e. 1. Not less than thirty-two percent (32%) of the gross lot area of any development in the CR-2 Zone shall be set aside and remain in common open space. Consistent with good planning practices and where the applicant would suffer practical difficulties and hardship, the planning board may permit a reduction in the open space requirement to twenty-five percent (25%), provided, however, that this provision shall not be a basis for increasing density. Common open space shall meet the following standards:

(a) No common open space area shall contain less than ten (10) acres, unless the area is to be annexed to an existing or proposed publicly owned common open space area, the aggregate area of which shall be not less than ten (10) acres, or unless a smaller area is shown on the master plan of the township.

(b) The area remaining in common open space shall be of a shape and at a location as approved by the planning board.

(c) Common open space may be used for sub-surface utilities, including but not limited to sewage disposal facilities, provided that the manner of the use will not diminish or interfere with the intended purpose or enjoyment of the open space.

(d) In calculating the required area for open space, areas adjacent to LIH structures shall be included as open space, provided, however, that the actual building sites, together with all walkways, sidewalks, driveways and parking areas serving the LIH shall not qualify as required open space.

2. The common open space required by subsection 21-3.3e.1. shall be set aside in perpetuity for land conservation purposes and the use thereof shall be limited to nature and hiking trails and such other recreation facilities as approved by the planning board. All construction, installations, uses and activities inconsistent with the foregoing shall be prohibited.

3. The Township of Mendham may, if the township committee deems it to be in the public interest, accept the dedication of the common open space area required to be set aside pursuant to subsection 21-4.3e.1. for public use and maintenance, and in such case, the developer shall convey the title to the lands contained in such common open space area to the Township of Mendham in fee simple absolute by suitable deed of conveyance, provided, however, that the planning board shall not require as a condition of approval of any development in the CR-2 Zone that lands set aside for common open space be dedicated or made available to public use.

4. If the lands set aside for common open space as required by subsection 21-4.3e.1. are not dedicated to the Township of Mendham as provided in subsection 21-4.3e.3, the developer shall provide for an organization for the ownership, management and maintenance of the said lands required to be set aside for common open space for the benefit of owners or residents of the development. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own, manage and maintain the open space for the uses and purposes set forth in this section, and thereafter such organization shall not be dissolved or dispose of any of its open space without the prior approval of the township committee. In the event that such organization shall fail to maintain the open space in a reasonable order and condition, the planning board may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be remedied within thirty-five (35) days thereof and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the planning board may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time, not to exceed sixty-five (65) days, within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said thirty-five (35) days or any permitted extension thereof, the township, in order to preserve the open space and maintain the same for a period of one (1) year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the planning board shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing, upon fifteen (15) days written notice to such organization and to the owners of the development, to be held by the

planning board, at which hearing such organization and the owners of the development shall show cause why such maintenance by the township shall not, at the election of the township, continue for a succeeding year. If the planning board shall determine that such organization is ready and able to maintain said open space in reasonable condition, the township shall cease to maintain said open space at the end of said year. If the planning board shall determine that such organization is not ready and able to maintain said open space in a reasonable condition, the township may, in its discretion, continue to maintain said open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the planning board in any such case shall constitute a final administrative decision subject to judicial review. The cost of such maintenance by the township shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space in accordance with assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and shall be added to and be a part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officers and in the same manner as other taxes.

f. Prior to the approval of any development in the CR-2 Zone, the planning board shall have approved development plans verifying compliance with the purposes of this section and all the requirements established in this chapter. The information submitted in this regard shall include but not be limited to:

1. Environmental impact study consistent with the standards and requirements of Chapter XVII, Environmental Impact Study.

2. All property boundary, topographic and soil information and other applicable details required in connection with preliminary plats under subsection 16-8.4 of Chapter XVI, Subdivision and Site Plan Review.

3. Building floor plans and elevations for all structures intended for other than detached single dwelling unit residential use.

4. Area lighting data, provisions for trash, garbage and refuse disposal, landscaping plans and utility information.

5. Deed restrictions, covenants or other suitable instruments designed to implement plans and requirements in connection with open space ownership and provisions for the funding of the management and maintenance thereof as well as in connection with eligibility for purchase and rental of required LIH to be provided as part of the development.

21-4.4 Accessory Uses. The following accessory uses shall be permitted:

a. Private garage subject to subsection 21-4.5.

b. Non-commercial greenhouses.

c. Professional practice as defined in Chapter XII, General Definitions, provided that the practice does not occupy more than 500 square feet of the floor area of the dwelling.

d. Home occupation as defined in Chapter XII, General Definitions, provided that it complies with the following standards:

i. The principal use of the premises shall be residential
ii. The person engaged in such home occupation shall be a resident on the premises
iii. There shall be no nonresident partners, employees or helpers working on the premises
iv. The business of the home occupation is carried on wholly within the completely enclosed residence building and does not occupy more than 500 square fee of the floor area of the dwelling.
v. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
vi. No traffic or parking shall be generated by a home occupation in greater volume than would normally be experienced in a residential neighborhood.
vii. No equipment or process shall be used in a home occupation which creates noise, glare, fumes, odors, electrical interference or other nuisance factors detectable from a neighboring property.
viii. One commercial vehicle may be parked out-of-doors (as permitted by paragraph 21-4.5(d), provided it is used solely for transportation by a person residing on the premises. Except for that one commercial vehicle, any material, equipment or commercial vehicles which might be used in the home occupation shall be presumed to be related to the home occupation and may be stored only in one accessory building which shall not exceed one story with a maximum height of eighteen feet and 800 square feet of floor area and may have electricity, heat and water, but no kitchen, toilet or septic facilities.
ix. The yard setbacks for the accessory building used for storage for a home occupation shall be double the otherwise required yard setbacks.

e. Family swimming pool and/or tennis court, subject to the yard requirements for accessory structures as set forth in subsection 21-6.4. Any artificial lighting shall be shielded so that the direct source of the light is not visible from any point along the boundary lines of the property, and such artificial lighting shall not cause illumination in excess of 0.5 foot candles as measured at any point along the boundary lines of the property.

f. Detached dwelling for guests or employees, provided that such dwelling shall be so located that a future minor subdivision of the property could be made in a manner that both the existing dwelling and the detached dwelling would meet all of the respective area and yard requirements of the zone district.

g. Sale of farm or garden products only if such products are grown on the premises.

h. Barns, stables and sheds.

I. Dog kennel for not more than three dogs over six months old.

No accessory use conducted within a dwelling, or in association with a residential use, such as but not limited to a permitted professional practice, home occupation, or religious practice, shall involve the concurrent presence on the premises of more than three persons who are not members of the household occupying the dwelling, their residential house guests or domestic employees. No accessory building or structure shall be located on any lot upon which there is no principal building.

21-4.5 Supplementary Regulations.

a. Private Garage. In any residence district a private garage is permitted as an accessory to the principal use. Not more than one space within the garage shall be rented to or used by any other than the owner or lessee of the premises or by other than the person residing in the principal building of that lot.

b. Signs. The only signs permitted are as follows:

1. Name plate signs not exceeding one square foot in area, or professional or announcement signs not exceeding two square feet in area. Said signs may be placed anywhere in the front yard.

2. Temporary real estate signs not more than four feet in area advertising the sale or lease of the premises on which such sign is maintained. Not more than one sign shall be permitted on any lot. A sign shall be removed within 7 days after the execution of a contract of sale or lease for the lot upon which the sign is located.

No sign shall be illuminated by other than white, non-flashing, non-moving illumination. The direct source of light shall not be visible from any point along the boundary lines of the property.

c. Keeping of Animals or Poultry, Cattle, horses, sheep, goats, not more than six pigs six months old or over, or other farm livestock or poultry may be kept provided that any housing or runs therefor are subject to the yard requirements for principal buildings as set forth in Schedule of Requirements accompanying this chapter.

d. Storage and Parking of Commercial Vehicles. Storage, parking or keeping of commercial vehicles is permitted as an accessory use provided they are kept in an enclosed building and are owned and operated by a resident of the premises. One commercial vehicle may be kept out-of-doors, provided it is used solely for transportation by a person residing on the premises. Except for one commercial vehicle, no vehicle having a gross vehicle weight in excess of three (3) tons, including, without limitation, dump trucks, bulldozers, backhoes, tractors, trenchers, dumpsters and similar equipment, whether registered with commercial or individual plates or unregistered, shall be stored or parked outside of an enclosed building in a residential zone, unless such vehicle is being used for a permitted construction activity on the property. If the vehicle has not been operated or used on the property in connection with a permitted construction activity for a consecutive period of fourteen (14) calendar days, it shall be deemed as not being used on the property. This paragraph shall not be deemed to allow the warehousing or garaging of vehicles in a manner which would violate paragraph 21-4.4(d).

e. Accessory Apartments. Two (2) classes of Accessory Apartment are permitted in Mendham Township: Market Accessory Apartments and Inclusionary Accessory Apartments. Market Accessory Apartments shall conform to the requirements of Subparagraph A. Inclusionary Accessory Apartments shall conform to the requirements of Subparagraph B. All Accessory apartments shall conform to the requirements of Subparagraph C.

A. Market Accessory Apartments.

1. A Market Accessory Apartment (MAA) may be located in a single family dwelling in any residential zone district provided it is created in accordance with and conforms to all provisions to this Subsection 21-4.5f. An MAA may be incorporated in a new dwelling or may be created within an existing dwelling constructed in accordance with all ordinances and regulations applicable to an

addition to a dwelling. An MAA may be occupied only by a family of no more than three (3) persons, at least one (1) of whom shall be either (a) a person who is related by blood or marriage to the owner-occupant or tenant of the dwelling in which the accessory apartment is located or (b) a domestic employee working on the premises on a full-time basis for the owner-occupant or the tenant of the dwelling in which the MAA is located.

2. Only one (1) MAA shall be permitted in any dwelling and the gross floor area of the accessory apartment shall not comprise more than twenty-five percent (25%) of the aggregate floor area of the structure in which it is located, provided, however, that no MAA shall have a gross floor area of less than 350 square feet.

3. An MAA shall not be occupied except in accordance with a currently valid Accessory Apartment Permit issued by the zoning officer

4. Every Accessory Apartment Permit for an MAA shall be valid for a term ending on December 31 of the year in which it is issued and shall upon application be renewed annually so long as the MAA is occupied in accordance with the provisions of this subsection 21-4.5f. provided, however, that an initial Permit or any renewal thereof shall expire immediately in the event that(a) title to the premises is transferred to a new owner, (b) the premises are leased to a new tenant, or (c) a change occurs in the composition of the family occupying the MAA which renders the family ineligible to occupy the accessory apartment in accordance with the provisions of this subsection 21-4.5f.

5. If an Apartment Permit for an MAA expires by reason of (a), (b) or (c) above, the MAA shall be vacated and shall not again be occupied unless and until a new initial Accessory Apartment Permit is applied for and issued by the zoning officer.

6. Every application for an initial or renewal Accessory Apartment Permit shall be made upon a form provided by the zoning officer and shall be accompanied by the fee required by Paragraph 13-14.1.l. The application shall require the name of each member of the family who will occupy the MAA as well as details of the relationship between any family member and the owner-occupant or the tenant of the dwelling which entitles the family to occupy the accessory apartment.

7. Prior to the issuance of any initial Accessory Apartment Permit the owner-occupant of the dwelling or, in the event that the dwelling is leased, the owner and tenant of the dwelling shall execute an Accessory Apartment Occupancy Agreement with the Township in recordable form which shall provide that the MAA shall be occupied only in accordance with the provisions of a currently valid Accessory Apartment Permit and that the Township may take appropriate legal action to enforce the provisions of the Agreement.

8. Any dwelling in which a MAA is located in compliance with the provisions of this subsection 21-4.5f shall be considered a single-family dwelling for all purposes, notwithstanding the existence of the MAA, use of the MAA being limited by the provisions of this subsection and incidental to the single-family residential use of the dwelling.

B. Inclusionary Accessory Apartments.

1. Any accessory apartment may be designated as an Inclusionary Accessory Apartment (IAA) at the discretion of the Township for the reduction of the Mendham Township low and moderate income fair share housing obligation,

calculated pursuant to the substantive rules of the New Jersey Council on Affordable Housing (COAH) N.J.A.C. 5:93-1.1 et seq.

2. Notwithstanding the occupancy limitations specified in paragraph A.1 above, such an IAA shall be subject only to the occupancy, income, affordability control and other relevant criteria specified for inclusionary housing by the substantive rules of COAH, N.J.A.C. 5:93-1.1 et seq.

3. In addition to locations within existing or new dwellings as specified in paragraph A.1. above, an IAA, designated to meet affordability criteria pursuant to the substantive rules of COAH, N.J.A.C. 5:93-1.1 et seq. may also be established within an existing accessory structure in any residential zone district, when approved for such occupancy by the Planning Board.

4. Not more than two (2) IAA units shall be permitted in any host structure, provided, however, that no IAA unit shall have a gross floor area of less than 350 square feet.

5. All required controls associated with an IAA, designated to meet affordability criteria pursuant to the substantive rules of COAH, N.J.A.C. 5:93-1.1 et seq., may be administered directly by the Township or, under agreement with the Township by a nonprofit corporation or other governmental entity.

6. Any IAA shall be exempt from construction/occupancy permit, application, and other like Township fees.

7. At the time of the establishment of any IAA, a new deed shall be recorded in the Morris County Clerk's office, containing a restriction to the effect that if the IAA is not occupied consistent with the affordability criteria specified in this subparagraph, then the IAA shall be removed and the host structure restored to comply with specific requirements applicable in the zone district in which it is located.

C. <u>All Accessory Apartments shall be subject to the following:</u>

1. Prior to the issuance of a construction permit for any work related to the creation of an accessory apartment within an existing host structure or by an addition to an existing host structure, the owner of the structure shall obtain a determination from the Township Board of Health as to whether modifications to any existing individual subsurface sewage disposal system will be necessary by reason of the creation of the accessory apartment.

2. The accessory apartment and the structure in which it is located shall have separate direct access to the outdoors, regardless of whether or not access to the apartment is provided from within the structure in which it is located.

3. There shall be no sign, separate driveway access, separate exterior entrance or other visible evidence of an accessory apartment, which is observable from any abutting street.

4. There shall be separate off-street parking space(s) provided for the exclusive use by the occupants of the accessory apartment, adequate to accommodate any vehicles owned and/or used by such occupants.

5. The accessory apartment together with the host structure in which it is located shall comply with all applicable requirements of the Building Code and laws and housing regulations of the State of New Jersey and the Township of Mendham.

f. No trailer, house-trailer, camper, recreation vehicle, mobile home, boat or similar facility shall be used for dwelling or sleeping purposes, except that a house-trailer may be used temporarily by the owner or tenant of a lot as a dwelling on that lot when the residence on the lot has been damaged by fire or other natural or man-made disaster to such an extent that it is uninhabitable, provided, however, (i) a permit has been issued for such use by the Township Construction Code and Fire Code Officials, (ii) the setback requirements of this ordinance are complied with and (iii) the Mendham Township Committee has adopted a resolution approving the temporary use subject to such conditions as the Committee deems necessary.

21-4.6 Conditional Uses. In any residence district a permit for a conditional use authorized by this subsection shall be issued by the planning board if the planning board determines that the proposed plans and conditions for the particular use on a specific lot meet all of the applicable requirements of this subsection for such use. An application for a conditional use permit shall be made to and acted upon by the planning board pursuant to the procedures set forth in Chapter XVI, Subdivision and Site Plan Review, for site plan approval with hearing and notice.

The conditional uses authorized by this subsection and the respective requirements therefore are as follows:

a. Scientific Breeding Farm for Dogs. Scientific breeding farms for dogs shall conform to the following regulations and standards:

1. No such operation shall be conducted for monetary profit, nor on any commercial basis.

2. No such operation shall be conducted on any parcel of land having less than 50 contiguous acres (lands separated by a public road shall not be considered contiguous).

3. The number of dogs over six months of age shall be strictly limited to three dogs per acre for the initial 50 acres and two dogs per acre for any contiguous acres in excess of the first 50 acres.

4. The density of persons per acre shall not exceed one dwelling unit, as an accessory use, for every ten acres.

5. The functions and operations shall be limited to the specialized breeding of dogs and their care, as well as the maintenance of all the facilities necessary to carry on the operations. The boarding of dogs other than those owned by the operator of the scientific breeding farm is strictly prohibited.

6. All structures, roads, parking lots and facilities shall be privately maintained.

7. Any incineration equipment shall conform to the New Jersey Incinerator Code in all respects.

8. All buildings or structures shall have a minimum setback from any property line or public road of 200 feet, provided, however, that no

building, structure or facility for dogs, including any open air facility or run, shall be closer than 250 feet to any property line or public road. Whenever a conditional use permit has been granted for the use of a particular lot then no additional or replacement building, structure or facility for dogs, including any open air facility or run, and any public road as shown upon the site plan first approved for such use, or closer to any other property line fo the lot than the shortest distance between any such building, structure or facility for dogs, including any open air facility or run, and any other property line fo the lot as shown upon the site plan first approved for such use.

9. All open air facilities or runs for dogs shall be enclosed by a chain link fence of at least six feet in height.

10. The total area coverage of all buildings and structures, including open air facilities or runs for dogs, shall not exceed five percent of the total site area.

11. Breeding facilities shall be screened by nondeciduous planting to a minimum height of four feet so as to visually screen such facilities from all public roads or improved residential areas.

12. All outdoor lighting fixtures shall be shielded so that the direct source of light is not visible from any public road or other property.

13. All water supply and sanitary sewage disposal facilities shall be installed and maintained by the operator of the scientific breeding farm in strict conformity with all applicable laws, ordinances and regulations.

14. All dogs shall be housed in sound resistant buildings between the hours of 8:00 P.M. and 6:00 A.M. prevailing time, and the walls of such structures shall have a sound resistance level of 40 decibels.

15. All outdoor runs for dogs shall be paved and the drainage from such runs shall enter the sanitary sewage disposal facilities and shall not be permitted to enter any storm or surface water drainage facilities. Such runs shall comply with all applicable health laws, ordinances and regulations.

b. Community Residences for More Than 6 Developmentally Disabled Persons and Community Shelters for More Than 6 Victims of Domestic Violence (pursuant to R.S. 40:55D-66.1 and following). Community residences for more than 6 developmentally disabled persons and community shelters for more than 6 victims of domestic violence shall conform to the following standards:

1. The minimum lot area shall be 3 acres, provided, however, that in the R-5 Residence District the minimum lot area shall be 5 acres and in the R-10 Residence District the minimum lot area shall be 10 acres.

2. All yard, setback and height requirements for the zone in which the use is located shall be met.

3. All principal and accessory structures shall be designed and constructed so as to be compatible with the appearance of a one-family residence.

4. Off-street parking shall be provided at the rate of 2 spaces for each developmentally disabled person or each victim of domestic violence. All parking areas shall be located at least 10 feet from any building and at least 100 feet from a street and at least 50 feet from any side or rear property line.

5. Structures and impervious improvements shall not occupy more than ten percent (10%) of the lot area.

6. No more than 15 persons, exclusive of the resident staff, shall be housed in a single community residence for developmentally disabled persons or in a single shelter for victims of domestic violence.

7. No property devoted to a community residence for developmentally disabled persons and no property devoted to a community shelter for victims of domestic violence shall be located within 1,500 feet of another property devoted to either of such uses.

8. A conditional use permit for a community residence for developmentally disabled persons or for a community shelter for victims of domestic violence shall not be issued if the number of persons currently resident at such facilities within the township exceeds, exclusive of resident staff, a total of 50 persons or one-half of one percent (0.5%) of the population of the township, whichever is greater.

c. Equestrian Farms. Equestrian farms shall be permitted only in an R-3 Zone R-5 Zone or R-10 Zone and shall conform to the following regulations and standards:

1. No equestrian farm shall be operated on any parcel of land having less than 100 contiguous acres within the township (lands separated by a public road shall not be considered contiguous).

2. The function and operation of an equestrian farm shall be limited to the following: (i) the boarding, breeding, caring for, training, showing, buying, selling and brokering of horses; (ii) the training of horse riders and horse handlers; (iii) horse exhibitions, horse shows and horse riding competitions; (iv) medical care and treatment of horses which are located at the equestrian farm by reason of ownership by the owner or operator thereof or by reason of being regularly boarded thereon; and (v) the retail sale of riding equipment, riding apparel and accessories specifically associated with horse riding activities. Such retail sales shall be conducted within an accessory structure at a location to be approved by the Planning Board. Such accessory structure may also house up to six coin-operated video games for use inside the structure. The aggregate floor area of the accessory structure devoted to retail sales shall not exceed 1,000 square feet. Retail sales shall be conducted only by the owner or operator or the Equestrian Farm. There shall be no signs related to the retail sales on any public road frontage. Auction sales of horses and the retail or wholesale sales of horses or the sale of any other type of merchandise not specifically allowed above shall not be considered a permitted use, except that one-day auctions of horses or antiques shall be permitted when offered as part of a horse exhibition, horse show, or riding competition and when approved by the Township Committee as part of the special permit for such occasions. Horse exhibitions, horse shows and horse riding competitions shall be limited to

no more than eighteen (18) days in any calendar year. No event shall exceed three (3) consecutive days or such other length of time as is approved by the Township Committee in duration and shall be subject to the obtaining of a special permit therefor from the Township Committee of the Township of Mendham pursuant to the provisions of Section 7-5 of Chapter VII, provided that such horse exhibitions, horse shows and horse riding competitions shall be for the exhibition, showing and competition of horses located at the equestrian farm by reason of ownership by the owner or operator thereof or by reason of being regularly boarded thereon and for not more than fifty (50) additional horses transported to the equestrian farm for the purpose of participation in such exhibitions, shows or competitions. Temporary parking areas for use during horse exhibitions, horse shows and horse riding competitions shall be as approved by the Township Committee and designated in the special permit obtained for those occasions.

3. The number of horses six (6) months of age or older permitted on an equestrian farm shall be strictly limited to one (1) horse per acre for the entire acreage of the equestrian farm, provided that in no event shall the total number of horses permitted exceed the capacity of all buildings and structures to provide interior shelter for the horses. The limitations contained herein shall apply to horses located on the premises for more than forty-eight (48) consecutive hours.

4. Housing and living facilities, as an accessory use to an equestrian farm, shall be permitted in accordance with the following limitations and regulations:

(i) Two (2) single-family detached dwellings shall be permitted, one of which shall be so located that a future minor subdivision of the premises could be made in a manner that the said detached dwelling and all other dwellings and structures shall meet all of the road frontage, area and yard requirements of the R-3 Zone, R-5 Zone or R-10 Zone, as the case may be.

(ii) Except for two (2) single-family detached dwellings as provided in subparagraph (4) (i) above, all living quarters shall be part of and attached to principal structures, and shall consist of sleeping quarters with associated bathroom and kitchen facilities. A minimum of two hundred (200) square feet of living space shall be provided for the first person occupying such space and an additional one hundred (100) square feet of living space for each additional person. All such living quarters shall be constructed so as to provide a fire resistance barrier between such living quarters and other portions of any building in which they are located,, such barrier to have a fire rating meeting the BOCA standards for such uses. All occupants of such single-family detached dwellings and other permitted living quarters shall be either the owner or operator of the equestrian farm or shall be bona fide employees at the equestrian farm who work a minimum of 20 hours per week or a family member of a bona fide employee of the equestrian farm. Except for occupancy by the owner or operator, such living quarters shall be used or occupied only at such time as the equestrian farm is in operation and any use or occupancy at any other time shall constitute a violation of this ordinance.

(iii) The names of all occupants of the single-family dwellings and other living quarters shall be registered at the Office of the Mendham Township Clerk. Such registration shall include the employee status of such occupants and if not employed at the equestrian farm the registration shall set forth the basis upon which such occupants qualify to reside at the equestrian farm, e.g. owner, operator or family member. The registration information shall be submitted annually by January 15th and shall be updated within 30 days of any change of occupancy.

5. All water supply and sanitary sewage disposal facilities shall be installed and maintained by the owner or operator of the equestrian farm in strict conformity with all applicable laws, ordinances and regulations.

6. As part of any application for the approval of a conditional use for an equestrian farm operation, the applicant shall submit a pest control and animal waste disposal plan approved by the Township Board of Health. Said plan shall be prepared by a recognized expert or governmental agency. Implementation and satisfactory maintenance of the plan shall be a requirement of continued operation of the equestrian farm.

7. The planning board shall have the authority, before and after investigation and consultation with appropriate experts and agencies such as the Soil Conservation Service or State Department of Agriculture, to prohibit the grazing of horses in areas deemed by the Planning Board to be overgrazed or overused as evidenced by substantial soil erosion and sedimentation problems.

8. All structures and parking areas shall have a minimum setback of 200 feet from any property line except that detached dwellings shall meet the minimum setback requirements of the R-3 Zone, R-5 Zone or R-10 Zone, as the case may be.

The Planning Board may grant a variance from the minimum 200 foot setback requirement for the use of existing structures for equestrian farm operations providing the following conditions are met.

(i)Written notice and publication of the variance request shall be given in accordance with the provisions of Section 7.1 of the Municipal Land Use Law, R.S. 40:55D-12;

(ii) The strict application of the 200 foot setback requirement would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner or operator of the equestrian farm;

(iii) The Planning Board finds that the variance 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 ordinance.

(iv) The use and location of the structures for equestrian farm activities will not adversely affect the use and enjoyment of surrounding properties.

9. All barns, stables, sheds and indoor riding arenas shall be constructed in accordance with the requirements of all applicable state and municipal building codes. No structures shall exceed thirty-five (35) feet in height. No barn or stable shall have outside dimensions greater than 12,000 square feet.

No shed shall have outside dimensions greater than 2,400 square feet. Sheds shall be provided and used for the storage of all motorized equipment used in the operation of the equestrian farm, including motor vehicles and horse trailers, provided, however, that one (1) item of such equipment maybe stored outside a shed. No more than one (1) indoor riding arena shall be erected upon any equestrian farm, and the indoor riding arena shall not exceed 20,000 square feet of interior space. In the event that the equestrian farm operation is terminated on the premises, the indoor riding arena shall be removed, and failure to effect removal shall constitute a violation of this ordinance.

10. The total area coverage of impervious improvements shall not exceed eight percent (8%) of the entire acreage of the equestrian farm, provided, however, that in no event shall the total area coverage of buildings and structures exceed four percent (4%) of the entire acreage of the equestrian farm.

11. All outdoor lighting shall be installed in accordance with the following requirements:

(i) All lights shall be shielded and directed so that the direct source of light shall not be visible from any public road or other property.

(ii) The maximum number of footcandles from any indirect light source visible from any property line shall be five-tenths (.5).

(iii) Lights shall be restricted to buildings and barn areas, along driveways and where in the discretion of the Planning Board it is determined that safety and security considerations require their installation.

(iv) No light source shall exceed a maximum of three (3) footcandles measured 25 feet from the source.

(v) The maximum height of any free-standing light fixture shall be 16 feet.

(vi) The type and location of lights shall be approved as part of site plan approval.

12. Off-street parking areas shall be adequately screened from all adjacent properties.

d. Water Storage Facilities: A water storage facility for a public water supply system shall be permitted only in an R-3 Zone, R-5 Zone, or R-10 Zone and shall conform to the following regulations and standards:

1. Lot Area. The minimum area of any lot upon which a permitted water storage facility is located shall be 1 acre.

2. Minimum Lot Frontage. Every lot upon which a permitted water storage facility is located shall have a minimum frontage of 50 feet measured along the right-of way line of a street upon which the lot fronts.

3. Height Limitations. No component of a permitted water storage facility shall exceed 35 feet in height.

4. Setbacks. Any component of a permitted water storage facility which exceed 3 feet in height shall have a setback equal to or greater than twice that which is required for all front, side and rear yards in the zone in which the facility is located. In no event, however, shall any setback be less than that calculated by application of the following formula: S = 5H. "S" is the required setback distance measured in feet. "H" is the difference in elevation in feet between the top of the component of the water storage facility and the elevation of the ground at the property line of the lot from which the setback is measured.

Any component of a permitted water storage facility exposed to view and having a height of 3 feet or less shall comply with the front, side and rear yard setback requirements for the zone district, provided, however, that no front setback shall be less than 100 feet and no side or rear yard setback shall be less than 50 feet.

5. Improvements. Consistent with the particular conditions of the lot upon which the permitted water storage facility is located and the circumstances of the surrounding lands, access, parking, loading and area lighting facilities, as well as landscaping and screening, shall be installed and maintained as required and specified by the planning board in the approval of the site plan in accordance with Chapter XVI of this Ordinance. The landscaping and screening shall be designed, installed and maintained to minimize to the greatest extent possible the visual impact of the water storage facility upon surrounding properties.

6. Termination of Use of Water Storage Facility on Nonconforming Lot. In the event of the termination of the use of a permitted water storage facility upon a lot that does not meet all area, dimensional and other applicable lot standards of this Chapter XXI, for a use permitted in the zone district in which the lot is located, the then owner of the lot shall be responsible for removing from the lot any and all components of the water storage facility and grading and seeding of the disturbed areas of the lot in a manner compatible with the remainder of the surface of the lot. Upon the completion of such work, title to the lot shall vest by operation of law in the Township of Mendham. Any future use of the lot by the Township or subdivision of the lot with merger of portions of the lot into adjoining lots shall be in accordance with the Township Master Plan and/or in accordance with planning board approval as required by township ordinances.

7. Provisions in Deed for Nonconforming Lot. Prior to the issuance of a construction permit for a permitted water storage facility on a lot which does not meet all area, dimensional and other applicable lot standards of this Chapter XXI for a use permitted in the zone district in which the lot is located, a deed for such lot containing provisions consistent with the requirements of subparagraph 6 above shall be recorded in the Morris

County Clerk's Office. Prior to recording, the deed shall be reviewed and approved as to form and content by the planning board.

e. Institutional Uses. Institutional uses listed in this paragraph are permitted as conditional uses in any of the zone districts, provided they front on and have vehicular access only from State Highway and Country Roads as designated by the Circulation Plan Element of the Mendham Township Master Plan, 1978, as amended and supplemented, and meet all applicable requirements provided below.

1. Public and Private Schools. Public schools covering any or all grades, pre-kindergarten through grade twelve, and full-time private schools covering any or all grades, pre-kindergarten through grade twelve, operated by charitable, religious or eleemosynary organizations, which are not conducted as a business and which are operated to satisfy state-mandated educational requirements, shall meet all of the following requirements:

a. Charter. The application shall be accompanied by the existing or proposed charter and by-laws of the organization and such other material as may be required to guarantee, to the satisfaction of the Planning Board, the following:

1. The organization is or will be a bona-fide nonprofit school organized for educational purposes and such other activities normally carried on by such schools.

2. The organization has been granted exemption from taxation under the laws of both the State of New Jersey and the United States.

3. The organization will not engage in sales of products or materials to the general public or otherwise engage in activities normally carried on as a business or commercial activity, except that;

(i) The premises may be made available on a rental basis for meetings of other groups, private social functions and the like; and

(ii) The organization may conduct intermittent commercial activities open to the general public designed solely to raise funds to support the purposes of the organization or of related or affiliated organization with charitable, educational or religious purposes, provided that such activities are conducted indoors. Such activities shall also be permitted outside a building or structure under the authority of a special license granted by the Township Committee of the Township of Mendham, which shall contain such conditions as are considered necessary for the public health, safety and welfare. This subsection shall not prevent the organization to hire, or otherwise engage, profit-making organizations to conduct fund-raising activities, even though a portion of the funds raised is paid to such profit-making organization as a fee.

(iii) The sale of items, products of materials required for the educational programs or welfare of the students or accessory to and having a relation to the activities conducted on the premises, such as but not limited to books, art materials and school supplies, of tickets for student activities of other school-related events or food for school lunches, is permitted on a continuous basis, provided that such sales are conducted inside the building or structure.

b. Minimum Lot Size. The lot or site on which the proposed school is to be located shall have a minimum area of twenty (20) acres and the lot or site shall have a minimum street frontage of five hundred (500) feet.

c. Maximum Lot Coverage. The coverage of the lot by all buildings shall not exceed three percent (3%), and the total coverage of the lot by all buildings, structures, sidewalks, parking areas, driveways and other improvements shall not exceed fifteen percent (15%) of the total area of the lot.

d. Setbacks. Buildings shall be set back from any lot line a distance not less than five (5) feet for each one (1) foot of building of structure height. No paved areas, parking, sport or other facilities not associated with a building shall be closer than fifty (50) feet to any lot line.

e. Off-street parking. Paved off-street parking shall be provided at the rate of one (1) parking space for each four hundred (400) square feet of floor area of the school building and any appurtenant structures on the same lot for schools containing grades under the tenth grade. For schools containing grades tenth and/or eleventh and/or twelfth, off-street parking space shall be provided at the rate of one (1) space for each two hundred (200) square feet of floor area in the school building and any appurtenant structures on the same lot. The Planning Board may require additional parking if, in its opinion, the parking spaces prescribed above are not sufficient to ensure that the use will not cause parking on a public street during the course of normal educational programs. Landscape plantings shall be provided in sufficient quantity, quality, location and height and maintained or replaced as required, to preclude, to the maximum extent possible, the transmission of headlight glare or other lighting to adjacent properties and to preclude, to the maximum extent possible, view of the parking area from a public street.

f. Height. The height of buildings or structures shall not exceed thirty-five (35) feet.

2. Churches. Churches and similar places of worship and rectories or parish houses or convents of religious groups on the same tract shall meet all of the following requirements:

a. Charter. The application shall be accompanied by the existing or proposed Charter and by-laws of the organization, and such other material as may be required to guarantee, to the satisfaction of the Planning Board, the following:

1. The organization is or will be a bona-fide nonprofit religious group organized primarily for the benefit of its membership and is only involved in activities normally carried on by religious groups.

2. The organization has been granted exemption from taxation under the laws of both the State of New Jersey and United States.

3. The organization will not engage in sales of products or materials to the general public or otherwise engage in activities normally carried on as a business or commercial activity, except that:

(i) The premises may be made available on a rental basis for meetings of religious groups, private social functions and the like.

(ii) The organization may conduct intermittent commercial activities open to the general public designed solely to raise funds to support the purposes of the organization or of related or affiliated organizations with charitable, educational or religious purposes, provided that such activities

are conducted indoors. Such activities shall also be permitted outside a building or structure under the authority of a special license granted by the Township Committee of the Township of Mendham, which shall contain such conditions as are considered necessary for the public health, safety and welfare. This subsection shall not prevent the organization to hire, or otherwise engage, profit-making organizations to conduct fund-raising activities, even though a portion of the funds raised is paid to such profit-making organization as a fee.

(iii) The sale of religious articles or items, having relation to the cultural or ethnic background of the members of the faith is permitted on an ongoing basis, provided that such sales are conducted inside the building or structure.

b. Minimum Lot Size. The lot or site on which the proposed use is to be located shall have a minimum area of five (5) acres and the lot or site shall have a minimum street frontage of three hundred (300) feet.

c. Maximum Lot Coverage. The coverage of the lot by all buildings and structures shall not exceed twenty percent (20%).

d. Setbacks. Buildings shall be set back from any lot line a distance not less than five (5) feet for each one (1) foot of building of structure height. No paved areas, parking, sport or other facilities not associated with a building shall be closer than fifty (50) feet to any lot line.

e. Off-street parking. Paved off-street parking shall be provided on the same lot at the rate of one (1) parking space for each ninety (90) square feet of floor area in the church building and one (1) space for each two hundred (200) square feet of floor area in any other building. The Planning Board may require additional parking if, in its opinion, the parking spaces prescribed above are not sufficient to ensure that the use will not cause parking on a public street during the course of normal activities. Landscape plantings shall be provided in sufficient quantity, quality, location and height and maintained or replaced as required, to preclude, to the maximum extent possible, the transmission of headlight glare or other lighting to adjacent properties and to preclude, to the maximum extent possible, view of the parking area from a public street.

f. Height. The height of buildings or structures other than church steeples shall not exceed thirty-five (35) feet.

g. Exclusion. It is not intended that part-time schools which are conducted as an adjunct or supplement to the religious activities of a church, religious organization or place of worship, such as but not limited to Sunday schools, nursery schools, catechism, Hebrew schools, adult education and the like be excluded under this paragraph.

3. Municipal and Board of Education Uses. Municipal uses other than parks and Mendham Township Board of Education uses, other than schools, shall meet all of the following requirements:

a. Maximum Lot Coverage. The lot coverage by all structures shall not exceed twenty percent (20%).

b. Height. The height of buildings or structures shall not exceed thirty-five (35) feet.

c. Off-street Parking. Sufficient off-street parking spaces shall be provided to ensure that the use will not cause parking on any public street during the course of normal activities.

d. Screening. Landscape plantings shall be provided in sufficient quantity, location and height to preclude the transmission of headlight glare or other source of illumination onto adjacent properties and to preclude view of the parking area from a public street.

f. Telecommunications Towers and Antennas. Telecommunications Towers and Antennas are permitted as conditional uses on municipally owned property and on property owned by a public utility water company.

1. Purpose. The purpose of this Subsection 21-4.6.f. is to establish general guidelines for the siting of wireless telecommunications towers and antennas. The goals of this Subsection are:

a. to protect residential areas and land uses from potentially adverse impacts of towers and antennas;

b. to the extent that towers are proven necessary, to require their location on non-residential properties;

c. to minimize the total number of towers throughout the community;

d. to strongly encourage the joint use of new and existing tower sites rather than construction of additional single-use towers;

e. to encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

f. to encourage users of towers and antennas to construct and configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

g. to enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

h. to consider the public health and safety of communication towers; and

i. to avoid potential damage to adjacent properties from tower failure through engineering techniques and careful siting of tower structures.

j. to provide additional antenna sites for Mendham Township emergency services.

This Subsection further seeks to comply with the mandate of the Federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7), which preserves local government authority to manage, with respect to cellular and other wireless telecommunications services, to enforce zoning requirements that protect public safety, public and private property, and community aesthetics. This Subsection expressly recognizes that wireless telecommunications facilities that require construction of towers or monopoles are not inherently beneficial uses, and that any such proposed facility must be particularly suited for the proposed site. Accordingly, towers and antennas shall be regulated and permitted as conditional uses pursuant to this Subsection 21-6.4.f. and shall not be regulated or permitted as inherently beneficial uses, essential services, public utilities, or private utilities.

2. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. Notwithstanding any other provision of the Mendham Township Land

Use Ordinance, a different existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. If a tower and its appurtenant structures constitute the sole use of the lot, the tower shall be deemed to be the principal use, otherwise it shall be deemed to be an accessory use.

3. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Approving Authority an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township of Mendham or within three miles of the border thereof, including specific information about the location, height, and design of each tower. The Approving Authority may share such information with other applicants applying for conditional use permits under this Subsection or other organizations seeking to locate antennas within the jurisdiction of the Township of Mendham, provided, however, that the Approving Authority is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. Aesthetics. Towers and antennas shall meet the following requirements:

a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or the Township, be painted a neutral color so as to reduce visual obtrusiveness.

b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings, and shall be located out of public view behind existing structures, buildings or terrain features which will shield the tower, antenna and related structures from view.

c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

5. Lighting. Towers shall not be artificially lighted, unless required by the FAA. It is the intent of the Township that towers shall not exceed FAA height standards that would require lighting. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations within thirty (30) days of the applicable compliance date shall mean that the Township may avail itself of any and all legal or equitable remedies, including the removal of the tower or antenna at the owner's expense or revocation of the certificate of occupancy.

7. Building Codes; Safety Standards. To ensure the structural integrity of towers and antennas, the owner shall maintain them in compliance with standards contained in applicable State or local building codes and the applicable standards for towers and antennas that are published by the Electronic Industries Association, as amended from

time to time. If, upon inspection, the Township of Mendham concludes that a tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower or antenna, the owner shall have thirty (30) days to bring such tower or antenna into compliance with such standards. Failure to bring towers and antennas into compliance with such codes and standards within thirty (30) days shall mean that the Township may avail itself of any and all legal or equitable remedies, including the removal of the tower or antenna at the owner's expense or revocation of the certificate of occupancy.

8. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township of Mendham have been obtained and shall file with its application a copy of all required franchises with the Approving Authority.

9. Public Notice. For purposes of this Subsection, any conditional use or variance request shall require notice to all owners of properties that are located within the corresponding separation distance listed in Subsection 21-4.6.f.18.c., Table 1, in addition to any notice otherwise required by the Land Use Ordinance.

10. Signs. No signs shall be allowed on an antenna or tower.

11. Multiple Antenna/Tower Plan. The Township of Mendham encourages and mandates the users of towers and antennas to co-locate antennas where technically, practically, and economically feasible. Applications for approval of co-location on sites permitted pursuant to this Subsection 21-4.6.f. shall be given priority in the review process.

12. Compliance with Radiation Emission Standards. The applicant shall demonstrate that the proposed antenna and related structures and equipment complies with all applicable State and Federal regulations of electromagnetic radiation levels. Thereafter, at least every two (2) years after issuance of the initial certificate of occupancy, the applicant shall demonstrate that the antenna and related structures and equipment continues to comply with such applicable regulations.

13. Other Requirements.

a. Where antennas or towers are to be located on municipally owned property the applicant shall furnish proof that it has obtained a license from or entered a lease with the Township of Mendham authorizing such antenna or tower. The Township shall, as a condition of such lease, require that the applicant receive a conditional use permit and site plan approval by the Planning Board. The decision to extend such leases to an applicant shall be vested solely with the Mendham Township Committee and shall, to the extent applicable, be subject to the bidding requirements of the Local Public Contracts Law of the State of New Jersey. Where towers or antennas are proposed to be located on non-municipally owned property as permitted in this Subsection 21-4.6.f., the applicant shall submit proof that the property owner has consented to the application by entering into a lease subject to the applicant receiving a conditional use permit and site plan approval by the Planning Board.

b. Any antenna which is not attached to a tower may be attached to any eisting structure located on the subject property provided:

1. The height of the antenna is not greater than ten (10) feet in excess of the maximum building height for the zone wherein the structure is located;

2. The antenna complies with all applicable FCC and FAA regulations;

3. The antenna complies with all applicable building codes; and

4. The antenna complies with Subsection 21-4.6.f.4.c.

14. Installation of Antennas on Existing Towers. Antennas may be installed on existing towers provided the antenna meets the following terms:

a. An antenna may be attached to an existing tower on the subject property and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

1. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the Planning Board allows reconstruction as a monopole.

2. Height

(i) An existing tower may be modified or rebuilt to a greater height not to exceed the maximum tower height established by this Subsection.

(ii) The additional height referred to in Subsection 21-4.6.f.14.a.2(i) shall not require an additional distance separation as set forth in Subsection 21-4.6.f.18, Table 1. The tower's premodification height shall be used to calculate such distance separations.

3. The tower must be designed and constructed so as to accommodate at least two antenna arrays of separate wireless telecommunications providers.

15. Requirements for all applications. In addition to site plan details specified in Chapter XVI of the Mendham Township Municipal Land Use Ordinance, all applications shall contain of the following:

a. A scaled plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including those located in adjacent municipalities), Master Plan recommendations for the site and all properties within the applicable separation distances set forth in Subsection 21-4.6.f.18., adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Approving Authority to be necessary to assess compliance with this ordinance.

b. Legal description of the entire tract and leased parcel (if applicable).

c. The setback distance between the proposed tower and the nearest residential unit and the residentially zoned properties as indicated on the nicipal tax map.

d. The separation distance from other towers described in the inventory of

existing sites submitted pursuant to Subsection 21-4.6.f.3. shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

e. A landscape plan showing specific landscape materials including species type, size, spacing and existing vegetation to be removed or retained.

f. method of fencing, and finished color and, if applicable, the method of camouflage.

g. A description of compliance with Subsections 21-4.6.f.3, 21-4.6.f.4, 21-4.6.f.6 and 21-4.6.f.12., and all applicable Federal, State or local laws.

h. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.

j. A description of the suitability or nonsuitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible location(s) of future towers or antennas for the applicant within the Township of Mendham based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

l. A visual study, including photographic or topographic plans such as balloon or crane tests, depicting where within a one mile radius any portion of the proposed tower could be seen.

m. A letter of commitment to lease space to other potential users at prevailing market rates and conditions. The letter of commitment shall be in form suitable for recording with the County Clerk prior to the issuance of any permit, and shall commit the tower and/or antenna owner, property owner and successors in interest.

n. An agreement by the tower and/or antenna owner that other wireless telecommunications providers will be permitted to co-locate on the proposed tower within the limits of structural and radio frequency engineering requirements.

o. Documentary evidence by a professional licensed in the State of New Jersey regarding the need for the tower or antenna which information shall identify the existing wireless network layout and existing coverage areas to demonstrate the need for the new tower or antenna at a particular location within the Township. The evidence shall include a radio frequency engineering analysis of the search area for the tower or antenna.

p. Elevation drawings of the tower and accessory structures depicting all proposed antennas, platforms, finish materials, and all other accessory equipment.

16. Additional Factors Considered in Granting Conditional Use Permits. In addition to the information required to be submitted in an application, the Approving Authority shall consider the following factors in determining whether to issue a conditional use permit:

a. Height of the proposed tower.

b. Proximity of the tower to residential structures and residential district boundaries.

c. Nature of uses on adjacent and nearby properties.

d. Surrounding topography and other terrain features.

e. Surrounding vegetation, tree coverage and foliage.

f. Design of the tower, with particular reference to design characteristics that have the effect of mitigating adverse visual impact.

g. Suitability of proposed ingress and egress.

h. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed in Subsection 21-4.6.f.17.

i. Availability of proposed tower to other potential users.

j. Specifications and details for proposed alarm system.

k. Whether the proposed tower is particularly suited for the proposed site.

17. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Approving Authority that no existing tower structure or alternative technology that does not require the erection of new towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Approving Authority related to the availability of suitable existing towers, stealth tower structures, other structures or alternative technology.

18. Setbacks. The following setback requirements shall apply to all towers:

a. Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line and also from any building on-site not related to the tower use.

b. Accessory buildings must satisfy the minimum zoning district setback requirements.

c. Distances from off-site buildings or uses as specified in Table 1.

d. Tower set backs and separation distances shall be measured from the center point or line of the tower to the off-site building, facility or designated site as specified in Table 1

TABLE 1

Off-Site Building, Facility Or Designated Site	Separation Distance
Existing residential dwelling Public park facilities and Buildings, public or private schools, municipal buildings, libraries or houses or worship, or any site designated on the federal, state or municipal historic register	500 feet or 300% of the height of tower whichever is greater
Non-residentially zoned lands Or non-residential uses not Specified in this Table 1	At least one hundred percent (100%) of the height of the tower from any adjoining lot line and any Building on-site not related to the Tower

e. Separation distances between towers as specified in Table 2.

(Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2).

TABLE 2

Separation Distances Between Towers - Types

	Lattice	Monopole 100 Ft. or Greater in Height	Monopole Less Than 100 Ft. in Height
Lattice	5,000 ft.	1,500 ft.	750 ft.
Monopole 100 Ft. or greater in Height	1,500 ft.	1,500 ft.	750 ft.
Monopole Less than 100 Ft. in Height	750 ft.	750 ft.	750 ft.

19. Security fencing. Towers shall be enclosed by security fencing not less than eight (8) feet in height and shall also be equipped with appropriate anti-climbing measures.

20. Landscaping. The following requirements shall govern the landscaping surrounding towers:

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent properties. The standard buffer shall consist of a landscaped strip on the tower property at least ten (10) feet wide outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be modified.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be deemed a sufficient buffer.

21. Maximum Height. New towers shall not exceed One Hundred fifty (150) feet in height and, except where the applicant can clearly demonstrate to the satisfaction of the Planning Board that the following heights are inappropriate for a particular proposed tower, maximum heights of new towers shall be as follows:

a. For single user, up to one hundred (100) feet in height.

b. For two users, up to one hundred twenty (120) feet in height.

c. For three or more users up to one hundred fifty (150) feet in height.

22. Requirements for Equipment Storage Buildings, Equipment Cabinets or Equipment Structures. The storage building, equipment cabinet or structure used in association with towers and/or antennas shall comply with the following:

a. The equipment storage building, equipment cabinet or structure shall not contain more than 200 square feet of gross floor area for a single user nor more than 150 square feet of gross floor area each for multiple users or be more than 10 feet in height.

b. If the equipment cabinet or structure is located on the roof of a building, the aggregate area of the equipment cabinet or structure and other equipment and structures on such roof shall not occupy more than ten (10%) percent of the roof area, and shall be screened from view utilizing architectural treatments and designs.

c. Equipment storage buildings or equipment cabinets or structures shall comply with all applicable building codes.

d. For antennas located on towers, the related unmanned equipment structure shall not contain more than 200 square feet of gross floor area for a single user nor more than 150 square feet of gross floor area each for multiple users or be more than 10 feet in height, and shall be located in accordance with the minimum accessory structure requirements of the zoning district in which located.

e. Equipment cabinets or structures shall be screened from view of all properties which abut or are directly across the street from the structure or cabinet by a security fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least six (6) feet.

23. Removal of Abandoned or Outdated Antennas and Towers. Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township of Mendham notifying the owner of such abandonment. Towers that are rendered obsolete or outdated by advances in technology shall be removed or modified. Failure to remove an obsolete, outdated or abandoned antenna or tower within said ninety (90) days shall be deemed a violation of the Mendham Township Municipal Land Use Ordinance and in addition to other applicable fines and penalties shall be grounds for the Township to require removal of the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Township may condition the issuance of any permit to construct a tower or antenna on the posting of an appropriate performance bond or other suitable guarantee in a face amount of not less than 120%

of the cost to remove the tower and restore the property as determined by the Township Engineer for such construction as required under all applicable Township ordinances.

24. Exceptions. All new towers or antennas in the Township of Mendham shall be subject to the regulations contained in this Subsection 21-4.6.f., except that:

a. Amateur Radio Station Operators/Receive Only Antennas. This Subsection 21-4.6.f. shall not govern any tower, or the installation of any antenna, that is less than seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for "receive only" antennas.

b. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Chapter XXI, other than the requirements of Subsection 21-4.4.f.7. and 21-4.6.f.8., absent any enlargement or structural modification or the addition of any structures.

c. Parabolic Satellite Dish Antennas. This Subsection 21-4.6.f. shall not govern any parabolic satellite dish antennas.

25. General Requirements. The following provisions shall govern the issuance of conditional use permits for towers or antennas by the Approving Authority:

a. In granting a conditional use permit , the Approving Authority may impose condition to the extent the Approving Authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

b. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer of the State of New Jersey.

c. Payment of applicable fees and escrows as set forth in Chapter XIII of the Mendham Township Municipal Land Use Ordinance.

g. Accessory Buildings which individually or when aggregated with other accessory buildings exceed 2,000 square feet of footprint shall only be permitted in conformance with the following regulations and standards:

1. Such accessory buildings shall only be permitted in the R-3, R-5 and R-10 zones .

2. Such accessory buildings shall only be permitted on lots larger than the minimum requirement for the R-3, R-5 and R-10 zones provided that, for each 1,000 square feet of footprint in excess of 2,000 square feet, or portion thereof, the lot shall contain a minimum additional area of three acres in excess of the minimum required.

3. Minimum setbacks for such accessory buildings over 2,000 square feet of footprint shall be in accordance with Subsection 21-4.9 "Supplementary Setback Regulations."

4. Such Accessory building shall be subject to minor site plan approval in accordance with Subsection 16-8.3 and the notice requirements of Section 13-7 of this Chapter.

21-4.7 Limited Income Housing.

a. Conditions. LIH as required by and regulated in this chapter shall meet the following conditions:

1. LIH units within each such development in the CR-1 and the CR-2 Zones shall be made available exclusively to limited income households at the ratio of not less than fifty percent (50%) low income households nor more than fifty percent (50%) moderate income households.

2. For purposes of this subsection 21-4.7, a low income household is one having a total income which is not more than fifty percent (50%) of the median household income adjusted for household size in the Standard Metropolitan Statistical Area (SMSA), Newark, New Jersey Housing Region, as established by the United States Department of Housing and Urban Development (HUD) for the purpose of administering the Federal Housing Assistance Payments Program (Section 8) or by other generally accepted Federal or New Jersey data base. The aforesaid percentage may be amended from time to time as provided in this subsection 21-4.7. For purposes of this subsection 21-4.7, a moderate income household is one having a total income which is not less than fifty percent (50%) nor more than eighty percent (80%) of the median household income adjusted for household size in the Standard Metropolitan Statistical Area (SMSA), Newark, New Jersey Housing Region, as established by the United States Department of Housing and Urban Development (HUD) for the purpose of administering the Federal Housing Assistance Payments Program (Section 8) or by other generally accepted Federal or New Jersey data base. The aforesaid percentages may be amended from time to time as provided in this subsection 21-4.7.

3. Occupancy of LIH units constructed under the provisions of this ordinance shall be limited to low and moderate income households as defined in this ordinance and shall be affordable to such households as follows:

(a) In establishing affordability of a unit of a given number of bedrooms, such units must be affordable to household sizes as set forth below:

1 bedroom unit	2 person household
2 bedroom unit	3 person household
3 bedroom unit	5 person household

(b) In the case of LIH units offered for sale, each unit shall be affordable to a household earning no more than eighty percent (80%) of the ceiling income for that household, by household size and income category, spending not more than twenty-eight percent (28%) of its gross household income for the sum of the following: (i)principal and interest on a mortgage, based on a ten percent (10%) down payment and realistically available mortgage interest rates; (ii) property taxes as currently levied in Mendham Township; (iii) insurance; and (iv) homeowners' association fees, if any. The proposed prices of LIH units to be offered for sale, and the calculations by which those prices have been determined, shall be submitted for approval by the applicant as a part of the application for preliminary site plan approval.

(c) In the case of LIH units offered for rent, they shall be rented for no more than thirty percent (30%) of the gross household income of the low or moderate income household, said rental to be inclusive of all services, maintenance and utilities. In the event that any utility or other charges are paid directly by the tenant, the maximum rental of thirty percent (30%) shall represent the sum of the contract rent and all such utility or other charges.Rents shall be set individually for each tenant on the basis of individually verified household income.

4. Sale or rental of LIH units shall be on the basis of income and residency of applying eligible households. Where the number of applicants exceed the number of LIH units available, the sale or rental of such units shall be in accordance with the date of application submitted, with earlier applicants being given preference over later applicants. The distribution of available LIH units shall be consistent with the proportion of income

categories as provided in subsection 21-4.7a.1. Notwithstanding anything to the contrary contained herein, indigenous limited income household applicants within the respective low or moderate income categories shall be given preference at all times over non-indigenous limited income household applicants within the same category.

5. All applicants for the purchase or rental of LIH units shall meet the income qualifications established in this chapter at the time the application is filed and shall be qualified at the time of taking title or occupancy.

6. All tenants of rented LIH units shall be required to give proof of continued income qualification on the first and each subsequent anniversary date of taking occupancy. A household that ceases to meet the qualifications as a low income household but does meet the qualifications of a moderate income household may continue to occupy the unit, and the next moderate income unit to become available which is owned by the same owner as the unit changing from low to moderate income occupancy shall be rented to a low income household. Any tenant household having an income which on the first or any subsequent anniversary date of taking occupancy exceeds one hundred twenty-five percent (125%) of the current maximum income limitation for moderate income household shall be required to vacate the rented unit upon nine (9) months written notice. Upon the issuance of the written notice to vacate, the limitation of rental charges as set forth in this chapter shall cease to apply and until the subject unit is vacated the owner shall be entitled to an increase in rent, provided that the increase does not exceed thirty percent (30%) of the amount by which the tenant's income exceeds the current maximum income limitation for a moderate income household. In the implementation of this paragraph 6, income limitations shall be as adjusted for household size.

7. Any developer submitting an application for development which includes LIH units shall submit a plan for resale or rental controls to insure that the LIH units remain affordable to low and moderate income households for at least thirty (30) years. Such plan shall contain all of those provisions set forth in this subsection, as well as conform to any regulations or guidelines adopted by the township or any governmental agency or nonprofit entity delegated this authority by the Township of Mendham.

(a) Any plan for controlling the resale of LIH units shall permit the owner of such units, upon resale, to sell that unit for:

(i)The original sale price plus the original sales price multiplied by seventy-five percent (75%) of the percentage increase in the Consumer Price Index between the date of initial purchase and the date of resale;

(ii) Reimbursement for documented monetary outlays made for reasonable property improvements; and

(iii) Reasonable costs incurred in selling the unit.

(b) Any such plan shall provide that the low income units upon resale may be sold only to low income households, and the moderate income units to either low or moderate income purchasers; provided, however, that the administering agency may establish reasonable provisions for waiver of this condition on a case by case basis in the event it finds that a particular unit may not feasibly be sold subject to this condition. In the event that the administering agency grants such a waiver, it may provide that the unit be sold at the formula price, and that the resale controls remain in effect for any subsequent sale of the unit.

(c) The township may administer these controls directly, or may enter into an agreement with a nonprofit corporation or other governmental entity, or may permit the developer to administer these controls, either directly or through a nonprofit entity established by the developer, but in no event may the township require the developer to administer these controls as a condition of approval, nor may the resale controls be administered merely by the existence of a deed restriction on the property.

(d) Resale controls shall be embodied in a deed restriction on the property that shall be submitted by the developer at the time of preliminary site plan approval, and shall be subject to approval by the township attorney and by the administering agency. All deed restrictions shall be consistent with all of the provisions of this section, and with any regulations or guidelines adopted by the administering agency.

(e) Any LIH unit offered as a rental unit shall continue to be offered as a rental unit for at least fifteen (15) years. After fifteen (15) years, they may be converted to condominium or cooperative occupancy, but must be sold at prices affordable to moderate income households, as defined herein, occupied by low or moderate income households, and subject to such resale controls as may be necessary to insure that the units will continue to be affordable to moderate income households for the remainder of the thirty (30) year period commencing with the issuance of certificates of occupancy on the last LIH unit in that development.

(f) The administering agency, subject to review by the township at the option of the governing body, shall adopt such regulations and guidelines as may be necessary to carry out the provisions of this subsection 21-4.7a7.

7. Notwithstanding any other provisions of this section 21-4.7, the Township of Mendham shall have the right to purchase, either directly or through a governmental agency or authority or through a corporation under contract with the township, any or all LIH units constructed in any development. Such right must be exercised by written notice to the developer within thirty (30) days after the issuance of a construction permit or permits for the unit or units involved. Notice shall be mailed by certified mail, return receipt requested, to the developer at the address of the developer set forth in the application for construction permit, and the notice shall become effective upon mailing.

   The purchase price for any unit shall be the agreed upon estimated highest price at which the unit could be sold to a qualified low or moderate income purchaser, as the case may be.

   Closing of title on the purchase of any unit or units shall take place within thirty (30) days after the issuance of a certificate of occupancy for the unit or units.

b. Administration. Except as to the provisions of subsection 21-4.7a7, the administration and enforcement of the provisions of this chapter as they pertain to LIH units shall be undertaken and performed by the township finance officer, unless the township committee shall by resolution designate a governmental agency or nonprofit entity to undertake and perform such responsibilities.

c. Periodic Review for Modification of Standards. The standards established in this chapter for qualification as a low income household, a moderate income household and the rental allowed to be charged for occupancy of LIH units shall be reviewed periodically by the township committee which shall, from time to time, adopt such amendments to this chapter as are required to assure that such standards conform to the applicable decisional and statutory

law of New Jersey. In the event that the standards established by this chapter are so amended hereafter, such amended standards shall apply to any LIH units which have been constructed pursuant to this chapter and which are in existence at the time that such standards are so amended.

21.4.8 Lot Geometry and Net Building Envelope Area Regulations. In order that lots created by subdivision approval shall have appropriate geometries and suitable areas for utilization and development, the following standards shall be met for new lots created in the R, R-1, R-2, R-3, R-5 and R-10 zone residence districts:

a. Lot Geometry. Each lot shall comply with all bulk requirements set forth in the Schedule of Requirements set forth on the Zoning Map. Each lot shall be of such geometry, size and shape so that

1. A lot geometry circle (LGC) can be inscribed entirely within the lot lines, tangent to the street right of way line (whether a public or private street), and

2. All lot lines hereinafter established which intersect with a public or private street shall be perpendicular or radial to the side line of such street for a minimum distance equal to the radius of the LGC applicable in the district and measured from said point of intersection.

b. Net Building Envelope Area (NBEA). Each lot shall contain a net building envelope area (NBEA) and a building envelope circle (BEC) as set forth in the Schedule of Requirements set forth on the Zoning Map.

21-4.9 Supplementary Setback Regulations. The minimum setbacks set forth on the Schedule of Requirements, are applicable as minimum dimensions. Minimum setbacks shall be increased in the following circumstances:

(a) Structures with heights over twenty (20) feet:

1. In the R-3 zone the minimum setback of a structure with a height over twenty (20) feet shall be increased by one (1) foot, for each one (1) foot of the height of the structure in excess of twenty (20) feet.

2. In the R-5 zone the minimum setback of a structure with a height over twenty (20) feet shall be increased by two (2) feet, for each one (1) foot of the height of the structure in excess of twenty (20) feet.

3. In the R-10 Zone the minimum setback of a structure with a height over twenty (20) feet shall be increased by three (3) feet, for each one (1) foot of the height of the structure in excess of twenty (20) feet.

(b) Accessory buildings with footprints over 1,000 square feet:

In all zones, the minimum front, side and rear yard setbacks for an accessory building of over 1,000 square feet of footprint shall be increased by 1.5 feet for each 100 square feet of footprint in excess of 1,000 square feet or portion thereof.

21-5 BUSINESS DISTRICT.

21-5.1 Permitted Uses. In the business district the following uses are permitted:

a. All uses permitted in the residence districts, subject to the area and bulk requirements of the R Residence District.

b. Banking, business, professional, administrative or governmental offices.

c. Stores and shops for the conduct of retail business, provided all merchandise shall be contained entirely within a building.

d. Personal service shops limited to barber shops, beauty parlors and hair styling salons.

e. Laundry and dry cleaning agencies provided that no laundry or dry cleaning is done on the premises.

Nothing contained herein shall be construed as permitting a gasoline station or any business or service involving the storage, maintenance, washing or servicing or storage in connection therewith of motor vehicles, or any storage of fuels for sale.

21-5.2 Signs. One business sign not exceeding four (4) square feet in area shall be permitted as an accessory use on each lot. The sign shall be attached flat to the wall of the building and may be illuminated only by indirect white illumination, non-flashing and non-moving. All signs shall be properly maintained. Whenever a business use is terminated, the sign accessory thereto shall be removed.

21-5A GOLF DISTRICT

21-5A.1 Permitted Uses. Clubs organized and operated by membership organizations exclusively for recreation or other non-profit purposes, no part of the profits of which inures to the benefit of a member, stockholder, officer or owner. The real property utilized for these purposes shall be not less than twenty-six acres and owned by the club. The club shall not be open to the general public or paying guests.

21-5A.2 Supplementary Regulations

a. Clubs shall meet the setback requirements specified in subsection 21-6.9 of this chapter. The Planning Board maya require screening from view from any road or adjacent residential property where any of the following is located within 500 feet from any lot line: any club house, any other non-residential building, any open terrace adjacent thereto, any area used for swimming, handball, tennis or other games (except golf playing areas), and any off-street parking area. At the discretion of the Planning Board, such screening may be by a wall, fence, berm or plant material.

b. No loudspeaking device shall be used so as to create undue noise beyond any lot line.

c. No floodlighting or other artificial illumination shall be used so as to create any glare beyond the lot lines.

d. Clubs may maintain one indirectly illuminated sign at the entrance drive thereto. Such sign shall be set back at least 25 feet from any lot line and shall not exceed four square feet in area.

e. Each club may maintain on its premises one (1) detached single unit residential structure where deemed by the Planning Board necessary, accessory and subordinate to the operation and/or maintenance of the club facilities, provided that such residential structure shall meet setback requirements applicable to residential structures in the adjacent zone district.

21-6.1 Prohibited Uses. If a use is not specifically permitted in a zone district, it is prohibited.

21-6.2 Nonconforming Uses.

a. Prior Uses and Structures. Any use or structure existing at the time of the adoption of the original Zoning Ordinance of the Township of Mendham on May 5, 1937 or any amendment thereto and which did not meet the requirements of such ordinance or any amendment thereto at the respective times of adoption may be continued upon the lot or in the building so occupied, and any such structure may be repaired or restored in the event of partial destruction thereof. This provision shall not be construed as authorizing the continuance of any use which was contrary to zoning ordinance provisions at the time of the inception of such use.

b. Certificates as to Nonconforming Uses. A prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that a particular use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming.

Application for such a certificate may be made to the zoning officer within one (1) year of the adoption of the ordinance which rendered the use or structure nonconforming. Application for such a certificate may be made to the zoning board of adjustment at any time, and any denial of an application for a certificate by the zoning officer shall be appealable to the zoning board of adjustment. The provisions of sections 59 through 62 of the Municipal Land Use Law, R.S. 40:55D-72 through 75, shall apply to any application or appeal to the zoning board of adjustment.

Any applicant for a certificate shall have the burden of proof.

Every certificate issued pursuant to this section shall include a description of the nature and extent of the nonconformity in sufficient detail to establish a record that will be available in the event that questions may arise as to subsequent enlargement or expansion of the nonconforming use covered by the certificate.

Copies of every certificate issued by the zoning officer shall be forwarded to the zoning board of adjustment and Planning Board. Copies of every certificate issued by the zoning board of adjustment shall be forwarded to the zoning officer and Planning Board.

c. Restoration and Repair of Structures. A nonconforming structure may be restored or repaired in the event of partial destruction by fire or other causes.

d. Extension of Use. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building shall not be deemed the extension of such nonconforming use.

e. Enlargement of Nonconforming Structures. A nonconforming building shall not enlarged, extended or increased, except that in residential zones, a nonconforming single-family dwelling or a single-family dwelling on a nonconforming lot may be enlarged, extended or increased if:

1. Said enlargement, extension or increase by itself conforms with all requirements of the Zoning Ordinance and the dimensions and setback of said enlargement, extension of increase, when aggregated with the existing building, do not create or increase any dimensional or setback violation; and

2. The area of said enlargement, extension or increase, when aggregated with the area of the existing building, does not exceed the maximum lot coverage standard permitted in that zone.

f. Accessory Buildings. An accessory building shall not be constructed incidental to a nonconforming building, except that in residential zones an accessory building may be constructed incidental to a nonconforming single-family dwelling or a single-family dwelling on a nonconforming lot, provided that:

1. The accessory building, by itself, conforms with all requirements of this chapter; and

2. The area of said accessory building, when aggregated with the area of the principal building, does not exceed the maximum lot coverage standard permitted in that zone.

g. Abandonment of Use. Whenever a nonconforming use has been abandoned such use shall not thereafter be re-established, and any subsequent use shall be in conformity with the provisions of this chapter.

h. Changes to Conforming Use. Once changed to a conforming use no building or land shall revert to a nonconforming use.

21-6.3 Visibility at Intersections. On a corner lot in any district no fence, wall, hedge, or other structure or planting more than two and one-half feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street right-of-way lines, or their projections where corners are rounded, and a straight line joining the street lines at points which are 30 feet distant from the point of intersection, measured along the street lines and/or projections.

21-6.4 Encroachments in Required Yards. The space in any required yard shall be open and unobstructed except as follows:

a. Ordinary projections of window sills, belt courses, cornices, eaves and other architectural features shall be permitted to project not more than two feet; open trellis, flagpole, unroofed steps, unroofed terrace, recreation equipment, drying yard equipment, shall be permitted to encroach without limitations.

b. Except as provided in subsection 21-6.5 no accessory structure shall exceed a height of 30 feet.

c. An accessory structure shall not be located closer than 10 feet to any building.

d. No accessory structure shall be located closer to a street than the principal building. On corner lots, an accessory structure shall not be located closer to a side street than the minimum front yard requirement for the adjoining lot. Access driveways in the R-3, R-5 and R-10 Zone Districts however, located in a front yard, shall be set back from any side line a minimum distance equal to one-half of the applicable side yard setback required for the principal structure in the respective zone district.

e. An accessory structure located in a side yard shall not be closer to the side lot line than the minimum side yard required for the principal building, provided, however, that in the R-3, R-5 and R-10 Zone Districts driveways and parking areas shall be set back from the side lot lines a minimum distance equal to one-half of the applicable side yard setback dimension required for the principal structure in the respective zone district.

f. An accessory structure located in a rear yard shall not be closer to the rear and side lot line than the minimum rear yard required for the principal building, provided, however, that in the R-3, R-5 and R-10 Zone Districts driveways and parking areas shall be set back from the rear and side lot line a minimum distance equal to one-half of the applicable rear yard setback dimension required for the principal structure in the respective zone district.

g. No accessory building in a business district shall be used for residence purposes. No accessory building in a business district shall be located closer than 10 feet from a rear lot line.

21-6.5 Height Exceptions.

a. The height limitations of this chapter shall not apply to (1) any chimney which extends no more than 5 feet above the highest point of the roof of the building of which it is a part, (2) any steeple, belfry, cupola or flagpole of a church or public building, or (3) any radio or television antenna affixed to the chimney or roof of a one family residence which extends no more than 20 feet above the highest point of the roof.

b. Entry pillars, gate posts and gates in connection with a driveway to any property in the Township shall not exceed eight (8) feet in height.

21-6.6 Transition Requirements.

a. Lot Divided by District Boundary. Where a lot is divided by a district boundary, the part of such lot within each district shall be regulated by all the bulk and use regulations of the district in which the greater percentage of the lot lies.

b. Transition at District Boundaries. Where a lot in a business district abuts a lot in a residence district there shall be provided along such lines in the business district lot a yard at least equal in width or depth to that required in the residence district, but in no case shall such yard be smaller than is required for the business district.

21-6.7 Flood Hazard Areas. No structures shall be erected, located or enlarged within the Flood Hazard Areas designated on the Flood Hazard Boundary Maps for the Township of Mendham issued by the United States Department of Housing and Urban Development, Revision of December 15, 1978, or designated as Flood Hazard Areas on any subsequent modifications of such maps. In the event of any question as to the location of the boundary of a Flood Hazard Area as shown upon such maps, the determination of the Township Engineer shall control.

21-6.8 Aviation Facilities. The use of any lot, land, ground, building, rooftop or other structure for the landing or taking off of airplanes, helicopters or other airborne vehicles is specifically prohibited in any zone district whether as a principal or accessory use.

21-6.9 Bulk Requirements for Non-Residential Land Uses. In the R and R-1 residence districts permitted non-residential land uses shall have a lot area of not less than 2 acres and shall comply with the setback requirements applicable in the zone district. In the R-2, R-3, R-5 and R-10 Zone residence districts permitted non-residential land uses shall have a lot area of not less than 20 acres and all such uses (other than golf playing areas), buildings and structures shall meet the following setback requirements:

a. Off-street parking areas shall be set back not less than 100 feet from any lot line.

b. Tennis courts designed for daytime operation only with no artificial lighting facilities shall be set back not less than 100 feet from any lot line.

c. Club houses, open terraces adjacent thereto, accessory residential structures as permitted under Section 21-5A of this chapter, and swimming areas or games areas

(other than platform games) designed for daytime operation only with no artificial lighting facilities shall be set back not less than 250 feet from any lot line.

d. Platform game structures, whether illuminated or not, and other games or swimming areas with artificial means of illumination and service or maintenance buildings, structures and facilities accessory to a permitted non-residential land use shall be set back not less than 400 feet from any lot line.

21-6.10 Outdoor Lighting. Light fixtures installed or employed in the outdoors for area lighting or any other purpose shall be shielded in such a fashion that the source of light (luminaire) is not visible from any location in a residential district beyond the perimeter property lines of the premises upon which the said outdoor/area light fixture is installed or employed. Notwithstanding the foregoing provisions, unshielded incandescent light bulbs with a power demand not exceeding 60 watts are permitted, provided that the filament of such light bulb is veiled from direct view by frosting, semi-translucency or other effective means.

21-7 OFF-STREET PARKING.

In conjunction with any principal building hereafter erected or any use of land hereafter established, there shall be provided on the same lot sufficient parking spaces to meet the minimum requirements specified herein. The spaces shall not occupy any required front, side or rear yard.

21-7.1 Business District.

a. Entrance or exit drives connecting the parking area and the street shall not exceed 15 feet in total aggregate width for each street line upon which a lot abuts.

b. Such drives shall be at least 60 feet distant, measured along the street right-of-way line, from the point of intersection of two intersecting streets, or from a bend in street line of one street, where the change in direction is 30 degrees or greater.

c. Such drives shall have on each side a triangular area formed by the intersection of the driveway line, the street right-of-way line and a straight line joining said lines at points 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 feet in height.

21-7.2 Required Off-Street Parking for Various Uses.

a. Dwelling: one space per dwelling unit.

b. Professional practice: one space per dwelling unit plus four spaces for each 200 square feet of floor area so used, or any fraction thereof.

c. Home occupation: one space per dwelling unit plus two spaces for each 200 square feet of floor area so used, or fraction thereof.

d. Club or other place of amusement or recreation, library, museum, art gallery or other cultural institution, church, school auditorium or other place of public assembly: one space for every three seats based upon maximum seating capacity. Any place not having seating capacity for patrons or assemblage shall provide one space for every three persons, based upon attendance capacity.

e. Business, commercial, professional, governmental establishments or retail stores permitted in the business district: one space for every 100 square feet of total floor area.

21-8 SITE PLAN APPROVAL.

Whenever any structure is proposed to be erected, enlarged or altered on any property in any residence district or in the business district to be used for a permitted institutional, either conventional or limited income multi-unit residential, public utility, park, playground, private recreation club, agricultural, horticultural, municipal use or conditional use, a site plan shall be submitted to the planning board which shall conduct a hearing thereon as provided by law, and no construction permit shall be issued prior to planning board approval of the site plan.

21-9 FLAG LOT PROVISIONS.

21-9.1 General. Notwithstanding any other provisions of this chapter, a one family residential structure may be constructed on a flag lot in the R-5 and R-10 zones having less than the required frontage on a street, provided that all of the requirements of this Seciton 21-9 are met.

The provisions of subsection 21-4.4.f permitting a detached dwelling for guests or employees as an accessory use shall not apply to a flag lot.

21-9.2 Lot Requirements.

In the R-5 and R-10 zones, a maximum of two flag lots may be created as part of a subdivision in accordance with the following:

a. The front setback for a flag lot abutting the frontland lot or another flag lot shall be 1.5 times the setback otherwise required in the zone. IN the R-5 zone a flag lot shall have a minimum lot area of 7.5 acres excluding the area of the flag lot staff. In the R-10 zone a flag lot shall have a minimum lot area of 10 acres acres excluding the area of the flag lot staff. All other bulk standards applicable to a conventional lot in the zone shall continue to apply.

b. The flag lot shall have a minimum frontage of 50 feet on the Flag Lot Staff. Adjacent flag lots may share a common Flag Lot Staff.

c. In no case shall a driveway to a backlands lot be constructed less than fifty feet from an existing dwelling on an adjacent parcel.

d. A fire protection system pursuant to Section 16-10.2 (w) shall apply in the case of the development of two flag lots.

21-9.3 Flag Lot Driveway Requirements.

a. The strip of land designated as a flag lot driveway shall, in the case of a single flag lot, be owned by the party holding title to the flag lot. The area of the flag lot staff shall not be included in calculating the area of the flag lot.

A Common Driveway providing access to more than one lot shall be in the joint ownership of the parties holding title to the flag lots.

b. A flag lot driveway shall not be nearer than the width of two conventional lots in the zone to any other flag lot driveway at the point of intersection with the same state, county or municipal roadway.

c. Flag lot driveways shall be built in accordance with the requirements of Section 16-10.4 (b).

21-9.4 Development of Flag Lots.

Development of a Flag Lot shall proceed in accordance with the provisions of Chapter XXIV – Lot Development Permit and shall include inspections by the Township Engineer to assure compliance with the provisions of Section 16-10.4.

21-10 LOT SIZE AVERAGING

21-10.1 Purposes. Subdivision developments in the R-5 and R-10 Zones are encouraged to be designed according to the principles of lot size averaging in order to promote the following:

a. A mix of lots of varying sizes and configurations within neighborhoods consistent with the Township's historic development pattern;

b. Subdivision roads designed to follow the natural contours and features of the land consistent with the character of the Township's historic rural roads, and thus less disruptive to the environment and potentially shorter and less costly to build and maintain;

c. The preservation of permanent private or public open space, especially areas important to environmental protection and the preservation of community character.

21-10.2 General. Lot size averaging shall be permitted in the R-5 and R-10 Zones.

21-10.3 Lot yield. The number of lots that may be created by subdivision for lot size averaged subdivisions may be determined by either one of the following options, at the discretion of the developer:

a. Lot yield may be the same as a conventional subdivision complying with all of the minimum requirements contained in the Schedule of Requirements for the zone district as verified by the submission of a concept subdivision plan; or

b. Lot yield may be determined utilizing the formulas below which compensate for the extra land typically needed for a conforming conventional subdivision, especially for roads, where,

L = total permitted number of lots,
T = total tract acreage, and
L shall be rounded to the nearest whole number:

i. In the R-5 Zone:

$$L = \frac{0.85 \times T}{5}$$

ii. In the R-10 Zone:

$$L = \frac{0.90 \times T}{10}$$

21-10.4 Bonus Lots. The Planning Board may permit **one or more** additional bonus lots for dedication of public open space in accordance with the following:

a. One bonus lot for every 20 acres of land deeded to Mendham Township dedicated for public open space or conservation purposes.

b. The Planning Board shall determine that the land to be dedicated is suitable for public open space purposes, including but not limited to:

- areas important to the protection of environmental resources,
- areas containing contributing historic resources as documented in State and National Historic Register Registration Forms,
- areas adjacent to existing public open space,
- roadscape areas that preserve community character.

A bonus lot shall not be granted if more than one-half of the tract proposed to be dedicated consists of wetlands, wetland or stream buffers, or steep slopes.

C. In lieu of deeding or conveying a conservation easement to Mendham Township as provided in paragraphs 21-10.4(a) and (b), one bonus lot for every 20 acres of land may be permitted in accordance with the following:

1. The property owner may, with the consent of the Township, deed the property or convey the conservation easement, by means of a document signed by both the grantor and the grantee, to a trust or other entity which is tax exempt and authorized by its charter or applicable law to hold a conservation easement, provided that such entity is a qualified organization within the meaning of Regulation Sec. 1.170A-14(c)(1) of the Internal Revenue Code as amended from time to time;

2. The Township will consent to conveyance to such an entity provided that it is of recognized standing, chartered in New Jersey and has engaged in other such transactions for at least the last ten years; and

3. The deed or conservation easement agreement shall provide:

"If at any time the Grantee shall cease to act as a not-for-profit entity with one of its primary purposes being the preservation of natural resources and open space, shall be liquidated or dissolved, or falls into inactivity and does not actively manage the open space for which it is responsible, the interests granted to the Grantee under this [deed] [easement] shall be transferred and assigned to the Township of Mendham or to an entity selected by the Township and qualified under the Township's lot size averaging ordinance to hold such an easement. For purposes of implementing the provisions of this paragraph and in circumstances where a conveyance document is not readily obtainable from a duly authorized officer of Grantee, the parties do hereby name and designate the Township Attorney in Fact to execute and deliver to the Township of Mendham a document which transfers, conveys, and assigns to the said Township all of the Grantee's right, title and interest hereunder.

21-10.5 Minimum lot standards for lot averaged subdivisions. Notwithstanding any other provisions of this chapter, lots in lot averaged subdivisions shall comply with the following standards:

a. In the R-5 Zone, all lots shall comply with the minimum bulk standards of the R-3 Zone as contained in the Schedule of Requirements.

b. In the R-10 Zone, all lots shall comply with the minimum bulk standards of the R-5 Zone as contained in the Schedule of Requirements.

21-10.6 Deed restrictions. All lots larger than five acres in the R-5 Zone and ten acres in the R-10 Zone, which are part of a lot averaging subdivision, shall be subject to the following permanent deed restriction:

'This lot was subdivided pursuant to the lot size averaging provisions of the Mendham Township Zoning Regulations. Further subdivision of this lot described herein is prohibited. This restriction shall run with the land described herein and is binding upon any and all heirs, successors and assigns in title from and after the date of this deed and shall be enforceable by the Township of Mendham.'"

21-11 ADMINISTRATION AND ENFORCEMENT.

21-11.1 Enforcing Authority. This chapter shall be enforced by the construction official. The construction official shall in no case issue a construction permit for the erection or structural alteration of any building, nor grant any occupancy permit for any building or land unless the proposed construction, structural alteration or use thereof is in conformity with the provisions of this chapter and any required approvals or variances granted in accordance with law.

The construction official is empowered to cause any building, structure, place or premises, to be inspected and examined and to order in writing the remedying of any condition found to exist therein, or thereat, in violation of any provision of this chapter.

21-11.2 Certificate of Occupancy. Prior to occupancy or use, a certificate occupancy shall be obtained from the construction official for any of the following:

a. Occupancy and use of a building hereafter constructed, enlarged, relocated, reconstructed or altered.

b. A change in the use of a building.

c. Occupancy and use of vacant land or change in the use of land, except for any use consisting primarily of filling the soil.

No certificate of occupancy shall be issued unless the proposed occupancy is in full conformity with all the provisions of this chapter and any other applicable requirements of law.

A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building and the use thereof, or the use of such land is in full conformity with the provisions of this chapter and any other applicable requirements of law. However, on the serving of notice of any violation of any of the provisions or requirements with respect to any building or the use thereof or of land, the certificate of occupancy for the use shall, without further action, be deemed null and void, and a new certificate of occupancy shall be required for any further use of such building or land.

A duplicate copy of every certificate of occupancy issued shall be filed with the township tax assessor. A record of all certificates of occupancy shall be kept in

the office of the construction official, and copies shall be furnished upon request to the planning board or to any person having any legal interest in the building or land affected.

ORDINANCE NO. 12 - 2007

AN ORDINANCE CREATING A NEW ZONE DISTRICT, ENTITLED "THE RESIDENTIAL CLUSTER – RC ZONE", WITH STANDARDS PERTINENT THERETO, AMENDING CHAPTER XXI "ZONING REGULATIONS" OF THE LAND USE ORDINANCE OF THE TOWNSHIP OF MENDHAM.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, as follows:

SECTION 1. Section 21-2.1, Zone Districts, of the Land Use Ordinance is hereby amended to delete the "R-C One Family Residence District" and inserting the following in its place:

"R-C Residential Cluster District"

SECTION 2. Section 21-4.1 is Uses is hereby amended by deleting "R-C" from the first line in the section.

SECTION 3. A new section, section 21-4A, RESIDENTIAL CLUSTER, is hereby created to read as follows:

"21-4A RESIDENTIAL CLUSTER DISTRICT"

"21-4A1. FINDINGS AND PURPOSES:

a. The Residential Cluster District encompasses a unique and long established neighborhood of 37 single family homes and other buildings on a single lot of approximately 28 acres designated as Block 127, Lot 69.
b. All the land and improvements are owned by a cooperative legally know as Woodland Lake, Inc. to which shares are owned by individual cooperators largely made up of the residents.
c. The Cooperative is governed by a Board of Directors which has the authority to control development on the entirety of the property and is in the position to balance the interests of individual cooperators with the overall interests of the Cooperative as a whole.
d. Conventional single family zoning can not reflect these facts and the characteristics of the neighborhood without making the administration of land use regulations unnecessarily

cumbersome, time consuming and costly for both the Township and members of the Cooperative.

e. The continuation of the Cooperative promotes increased variety of housing in the Township and preserves valuable open space.

f. Zoning should reflect and promote the continuation of the established pattern of development in the neighborhood.

g. Zoning standards should be designed to minimize the need for applications to the Zoning Board of Adjustment.

h. The establishment of the minimal regulatory requirements regarding the distance between buildings set forth in this section is not intended to encourage the relaxation of any more stringent requirements that may be required by the Board of Directors of Woodland Lake, Inc. Therefore, these less stringent standards should not serve as a basis for variance relief that may be sought by an applicant before the Zoning Board of Adjustment nor in support of a challenge to a determination of the Board of Directors.

"21-4A2. Map. A map entitled Map of Common Open Space and Internal Roads Referenced in Section 21-4A2 of the Land Use Ordinance of the Township Of Mendham prepared by Maser Consulting Engineers dated May 22, 2007, is hereby declared to be the Map showing the location of the common open space and internal drives for the purpose of establishing the setbacks required by this section.

"21-4A3. Required common open space. The common open space shown on the Map shall be for the use and enjoyment of residents of the district in common.

"a. Permitted uses. The following uses and structures are permitted in the common open space:

i. Recreational improvements intended for the use of the residents of the district, and

ii. A building for meetings and recreational activities of the residents of the district of no more than 1,200 square feet of floor area.

iii. Buildings for the storage of equipment and supplies associated with the maintenance of the common open space.

iv. Septic systems for the Cooperative."

"21-4A4. Permitted residential uses. No more than a total of 37 detached single family residences are permitted and only in the area outside of the common open space shown on the Map.

"21-4A5. Permitted accessory uses and buildings. The following accessory uses and accessory buildings are permitted in the area outside the common open space shown on the Map:

a. Private garages.
b. Professional practice as defined in Chapter XII, General Definitions, provided the practice does not occupy more than 500 square feet of floor area of the dwelling.
c. Home occupations as define in section 21-4.4 c.
d. Detached private sheds of no more than 100 square feet in floor area.

"21-4A6. Minimum Lot Size. The minimum lot size shall be 27.9 acres, including the common open space area.

"21-4A7. Building Setbacks. The following minimum setbacks for all buildings shall be maintained:

a. From internal drives. All residential buildings shall be set back a minimum of 15 feet from the centerline of pavement of all internal drives shown on the Map. For the purposes of this section, "internal drives" shall refer to Herbann Lane, Levitan Lane, Lake Drive, Barbarita Hill Lane and Stone Road, as they are shown on the Map.
b. From public streets. All residential buildings shall be set back a minimum of 50 feet from the right-of-way of all public streets.
c. From common open space boundary. All buildings shall be set back a minimum of 25 feet from the common open space boundary line as shown on the Map. All sheds of no more than 100 square feet in floor area shall be setback a minimum of 20 feet from the common open space boundary.
d. From residential building to residential building: 12 feet. (This standard represents the minimum necessary to maintain emergency access but the Cooperative may determine that a larger distance is more appropriate to maintain the character of the neighborhood.)
e. From the boundary of the RC - Residential Cluster District: 50 feet.

"21-4A8. Internal drives. The existing location and pavement width of all internal drives shall be maintained as shown on Map."

"21-4A9. Maximum size of dwellings. The maximum floor area of any residential building shall be 2,800 square feet including any garage but not including any shed up to 100 square feet in size and basements. The maximum number of bedrooms in each residential dwelling shall be three."

"21-4A10. Maximum height of buildings. The maximum height of buildings shall be 30 feet.

"21-4A11. Endorsement or Consent Required. No application to the Planning Board or Zoning Board of Adjustment of the Township of Mendham and no application for a Building Permit shall be accepted without the prior written consent and approval of the Woodland Lake Board of Directors. The execution of such application shall represent that the activity for which approval or permit is sought has received the prior approval of the Board of Directors."

SECTION 4. This ordinance shall take effect after final passage and publication pursuant to law.

The Map is available for public inspection at the Morris County Planning Board and at the office of the Mendham Township Municipal Clerk.

ATTEST

TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS

Ann L. Carlson, RMC
Assistant Township Clerk

By: Phyllis Florek
Mayor

INTRODUCED August 30, 2007

ADOPTED September 25, 2007

EFFECTIVE September 28, 2007

TOWNSHIP OF MENDHAM
ORDINANCE NO. 4 – 2008

AN ORDINANCE CREATING A NEW "REUSE OF EXISTING BUILDINGS OVERLAY DISTRICT" IN A PORTION OF THE R-10 ZONE, PERMITTING THE REUSE OF EXISTING BUILDINGS FOR MULTIPLE USES AS A CONDITIONAL USE, AMENDING CHAPTER XXI "ZONING REGULATIONS" OF THE LAND USE ORDINANCE OF THE TOWNSHIP OF MENDHAM

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, as follows:

SECTION 1. Chapter XII, Definitions, is hereby amended to add the following new definitions:

"Age-restricted residences. Dwellings restricted to occupancy by residents 55 years of age or older consistent with the Federal Fair Housing Act."

"Assisted Living Facility. Residences for the frail elderly and/or physically impaired that provide rooms, meals, personal care, supervision and other services, such as recreational activities and transportation."

"Day Care Facility. A facility that provides for the day care, supervision, and protection of children or the elderly but provide no overnight care."

"Hospice. An institutional use providing medical care and other services to the terminally ill."

"Intermediate Care Facility. A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides."

"Long-term Care Facility. An institution that is licensed or approved to provide health care under medical supervision for twenty-four or more consecutive hours to two or more patients."

"Non-Profit Office. A room or group of rooms used for conducting the affairs of a governmental agency, or a non-profit organization qualified under the 501 (c) (3) rules, and generally furnished with desks, tables, files, and communications equipment."

SECTION 2. Chapter XXI, Section 21-2.1, Zone Districts, of the Land Use Ordinance is hereby amended to insert a new overlay zone district as follows:

"Reuse of Existing Buildings Overlay Zone within the R-10 Zone district retaining the underlying R-10 zone plan and requirements"

SECTION 3. Section 21-2.2, Zoning Map and Schedule of Requirements, of the Land Use Ordinance of the Township of Mendham is hereby amended to read as follows:

"21-2.2 Zoning Map and Schedule of Requirements. A portion of the property designated on the official tax map of the Township of Mendham as Block 100, Lot 17.03, which portion is delineated and designated on the map

entitled "Township of Mendham, Morris County, New Jersey, Zoning Map," including the Schedule of Requirements appearing thereon, is hereby designated as an overlay zone district within the R-10 Zone entitled the "Reuse of Existing Buildings Overlay Zone."

SECTION 4. A new section, section 21-5B is hereby created to read as follows:

"21-5B REUSE OF EXISTING BUILDINGS OVERLAY ZONE

21-5B.1 Alternate reuse of existing buildings. In addition to the uses permitted in the underlying R-10 Zone, any combination of the following uses are permitted as a conditional use provided that the standards of section 21-4.6.g., Reuse of Existing Buildings, are met:

a. Principal permitted uses:

(1) Governmental uses.
(2) Churches, houses of worship, and related religious uses.
(3) Elementary, intermediate and high schools teaching academic subjects.
(4) Public assembly hall or theater ancillary to (1), (2), or (3) above.
(5) Non-profit office uses.
(6) Assisted living facility.
(7) Hospice.
(8) Intermediate Care Facility
(9) Long-term Care Facility
(10) Age restricted residences.
(11) Day care facility.
(12) Gymnasium use in the existing gymnasium building.
(13) Residences for onsite employees of the uses located in the Reuse of Existing Buildings Overlay district.
(14) Administrative offices for building owners.
(15) On-site affordable housing to accommodate any growth share in accordance with subsection c. below.

b. Permitted accessory uses: Any use normally accessory and incidental to the principal permitted use.

c. Affordable housing required for change of use triggering growth share. Any redevelopment of existing buildings that involves a change of use of existing structures and generates a growth share requirement or other affordable housing requirement under Council on Affordable Housing (COAH) rules (N.J.A.C. 5:94-1 et seq. as amended and supplemented) shall accommodate the required number of affordable units, including any rental requirement, on site. In this regard, the applicant shall furnish the Board with an analysis indicating the number of existing and proposed dwellings if any, as well as the amount of square footage devoted to existing nonresidential uses as compared to the square footage to be devoted to proposed nonresidential uses in accordance with COAH rules, as amended and supplemented."

SECTION 5. Section 21-4.6, CONDITIONAL USES, is hereby amended to add a new subsection to read as follows:

"21-4.6.g., REUSE OF EXISTING BUILDINGS. Existing buildings in the Reuse of Existing Buildings Overlay Zone district may be reused for any of the uses listed in section 21-5B.1 provided the following regulations and standards are met:

1. Any reuse of existing buildings involving a change of use shall require conditional use approval in accordance with this section.

2. The lot area must be at least 18 acres in Mendham Township.

3. No new building floor area shall be created except for minor alterations that may be needed for code compliance, handicapped access or other improvements that do not significantly alter the building area.

4. The total impervious surface coverage shall be no more than 218,000 square feet.

5. Any use providing medical care shall provide its own ambulance service for its patients.

6. The amount of existing building floor area devoted to the uses permitted in the Reuse of Existing Buildings Overlay Zone shall be shown on the site plan together with a calculation of the total floor area proposed to be devoted to each use. The following parking standards shall be utilized as a gauge for determining the maximum intensity of use. For the purpose of this section, higher intensity uses are those that generate more need for parking. Accessory uses shall be counted as the principal use. The total intensity of reuse of buildings for any combination of permitted uses shall not exceed a total of 200 parking spaces theoretically needed as calculated utilizing the following standards:

BUILDING FLOOR AREA DEVOTED TO:	PARKING SPACES
Church services and other worship	One for each three seats or one for each 72 inches of bench seating; however, there shall be no theoretical parking need generated if services are limited to weekends and/or evenings after 5:00 PM.
Public assembly hall, theater	One for each three seats or one for each 75 sq. ft. of assembly area; however, there shall be no theoretical parking need generated if such uses are limited to weekends and/or evenings after 5:00 PM.
Non-profit office and governmental uses	One for each 200 sq. ft.
Hospice, Intermediate and long-term care facilities	One per unit
Gymnasium use	One for each 200 sq. ft.
Assisted living facility	0.5 per unit
On-site employee residences	One per unit
Age restricted residences	Two per unit
Day care facility	One per every 600 sq. ft.
Elementary school	Two per classroom
Intermediate school	1.5 per classroom
High school	2 per classroom

The above parking standards are solely intended for calculating the maximum intensity of use. The ability to physically provide more than 200 parking spaces on site shall not constitute a valid reason to reuse building space with a higher percentage of higher intensity uses.

SECTION 6. This ordinance shall take effect after final passage and publication pursuant to law.

Introduced: February 26, 2008
Adopted: March 25, 2008
Effetcive March 28, 2008

Attest:

Ann Carlson, Township Clerk

TOWNSHIP OF MENDHAM,
IN THE COUNTY OF MORRIS

By: Phyllis Florek, Mayor

TOWNSHIP OF MENDHAM
ORDINANCE 11-2009

AN ORDINANCE AMENDING CHAPTER XV, ZONING BOARD OF ADJUSTMENT, SECTION 15-12, EXPIRATION OF VARIANCE, OF THE ORDINANCES OF THE TOWNSHIP OF MENDHAM

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, as follows:

SECTION 1. Chapter XV, Zoning Board of Adjustment, Section 15-12, Expiration of Variance, of the Ordinances of the Township of Mendham is hereby amended to read as follows:

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 commenced, or unless such permitted use has commenced, within one year from the date of the adoption of the Zoning Board of Adjustment resolution. The determination as to whether construction has commenced shall be made by the Township Engineer and/or the Township Construction Official. 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 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 subdivision or site plan approval remains in effect.

An applicant may apply for, and the Zoning Board of Adjustment may grant, extensions on such variance approval for additional periods of one year but not to exceed a total extension of three years from what would otherwise be the expiration date, if the applicant proves to the reasonable satisfaction of the Zoning Board of Adjustment that the applicant 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 applicant applied promptly for and diligently pursued the required approvals. The applicant may apply for the extension either before or after what would otherwise be the expiration date of the variance approval. The extension shall begin on what would otherwise be the expiration date.

SECTION 2. All ordinances of the Township of Mendham that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect upon final passage and approval in accordance with law.

Introduced: April 13, 2009

Adopted May 26, 2009

Effective May 30, 2009

Attest:

TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS

_____
Ann L. Carlson, RMC
Township Clerk

By_____
Frank V. Cioppettini, Jr.
Mayor

TOWNSHIP OF MENDHAM
ORDINANCE 12-2009

AN ORDINANCE SUPPLEMENTING CHAPTER XXI, ZONING REGULATIONS, SECTION 21-4, RESIDENCE DISTRICTS, SUBSECTION 21-4.5, SUPPLEMENTARY REGULATIONS, OF THE ORDINANCES OF THE TOWNSHIP OF MENDHAM

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, as follows:

SECTION 1. Chapter XXI, Zoning Regulations, Section 21-4, Residence Districts, Subsection 21-4.5, Supplementary Regulations, of the Ordinances of the Township of Mendham is hereby supplemented with the addition of paragraph g, which shall read as follows:

g. Two residential dwellings on one lot are permitted on a temporary basis during construction of a new dwelling on the same lot for use by the owner of the existing dwelling. In order to qualify under this exception, the owner of the property must be the occupant of the existing dwelling and must continue to own and occupy the existing dwelling during construction of the new dwelling while two principal structures exist on one lot. Further, the owner of the property must be the eventual occupant of the new dwelling. The two residential dwellings may only include the existing/original dwelling and the new dwelling that is being built. The existing/original dwelling must be demolished within sixty days from issuance of a temporary certificate of occupancy for the new dwelling or one year after issuance of a building permit for construction of the new dwelling, whichever occurs first.

SECTION 2. All ordinances of the Township of Mendham that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction; such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect upon final passage and approval in accordance with law.

Introduced: April 13, 2009

Adopted May 26, 2009

Effective May 30, 2009

Attest:

Ann L. Carlson, RMC
Township Clerk

TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS

By_____
Frank V. Cioppettini, Jr.
Mayor

SCHEDULE OF REQUIREMENTS

ZONE	PRIMARY USE	MINIMUM LOT AREA OR DENSITY	MINIMUM[2] NET BLDG. ENVELOPE AREA	MINIMUM LOT FRONTAGE (FT.)	MINIMUM DIAMETER L.G.C. (FT.)	MINIMUM DIAMETER[2] B.E.C. (FT.)	MINIMUM SETBACKS (FT.)[15]			MAXIMUM HEIGHT (FT.)[10]
							SIDE YARD	FRONT YARD[14]	REAR YARD	
R[16]	DETACHED SINGLE DWELLING	20,000 SQ.FT.	7,000 SQ.FT.	75	100[1]	70	15	50	35	35
R-1[16]	DETACHED SINGLE DWELLING	1 ACRE	12,000 SQ.FT.	100	160[1]	100	30	60	50	35
R-2[16]	DETACHED SINGLE DWELLING	2 ACRES	25,000 SQ.FT.	100	225[1]	140	40	60	50	35
R-3[16]	DETACHED SINGLE DWELLING	3 ACRES	40,000 SQ.FT.	100	250[1]	150	50	60	50	35
R-5[16]	DETACHED SINGLE DWELLING	5 ACRES	80,000 SQ.FT.	100	300[1]	200	50	60	50	35
R-10[16]	DETACHED SINGLE DWELLING	10 ACRES	140,000 SQ.FT.	100	400[1]	240	80	100	100	35
R-C	DETACHED SINGLE DWELLING	20,000 SQ.FT.	7,000 SQ.FT.	75	100	70	15	50	35	35
CR-1	CONVENTIONAL SINGLE UNIT RESIDENTIAL COMBINED WITH L.I.H.	AVERAGE[3][11] 10,000 SQ.FT. 0.214 D.U./Ac.[4][6]	12,000 SQ.FT.[3]	AS APPROVED[3]	160[1][3]	35[12]	15[12][13]	35[11][12]	35[12]	35
CR-2	CONVENTIONAL SINGLE UNIT RESIDENTIAL COMBINED WITH L.I.H.	SEE R ZONE[3] 1.30 D.U./Ac.[4][7]	7,000 SQ.FT.[3]	75[3][11]	100[1][3]	70[3]	15[3] 100[5]	50[3] 100[5]	35[3] 100[5]	35
L	RETAIL BUSINESS OR DETACHED SINGLE DWELLING	SEE R ZONE 1.30 D.U./Ac.	N.A.	50	100	25	15	25	10	35
C	GOLF CLUB	35 ACRES	N.A.	100	N.A.	N.A.	250	250	250	35

) WHEN A LOT FACES ON MORE THAN ONE STREET, THE REQUIRED DIAMETER OF L.G.C. SHALL BE INCREASED BY 25%
) AT LEAST 75% OF NET BUILDING ENVELOPE AREA MUST BE CONTIGUOUS.
) FOR CONVENTIONAL SINGLE UNIT RESIDENCE.
) GROSS DENSITY AS DEFINED.
) FOR MULTI-UNIT RESIDENTIAL USE.
) AT LEAST 59% OF TRACT AREA MUST BE COMMON OPEN SPACE.
) AT LEAST 32% OF TRACT AREA MUST BE COMMON OPEN SPACE.
) RESIDENTIAL STRUCTURES IN THE BUSINESS DISTRICT SHALL MEET ALL THE LIMITING SCHEDULE REQUIREMENTS OF THE "R" RESIDENCE DISTRICT.
) SEE SPECIAL PROVISIONS OF SECTION 12-8.6.
) NO DWELLING SHALL HAVE MORE THAN TWO AND ONE-HALF STORIES.
) SEE SUBSECTION 21-4.2 c.
) SEE SUBSECTION 21-4.2 d.2.
) TWO SIDE YARDS COMBINED MUST MEASURE AT LEAST 40'.
) WHEN A LOT FACES ON MORE THAN ONE STREET ALL YARDS FACING A STREET SHALL BE CONSTRUED AS FRONT YARDS.
) SETBACK ADJUSTMENT FOR STRUCTURES OVER 20' HIGH IN THE R-3, R-5 AND R-10 ZONES IS REQUIRED PURSUANT TO SECTION 21-4.9.
) TOTAL PERMITTED FLOOR AREA = 2600 SQ.FT. + (1700 SQ.FT. X ACREAGE OF THE LOT)

EXPLANATION AND DETAILS SEE TEXT.

7)flag lots are permitted in accordance with
ection 21-9

Township of Mendham
Morris County, New Jersey

CHAPTER XXII

LAND USE ORDINANCE ENFORCEMENT, VIOLATIONS, PENALTIES, SEPARABILITY OF PROVISIONS AND EFFECTIVE DATE

22-1 ADMINISTRATION AND ENFORCEMENT

22-1.1 Enforcing Authority. Except as otherwise specifically provided in any chapter this ordinance shall be enforced by the Township construction official.

The construction official is empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this ordinance.

22-1.2 Construction Permit. The Construction Official shall in no case issue a construction permit for the erection, structural alteration of any building or demolition of a single family dwelling unless the proposed construction, structural alteration use or development of the site is in conformity with the provisions of this ordinance, any other applicable requirement of law and any required approvals or variances granted in accordance with law.

22-1.3 Certificate of Occupancy. Prior to occupancy or use, a certificate of occupancy shall be obtained from the construction official for any of the following:

a. Occupancy and use of a building hereafter constructed, enlarged, relocated, reconstructed or altered.
b. A change in the use of a building.
c. Occupancy and use of vacant land or change in the use of land, except for any use consisting primarily of tilling the soil.

No certificate of occupancy shall be issued unless the proposed occupancy is in full conformity with all the provisions of this ordinance, any other applicable requirements of law and any required approvals or variances granted in accordance with law.

A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect so long as such use thereof, or the use of such land, is in full conformity with the provisions of this ordinance, and any other applicable requirements of law and any approvals or variances. However, on the serving of notice by the construction official of any violation of any of the provisions, requirements or approvals with respect to any building or the use thereof or of any land, the certificate of occupancy for the use shall, without further action, be deemed null and void, and a new certificate of occupancy shall be required for any further use of such building or land.

A duplicate copy of every certificate of occupancy issued shall be filed with the Township Tax Assessor. A record of all certificates of occupancy shall be kept in the office of the construction official, and copies shall be furnished upon request to the planning board or to any person laving a legal interest in the building or land affected.

22-2 VIOLATIONS AND PENALTIES.

Except as otherwise specifically provided in any Chapter of this ordinance, any persons who violates any of the provisions of this ordinance, or who fails to comply with any of the requirements hereof, or who erects, places, relocates, extends, enlarges or alters any structure in violation of any provisions hereof or any site plan required hereunder, or who fails to comply with the terms and conditions of any variance or any conditional use permit, or who puts into use any lot or land in

violation of any provision hereof or any site plan required hereunder, or as owner or occupant of any lot or land refuses reasonable opportunity to inspect any premises to determine compliance with the provisions of this ordinance shall be guilty of a violation of this ordinance and upon conviction thereof shall be liable to a fine of not more than $500.00 or imprisonment for not more than 90 days, or to both such find and imprisonment. Each and every day a violation continues shall be deemed a separate and distinct offense.

The owner of any structure, lot or land, or part thereof, where anything in violation of this ordinance is placed or exists, and any architect, builder, contractor, agent, person or corporation employed in connection therewith, who assists in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fine or imprisonment, or both, hereinabove specified.

22-3 SEPARABILITY OF PROVISIONS.

If any chapter, section, subsection or paragraph of this ordinance shall be declared to be unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section, subsection or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining chapters, sections, subsections or paragraphs of this ordinance.

22-4 EFFECTIVE DATE.

This ordinance shall take effect as provided by law.

CHAPTER XXIII

TREE PRESERVATION AND LANDSCAPE REGULATIONS

23-1 DETERMINATION.

23-1.1 It is hereby found and determined that it is necessary and proper for the good government, order and protection of persons and property and for the promotion of the general welfare of the township and its inhabitants that the Township adopt reasonable rules and regulations to protect trees within the Township against unnecessary destruction, removal, injury and disease.

23-1.2 It is also found and determined that in the interest of the general welfare of the Township and its inhabitants, it is necessary to preserve the rural character of roads in the Township of Mendham and establish standards for the installation of landscaping suitable to promote the scenic appeal of roads.

23-2 GENERAL PROVISIONS.

A tree shall be considered as being located upon a lot if any part of the trunk or main stem of the tree is located upon such lot. Accordingly, a tree may be considered as located upon two or more lots for purposes of this chapter.

23-3 PROHIBITED ACTIVITIES ON MUNICIPAL LAND.

23-3.1 Prohibited Activities. No person shall (a) remove, injure, break, deface, poison or otherwise damage any woody perennial plant or shrub located upon any municipal land; (b) nail or otherwise attach anything to any woody perennial plant or shrub upon any municipal land; (c) operate, place or maintain within the dripline of a tree or within six (6) feet of the stem or trunk of any other woody perennial plant or shrub located upon any municipal land any machinery, equipment, heavy object, stone, rocks, cement, earth, soil or other substance which may harmfully affect such tree or other plant or shrub by unduly compressing the earth or otherwise impeding or preventing the access of water or air to its roots; (d) excavate or remove earth or soil or cause any water to flow within the dripline of a tree located on any municipal land; (e) excavate around or remove earth or soil from, or cause any water to flow upon the roots of any woody perennial plant or shrub located upon any municipal land in any manner which may harmfully affect such plant or shrub; or (f) interfere with, damage, destroy or attach anything to any posts, supports or guards for any woody perennial plant or shrub upon any municipal land.

23-3.2 Exempt Activities. Nothing contained in subsection 23-3.1 shall apply to the Township, its employees, agents or contractors when engaged in the performance of an authorized project upon any municipal land or when engaged in the maintenance or removal, in whole or in part, of woody perennial plants which present hazardous conditions to the public.

23-4 PROHIBITED AND REGULATED ACTIVITIES ON UNDEVELOPED LOTS.

23-4.1 Prohibited Activities. No person shall (a) injure, deface, poison or damage any tree located upon any undeveloped lot within the Township; (b) nail or otherwise attach anything to a tree upon any undeveloped lot within the township; (c) operate, place or maintain within the dripline of a tree located upon any undeveloped lot within the Township any machinery, equipment, heavy object, stone, rocks, cement, earth, soil or other substance which may harmfully affect such tree by unduly compressing the earth or otherwise impeding or preventing the access of water or air to the roots of such tree; or (d) excavate or remove earth or soil or cause any water to flow within the dripline of any tree on any undeveloped lot within the Township in any manner which may harmfully

affect such tree. Notwithstanding the foregoing prohibitions, "no trespassing" and "no hunting" signs may be nailed, stapled or otherwise affixed to trees having trunk diameters of at least eight (8) inches at the height where the sign is affixed.

23-4.2 Regulated Activities. No person shall brush out an undeveloped lot until either (a) a tree removal permit has been issued in accordance with the provisions of section 23-7 of this Chapter with respect to such lot, or (b) if the improvement of the undeveloped lot will not require the removal of any tree a statement to that effect has been filed by the owner of the lot with the Tree Protection Committee.

No person shall remove any tree located upon any undeveloped lot in the Township unless a tree removal permit has been issued in accordance with the provisions of section 23-7 of this Chapter authorizing the removal of the particular tree.

23-4.3 Subdivisions and Site Plans. As a condition of approval of applications for development, Subdivisions and Site Plans shall provide landscaping along existing and/or proposed streets in accordance with Section 23-8, herein. Landscaping regulations shall apply to all major Subdivisions and Site Plans and their applicability to minor Subdivisions and Site Plans shall be optional at the discretion of the Approving Authority.

23-4.4 Protection of Trees. No equipment, materials or temporary soil deposits shall be placed within the dripline of a tree within six (6) feet of any shrub determined or required to be left standing. Such trees and shrubs shall be protected by erecting a protective barrier, such as snow fencing, around the areas to be left undisturbed except that when such an area extends to within twelve (12) feet of a building, driveway or parking area the following shall be complied with:

a. The position of the protective barrier may be moved to allow a working area of twelve (12) feet from the base of the building.

b. Equipment, materials and temporary soil deposits may be placed within twelve (12) feet of the base of the building.

c. The protective barriers may be placed in the proximity of any impermeable surface upon the border of driveways and parking areas.

d. Equipment, materials and temporary soil deposits may be placed within the dripline of a tree upon impermeable surfaces.

Where grading may be required, a tree to be left standing shall be walled in and extension tiled to its dripline, providing that the well shall be large enough to allow for future tree growth. Tree wells and extension tilling shall be in accordance with "Standard Construction Details, Township of Mendham".

23-4.5 Responsibilities of Owner and Contract-Purchaser. No owner or contract-purchaser of any undeveloped lot who employs any person to perform any work upon such lot shall knowingly permit such person to violate any provision of this chapter.

23-4A TREE CONSERVATION ON DEVELOPED LOTS

23-4A.1 Findings and purposes.

a. The purpose of this ordinance is to promote conservation of woodlands, hedgerows, specimen vegetation as well as nonspecimen vegetation throughout the township

Through establishment of management requirements for the protection of trees on developed lots.
It has been determined that protection of trees upon lots of land results in:

1. reduced drainage control costs
2. decreased soil erosion and sedimentation, especially on sloping areas
3. increased fertility of the soil
4. improvement of water resources
5. decreased storm water runoff
6. reduced flooding
7. increased groundwater recharge
8. decreased buildup of atmospheric carbon
9. decreased dust
10. improved natural cooling in the summer and wind protection in the winter
11. protection of the community's semi-rural character and roadscape
12. increased wildlife habitat
13. improved natural noise buffering
14. increased property values

Because all of the above positively affect the Township, while the removal of trees adversely affects the health, safety and general welfare of its residents, the Township desires to minimize the indiscriminate and excessive cutting of trees on developed lots, as well as during development. The standards and procedures established herein are intended to furnish guidelines for the Tree Conservation Officer, Township Environmental Consultant, Tree Preservation and Landscape Committee, Planning Board and Board of Adjustment in connection with the issuance of permits for certain tree cutting and removal, subject to the exemptions listed in Subsection 23-4A.2(b).

b. It is the intent of this Section 23-4A to protect the semi-rural character and natural resources of the Township, consistent with the goals and objectives of the Master Plan. This Section is not intended to restrict homeowners from removing dead or diseased trees. It is not intended to restrict homeowners from conducting routine pruning of trees or other maintenance procedures in areas of overgrown vegetation or removing any trees or vegetation measuring less than six (6)inches in diameter at a point six (6) inches above the ground.

23-4A.2 **Applicability and Exemptions.**

a. Applicability. Subject to the exemptions listed in Subsection 23-4A.2(b), the provisions of this Section shall be applied to developed lots as follows:

1. Heritage Trees. No tree measuring twenty-four (24) inches or greater in diameter at a point four and one-half (4 1/2) feet above the ground shall be cut down or removed from any location on any lot without first obtaining a permit in accordance with the procedures of this Section 23-4A.

2. Tree Conservation Area: There shall be a tree conservation area required along all perimeter property lines as follows, within which no tree measuring six (6) inches or greater in diameter at a point six (6) inches above the ground shall be cut down or removed without first obtaining a permit in accordance with the procedures in this Section. The width of the tree conservation area shall be as follows:

i. Lots of less than one (1) acre are excluded from the tree Conservation Area requirement.

ii. Lots from one (1) up to two (2) acres shall have a Conservation Area measuring twenty-five (25) feet wide along any portion of the lot bordering a road, public or private, measured from the edge of the pavement, and fifteen (15) feet wide along all other property lines measured from the property line .

iii. Lots two (2) acres or greater shall have an area fifty (50) feet wide along any portion of the lot bordering a road, public or private, measured from the edge of the pavement, and twenty-five (25) feet wide along all other property lines.

b. Exemptions. The cutting and removal of trees shall be permitted without first obtaining a permit in the following instances:

1. Trees cut down or removed in accordance with a forest or agricultural management plan that has been approved by the proper state or federal authority.

2. Trees cut down or removed in accordance with a private management plan submitted to and approved by the Tree Preservation and Landscape Committee.

3. Trees that must be cut down in connection with the installation of public utilities, approved private waste disposal systems or private wells.

4. The clearing of woodlands on a commercial farm that meets the criteria of NJSA4:1C-9.

5. Trees that pose an immediate hazard to person(s) or property.

6. Trees cut on land owned by the Township provided the regulations under Section 23-3 are complied with.

23-4A.3 Permit procedures. Whenever a permit is required in connection with tree removal pursuant to this Section, the permit shall be obtained in accordance with the procedures set forth below and the requirements and standards of this Section.

a. Any person desiring to cut down or remove any tree or trees which are subject to the provisions of this Section shall file an application therefor with the Tree Preservation and Landscape Committee on a form to be provided for said purpose and shall pay the application fee, unless specifically waived by this Section, as required by Subsection 23-4A.6. Said application shall identify the lot or tract of land upon which the tree or trees are located, disclose the name and address of the owner, tenant or duly authorised agent of said owner or tenant and set forth with sufficient specificity for purposes of identification the location of the tree or trees intended to be cut down or removed and the reasons for the request. If the trees to be removed are deemed upon inspection to be dead, fatally diseased, or severely damaged the application fee shall be waived. If the trees are to be removed in accordance with an approved driveway permit or approved site plan for property

improvements, the permit fee is waived and permit approval is not to be denied. In this situation, site review is intended to provide guidance and suggestion to minimise loss of significant trees.

b. The filing of an application shall constitute the applicant's consent for the Tree Conservation Officer, the Township Environmental Consultant and the Tree Preservation and Landscape Committee to enter upon the applicant's land for purposes of inspection. The Tree Preservation and Landscape Committee or, at their request, the Tree Conservation Officer and/or Township Environmental Consultant, shall inspect the site as to the tree or trees sought to be cut down or removed, the drainage and other physical conditions existing on the property and the adjoining properties.

c. The Tree Preservation and Landscape Committee may, at its discretion, forward the application to the Tree Conservation Officer and/or the Township Environmental Consultant for review and recommendations in accordance with the standards in this Section

d. Except as otherwise provided in paragraph (e) below, within fifteen (15) working days of receipt of a completed application, the Tree Preservation and Landscape Committee shall endorse the decision upon the application, and in the case of partial or complete disapproval, shall set forth the basis for such decision. Any application approved, in whole or in part, shall automatically become a permit in accordance with the terms of said endorsement. Any permit not acted upon, by the property owner, within one (1) year from the date of such approval shall expire unless extension is requested of and granted by the Tree Preservation and Landscape Committee.

e. Upon the filing of an application for the removal of trees located on any lot or tract for which an application for site plan review is required to be submitted to the Department of Public Works, the Township Construction Official, the Planning Board or Board of Adjustment, the Tree Preservation and Landscape Committee may withhold endorsement pending receipt of written notice of said department, official or board's action with respect to said application. Within five (5) working days of receipt of such notice of decision, the Tree Preservation and Landscape Committee shall act upon the application as provided above. The permit shall only be issued in accordance with the approved site plan.

f. Any person aggrieved by a decision of the Tree Preservation and Landscape Committee may appeal such decision to, or request a variance from the Board of Adjustment pursuant to NJSA 40:55D-70a or 70c.

23.4A.4 **Standards for permit issuance.** To the greatest extent practicable, heritage trees, and tree rows should be preserved. The following factors shall be taken into consideration in determining whether to issue a permit for tree removal:

a. Whether the area where the trees are located will be occupied by a building or structure, a driveway or recreational area, a roadway, a bridle trail, drainage right of way, or whether it is an area requiring reasonable change in grade in relation to installation of any of the foregoing, and further provided for that such areas of grading will be restored and landscaped with suitable ground cover, shrubbery and/or trees after said installation.

b. Whether the tree removal is consistent with any Township development approvals and any conditions pertaining thereto.

c. Whether the tree removal could change existing drainage patterns.

d. Whether the tree removal would allow soil erosion or increase dust.

e. Whether the tree removal would constitute a significant change in the screening between existing or proposed buildings on adjoining lots or to roadscape.

f. Whether the tree removal would constitute a horticulturally advantageous thinning of an existing overgrown area, taking into consideration tree species, size and health of trees to be removed.

g. Whether the tree removal would impair the growth and health of trees remaining on the applicant's property or adjacent property.

h. Whether the area where the trees are located is to be regraded in such away as to impact the health of the trees.

i. Whether the presence of such tree(s) is likely to cause hardship or to endanger the public, owner or property on which the tree(s) is located or to an adjoining property owner, or for some other adequate reason within the intent of this Section.

j. Existence of disease, rot, or other damage to trees – trees in poor health should be removed.

k. Any planned tree replacement or other landscape plans for replanting the cleared areas.

23-4A.5 Violations and penalties; tree conservation enforcement. The provisions of these Sections shall be enforced by the Tree Conservation Officer, who is empowered to cause the land subject to activity regulated by this Section to be inspected and examined and to order the remedying of any condition found to exist in violation of any provision of this Section. As a condition of a permit issued under this Section any person may be required to replace any trees with replacement trees of like or similar species, of a size not less than three (3) inches in diameter measured six (6) inches above the ground. Replacement trees shall be guaranteed for a period of one (1) year. Any person violating any provision of this Section shall be subject to a fine of not more than $1,000 per violation at the discretion of the Municipal Court Judge, except that the minimum fine that may be imposed for a violation shall be $100. Each tree cut down or removed in violation of this Section shall be considered a separate violation.

23-4A.6 Fees shall be collected as follows: Unless specifically waived elsewhere, application for cutting down or removing trees - $10.00 per application.

23-5 TREE PRESERVATION AND LANDSCAPE COMMITTEE.

23-5.1 Tree Preservation and Landscape Committee. There is hereby established a committee to be known as the Tree Preservation and Landscape Committee, which shall consist of seven (7) regular members and two (2) alternate members. At least four (4) of the regular members shall be residents of the Township. The Township Construction Official shall be one of the regular members. The other regular and the alternate members shall be appointed for terms of one (1) year by the Township Committee at the annual organization meeting of the Township Committee. At least one of

the regular members and one of the alternate members of the Tree Preservation and Landscape Committee shall be members of the Township Environmental Commission. An alternate member shall act in the absence of a regular member in accordance with the procedures established by the Tree Protection Committee. The regular and alternate members of the Tree Preservation and Landscape Committee shall serve without compensation.

The Tree Preservation and Landscape Committee shall elect from among the regular members a chairman, or co-chairman, and a secretary.

Four (4) members of the Tree Preservation and Landscape Committee shall constitute a quorum for the transaction of business.

The Tree Preservation and Landscape Committee may establish and delegate responsibilities to such subcommittees as may be deemed desirable and expedient for the conduct of its business.

23-5.2 Authority of the Tree Preservation and Landscape Committee. In addition to other duties and responsibilities of the Tree Preservation and Landscape Committee as set forth in the various provisions of this chapter, the Tree Preservation and Landscape Committee shall have the power and authority to:

a. Formulate and submit to the Township Committee plans and programs for the planting, care and treatment of trees, landscapes and shrubs on municipal land, including street rights of way and Township easements.

b. Review and comment on landscape plans to be transmitted to the Approving Authority for subdivision and site plan improvements, and furnish advice to such Approving Authority regarding tree preservation and landscaping whenever requested in connection with action by the Approving Authority upon subdivision and site plan applications in accordance with the provisions of Chapter XVI, Subdivisions and Site Plan Review. Such comments and recommendations shall be submitted in writing to the Approving Authority within twenty (20) days after an application for development has been deemed complete.

c. Inspect trees, shrubs and landscape upon municipal land and recommend to the Township Committee action for their care and treatment or removal when considered necessary.

d. Report to the Township Committee any cases of disease or conditions within the Township which in the opinion of the Tree Preservation and Landscape Committee require action for the preservation of and/or installation of trees, shrubs and landscape.

e. Institute proceedings in the Township municipal court or other appropriate court for any violation of the provisions of this Chapter.

"**23-5A Tree Conservation Officer.** There is hereby established the position of Tree Conservation Officer, to be appointed annually by the Township Committee. The duties of the Tree Conservation Officer Shall include:

a. Administer and enforce the provisions of Section 23-4A entitled "Tree Conservation on Developed Lots".

b. Provide periodic reports to the Tree Preservation and Landscape Committee with respect to permits issued and other actions taken to enforce the provisions of Section 23-4A.

c. Make recommendations with respect to the administration and enforcement of Section 23-4A to the Tree Preservation and Landscape Committee, the Planning Board and Township Committee.

The Township Committee may designate and appoint a Deputy Tree Conservation Officer to perform some or all of the duties of the Tree Conservation Officer when he or she is unavailable to perform the duties and responsibilities described above."

23-6 APPLICATION FOR TREE REMOVAL PERMIT.

Every application for a tree removal permit shall be made on a form which may be obtained at the office of the Township Construction Official. Each application shall state: the name, address and telephone number of the applicant; if the applicant is not an individual, the name, address and telephone number of the person in charge of the proposed removal shall be given; the name and address of the owner of the undeveloped lot upon which the proposed removal will be performed; the name and address of the person who will actually perform the proposed removal; and the tax map block and lot number and street address of the undeveloped lot upon which the tree proposed to be removed is located Each application shall include a brief statement of the particular circumstances, conditions or reasons necessitating the removal of the tree or trees.

Unless the tree or trees can be suitably identified and located by description, the application shall be accompanied by a dimensioned lot diagram with a scale of not less than one (1) inch equals thirty (30) feet showing the location of the tree or trees proposed to be removed. In the event that the removal of a tree or trees is proposed by reason of the contemplated construction of a building on the undeveloped lot, then the drawing shall consist of a survey of the lot showing the dimensions and distances from lot lines, the proposed location of the building foundation, access driveway, lawn and other special use areas from which it is proposed that trees will be removed as well as proposed changes in grades that will require the removal of any trees. In the event that a drawing is larger than 11 inches, six (6) copies of the drawing shall be submitted with the application.

A separate application form and a separate description, drawing or survey shall be submitted for each undeveloped lot. An application shall be considered as filed when it has been properly completed and delivered to the Tree Preservation and Landscape Committee with the fee required by section 23-9 of this chapter.

23-7 ACTION UPON APPLICATION FOR TREE REMOVAL PERMIT; ISSUANCE OF PERMIT.

23-7.1 Factors to Be Considered Upon Review of an Application for a Tree Removal Permit. The Tree Preservation and Landscape Committee shall give due consideration to the following objectives in reviewing applications for tree removal permits:

a. A healthy historic tree, or an endangered species or specimen tree shall be preserved to the extent reasonably possible by the modification of lot development plans.

b. Mature, healthy trees with desirable characteristics shall be removed only when necessary to provide a suitable site for a building, an access driveway, appropriate lawn and garden areas and other essential uses, to permit the installation of underground pipelines and utilities, including an individual subsurface sewage disposal system, or to meet the provisions of a subdivision improvement plan or site development plan approved by an Approving Authority. In the case of a single-family dwelling, the term "suitable site for a building" shall include the building foundation and any land within fifteen (15) feet thereof.

c. Natural screening between buildings on contiguous lots should be maintained to as great an extent as possible.

d. Trees which will be adversely affected by necessary changes in grade from which they cannot reasonably be protected should be removed.

e. Trees infected with contagious disease should be removed.

f. Dead or storm-damaged trees within fifty (50) feet of a proposed building foundation or between a proposed building foundation and a street should be removed.

g. Trees which are likely to adversely affect other more desirable trees may be removed.

In acting upon applications, the Tree Preservation and Landscape Committee may weigh hardship or difficulty which would be caused to an applicant by the retention of a tree against the value of such retention.

23-7.2 Time for Action Upon Application. The Tree Preservation and Landscape Committee shall act upon every application for a tree removal permit within twenty (20) calendar days after it is filed. Upon failure of the Tree Preservation and Landscape Committee to act within such period of time the application shall be deemed to have been approved as submitted for all purposes of this Chapter.

23-7.3 Reasons for Disapproval. In the event that the Tree Preservation and Landscape Committee shall disapprove any application in whole or in part, the reasons for such disapproval shall be endorsed upon the application and a copy shall be returned to the applicant.

23-7.4 Conditional Approval. The Tree Preservation and Landscape Committee may approve an application in whole or in part upon terms and conditions which shall be endorsed upon the application. Such terms and conditions may include requirements for the installation of a well or wells of specified dimensions as provided by subsection 23-4.4 for a particular tree or trees not to be removed. The Tree Preservation and Landscape Committee may also require that a specific tree or trees shall be protected from damage during building or other construction work carried on in close proximity thereto by the erection and maintenance of suitable guards or barriers. The removal of a dead, diseased or storm-damaged tree or trees and the pruning or trimming of trees which are not removed may be required.

23-7.5 Issuance of Tree Removal Permit. Whenever the Tree Preservation and Landscape Committee shall approve an application for a tree removal permit in whole or in part, the Committee shall issue a tree removal permit in accordance with the terms of the approval together with a copy of the application bearing the endorsement of the Committee. In the event that the Tree Preservation and Landscape Committee shall disapprove an application in its entirety, the Committee shall furnish the applicant with a copy of the application bearing the endorsement of the Committee and the reasons for disapproval as required by subsection 23-7.3. If the Tree Preservation and Landscape Committee shall fail to act on an application for a tree removal permit within twenty (20) days after the submission of the application, the Committee shall issue a tree removal permit as though the application had been approved in its entirety.

23-7.6 Withholding of Construction Permit. The Township Construction Official shall not issue a construction permit for an undeveloped lot or a demolition permit for any single family dwelling until a tree removal permit has been issued by the Tree Preservation and Landscape Committee for such lot or building or the Tree Preservation and Landscape Committee has advised the Township

Construction Official in writing that a tree removal permit is not required to be issued in accordance with the provisions of this Chapter.

23-8 APPLICATION FOR APPROVAL OF LANDSCAPE PLAN.

23-8.1 Landscape Plans. Landscape plans shall be submitted as part of the application for Subdivision and Site Plan approval by the Approving Authority. One (1) copy of the application package including the Landscape Plan shall be submitted to the Tree Preservation and Landscape Committee for review, comment and recommendation.

23-8.2 Review and Report. The Tree Preservation and Landscape Committee shall review and submit written recommendations to the Approving Authority within thirty (30) days of receipt of the Landscape Plan. The Approving Authority shall not act on any application for Subdivision or Site Plan unless and until written recommendations by the Tree Preservation and Landscape Committee, for each Landscape Plan, has been received.

23-8.3 Design. Landscape Plans, plant material schedules, and specifications shall be prepared by a licensed New Jersey landscape architect. This requirement may be waived by the Approving Authority in connection with applications for approval of minor site plans or minor subdivisions.

23-8.4 Quantity of Landscaping. An aggregate of one (1) tree and two (2) shrubs shall be provided for each 50 linear feet of street frontage as calculated for one or two sides of the street, dependent upon frontage of the development tract upon one or both sides of the street.

23-8.5 Placement. No required landscaping shall be planted within any street right-of-way. Al landscaping shall be placed in a planting area, within twenty five (25) feet of the street right-of-way line. Landscaping shall be in accordance with a plan and a plant material schedule which shall complement native vegetation and streetscape, and shall be predicated on plant clusters rather than linear alignment.

23-8.6 Credit for Existing Trees. The number of required trees as calculated pursuant to Subsection 23-8.4 above, may be reduced by up to fifty (50) percent where existing trees are acceptable to the Approving Authority and located within the designated planting area. Existing trees proposed to remain in order to qualify for credit, shall be delineated and identified on the landscape plan.

23-8.7 Plant Material. The Approved Plant List, dated September 2001, as provided in Appendix A of this Chapter shall be used as a guide for all plant material employed.

23-9 FEES

23-9.1 Requirement for Fee. A fee of $50.00 shall be paid to the Township at the time of the filing of each application for a tree removal permit for an undeveloped lot.

23-9.2 Purpose of Fee. The fee required by subsection 23-9.1 is to cover municipal expenses arising out of the review of an application and inspection of the undeveloped lot which is the subject of the application. No fee shall be refunded to an applicant by reason of the disapproval in whole or in part of any application.

23-9.3 Landscape Fee. The cost of review by the Tree Preservation and Landscape Committee of all Landscape Plans is included in the fee for Subdivision and Site Plan applications. No additional fee for Landscape Plan review shall be required.

23-10 STOPPAGE OF UNLAWFUL WORK.

The Tree Preservation and Landscape Committee may order any tree work or other activity which is carried on in violation of any tree removal permit or in violation of any provision of this Chapter, to be stopped forthwith. The order shall be issued in writing and shall specify the work or activity which is in violation of the permit or any provision of this Chapter. A copy of the order shall be served upon any person engaged in tree work upon the subject lot. If no such person is present upon the lot then the order shall be served upon the person to whom a tree removal permit was issued for the lot. If no permit has been issued for the lot, then the order shall be served upon the owner of the lot. Thereafter, no work shall be performed upon such lot unless such work is performed in compliance with all of the provisions of this Chapter.

23-11 REPLACEMENT OF DESTROYED TREES; TREATMENT OF INJURED TREES.

23-11.1 Replacement of Destroyed Trees. In the event that any tree which is not permitted to be removed pursuant to a tree removal permit is fatally injured, felled, destroyed or removed on any undeveloped lot within the Township, the Tree Preservation and Landscape Committee may issue an order in writing to the owner of the lot, upon which such tree is or was located directing that such tree, including its stump, shall be entirely removed and that such tree shall be replaced by a tree or trees of equivalent environmental value as determined by the Tree Preservation and Landscape Committee in accordance with the current International Shade Tree Evaluation Chart. A replacement tree shall have a diameter of no less than two (2) inches measured at a point four (4) feet above the top of the ball of the tree and shall be planted in accordance with "Standard Construction Details, Township of Mendham". The number of replacement trees shall be based upon the diameter of the tree removed, with one (1) replacement tree being planted for each twelve (12) diameter inches or part thereof of the tree which was improperly removed. The order of the Tree Preservation and Landscape Committee shall specify a reasonable time within which such removal and any replacement, if required, shall be accomplished by the owner of the lot. Any replacement tree which does not survive for one (1) full growing season or one (1) full calendar year after planting, whichever is the longer period of time, shall be replaced in kind. At the time that an initial replacement tree is planted, the owner of the lot shall provide a guarantee to the Township in the amount of $200.00 for each replacement tree. Such guarantee shall be released upon a finding by the Tree Preservation and Landscape Committee that the requirements of this subsection have been satisfied.

23-11.2 Treatment of Injured Trees. In the event that any tree which is not permitted to be removed pursuant to a tree removal permit is injured during work on an undeveloped lot within the Township, such tree shall be promptly treated in a manner approved by the Tree Preservation and Landscape Committee in accordance with accepted tree care practices.

23-12 DISPOSAL OF TREES WHICH ARE REMOVED.

Any person removing a tree from any undeveloped lot shall dispose of such tree, together with its stump, in a manner which meets all requirements of law for the disposition of such solid waste. Tree parts and stumps shall not be buried or discarded on any property within the Township.

23-13 RIGHTS TO HEARING.

Any person who claims to be aggrieved by any action of the Tree Preservation and Landscape Committee pursuant to any of the provisions of Sections 23-7, 23-10 or 23-11 shall have the right to appeal to the Township Committee within fifteen (15) days after the action complained of. The appeal shall be made by filing with the Township Clerk a written statement setting forth the action

complained of and the grounds of appeal. The Township committee shall set a time and place for the hearing of the appeal, which hearing shall be held within twenty (20) days after the filing of the appeal, and notice of the hearing shall be given to the appellant by the Township Clerk. At the hearing the appellant and his or its attorney may present evidence, including the testimony of witnesses. The Township Clerk shall keep minutes of the hearing and copies of the documents or exhibits referred to, if any.

Within ten (10) days after the completion of the hearing the action taken by the Tree Preservation and Landscape Committee shall be affirmed, modified or reversed by the Township Committee by a recorded vote of a majority of all the members thereof. The findings and reasons for the disposition of the appeal shall be stated on the records of the Township Committee and a copy shall be given to the appellant by the Township Clerk. A copy shall also be forwarded to the Tree Preservation and Landscape Committee.

23-14 SERVICE OF NOTICES.

Whenever any notice or order is required under the provisions of this Chapter to be given to or served upon any person, such notice may be hand delivered to such person or may be mailed by certified mail addressed to the person to be notified at the address set forth in an application filed by such person with the Tree Preservation and Landscape Committee. In the absence of such an address, the address of the person as set forth in the Township shall be served personally upon the Township Clerk or mailed by certified mail addressed to the Township Clerk at the Township hall.

23-15 PENALTIES.

Any person who violates any provision of Sections 23-3 or 23-4 of this Chapter and any person who shall fail to comply with an order issued pursuant to Sections 23-10 or 23-11 of this Chapter or the terms and conditions of any tree removal permit issued pursuant to this Chapter shall be subject to a fine of not more than $1,000.00 for each and every offense.

In the event of violations involving more than one undeveloped lot, a violation as to each such lot shall be considered to be a separate offense.

23-16 REPEAL OF CONFLICTING PROVISIONS.

Any provision of any ordinance which is inconsistent with any provision of this Chapter is hereby repealed to the extent of such inconsistency.

23-17 SEVERABILITY.

If any section, subsection, paragraph or clause of this Chapter shall be held to be invalid by a court of competent jurisdiction, such adjudication shall apply only to the section, subsection, paragraph or clause so adjudged and the remainder of this Chapter shall remain valid and effective.

APPENDIX A
TREE PRESERVATION AND LANDSCAPE REGULATIONS
(Subsection 23-8.7)
APPROVED PLANT LIST

NATIVE TREES FOR ROADSIDE PLANTING

Family & Genus	Common Name	Varieties	Size
Oleaceae, Fraxinus	Ash	Black Ash, Blue Ash, Green Ash, White Ash	1-3/4" to 2", B & B
Ulmaceae, Ulmus	Elm	Liberty Elm and Princeton Elm	1-3/4" to 2", B & B
Rosaceae, Crataegus	Hawthorne	Brainard Hawthorn, Fanleaf H., Firefly H., Pear H., Washington H.	1-3/4" to 2", B & B
Tiliaceae, Tilia	Linden or Basswood	American Basswood, White Basswood	2" to 2-1/2", B & B
Luguminosae, Robinia	Locust	Black Locust	1-3/4" to 2", B & B
Aceraceae, Acer	Maple	Black Maple, Mountain M., Red M., Silver M., Sugar M.	1-3/4" to 2", B & B
Fagaceae, Quercus	Oak	Black Oak, Chestnut Oak, Pin Oak, White Oak, Red Oak	1-3/4" to 2", B & B
Rosaceae, Amelanchier	Shadblow	Serviceberry, Downy Serviceberry	6' to 8', B & B, heavy
Ericaceae, Oxydendrum	Sourwood	Sourwood or Sorrel Tree (1 native)	3' to 4', #2 can
Hamamelidaceae, Liquidambar	Sweetgum	Sweetgum (the only native)	1-3/4" to 2", B & B
Platanaceae, Platanus	Sycamore	American Sycamore, Buttonwood, Planetree	2" to 2-1/2", B & B

EVERGREENS

Family & Genus	Common Name	Varieties	Size
Pinaceae, Pinus	Pines	Eastern White Pine, Red Pine, Scotch Pine, Shortleaf Pine	6' to 8', B & B
Cupressaceae, Juniperus	Juniper and Ceder	Common Cedar, Eastern Red Cedar	5' to 6', B & B
Aquafoliaceae, Ilex	Holly	American Holly, Possumhaw Holly	5' to 6', B & B, heavy

SHRUBS & SMALL TREES

Family & Genus	Common Name	Varieties	Size
Myricaceae, Myrica	Bayberry	Evergreen Bayberry, Northern Bayberry	2-1/2' to 3', B & B
Ericaceae, Vaccinum	Blueberry	North American Blueberry (1 native small tree)	2' to 3', #3 can
Celastraceae, Euonymus	Euonymus	Burning Bush (the only native)	2' to 2-01/2', B & B
Aquifolium, Ilex	Holly	Winterberry Holly, Inkberry Holly, Smooth Winterberry Holly	2' to 3', B & B
Sapotaceae; Bumelia	Ironwood	Bumelia Ironwood (the only native)	2' to 3', B & B
Caprifoliaceae, Viburnum	Viburnum	American Cranberry Viburnum, Possumhaw V., Blackhaw V., Nannyberry V.	2' to 3', B & B
Hamamelidaceae, Hamamelis	Witch-hazel	Witch-hazel (the only native)	3' to 4', B. R.

ROADSIDE PERENNIAL PLANTS

Common Name
Day Lillies and Eupatorium

CHAPTER XXIV

LOT DEVELOPMENT PERMIT

24-1 LOT DEVELOPMENT PERMIT.

Prior to the issuance of a construction permit by the Construction Official for any new structure on any undeveloped lot or a demolition permit for any existing single family dwelling a Lot Development Permit (LDP) shall be applied for and issued by the Township Engineer or the Township Engineer has advised the Township Construction Official in writing that a LDP is not required to be issued in accordance with the provisions of this Chapter..

24-2 SCOPE AND PURPOSES.

The requirement for a LDP is to:

a. safeguard against adverse consequences of uncontrolled surface water drainage, degradation of freshwater wetlands and transition areas, pollution of streams, water courses and water bodies and negative impact by development on private and public lands; and

b. enforce regulations concerning disturbance of sloped areas, flood hazard areas, protection of trees, the integrity of easements, conservation areas and storm water detention/retention facilities; and

c. provide for safe and suitable location of road openings, proper geometry, alignment and entrance structures for driveways, efficient fire protection and accessibility by emergency vehicles, proper installation of utilities and utility connections, methods for suitable collection, storage and disposal of construction trash and debris, and advancement of the intent and purposes of zoning.

24-3 PROCEDURE FOR OBTAINING A LOT DEVELOPMENT PERMIT.

a. Consideration of issuance of a LDP shall be made upon submittal of an application form and five (5) copies of an Undeveloped Lot Improvement Plan (ULIP) which shall be subject to review by the Township Engineer who may refer the application and ULIP to the Planning Board Planning Consultant and the Planning Board Environmental Consultant for review and comment if he deems it to be necessary.

b. Action on the application and ULIP shall be taken within twenty (20) calendar days of receipt of all plan elements as required by Section 24-4.

c. If approved, the Township Engineer shall issue a LDP. If disapproved, the applicant shall be so notified and the Township Engineer shall furnish a written statement for the reasons of disapproval.

d. Upon issuance a LDP shall be valid for a period of one (1) year. For good cause, the Township Engineer may extend a LDP for one (1) additional year. Upon expiration, a new application shall be filed and processed as any other new application for a LDP.

24-4 PLAN DETAILS.

The ULIP shall be prepared by a professional engineer or architect licensed in New Jersey, provided, however, that where a ULIP involves drainage facilities for sites of ten (10) acres or more or involves storm water detention facilities or involves a site traversed by a water course, the ULIP shall only be prepared by a New Jersey licensed professional engineer. The ULIP shall be drawn to a

scale of not less than one (1) inch equals thirty (30) feet. The ULIP shall be prepared in sufficient detail to show the following:

a. Key Map based on the Official Tax Map of the Township of Mendham showing all areas within 500 feet of the lot which is the subject of the intended improvement.

b. A topographic map of the subject lot and adjoining public and/or private streets showing 2 foot contour intervals, provided, however, that when deemed necessary by the Township Engineer for reasons based upon good engineering practices, the map shall contain additional topographic information including data and contours relative to adjacent lands within 200 feet of the subject lot.

c. The location of any existing streams, water courses, ponds, storm sewers, delineated wetlands, delineated wetland transition areas, storm drainage detention and retention structure or areas, easements or drainage facilities which relate to drainage of storm waters emanating from or affecting the subject lot. Where applicable, the information required should be as set forth pursuant to the requirements of N.J.A.C. 7:7A-1 et seq.

d. The location and details of any proposed storm sewers, ditches, swales, dry wells, detention and retention facilities or other drainage facilities which are designed to dispose of storm waters from the subject property. Drainage calculations to substantiate the adequacy of drainage facilities shall also be submitted.

e. The location of all existing and proposed new structures, including, but not limited to, buildings, swimming pools, tennis courts, garages, outbuildings, decks, patios, walkways, fences and other impervious areas. In addition, the plan shall show all required building setback lines, including any supplemental lines required in the R-3 and R-5 zone districts. The plan shall also demonstrate the calculation of building height to confirm compliance with the 35 foot maximum height limit.

f. The location, alignment, dimensions and construction details for any existing or proposed driveways, parking and turnaround areas.

g. The elevation of the finished garage floor, first floor and lowest floor of the proposed structures.

h. A roof plan of all proposed structures along with the location of all proposed and existing roof leader drains, dry wells, water supply wells, overhead and underground utility lines, and any individual subsurface sewage disposal systems. Drywells shall be designed to provide for three (3") inches of storm run-off over the roof area. Roof leaders shall be connected to drywells with sic (5") inch PVC pipe with a minimum of one (1) gutter downspout for every four hundred (400 sq. fit.) square feet of horizontal roof area. All new utility lines shall be installed underground.

i. All intended grading, cutting and/or filling represented by proposed contour lines at a corresponding 2 ft. interval including changes in drainage pattern, drainage swales, structures, piping, railroad tie or rock walls or other retaining structures.

j. Calculation of net volume of cut or fill material resulting from grading and excavation operations. The applicant shall identify sources of any proposed fill and methods and locations for disposal of any cut materials.

k. For proposed new driveway openings, the plan shall show sight distances along the intersected street measured in each direction. If the grade of any portion of the driveway exceeds eight (8%) per cent, the plan shall contain a profile of the entire driveway. All driveways shall be located no closer than one-half (1/2) the setback distance to side yard lines.

l. The location of all wooded areas on the lot, and such details as may be required by Chapter XXIII of this ordinance relative to tree protection.

m. The location, size and specie of any proposed plants, trees, landscaping, ground cover, seedling or stabilization which have bearing upon the drainage of storm waters emanating from or affecting the subject lot.

n. The net building envelope area (NBEA) as defined in Chapter XII of this ordinance.

o. A slope analysis consistent with the standards of Section 16-10.8.

p. The existing and proposed location, methods and details of any fire protection system including but not limited to water supply lines, hydrants and water storage facilities.

q. The nature and volume of construction trash and debris, location and protection of temporary storage and methods of disposal of such trash and debris.

r. In addition to the details set forth in subparagraphs 24-4, a through q, the ULIP shall specify and contain any improvements required under the terms and conditions of prior subdivision or site plan approval which have not been installed at the time the application for an LDP is made.

24-5 PLAN REQUIREMENTS.

The ULIP shall be consistent with the scope and purposes of this subsection and in addition shall meet the following standards and conditions:

a. Approval of the ULIP shall not be granted until a Tree Removal Permit has been issued by the Tree Protection Committee pursuant to Chapter XXIII and all necessary construction permits for any required individual subsurface sewage disposal system and/or individual water supply system have been issued for the subject lot by the Township Board of Health.

b. Driveways shall be designed and constructed in accordance with Section 16-10.7 of this Ordinance.

c. Sight distances for driveways at street intersections shall meet the recommended standards for intersection sight distances in accordance with "A Policy on Geometric Design of Highways and Streets", latest edition, by The American Association of State Highway and Transportation Officials (AASHTO). Sight distance shall be measured from a point on the center line of the driveway at a distance 15 ft. from the edge of pavement and measured from a height of eye at 3.5 feet on the driveway to a height of object at 4.25 ft. on the street.

d. The slope analysis shall verify that the final grading of the lot and the land to be disturbed by the improvements are consistent with the terms of any prior subdivision or site plan approval with regard to protection of critical areas as related to the subject lot as set forth in subsections 16-10.13). Where no prior subdivision or site plan approval has established the extent of slope disturbance for the lot in question, the standards fixed by subsection 16-10.13 shall apply.

e. Lots shall be provided with adequate drainage and the ground immediately adjacent to all foundations shall be sloped away from the structure with a minimum fall of 6 inches within the first 10 feet.

f. Graded slopes at cuts and fills in earth shall be stable and shall generally have a ratio of 2 to l; however, a slope of 3 to 1 is preferable where conditions permit in order to achieve a slope with better aesthetic and maintenance characteristics, but in no event shall a graded slope have a ratio of less than 1.5 to 1. Where any cuts and fills in earth result in a net slope with a grade greater than 1.5

to 1 retaining walls, cribbing or terracing shall be provided as approved by the Township Engineer. Cuts in rock shall have slopes which do not exceed a ratio of 1 to 1. The top of a cut or the bottom of a fill shall not be closer than ten (10) feet to any lot line unless site conditions warrant or as approved by the Township Engineer. For graded slopes 3 to 1 or steeper, in no event shall the vertical grade difference of side slopes exceed ten (10 ft) feet without the introduction of a five (5 ft.) foot wide terrace.

g. Retaining walls shall be constructed in accordance with "Standard Construction Details, Township of Mendham". All proposed retaining structures shall be accompanied by details of construction.

h. The burying of brush, stumps, trees or any construction related materials is prohibited.

i. The ULIP shall comply with the terms and conditions of any development permit issued or approval granted with respect to the property pursuant to provisions of:

1. Chapter XVIII, Flood Hazard Area Regulations.

2. Resolution of Approval by the Planning Board, or Board of Adjustment regarding the subject lot.

3. Any Developer's Agreement affecting the subject lot executed as a consequence of subdivision or site plan approval.

4. Applicable permits and regulations of the New Jersey Department of Environmental Protection and Energy, or any other Local, County or State agency or authority or any public or municipal utility having jurisdiction thereover.

5. Chapter XVI, Subdivision and Site Plan Review, Section 16-10.2w., Fire Protection Systems.

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

j. All applicable fees and escrow deposits shall have been fully paid in accordance with Chapter XIII of this ordinance.

k. Wetlands and transition areas shall be protected as set forth in subsection 16-10.14.

24-6 INSPECTION.

a. In order to assure compliance with the terms of the LDP, periodic inspections of the site development operations shall be made by the Township Engineer and the Planning Board Environmental Consultant, as required during the course of the work.

b. When deemed necessary, the Township Engineer may require that additional temporary measures be taken during the course of any lot development activity or construction work to prevent adverse effects upon adjoining lands or roads.

c. The failure of an owner of property to comply with an approved ULIP for such property, including any temporary measures to be taken during the performance of lot development activity or construction work, shall constitute a violation of this chapter.

24-7 CERTIFICATE OF OCCUPANCY.

a. A Certificate of Occupancy shall not be issued by the Construction Official for any property

which is the subject of a LDP until the Township Engineer has inspected the property and has certified in writing that the property conforms to the ULIP. The Township Engineer shall make a final inspection and issue a report within five (5) days after notification from the Construction Official of an application for a Certificate of Occupancy. When field conditions require substantial deviations from the plan submitted, as-built drawings shall be furnished prior to issuance of a Certificate of Occupancy.

b. In the event that the Township Engineer determines that current weather conditions do not permit the completion of the required work to effectuate full compliance with the LDP, the Township Engineer may authorize the Construction Official to issue a Certificate of Occupancy upon the posting with the Township of a cash deposit in an amount equal to 120% of the estimated cost of the work remaining to be performed and further conditioned upon the execution of a written cash deposit agreement between the Township of Mendham and the applicant which agreement shall obligate the applicant to complete the remaining work by a specified date and which agreement shall specifically list all work remaining to be performed in order to effectuate full compliance with the LDP.

c. In the event that the property is the subject of a contract of sale, the Construction Official shall not issue a Certificate of Occupancy prior to full compliance with the LDP unless, in addition to receiving written evidence of the existence of the cash deposit agreement, the contract-purchaser requests in writing that the Certificate of Occupancy be issued pursuant to the provisions of subparagraph b and the cash deposit agreement.

d. In the event that a Certificate of Occupancy is issued prior to full compliance with the LDP and compliance is not effected by the date set forth in the cash deposit agreement, the failure to complete the work by such date shall give the Township of Mendham the right to have the work performed and the cost thereof paid from the cash deposit pursuant to the terms of the cash deposit agreement.

24-8 EXEMPTIONS.

Notwithstanding any of the provisions of this Chapter 24, the requirement for obtaining a lot development permit shall not apply to

a. An existing developed lot; or

b. A lot having an average topographic grade not exceeding ten percent (10%) provided that the lot is served by both a sanitary sewer system and a public water supply system.

The exemptions provided by this Section 24-8 shall not be construed to preclude the obligation for compliance with any other municipal, county and/or state regulations as required by law.

24-9 APPEAL TO PLANNING BOARD FROM DISAPPROVAL BY TOWNSHIP ENGINEER OF APPLICATION FOR LDP.

a. Whenever the Township Engineer disapproves an application for an LDP, the applicant may appeal such action to the Planning Board.

b. All such appeals shall be filed with the Planning Board Secretary in writing upon a form provided for that purpose. No filing fee shall be required. Unless the appeal is filed within 30 days following the action by the Township Engineer the disapproval shall be deemed final.

c. The Planning Board shall consider each appeal at a public meeting within forty-five (45) days of the filing of the appeal, as scheduled by the Planning Board.

d. Prior to the meeting, the applicant shall give notice thereof to all property owners within 200 feet of the applicant's property as shown on the tax map. Notice shall be given by certified mail or personal service within ten (10) days of the public meeting. The notice shall state the fact that the LDP was denied by the Township Engineer, shall state the reasons for denial as expressed by the Township Engineer, and shall state that the proposed ULIP is on file at the office of the Planning Board Secretary and may be examined during regular business hours on any business day prior to the hearing.

e. For good cause shown, the Planning Board may direct the issuance of an LDP in cases where the Plan Details do not conform to the standards established by Section 24-4. As used in this section, the term good cause shall mean that the applicant has demonstrated that by reason of the unique shape, shallowness or narrowness of the lot, or by reason of exceptional topographic conditions or physical features uniquely affecting the lot, the strict application of said Plan Detail standards would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the lot owner. The burden of establishing the existence of good cause shall be upon the applicant who shall also establish to the satisfaction of the Planning Board that the issuance of the LDP will not substantially impair the purposes set forth in Section 24-2 and that the LDP may be issued without substantial adverse impact upon the surrounding properties and neighborhood.

f. In no case shall the Planning Board direct the issuance of an LDP where the ULIP is inconsistent with the terms of any prior subdivision or site plan approval with regard to protection of critical areas.

CHAPTER XXIVA
ENVIRONMENTAL PERMIT

24A-1 Environmental Permit. Before the Construction Code Official issues a building permit for the construction of a new building or structure or an addition to an existing building or structure he shall review the Township's GIS data base to ascertain if there is a possibility that wetlands or wetlands transition areas may be disturbed by the proposed development. If he determines that the possibility of such disturbance exists, the Construction Code Official shall refer the matter to the Township Environmental Consultant who shall investigate and report in writing his findings to the Construction Code Official. In the event of such a referral to the Township Environmental Consultant, the applicant shall be required to pay a fee of $230 to the Township. If the Environmental Consultant finds that the proposed development will not cause disturbance of wetlands and transition areas, the applicant may proceed. If he finds the possibility of such disturbance, the Construction Code Official shall require the applicant to provide the Township with a Presence/Absence determination or a wetlands LOI from the NJDEP prior to the issuance of a building permit. A building permit will be issued when all NJDEP requirements are satisfied.

TOWNSHIP OF MENDHAM
ORDINANCE NO. 11-2010

AN ORDINANCE AMENDING CHAPTER XXIV(B) "STORMWATER MANAGEMENT" TO ADD A SECTION REGULATING REFUSE CONTAINERS/DUMPSTERS

BE IT ORDAINED by the Township Committee of the Township of Mendham, County of Morris, New Jersey, that Chapter XXIV(B) of the Ordinances of the Township of Mendham is hereby amended to add the following section to regulate Refuse Containers/Dumpsters, as follows:

SECTION I. Purpose:

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

SECTION II. Definitions:

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

a. Municipal separate storm sewer system (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Township of Mendham or other public body, and is designed and used for collecting and conveying stormwater.

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

c. Refuse container – any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

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

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

SECTION III. Prohibited Conduct:

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

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

SECTION IV. Exceptions to Prohibition:

a. Permitted temporary demolition containers

b. Litter receptacles (other than dumpsters or other bulk containers)

c. Individual homeowner trash, recycling containers and compost bins

d. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit

e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)

SECTION V. Enforcement:

This ordinance shall be enforced by the Building Department, Township Engineer or his designee and Police Department of the Township of Mendham.

SECTION VI. Penalties:

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to one warning. After the first warning, the fine for the second violation shall not exceed $500.00. For each subsequent violation, the fine shall not exceed $1,000.00 per violation.

SECTION VII. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION VIII. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduced: July 12, 2010

Adopted: August 9, 2010

Effective: August 12, 2010

Attest:

Ann L. Carlson, RMC
Township Clerk

TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS

By: Richard H. Krieg
Mayor

TOWNSHIP OF MENDHAM
ORDINANCE NO. 12-2010

AN ORDINANCE AMENDING CHAPTER XXIV(B) "STORMWATER MANAGEMENT" TO ADD A SECTION REGULATING PRIVATE STORM DRAIN INLET RETROFITTING

BE IT ORDAINED by the Township Committee of the Township of Mendham, County of Morris, New Jersey, that Chapter XXIV(B) of the Ordinances of the Township of Mendham is hereby amended to add the following section to regulate Private Storm Drain Inlet Retrofitting, as follows:

SECTION I. Purpose:

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

SECTION II. Definitions:

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

a. Municipal separate storm sewer system (MS4)– a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Township of Mendham or other public body, and is designed and used for collecting and conveying stormwater.

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

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

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

SECTION III. Prohibited Conduct:

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

1. Already meets the design standard below to control passage of solid and floatable materials; or

2. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

SECTION IV. Design Standard:

Storm drain inlets identified in Section IV above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section IV.3 below.

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

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

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

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

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

3. This standard does not apply:

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

b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

ii. A bar screen having a bar spacing of 0.5 inches.

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

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

SECTION V. Enforcement:

This ordinance shall be enforced by the Building Department, Township Engineer or his designee and Police Department of the Township of Mendham.

SECTION VI. Penalties:

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to one warning. After the first warning, the fine for the second violation shall not exceed $500.00. For each subsequent violation, the fine shall not exceed $1,000.00 per violation.

SECTION VII. Severability:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION VIII. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduced: July 12, 2010

Adopted: August 9, 2010

Effective: August 12, 2010

Attest:

Ann L. Carlson, RMC
Township Clerk

TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS

By: _____
Richard H. Krieg
Mayor

TOWNSHIP OF MENDHAM

ORDINANCE 5-2006

ORDINANCE TO ESTABLISH MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS FOR DEVELOPMENT PROJECTS IN THE TOWNSHIP OF MENDHAM SUPPLEMENTING CHAPTER XI OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MENDHAM ENTITLED "LAND USE ORDINANCE"

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

Section 1. Chapter XI entitled "Title, Purpose and Scope of Chapters XI through XXIV(A)" and Section 11-1 thereof entitled "Title" are hereby amended to read:

CHAPTER XI

TITLE, PURPOSE AND SCOPE OF CHAPTERS XI THROUGH XXIV(B)

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.

Section 2. Chapters XI through XXIV(A) comprising the Land Use Ordinance of the Township of Mendham is hereby amended to include a new Chapter XXIV(B) entitled "Stormwater Management" to read as follows:

1. Purpose

A. Policy Statement

All land development activities result in changes to stormwater discharges that include changes to the rate and volume of stormwater runoff, decreases in ground water recharge, and introduction of non-point source pollutants (NPS) into stormwater flows. Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored

before relying on structural best management practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management measures and proper maintenance plans. Nonstructural measures include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated loading of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

B. Purpose

The New Jersey Stormwater Management Rules (NJAC 7:8) effective February 2, 2004, require that municipalities take specific actions to control the adverse environmental impacts of stormwater discharges. It is the purpose of this ordinance to establish minimum stormwater management requirements and controls for development projects subject to Township approval.

C. Applicability

This ordinance shall be applicable to any lot development plan, site plan or subdivision that requires approval by a Township official, Board or agency that will ultimately disturb 1.0 acre or more of land or will result in a net increase of 0.25 acre or more of impervious surfaces.

D. Compatibility with Other Permit and Ordinance Requirements

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

E. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Best Management Practices (BMP's)" means the methods, measures, or practices to prevent or reduce the amount of pollution from point and nonpoint sources, including structural and non-structural controls, and operation and maintenance procedures

"Compaction" means the increase in soil bulk density.

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

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

A county planning agency; or

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

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

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

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

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

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

"Environmentally constrained area" means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction, or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

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

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

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

"HUC 14" means the hydrologic unit code system developed by the United States Geological Service for delineating and identifying drainage areas. The system starts with the largest possible drainage areas and progressively smaller subdivisions of the drainage area are delineated and numbered in a nested fashion. A drainage area with a hydrologic unit code (HUC) designation with 14 numbers, or HUC 14, is one of several sub watersheds of a larger watershed with 11 numbers, or a HUC 11. There are 921 HUC 14 sub watersheds in New Jersey that range in size from 0.1 to 42 square miles.

"Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. These surfaces include, but are not limited to, asphalt, concrete, roofs, swimming pools, tennis courts, etc. Further, paving stones shall be considered impervious unless the minimum gap between or within the pavers provided for infiltration has a least dimension of two (2) inches. For the purposes of this Ordinance gravel areas that experience vehicular traffic at least weekly or are used for permanent parking areas are considered impervious surfaces.

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

"Major development" means any "development" that provides for ultimately disturbing one or more acres of land or increasing impervious surface by one-quarter acre or more. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Projects undertaken by any government agency which otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. are also considered "major development."

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

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

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

"Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State and any state, interstate or federal agency.

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

"Pollutant" includes both hazardous and nonhazardous pollutants.

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

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

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

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

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

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

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

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

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

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or

control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

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

"Wetlands" or "wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

2. Requirement for a Permit

A. Prior to the issuance of a construction permit by the Construction Official for any new construction an applicability determination shall be obtained from the Township Engineer.

B. Any new construction that is a major project as defined above shall be subject to the provisions of this Chapter and shall obtain a Lot Development Permit before a Construction Permit shall be issued.

C. Consideration of a Lot Development Permit shall be made upon submission of an application form and five (5) copies of a Major Project Stormwater Management Plan (MPSMP). Said plan shall be subject to review by the Township Engineer who may refer the application and plan to the Planning Board Planning consultant and Environmental Consultant for review and comment if he deems it to be necessary.

D. Action on the application and MPSMP shall be taken within twenty (20) calendar days of receipt of all plan elements as required by Section 9 of this Chapter.

E. If approved the Township Engineer shall issue a Lot Development Permit. If disapproved, the Township Engineer shall notify the applicant and shall provide a written statement detailing the reasons for disapproval.

3. General Standards

A. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in this section. To the maximum extent feasible, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

B. The standards in this ordinance apply only to all major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable

under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules. Such alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in this subchapter.

C. For site improvements regulated under the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21, the RSIS shall apply in addition to this section except to the extent the RSIS are superseded by this section or alternative standards applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

4. Stormwater Management Requirements for Major Development

A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development.

B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department' Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonius bullata* (swamp pink) and/or *Clemmys muhlenbergii* (bog turtle).

C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements at Sections 3.F and 3.G:

1.) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;

2.) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and

3.) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material and that is provided with adequate methods to prevent vehicular traffic other than emergency vehicles.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements at Sections 3.F and 3.G may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1.) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

2.) The applicant demonstrates through alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 4.F and 4.G to the maximum extent practicable;

3.) The applicant demonstrates that, in order to meet the requirements at Sections 4.F and 4.G, existing structures currently in use, such as homes and buildings would need to be condemned; and

4.) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate for requirements of Sections 4.F and 4.G that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies

1.) Nonstructural stormwater management strategies shall be incorporated into all applications subject to this Chapter.

2.) To the maximum extent practicable, the standards in Sections 4.F and 4.G, shall be met by incorporating nonstructural stormwater management strategies at 4.E into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in 4.E.3 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

3.) Nonstructural stormwater management measures incorporated into site design shall:

a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;

b) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;

c) Maximize the protection of natural drainage features and vegetation;

d) Minimize the decrease in the "time of concentration" from pre-construction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

e) Minimize land disturbance including clearing and grading;

f) Minimize soil compaction;

g) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;

h) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;

i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site in order to prevent or minimize the release of those pollutants into stormwater runoff. These source controls include, but are not limited to:

(1) Site design features that help to prevent accumulation of trash and debris in drainage systems;

(2) Site design features that help to prevent discharge of trash and debris from drainage systems;

(3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and

(4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.

4.) Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections 3.F and 3.G shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

5.) Guidance for nonstructural stormwater management measures is available in the New Jersey Stormwater Best Management Practices Manual. The manual is available on the Department of Environmental Protection's stormwater web page at http://www.njstormwater.org.

6.) For the purpose of determining the sufficiency of nonstructural stormwater management measures being incorporated into the development activity the applicant shall provide an analysis utilizing the **Mendham Township Nonstructural Strategies Points System (NSPS), which can be obtained from the Township Engineer.**

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1.) This section contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

a) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.

b) The minimum design and performance standards for groundwater recharge are as follows:

(1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section 5, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment" area, or projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from roadways, driveways, or parking areas.

(b) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than 'reportable quantities' as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(c) Industrial stormwater exposed to "source material". "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing, or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are

related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surfacial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.

c) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section 5, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2, 10, and 100 year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2, 10, and 100 year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed.

2.) Any application for a new agricultural development that meets the definition of major development at Section 1.5 (Definitions) shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not

include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

G. Stormwater Runoff Quality Standards

1.) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4 acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917
10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2.) For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in Section 7, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.

3.) If more than one BMP in series is necessary to achieve the required TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

R = A + B – (AXB)/100

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice	TSS % Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See Section 5.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4.) If there is more than one onsite drainage area, the 80% TSS removal rate shall apply to each drainage area, unless the runoff from the

subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

5.) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 4.F and 4.G.

6.) Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 7.

7.) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

8.) Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

   a.) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

      (1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

      (2) (2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent

practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b.) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey", established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.

c.) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey", established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

(1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;

(2) Stormwater associated with discharges allowed by this section shall achieve a 95% TSS post-construction removal rate;

(3) Temperature shall be addressed to ensure no impact on receiving waterway;

(4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

(6) All encroachments proposed under this section shall be subject to review and approval by the Department.

d.) A stream corridor protection plan will be developed by the Township of Mendham through an adopted municipal stormwater management plan. A stream corridor protection plan for a waterway subject to G.8 shall maintain or enhance the current functional value and overall condition of the special

water resource protection area as defined in G.8.)a.)(1) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

e.) This subsection does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009, provided that said preliminary or final subdivision application included stormwater management considerations for the amount of disturbance and new impervious areas being proposed on the individual lot in question.. This exception shall not apply to any subdivision where, as a condition of approval, individual lot development plans were required.

5. Calculation of Stormwater Runoff and Groundwater Recharge

A. Acceptable Modeling Methods

1.) Stormwater runoff shall be calculated in accordance with the following:

a.) The design engineer shall calculate runoff using one of the following methods:

(1.)The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds; or

(2.)The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.

b.) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at Section 4.A.1.a and the Rational and Modified Rational Methods at Section 4.A.1.b. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition,

there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

c.) In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.

d.) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release-55, Urban Hydrology for Small Watersheds and other methods may be employed.

e.) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

2.) Groundwater recharge may be calculated in accordance with the following

The New Jersey Geological Survey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at http://www.state.nj.us/dep/njgs/; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427 Trenton, New Jersey 08625-0427; (609) 984-6587.

6. Standards for Structural Stormwater Management Measures

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).

2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the

outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 8.C.1.).

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.

5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 7.

B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by this subchapter.

C. Manufactured treatment devices may be used to meet the requirements of this subchapter provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

7. Sources for Technical Guidance

A. Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

B. Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;
2. The Rutgers Cooperative Extension Service, 732-932-9306; and
3. The Soil Conservation Districts listed in N.J.A.C. 2:90-1.3(a)4. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625, (609) 292-5540.

8. Safety Standards for Stormwater Management Basins

A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This subchapter applies to any new stormwater management basin.

B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins.

C. Requirements for Trash Racks, Overflow Grates and Escape Provisions

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
   a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
   b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
   c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
   d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

   a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.

   b. The overflow grate spacing shall be no less than two inches across the smallest dimension.

   c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

3. For purposes of this subsection, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

   a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section 8.D a freestanding outlet structure may be exempted from this requirement.

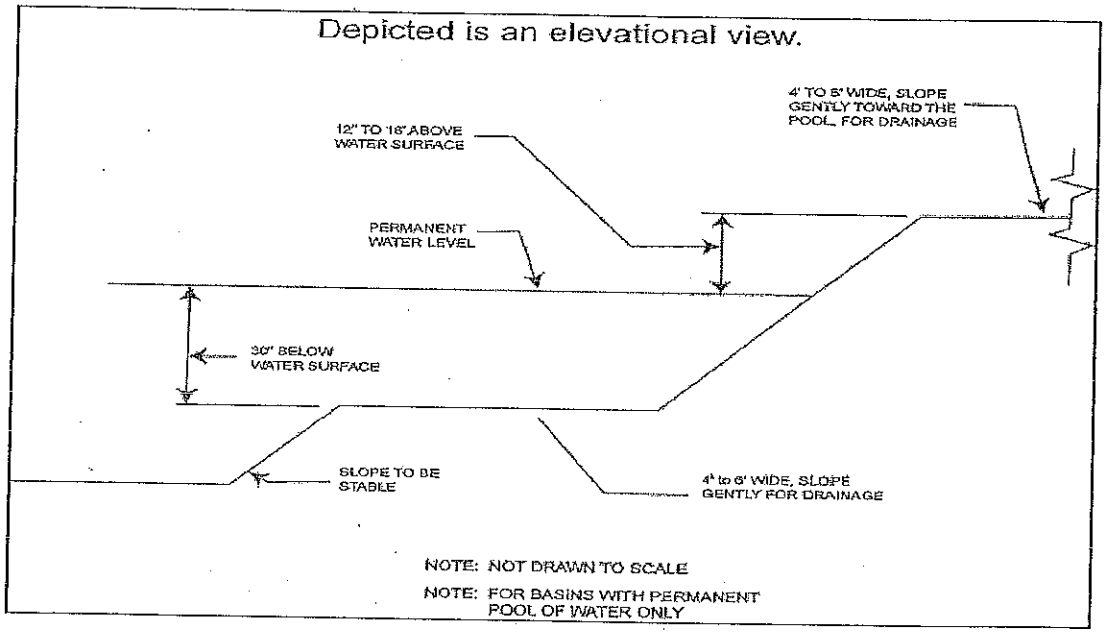
   b. b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Figure i, below, for an illustration of safety ledges in a stormwater management basin.

   c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

D. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

Figure i. ***Illustration of Safety Ledges in a New Stormwater Management Basin***



9. Requirements for a Site Development Stormwater Plan

A. Submission of Site Development Stormwater Plan

1.) Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at 9.C below as part of the submission of the applicant's application for subdivision or site plan approval.

2.) The applicant shall demonstrate that the project meets the standards set forth in this ordinance.

3.) The applicant shall submit twenty (20) copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 9.C of this ordinance.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements

The following information shall be required:

1.) Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate shall indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial and intermittent streams that drain into or upstream of the Category 1 waters, wetlands and flood plains along with their appropriate buffer strips, pervious or vegetative surfaces by cover type, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2.) Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways, and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3.) Project Description and Site Plan(s)

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4.) Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections 3 through 6 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5.) Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

a.) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

b.) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge

capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6.) Calculations

a.) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section 4 of this ordinance.

b.) When the proposed stormwater management control measures (e.g. infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

7.) Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 10.

8.) Waiver from Submission Requirements

The municipal official or board reviewing an application under this ordinance may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 9.C.1) through 9.C.6) of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

10. Maintenance and Repair

A. Applicability

1.) Projects subject to review as in Section 1.C of this ordinance shall comply with the requirements of Section 10.B and 10.C.

B. General Maintenance

1.) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.

2.) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices

Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3.) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.

4.) If the person responsible for maintenance identified under Section 10.B.2) above is not a public agency, the maintenance plan and any future revisions based on Section 9.B.7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

5.) Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.

6.) The person responsible for maintenance identified under Section 10.B.2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.

7.) The person responsible for maintenance identified under Section 10.B.2) above shall evaluate once a year and adjust the plan and the deed as needed with the approval of the Township Engineer.

8.) The person responsible for maintenance identified under Section 10.B.2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 10.B.6) and 10.B.7) above.

9.) The requirements of Sections 10.B.3) and 10.B.4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.

10.) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have

fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall assess the cost thereof as additional taxes to the responsible person.

11.) The Township shall have the right to require the posting of such performance or maintenance guarantees as are permitted by law, and notwithstanding any other provision providing for the posting of bonds in connection with Major Development, whenever the Township is requested to accept dedication of properties to be maintained for detention or retention basin purposes which will result in the Township having to expend funds in the future for the maintenance of such properties, the Township shall, unless otherwise determined by the Township Committee, require that the property owner dedicating such property post with the Township funds that will defray the estimated costs of maintenance for a 10 year period.

C. Penalties

Any responsible person who violates any portion or section of this ordinance shall be subject to the penalties as specified in Chapter 22 of the Township Ordinances.

11. Appeals

A. Any person aggrieved by any decision or action of the Township Engineer in the administration of this Chapter may appeal such action to the Planning Board.

B. All such appeals shall be filed with the Planning Board Secretary in writing upon a form provided for that purpose. No filing fee shall be required. Unless the appeal is filed within 30 days following the action by the Township Engineer shall be deemed final.

C. The Planning Board shall conduct a public hearing on each appeal within 45 days of the filing of the appeal. The hearing shall be scheduled by the Planning Board.

Section 3. Superceding Other Provisions

Any provisions of the Revised General Ordinances of the Township of Mendham which are inconsistent with the provisions of this Ordinance are hereby superceded including, without limiting the generality hereof:

1) Chapter XVI, Subdivision and Site Plan Review, Section 16-10 Design Standards, Subsection 16-10.2u and Subsection 16-10.9

2) Chapter X, Streets and Roads, Section 10-4 Specifications, Subsections 10-4.9 and Subsection 10-4.10

Section 4. Effective Date

This ordinance shall take effect upon publication of the notice of final adoption and upon the approval by the county review agency, or sixty (60) days after submission to the county review agency if they fail to act.

Section 5. Severability

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this ordinance.

APPENDIX A

DEVELOPER'S AGREEMENT

THIS AGREEMENT made the____ day of _____, 20___ Between _____ a corporation organized and existing under the laws of the State of New Jersey, having its principal office at _____ _____In the_____ of _____ in the County of _____ and State of New Jersey (hereinafter referred to as the DEVELOPER) and the TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, a municipal corporation of the State of New Jersey (hereinafter referred to as the TOWNSHIP).

WHEREAS, the DEVELOPER is the owner of a certain tract known as _____ which tract is shown upon a plat entitled "_____" dated _____ and prepared by _____ (which tract is hereinafter referred to as the SUBDIVISION TRACT);

WHEREAS, the Planning Board of the Township of Mendham granted preliminary subdivision approval to _____for the SUBDIVISION TRACT subject to certain terms and conditions, all as set forth in a Resolution adopted by said Board on _____, a copy of which is attached hereto and made a part hereof;

[WHEREAS, thereafter the DEVELOPER acquired the SUBDIVISION TRACT from _____];

WHEREAS, the Planning Board of the Township of Mendham granted final subdivision approval to the DEVELOPER for the SUBDIVISION TRACT subject to certain terms and conditions, all as set forth in a Resolution adopted by said Board on _____, a copy of which is attached hereto and made a part hereof; and

WHEREAS, it is appropriate that the DEVELOPER enter into an Agreement with the TOWNSHIP with respect to the obligations of the respective parties in connection with the development of the SUBDIVISION TRACT.

NOW, THEREFORE, in consideration of the granting of final subdivision approval and the mutual covenants and obligations hereinafter set forth the DEVELOPER and the TOWNSHIP hereby agree to and with each other as follows:

ARTICLE I.

COMPLETION OF IMPROVEMENTS.

The DEVELOPER shall at its own cost and expense complete on or before _____on-site and off-site subdivision improvements in accordance with the plans and specifications therefor approved by the TOWNSHIP Planning Board.

The DEVELOPER shall arrange for the installation on or before _____ of all underground utilities to be installed by public utility companies which will own and

maintain such facilities after installation. Such underground utilities shall be installed in accordance with the plans therefor approved by the TOWNSHIP Planning Board. The DEVELOPER has paid to said public utility companies all charges which are required for such installation, including any refundable deposits, and evidence of such payment is attached hereto and made a part hereof.

ARTICLE II.

PERFORMANCE GUARANTEE.

The DEVELOPER shall furnish to the TOWNSHIP a performance guarantee in the amount specified in the Resolution adopted by the TOWNSHIP Planning Board on _____.

The performance guarantee shall contain provisions for a maintenance guarantee. The guarantee shall be in a form approved by the Township Attorney.

The amount of the performance guarantee may be reduced in accordance with the provisions of R.S. 40:55D-53 when portions of the subdivision improvements have been completed and approved.

ARTICLE III.

ACCEPTANCE OF SUBDIVISION IMPROVEMENTS.

Upon completion and approval, the TOWNSHIP shall accept all those subdivision improvements which shall be owned and maintained by the TOWNSHIP. Acceptance shall be in accordance with the provisions of R.S. 40:55D-53.

Upon acceptance of improvements, the DEVELOPER shall convey to the TOWNSHIP the road rights of way, on-site and off-site easements and all improvements thereon and therein. All conveyances shall be free and clear of all encumbrances and liens.

ARTICLE IV.

The DEVELOPER at its own cost and expense shall maintain all improvements required to be installed for the SUBDIVISION TRACT for a period of two (2) years from the date of acceptance by the TOWNSHIP, provided, however, that this requirement shall not apply to any underground utility installed by a public utility company which will be owned and maintained by such company after installation. Maintenance shall include the repair, reconstruction and replacement of any improvement or portion thereof which is necessitated by reason of faulty materials or workmanship, settlement or the effects of the forces of nature. Maintenance shall be deemed to be satisfactorily performed when inspected and approved by the Township Engineer of the TOWNSHIP.

ARTICLE V.

MAINTENANCE GUARANTEE.

If upon the acceptance of improvements for the SUBDIVISION TRACT by the TOWNSHIP the DEVELOPER desires to have the performance guarantee released, the DEVELOPER shall furnish to the TOWNSHIP a guarantee for the maintenance of all improvements as provided in ARTICLE IV, which guarantee shall be in an amount equal to fifteen percent (15%) of the cost of the improvements required to be maintained as such cost is determined by the Township Engineer of the TOWNSHIP.

The maintenance guarantee shall be in a form approved by the Township Attorney.

ARTICLE VI.

ACCESS TO LOTS.

The DEVELOPER shall, on and after the occupancy of any dwelling in the SUBDIVISION TRACT, provide and maintain adequate and suitable vehicular access to the said dwelling from the nearest municipal, county or state highway. Adequate and suitable access shall mean access by a curbed street having a subgrade and base course meeting TOWNSHIP road specifications, and the maintenance of such access shall include the plowing of snow and the sanding of the road surface when necessary. The responsibility of the DEVELOPER to maintain the aforesaid access shall continue until sixty (60) days after the road has been fully completed with the surface course and inspected and approved by the Township Engineer of the TOWNSHIP.

ARTICLE VII.

COMPLIANCE WITH ORDINANCES, LAWS AND TERMS AND CONDITIONS OF SUBDIVISION APPROVAL; REMEDIES.

In the development of the SUBDIVISION TRACT, the DEVELOPER shall comply with all applicable State laws, rules and regulations and all TOWNSHIP ordinances.

The DEVELOPER hereby accepts all the terms and conditions of subdivision approval as set forth in the attached Resolutions of the TOWNSHIP Planning Board adopted on _____ and agrees to comply therewith.

It is understood and agreed by the TOWNSHIP and the DEVELOPER that if during the course of the development of the SUBDIVISION TRACT the DEVELOPER shall fail to comply with any applicable State law, rule or regulation or any TOWNSHIP ordinance or any term and condition of subdivision approval and such failure of compliance shall have any current adverse effect upon any person or property designed to be protected during the course of the development of the SUBDIVISION TRACT, then the TOWNSHIP may institute a suit against the DEVELOPER for injunctive and other relief to restrain further violations or compel compliance with applicable State laws, rules or regulations or TOWNSHIP ordinance provisions or terms and conditions of subdivision approval and, if necessary or appropriate, to recover the reasonable costs of effectuating the same, and the TOWNSHIP shall not be

required to await the date set for the completion of all improvements before instituting such a proceeding or obtaining relief against the DEVELOPER. Any performance bond furnished by the DEVELOPER shall recognize the right of the TOWNSHIP to proceed against the surety to obtain the aforementioned reasonable costs without waiting for the date set for the completion of all improvements.

The reference to certain remedies which may be elected by the TOWNSHIP is not intended to exclude any other remedy provided by law, all of which are intended to be available to the TOWNSHIP for the protection of the public interest.

IN WITNESSETH WHEREOF the parties hereto have hereunto set their hands an seals or caused these presents to be executed and attested by their proper corporate officers and their seals affixed hereto on the day and year first above written.

Attest:

_____ By_____

[SEAL]

Attest:

TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS

_____ By_____

[SEAL]

APPENDIX B

SUBDIVISION IMPROVEMENT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____,
A corporation organized and existing under the laws of the State of New Jersey, having its principal office at _____ in the _____ of _____ in the County of _____ and State of New Jersey, as Principal (hereinafter referred to as Principal), and

_____

as Surety (hereinafter referred to as Surety), are held and firmly bound unto the TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, a municipal corporation of the State of New Jersey, having its Township Hall at Cherry Lane, Brookside, New Jersey (hereinafter referred to as Township), for its exclusive benefit, as obligee, in the sum of $_____ lawful money of the United States of America, for the payment of which sum the Principal and Surety hereby bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated this _____ day of _____ 20 .

WHEREAS,_____ submitted to the Planning Board of the Township an application to subdivide a certain tract of land in said Township known as _____.

WHEREAS, by Resolution adopted on _____, the Planning Board of the Township granted preliminary or tentative subdivision approval of such subdivision upon the terms and conditions set forth in said Resolution.

WHEREAS, the Principal has now made application to the Planning Board of the Township for final subdivision approval of [the entire subdivision tract] [Section ____ of the Subdivision tract], in accordance with the following maps and drawings:

[list final subdivision plat and accompanying plans and profiles for all improvements]

WHEREAS, the following improvements are required to be installed by the Principal In accordance with the aforementioned plans and specifications for the development of the [entire subdivision tract] [Section ___ of the subdivision tract]:

[list the categories of improvements required, such as excavation, curbing, pavement, etc.]

WHEREAS, the Land Subdivision Ordinance of the Township provides that final subdivision approval shall not be granted to an application for subdivision until the completion of all required improvements has been certified by the Township Engineer, unless there shall have been filed with the Township a performance guarantee sufficient in amount to cover all of such improvements as estimated by the Township Engineer and assuring the installation of any uncompleted improvements on or before an agreed upon date and the maintenance of all improvements for a period of two (2) years following their acceptance by the Township; and

WHEREAS, there are various ordinances, rules and regulations of the Township governing the physical development of land within the Township; and

WHEREAS, the Principal has entered into a Developer's Agreement with the Township dated _____, which, among other things, provides for the furnishing of this performance bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if said Principal shall complete all of the improvements hereinabove mentioned on or before _____ and if said Principal shall repair and maintain said improvements during a period of two (2) years from the date said completed improvements have been accepted by the Township, and if said Principal shall comply with all of the terms and conditions of subdivision approval and all applicable State laws, rules and regulations and with all Township ordinances, permits and approvals respecting the subdivision and development of land, and if said Principal shall comply with all of the provisions of the aforesaid Developer's Agreement dated _____ then this obligation shall be null and void, otherwise to remain in full force and effect, provided that in the event that any improvement or improvements required to be made by the Principal shall not be completed on or before _____, or shall not be completed on or before such subsequent date as may be mutually agreed upon by said Township, the Principal and the Surety, then the Surety binds itself and agrees that upon notification by said Township of such failure the Surety shall promptly pay to the Township the reasonable costs, not exceeding the fact amount of this bond, of the completion of said improvement or improvements.

In the event that any improvement required to be maintained by the Principal shall not be maintained for a period of two (2) years following the acceptance of such improvement by the Township, the Surety binds itself and agrees that upon notification by said Township of such failure the Surety shall promptly pay to the Township the reasonable costs, not exceeding 15% of the face amount of this bond, of the performance of such maintenance work.

In the event that during the course of the installation of improvements or thereafter the Principal shall fail to comply with any term or condition of final subdivision approval or shall fail to comply with any provision of the aforementioned Developers' Agreement dated _____, then the Surety binds itself and agrees that upon notification of the Township of such failure the Surety shall pay to the Township the reasonable costs, not exceeding the face amount of this bond, of the performance of the aforesaid obligations of the Principal or any of them, and it is understood and agreed that the Township shall be entitled to receive such reasonable costs without waiting for the date set for the completion of the improvements whenever a failure of the Principal to comply with any term or condition of final subdivision approval or any provision of the aforementioned Developer's Agreement dated _____ has a current adverse effect upon any persons or property designed to be protected during the course of the installation of subdivision improvements by said terms and conditions or by the provisions of said Developer's Agreement.

This obligation shall remain in full force and effect until released by Resolution of the governing body of the Township, which release shall be given upon satisfactory completion and maintenance of said improvements in accordance with the terms set forth above.

The governing body of the Township shall, upon application of the Principal, reduce the amount of this obligation to 15% of the amount hereinabove stated upon the acceptance by the Township of all improvements for [the subdivision tract] [Section ___ of the subdivision tract].

In the event of any default on the part of the Principal which may become the basis of a demand upon or a claim against the Surety, the Township shall notify the Surety as soon as practicable after such default comes to the notice of the governing body of the Township, provided, however, that no claim shall be made after the expiration of three (3) years from the date the improvements required have been accepted by the Township.

Inasmuch as it is the purpose of this obligation to assure the completion and maintenance of the aforesaid subdivision improvements, to assure compliance with all of the provisions of the aforesaid Developer's Agreement as well as compliance with all the terms and conditions of subdivision approval, applicable State laws, rules and regulation and Township ordinances, permits and approvals respecting the subdivision and development of land, all without expense to the Township, it is agreed that in the event that the Township institutes a suit against the Principal and/or Surety under this bond, then any judgment which the Township recovers against the Principal and/or Surety shall include amounts to reimburse the Township for the reasonable cost of attorney fees in connection with said suit, for the reasonable cost of the services of the Township Engineer in connection with said suit and for the reasonable cost of any other experts necessarily engaged by the Township for purposes of said suit.

[SEAL]

By_____
Principal

[SEAL]

By_____
Surety

APPENDIX C

IRREVOCABLE LETTER OF CREDIT

Township of Mendham
West Main and Cherry Lane
P.O. Box 520
Brookside, New Jersey 07926

Letter of Credit NO. _____

Gentlemen:

We hereby establish an Irrevocable Letter of Credit in favor of the Township of Mendham, in the County of Morris, New Jersey, for the account of _____ in the amount of _____ ($_____).

This Irrevocable Letter of Credit is furnished in connection with the grant of final subdivision approval by the Township to a major subdivision known as

_____

We hereby agree with you that drafts drawn under this credit will be duly honored upon presentation and a statement signed by the Township Administrator of the Township of Mendham, in the County of Morris, that the amount or amounts so drawn are reasonably required to cover liability, loss, costs or expenses incurred or to be incurred, by you as a result of the failure to perform certain specified obligations under a Developer's Agreement dated _____, 20 , between _____ and the Township of Mendham, in the County of Morris. The signature of the present Township Administrator appears below.

This Irrevocable Letter of Credit shall expire on _____ or upon its release by the governing body of the Township of Mendham, in the County of Morris. We agree to furnish to the Township of Mendham written notice thirty (30) days prior to the expiration date of this Irrevocable Letter of Credit advising the Township of such projected expiration date. In the absence of such written prior thirty (30) day notice being given, we agree that this Irrevocable Letter of Credit shall be deemed to continue in effect without regard to such expiration date unless or until we shall have given to the Township such thirty (30) day prior written notice of such expiration or termination date.

By the acceptance of funds pursuant to the exercise of the rights given under this Irrevocable Letter of Credit, the Township of Mendham, in the County of Morris, agrees that ahy monies received which are not required to cover liability, loss, costs or expenses caused by reason of the failure of _____ to perform certain specified obligations under the Developer's Agreement dated _____ shall be refunded to us.

Except as otherwise expressly stated, this Irrevocable Letter of Credit is subject to the Uniform Customs and Practices for Documentary Credits (1974 Revision) International Chamber of Commerce Brochure #290. We hereby agree with the drawer and bona fide holders of the drafts drawn hereunder and in compliance with the terms of this Letter that such drafts will be duly honored upon presentation.

Very truly yours,

This is the signature of the present Township Administrator:

_____

APPENDIX D

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____ A corporation organized and existing under the laws of the State of _____, having its principal office at _____ in the _____ of _____, County of _____ and State of _____, as principal (hereinafter referred to as Principal), and

_____ as Surety (hereinafter referred to as Surety), are held and firmly bound unto the Township of Mendham, in the County of Morris, a municipal corporation of the State of New Jersey, having its Township Hall at Cherry Lane, Brookside, New Jersey 07926 (hereinafter referred to as Township) for its exclusive benefit, as Obligee, in the sum of _____ ($_____) lawful money of the United States of America, for the payment of which sum the Principal and Surety hereby bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated this _____ day of _____ 20 .

WHEREAS, the Principal entered into a Developer's Agreement with the Township dated _____, 20 under the provisions of which the Principal is obligated to construct, install and maintain certain improvements and/or facilities in accordance with the terms and conditions of [subdivision approval] [site plan approval] [subdivision and site plan approvals] granted by the Planning Board of the Township.

WHEREAS, after inspection the governing body of the Township has notified the principal that the improvements and/or facilities hereinafter enumerated have been constructed and installed in a manner satisfactory to the Township.

WHEREAS, the governing body of the Township has authorized the release of performance guarantee furnished by the Principal to the Township with respect to the improvements and/or facilities hereinafter enumerated upon the condition that the Principal shall furnish to the Township a maintenance guarantee with respect to such improvements and/or facilities as required by the Developer's Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall maintain for a period of two (2) years from _____ the following improvements and/or facilities constructed and installed by the Principal, namely,

_____

_____

_____

then this obligation shall be null and void, otherwise to remain in full force and effect.

Maintenance shall mean and include the repair, reconstruction, restoration or replacement of any improvement or facility hereinabove enumerated in order to correct any defect which appears during the aforesaid two-year period regardless of whether the defects arise by reason of faulty materials, poor workmanship or from settlement or the causes of nature.

In the event that any improvement or facility which is the subject of this maintenance bond shall not be maintained by the Principal for the aforesaid two-year period, then the Surety binds itself and agrees that upon notification by the Township of such failure the Surety shall promptly pay to the Township the reasonable costs, not exceeding the face amount of this maintenance bond, of the performance of such maintenance work. It is understood and agreed that the Township shall be entitled to receive such reasonable costs without waiting for the termination of the aforesaid two-year period.

This obligation shall remain in full force and effect until released by Resolution of the governing body of the Township, which release shall be given upon satisfactory maintenance of the improvements and/or facilities hereinabove enumerated during the aforesaid two-year period.

In the event of any default on the part of the Principal which may become the basis of a demand upon or a claim against the Surety, the Township shall notify the Surety as soon as practicable after such default comes to the notice of the governing body of the Township, provided, however, that no claim shall be made after the expiration of one (1) year from the termination of the aforesaid two-year maintenance period.

Inasmuch as it is the purpose of this obligation to assure the maintenance of the aforesaid improvements and/or facilities during the aforesaid two-year period without expense to the Township , it is agreed that in the event that the Township institutes a suit against the Principal and/or Surety under this bond, then any judgment which the Township recovers against the Principal and/or Surety shall include amounts to reimburse the Township for the reasonable cost of attorney fees in connection with said suit, for the reasonable cost of the services of the Township Engineer in connection with said suit and for the reasonable cost of any other experts necessarily engaged by the Township for purposes of said suit.

[SEAL]

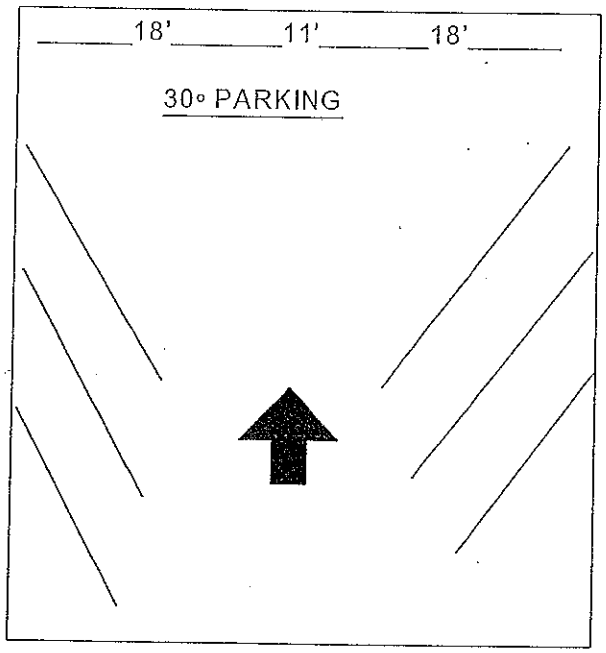
By_____
Principal

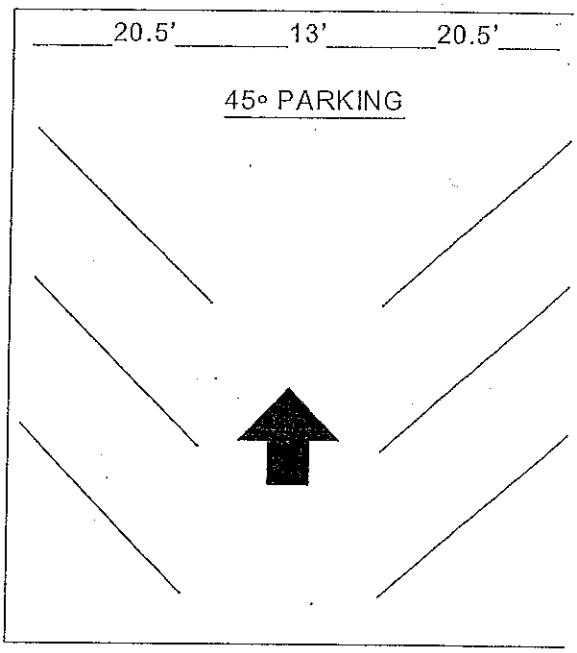
By_____
Surety

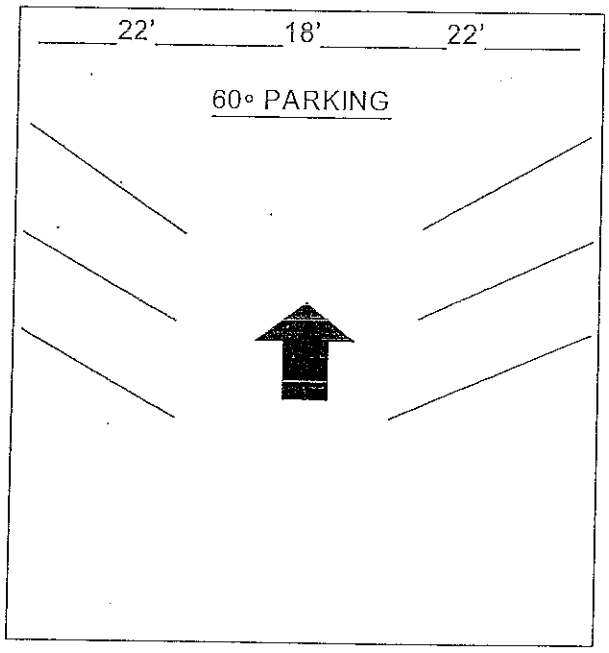
[SEAL}

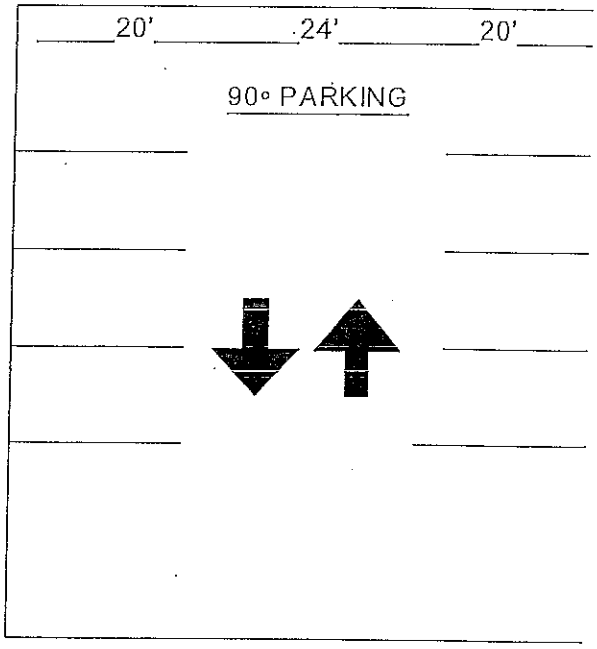
By_____
Attorney in Fact

MINIMUM PARKING SPACE AND AISLE WIDTH DIMENSIONS









APPROVED FORM OF CONSERVATION EASEMENT

The CONSERVATION EASEMENT hereby granted and conveyed to the Grantee is subject to the following terms and conditions:

1. No live trees, shrubs, plants or other vegetation now or hereafter existing within the easement area shall be destroyed or removed other than in the course of removing invasive species to maintain the health of the conservation area, except with written approval of the Grantee acting through its governing body or such other body or official as the governing body may designate.

2. No topsoil, sand, gravel, loam, rock or other material shall be excavated, dredged or removed from the easement area except with written approval of the Grantee acting through its governing body or such other body or official as the governing body may designate.

3. No buildings, structures, fences or other improvements shall be erected or placed within the easement area and no roads, drives or trails for motorized vehicles shall be constructed or maintained within the easement area. The term "motorized vehicles" as used herein shall include but not be limited to automobiles, trucks, snowmobiles, ATVs, motorcycles, motor bikes, mopeds, go-carts and dune buggies.

4. No dumping or placing of soil or other substances or materials and no dumping or placing of trash, waste or unsightly or offensive material for disposal or otherwise shall be permitted within the easement area.

5. No solid or liquid materials which might pollute or otherwise adversely affect the flow or quality of the water in any watercourse within or near the easement area shall be kept or stored within the easement area or placed in or discharged into any watercourse traversing or protected by the easement area.

6. No activities shall be permitted within the easement area which might be detrimental to drainage, flood control, springs, water conservation, water quantity or quality protection, erosion control, soil conservation or vegetation or scenic protection, and no other act or uses detrimental to the preservation of the easement area shall be permitted by any person.

7. The Grantee, by its officials, employees and agents shall have the right, but not the duty, to enter upon the easement area for purposes of inspection, protection and maintenance, but this right does not evidence nor create any agreement or obligation upon the Grantee to inspect, protect or maintain the easement area. The use by the Grantee of equipment for maintenance purposes shall not constitute a violation of the terms and conditions of this easement grant, and no act of the Grantee for inspection, protection or maintenance shall give rise to any obligation on the part of the Grantee for

maintenance shall give rise to any obligation on the part of the Grantee for further or other inspection, protection or maintenance. In the event, however, that the lands of Grantor are damaged or disturbed by the Grantee, its officials, employees or agents in connection the exercise of rights granted hereunder, the Grantee shall, within a reasonable time, restore said lands to substantially the same condition as existed prior to said damage or disturbance.

8. Although the conservation easement hereby granted and conveyed to the Grantee is created for the benefit of the general public by the protection of water and land resources and natural beauty, nothing herein contained shall be construed to convey to the public any right of access to or use of the easement area, and the Grantor shall, subject to the general and specific terms and conditions of this indenture, retain the exclusive right of use of the easement area. This indenture imposes no obligation on Grantor and no restriction on the use of the easement area except as specifically set forth herein, and nothing contained herein shall be construed as interfering with the right of Grantor and Grantor's successors and assigns to utilize the easement area in such manner as they may deem desirable, subject to the provisions of this indenture.

STANDARD CONSTRUCTION DETAILS

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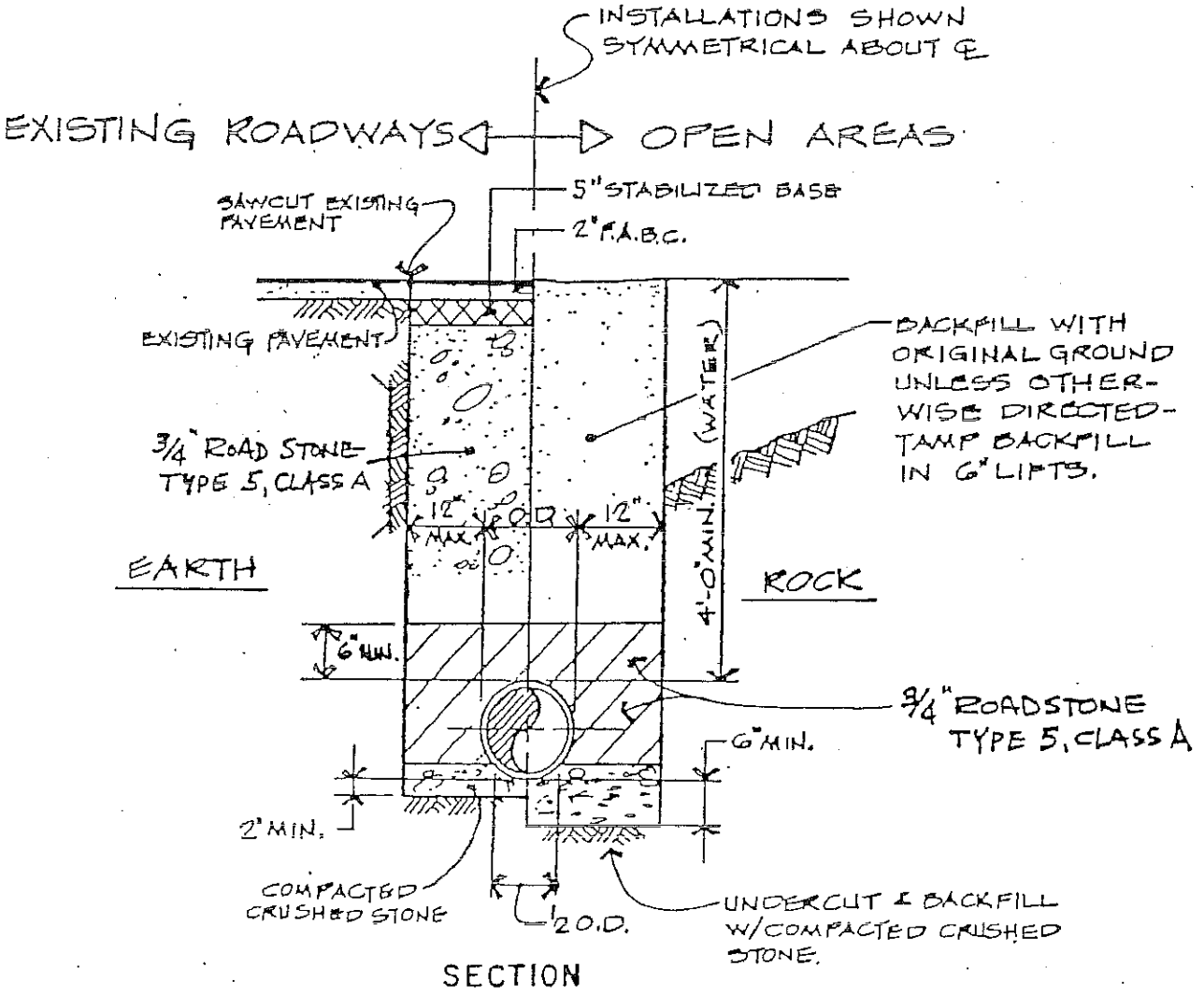


SECTION

INSTALLATION OF PIPING

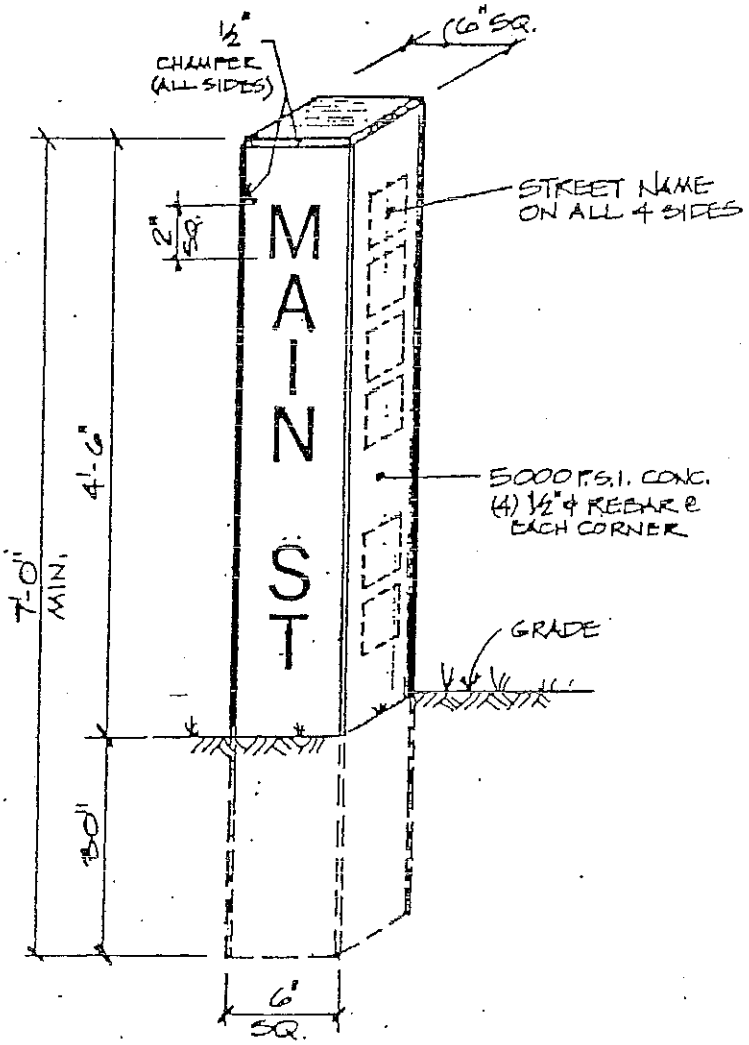
NOT TO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street P.O. 66
Harbertonia, New Jersey 07060
(201) 853-4454

Township of Mendham
INCORPORATED MARCH 29 1749
BROOKSIDE, NEW JERSEY 07926

G-1
1985



STANDARD CONCRETE STREET SIGN

NOT TO SCALE

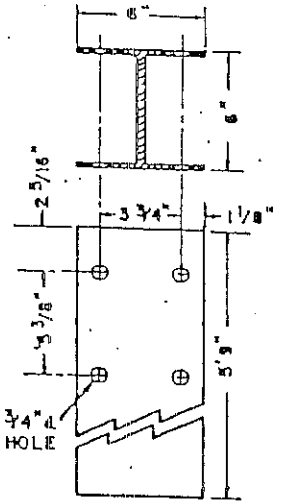
standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte. 46
Hackettstown, New Jersey 07840
(201) 852-8654

Township of Mendham
INCORPORATED MARCH 22, 1748
BROOKSIDE, NEW JERSEY 07926

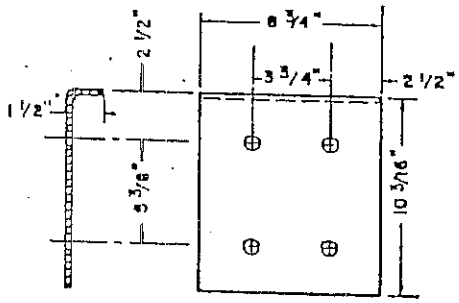
G-2
1985

Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
382 Main Street, Rt. 46
Hackettstown, New Jersey 07840
(201) 852-9595



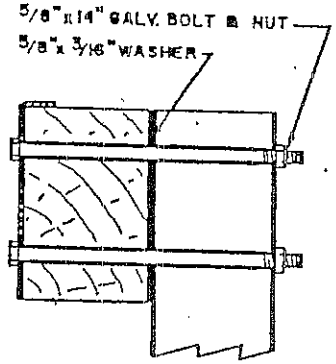
STEEL POST

NOTE: STEEL SHALL BE COR-TEN TYPE WEATHERING STEEL BY U.S. STEEL CORP. OR APPROVED EQUAL (ASTM A588)



SPLICE PLATE

SCALE: 2"=1'



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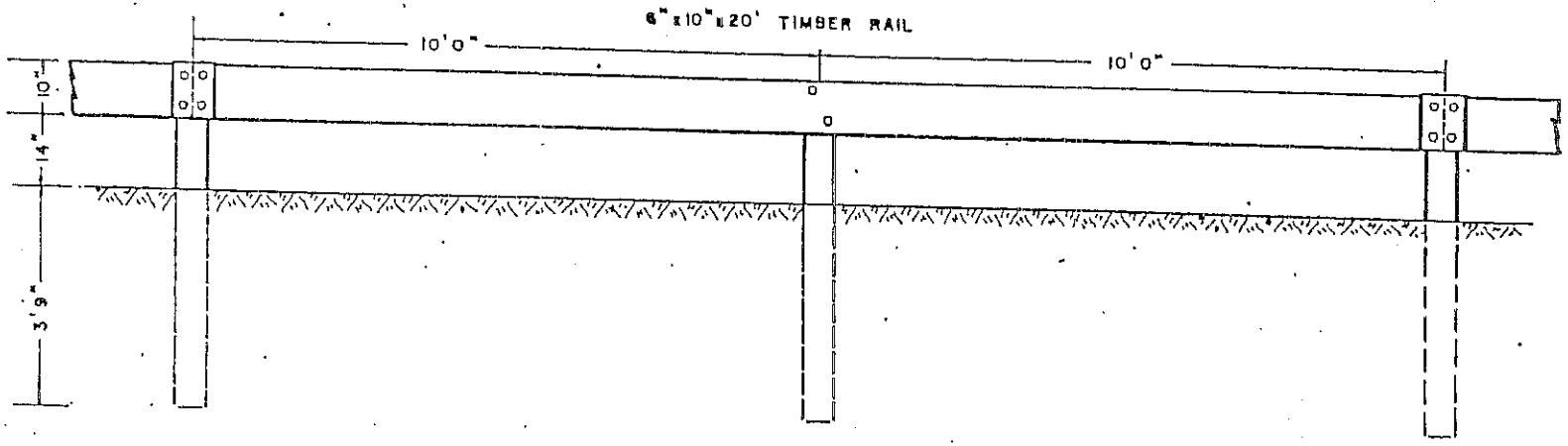


TIMBER GUIDE RAIL
Not To Scale

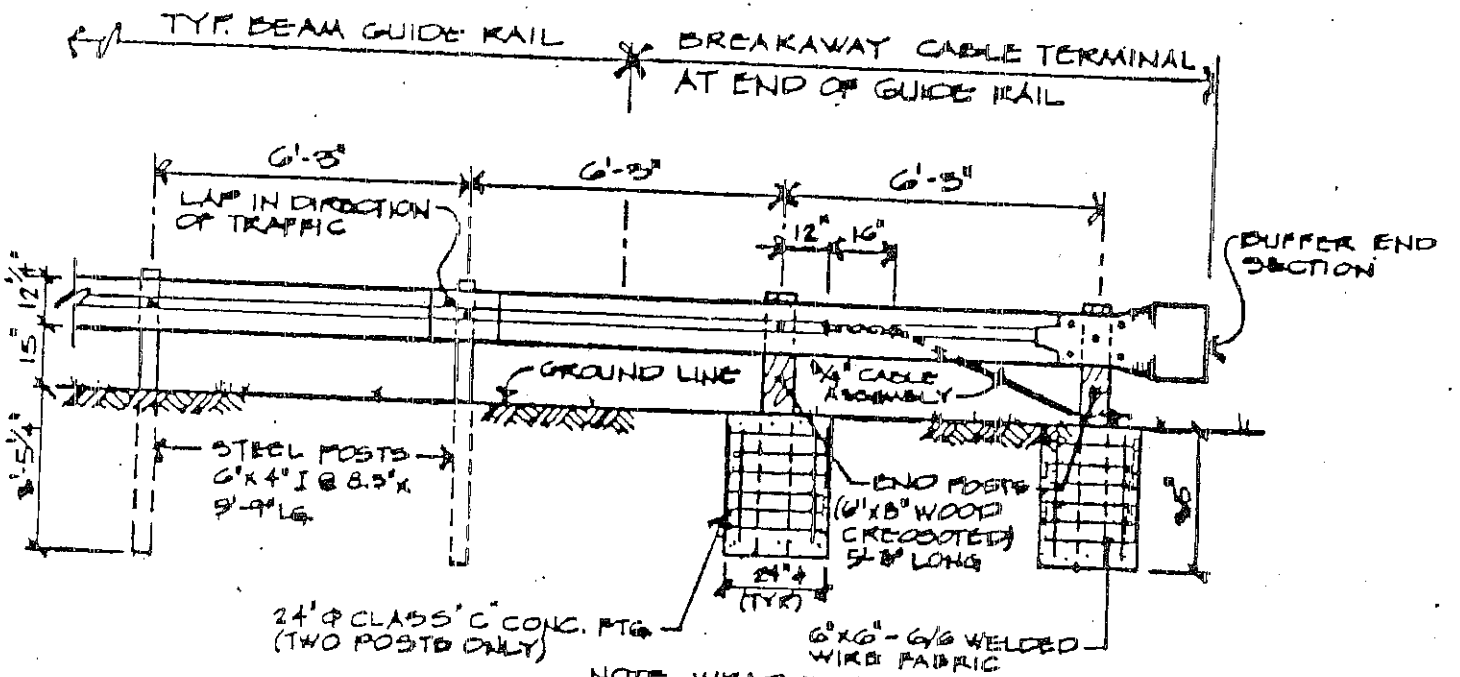
Township of Mendham

G-3

1985

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street, Rm. 24
Hackettstown, New Jersey 07840
(201) 852-9636



STEEL GUIDE RAIL DETAIL
Not To Scale

Township of Mendham

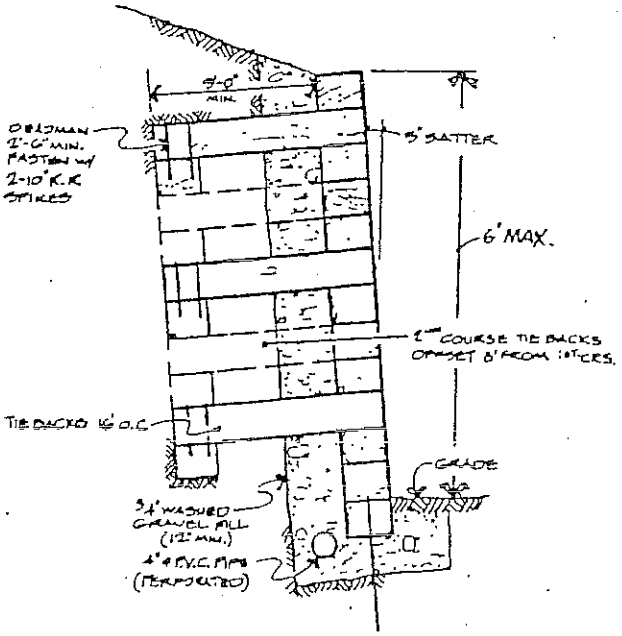
G-4

1986

standard detail

NOTES:

1. ALL TIES SHALL BE NEW "WOLMANIZED" TIMBER. SOUND AND UNWARPED WITH SQUARE ENDS. THEY SHALL BE 7"x 9" x 8'-0" LONG, EXCEPT WHEN CUT TO FIT.
2. TIE BACKS SHALL BE PLACED 16' O.C. WITH THE FIRST COURSE SET WITH THE THIRD COURSE OF TIES. THEREAFTER TIE BACKS SHALL BE SET WITH EVERY SECOND COURSE OF TIES AND STAGGERED SO THAT THERE IS A TIE BACK AT EACH 8' O.C.
3. ALL TIES SHALL BE FASTENED TOGETHER WITH STANDARD 10" R.R. SPIKES OR 5/8"ϕ x 24" STEEL RODS IN DRILLED HOLES. THE BOTTOM COURSE OF TIES SHALL BE ANCHORED WITH 3 - 5/8"ϕ x 30" STEEL RODS DRIVEN INTO THE GROUND AT EACH TIE.
4. OVERLAPPING JOINTS SHALL BE PROPERLY SPIKED OR TIED TO THE MEMBER BELOW.



R.R. TIE RETAINING WALL

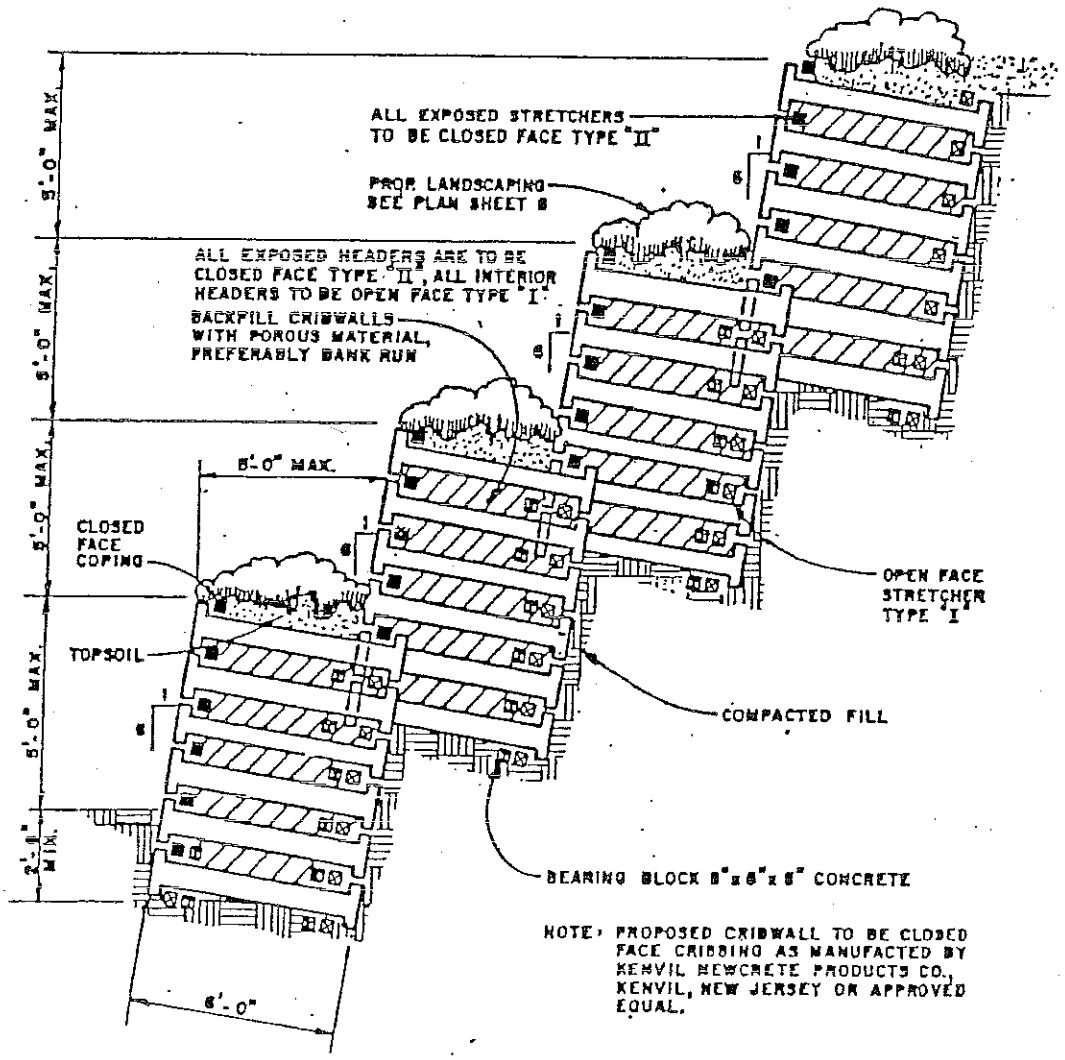
NOT TO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
307 Main Street Box 66
Hackettstown, New Jersey 07840
(201) 852-0554

Township of Mendham

INCORPORATED MARCH 26, 1748
BROOKSIDE NEW JERSEY 07926



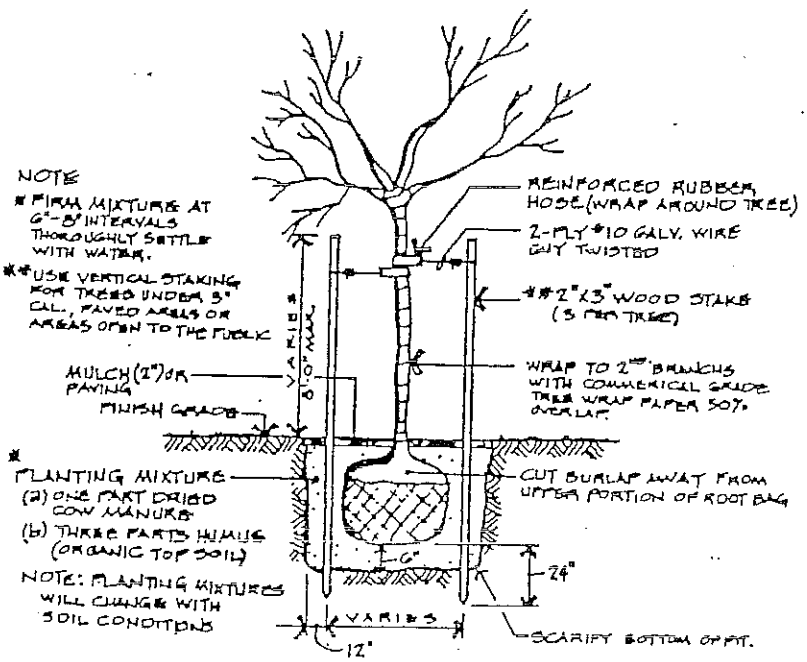
REINFORCED CONCRETE CRIBWALL DETAIL

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 46
Hackettstown, New Jersey 07840
(201) 852-9656

Township of Mendham
INCORPORATED MARCH 30, 1748
BROOKSIDE, NEW JERSEY 07926

G-6
1985



TREE PLANTING DETAIL

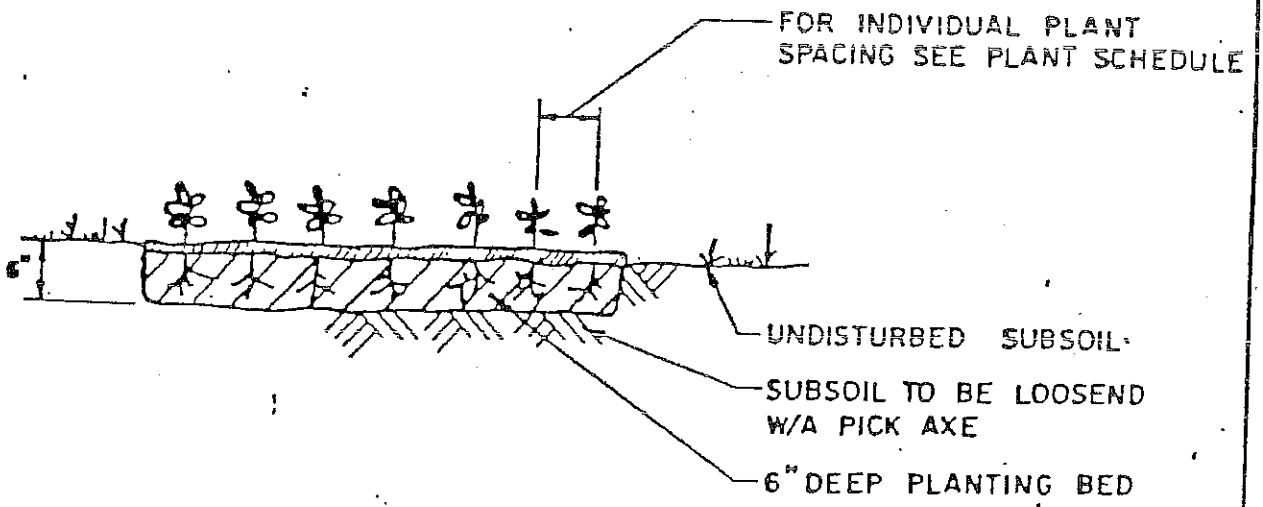
NOT TO SCALE

standard detail

Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 45
Marlborough, New Jersey 07940
(201) 851-9444

Township of Mendham
INCORPORATED MARCH 29, 1749
BROOKSIDE, NEW JERSEY 07926

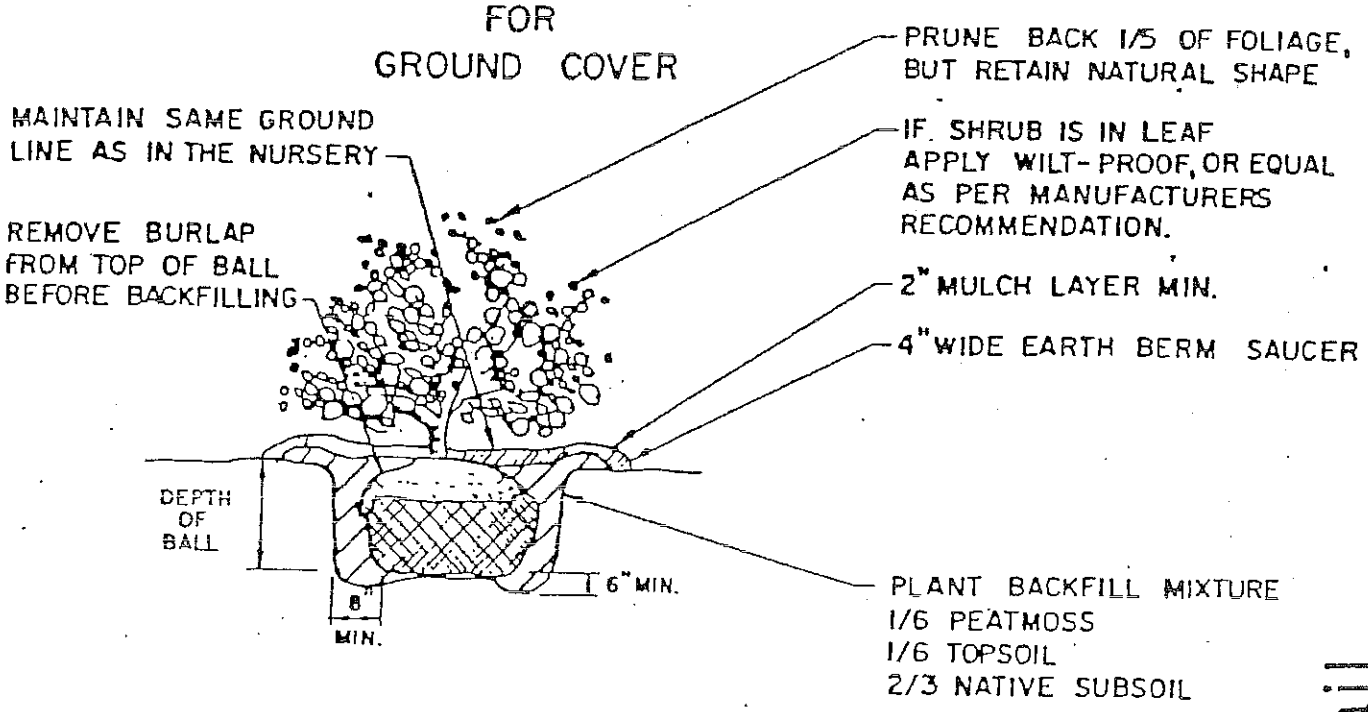
G-7
1985



PLANTING DETAIL

FOR

GROUND COVER



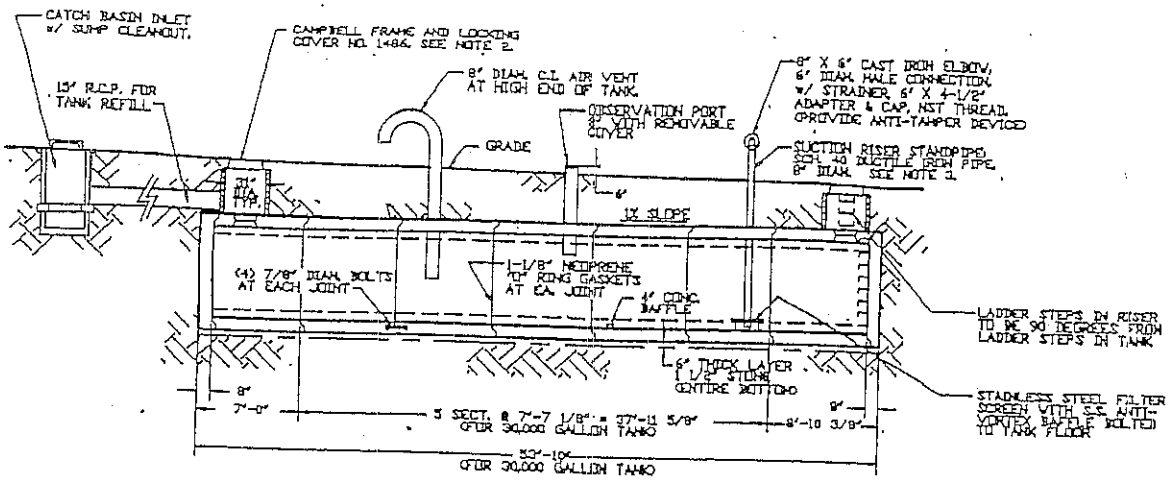
PLANTING DETAIL

FOR

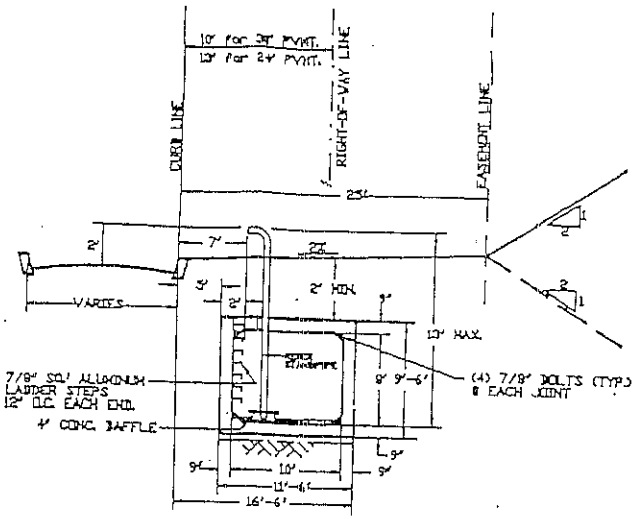
SHRUBS

standard detail

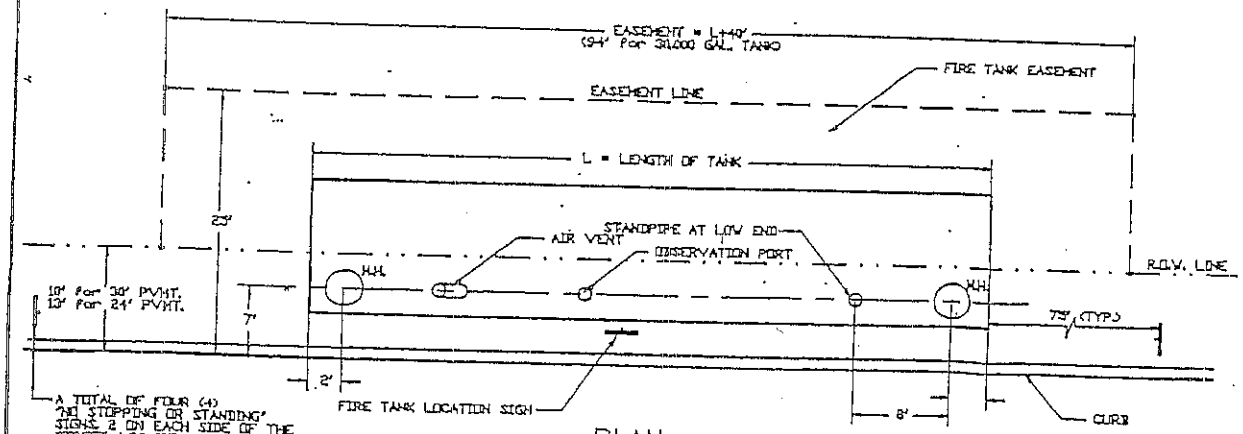
Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street Box 66
Harlerstown, New Jersey 07840
(201) 852-8654



LONGITUDINAL CENTERLINE SECTION



SECTION AT STANDPIPE



PLAN

SPECIFICATIONS:

CONCRETE MINIMUM STRENGTH - 5000 PSI @ 28 DAYS.
STEEL REINFORCEMENT - ASTM A-615-75, GRADE 60, 1" MIN. COVER
DESIGN LOADING - AASHO HS20-44
CONSTRUCTION JOINT - SEALED WITH 1-1/8" DIAM. NEOPRENE "O" RING GASKETS AND BOLTED IN CHAMFERED CORNERS WITH 7/8" DIAM. BOLTS.

NOTES:

1- 30,000 GALLON TANK TO CONSIST OF 7 STANDARD PRECAST CONCRETE RECTANGULAR TANK SECTIONS, AS MANUFACTURED BY ROTONDO-PENN CAST, TELFORD, PA, OR APPROVED EQUAL.
2- TWO MANHOLES TO BE CONSTRUCTED AS SHOWN OVER END PRECAST SECTION ACCESS HOLES USING 6" CONCRETE BLOCK TO GRADE.
3- STANDPIPE TO BE INSTALLED ON SITE AFTER TANK IS IN PLACE AND LINE HAS BEEN ESTABLISHED.
4- TANK JOINTS TO RECEIVE ONE COAT OF EPOXY PAINT (TOUGH-COAT CATALYZED EPOXY) MANUF. BY BALTIMORE PAINT, BALTIMORE, MD. OR EQUAL, PRIOR TO PLACEMENT OF "O" RING.
5- ALL HARDWARE MUST BE IN PLACE BEFORE THE TANK HAS BEEN COMPLETELY BACKFILLED.
6- THE EXCAVATION MUST BE DEWATERED UNTIL THE TANK HAS BEEN COMPLETELY BACKFILLED TO ELIMINATE ANY POSSIBILITY OF FLOATATION.
7- THE TWO SHORTWALLS MUST BE BACKFILLED PRIOR TO THE LONGWALLS TO ASSURE A GOOD TIGHT SEAL.
8- ALL CLEARANCES AND DIMENSIONS SHOWN SHALL BE CONFIRMED PRIOR TO CONSTRUCTION AND INSTALLATION BY THE MENDHAM TOWNSHIP FIRE OFFICIAL.
9- SHOP DRAWINGS AND DETAILS OF CONSTRUCTION AND SITE LOCATION SHALL BE SUBMITTED TO THE TOWNSHIP OF MENDHAM FOR APPROVAL.

FIRE PROTECTION TANK DETAIL

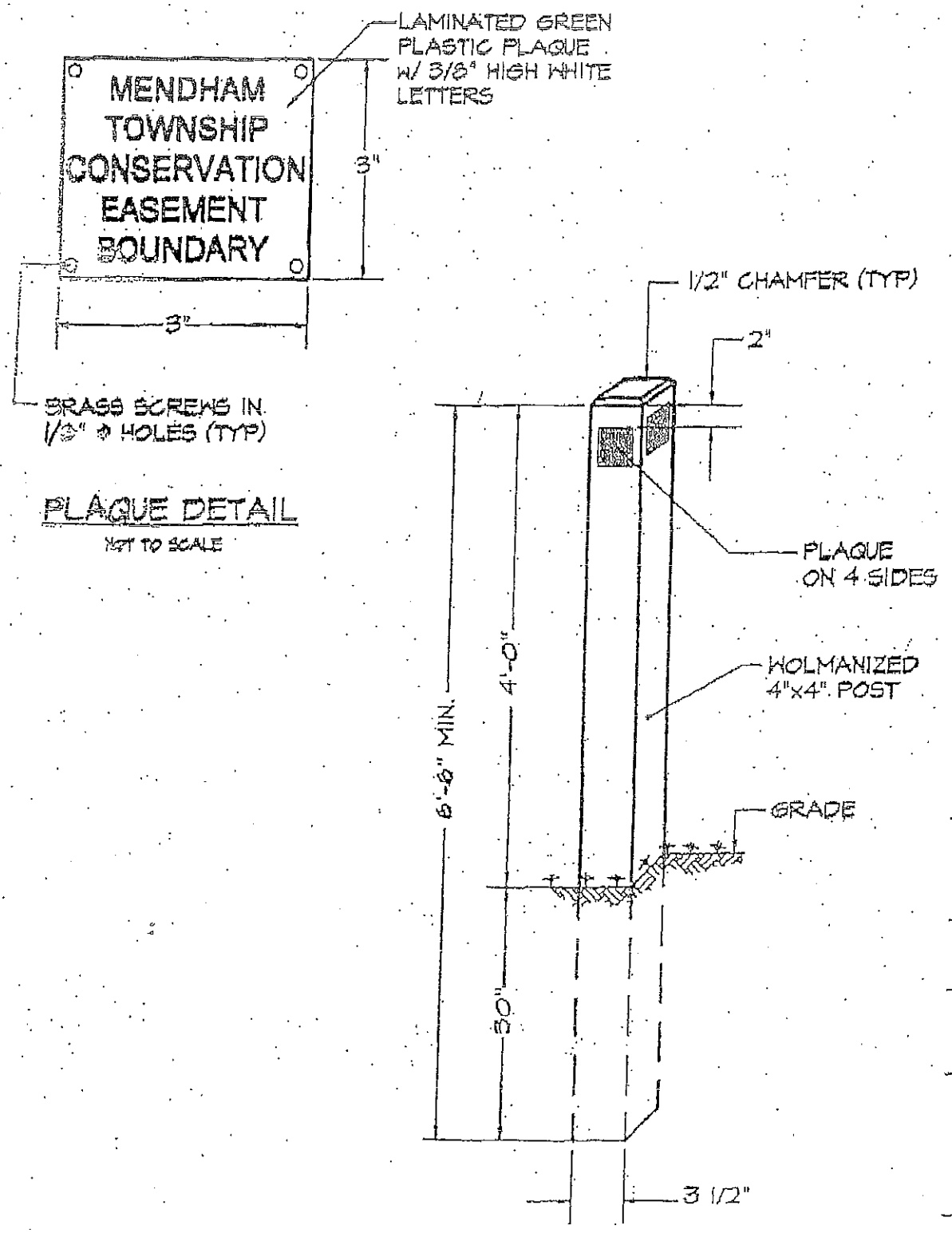
NOT TO SCALE

standard detail

charles i. ballin

TOWNSHIP OF MENDHAM
BROOKSIDE, NEW JERSEY 07926

G-9
1991



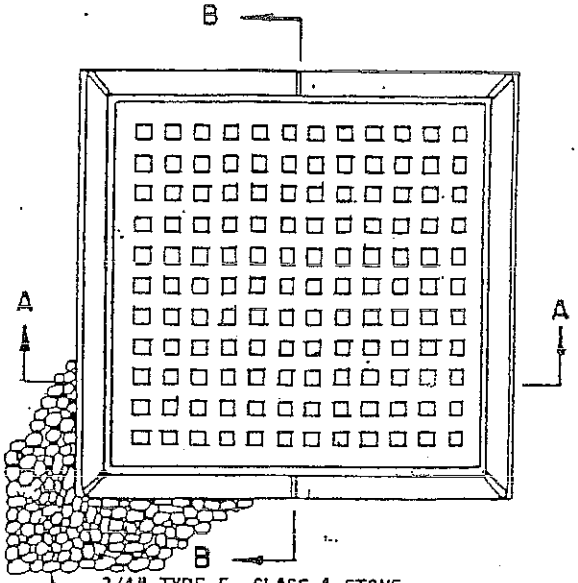
PLAQUE DETAIL

NOT TO SCALE

STANDARD CONSERVATION EASEMENT MARKER

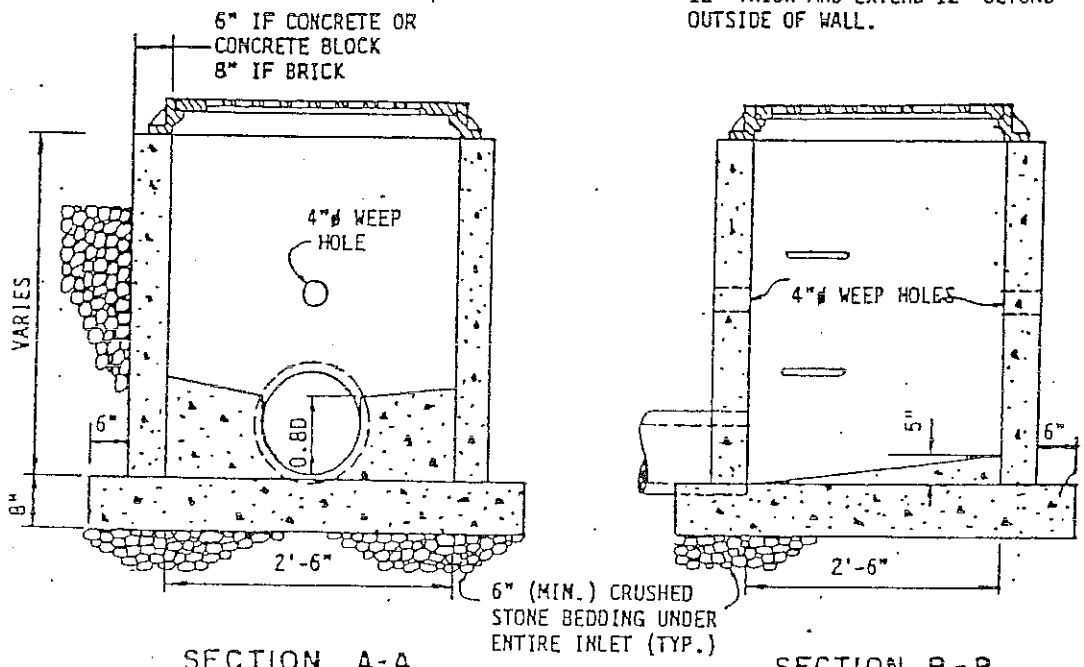
NOT TO SCALE

standard detail



GENERAL NOTES:

1. FOOTING TO BE N.J.D.O.T. CLASS "D" CONCRETE.
2. INVERT & WALLS TO BE N.J.D.O.T. CLASS "C" CONCRETE.
3. IF WALL CONSTRUCTION IS OTHER THAN CONCRETE, WALLS SHALL BE PLASTERED INSIDE & OUTSIDE WITH 1/2" THICK CEMENT PLASTER.
4. FRAME & GRATE TO BE CAMPBELL FOUNDRY CO., NO.3194A OR EQIV. SET IN CONCRETE.
5. PROVIDE 3/4"ø ALUM. LADDER RUNGS SET AT 12" O.C.
6. WHEN ADDITIONAL DEPTH IS SCHEDULED, WALLS BELOW 8'-0" MEASURED FROM GRATE TO INVERT SHALL BE 12" THICK. THE FOUNDATION SHALL BE 12" THICK AND EXTEND 12" BEYOND OUTSIDE OF WALL.



SECTION A-A

"THROUGH" INLET DETAIL

SECTION B-B

"TERMINAL" INLET DETAIL

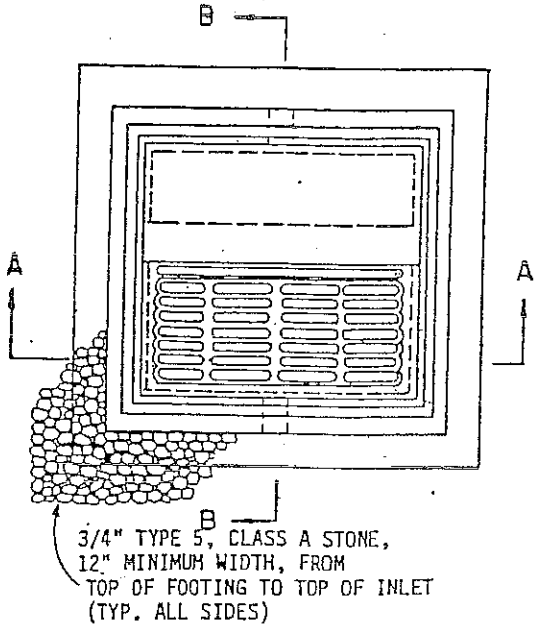
YARD INLET - TYPE "A"

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
370 Main Street Box 66
Hackettstown, New Jersey 07840
(201) 852-8654

Township of Mendham
INCORPORATED MARCH 30, 1749
BROOKSIDE NEW JERSEY 07926

D-1
1985



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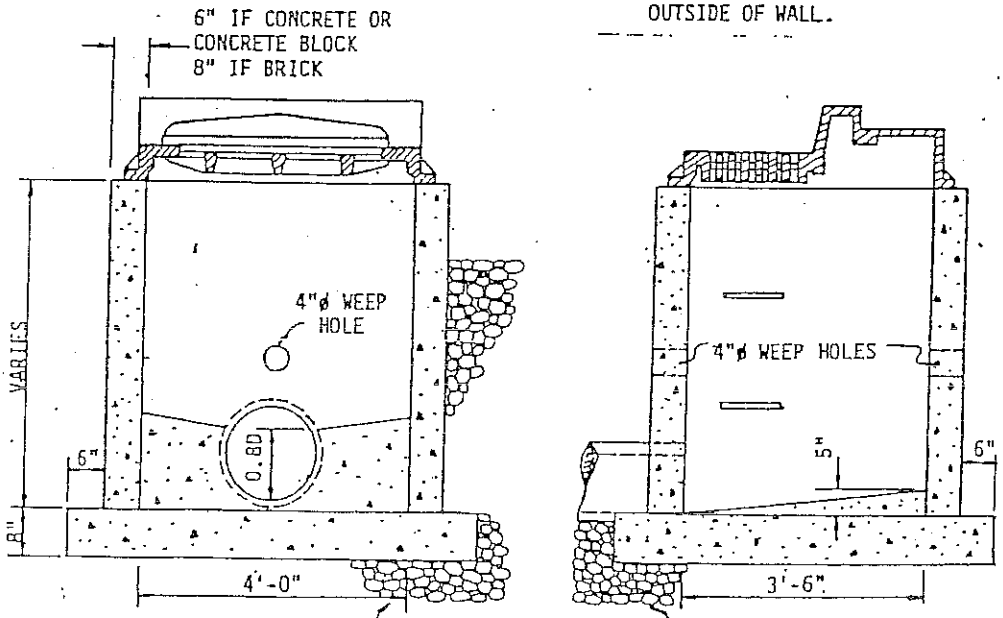
2. INVERT TO BE N.J.D.O.T. CLASS "C" CONCRETE.
3. IF WALL CONSTRUCTION IS OTHER THAN CONCRETE, WALLS SHALL BE PLASTERED INSIDE & OUTSIDE WITH 1/2" THICK CEMENT PLASTER.
4. FRAME & GRATE TO BE CAMPBELL FOUNDRY CO., NO. 2548, OR EQIV. SET IN CONCRETE.
5. PROVIDE 3/4"ø ALUM. LADDER RUNGS SET AT 12" O.C.
6. WHEN ADDITIONAL DEPTH IS SCHEDULED, WALLS BELOW 8'-0" MEASURED FROM GRATE TO INVERT SHALL BE 12" THICK. THE FOUNDATION SHALL BE 12" THICK AND EXTEND 12" BEYOND OUTSIDE OF WALL.



SECTION A-A
"THROUGH" INLET DETAIL

SECTION B-B
"TERMINAL" INLET DETAIL

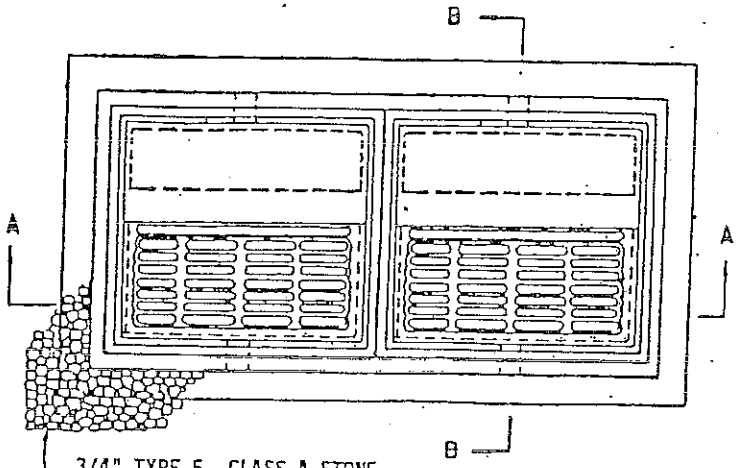
TYPE "B" INLET

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street P.O. 46
Harbertown, New Jersey 07840
(201) 853-8854

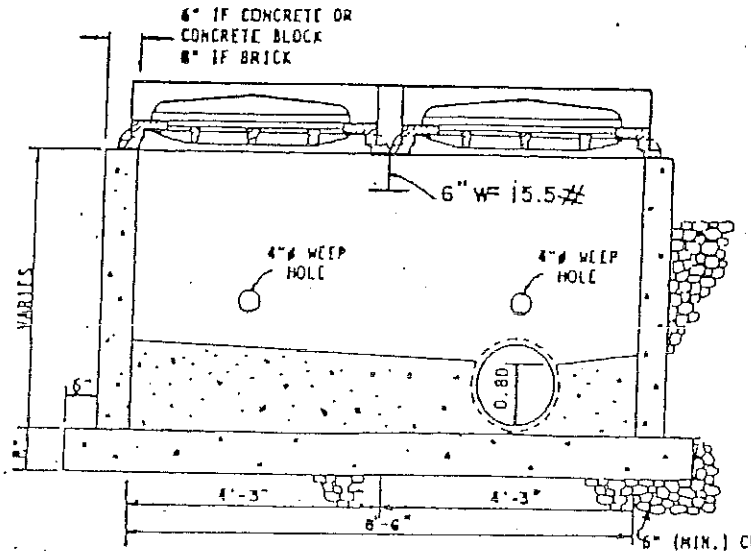
Township of Mendham
INCORPORATED MARCH 30, 1744
BROOKSIDE, NEW JERSEY 07926

D-2
1985

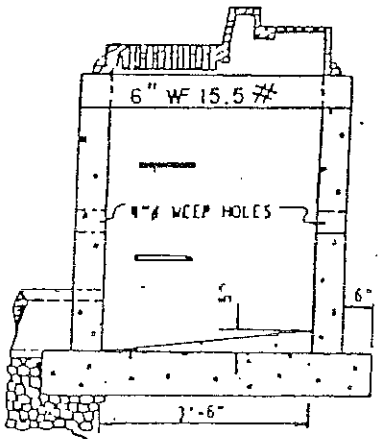


GENERAL NOTES:

1. FOOTING TO BE N.J.D.O.T. CLASS "B" CONCRETE.
2. INVERT TO BE N.J.D.O.T. CLASS "C" CONCRETE.
3. IF WALL CONSTRUCTION IS OTHER THAN CONCRETE, WALLS SHALL BE PLASTERED INSIDE & OUTSIDE WITH 1/2" THICK CEMENT PLASTER.
4. FRAME & GRATE TO BE CAMPBELL FOUNDRY CO., NO. 2548, OR EQUV. SET IN CONCRETE.
5. PROVIDE 3/8"ø ALUM. LADDER RUNGS SET AT 12" O.C.
6. WHEN ADDITIONAL DEPTH IS SCHEDULED, WALLS BELOW 8'-0" MEASURED FROM GRATE TO INVERT SHALL BE 12" THICK. THE FOUNDATION SHALL BE 12" THICK AND EXTEND 12" BEYOND OUTSIDE OF WALL.



SECTION A-A



SECTION B-B

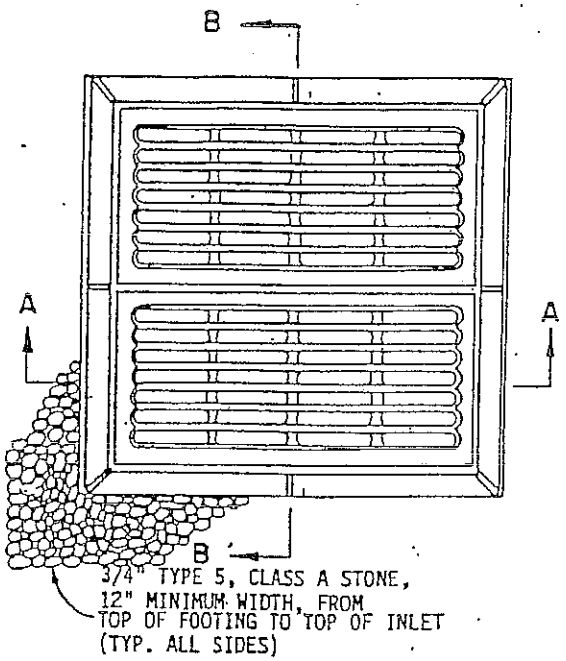
DOUBLE TYPE "B" INLET

standard detail

Castle Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Box 66
Hackettstown, New Jersey 07840
(201) 852-8834

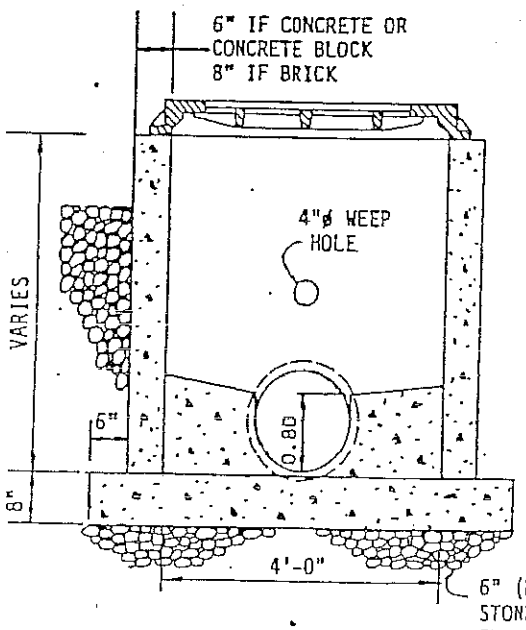
Township of Mendham
INCORPORATED MARCH 30 1748
BROOKSIDE, NEW JERSEY 07926

D-3
1985



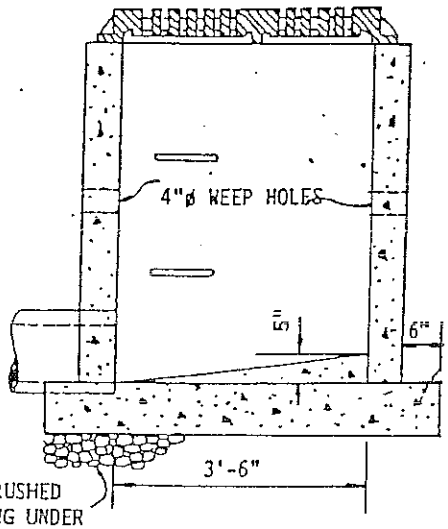
GENERAL NOTES:

1. FOOTING TO BE N.J.D.O.T. CLASS "D" CONCRETE.
2. INVERT TO BE N.J.D.O.T. CLASS "C" CONCRETE.
3. IF WALL CONSTRUCTION IS OTHER THAN CONCRETE, WALLS SHALL BE PLASTERED INSIDE & OUTSIDE WITH 1/2" THICK CEMENT PLASTER.
4. FRAME & GRATE TO BE CAMPBELL FOUNDRY CO., NO. 3440 OR EQIV. SET IN CONCRETE.
5. PROVIDE 3/4ø ALUM. LADDER RUNGS SET AT 12" O.C.
6. WHEN ADDITIONAL DEPTH IS SCHEDULED, WALLS BELOW 8'-0" MEASURED FROM GRATE TO INVERT SHALL BE 12" THICK. THE FOUNDATION SHALL BE 12" THICK AND EXTEND 12" BEYOND OUTSIDE OF WALL.



SECTION A-A

"THROUGH" INLET DETAIL



SECTION B-B

"TERMINAL" INLET DETAIL

6" (MIN.) CRUSHED STONE BEDDING UNDER ENTIRE INLET (TYP.)

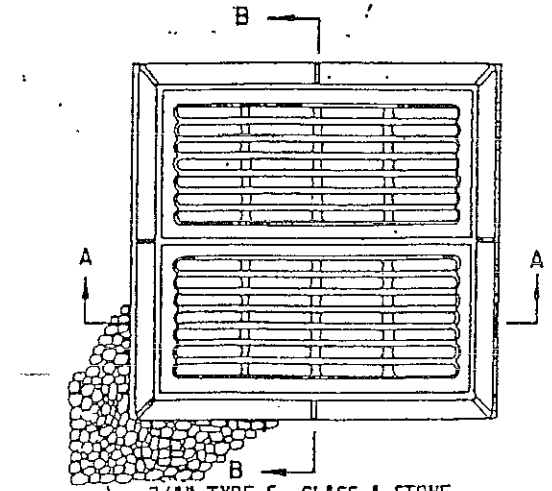
TYPE "E" INLET

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street Box 66
Hackettstown, New Jersey 07840
(201) 852-8834

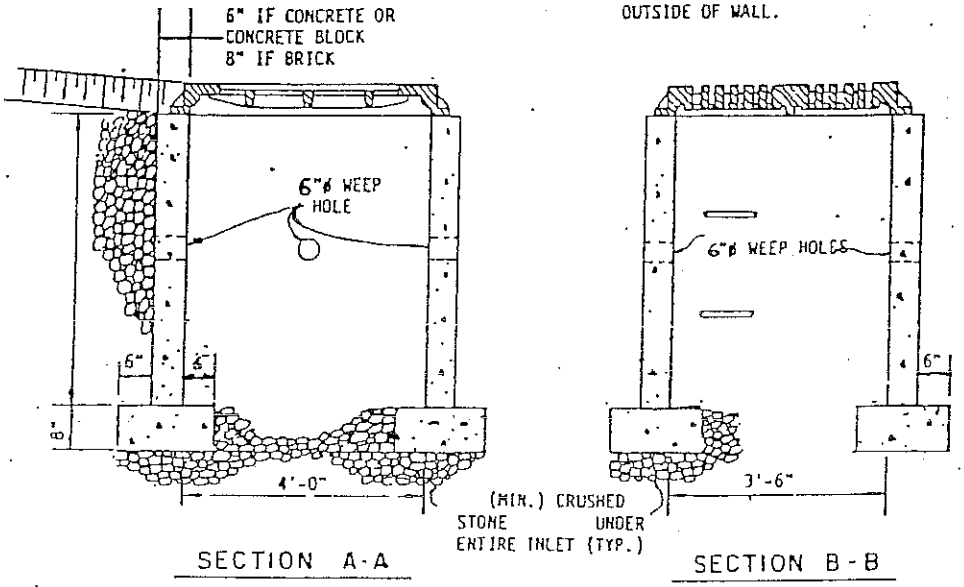
Township of Mendham
INCORPORATED MARCH 26, 1749
BROOKSIDE, NEW JERSEY 07926

D-4
1985



GENERAL NOTES:

1. FOOTING TO BE N.J.D.O.T. CLASS "D" CONCRETE.
2. INVERT TO BE N.J.D.O.T. CLASS "C" CONCRETE.
3. IF WALL CONSTRUCTION IS OTHER THAN CONCRETE, WALLS SHALL BE PLASTERED INSIDE & OUTSIDE WITH 1/2" THICK CEMENT PLASTER.
4. FRAME & GRATE TO BE CAMPBELL FOUNDRY CO., NO. 3440 OR EQIV. SET IN CONCRETE.
5. PROVIDE 3/4ø ALUM. LADDER RUNGS SET AT 12" O.C.
6. WHEN ADDITIONAL DEPTH IS SCHEDULED, WALLS BELOW 8'-0" MEASURED FROM GRATE TO INVERT SHALL BE 12" THICK. THE FOUNDATION SHALL BE 12" THICK AND EXTEND 12" BEYOND OUTSIDE OF WALL.



SECTION A-A

SECTION B-B

DRYWELL INLET

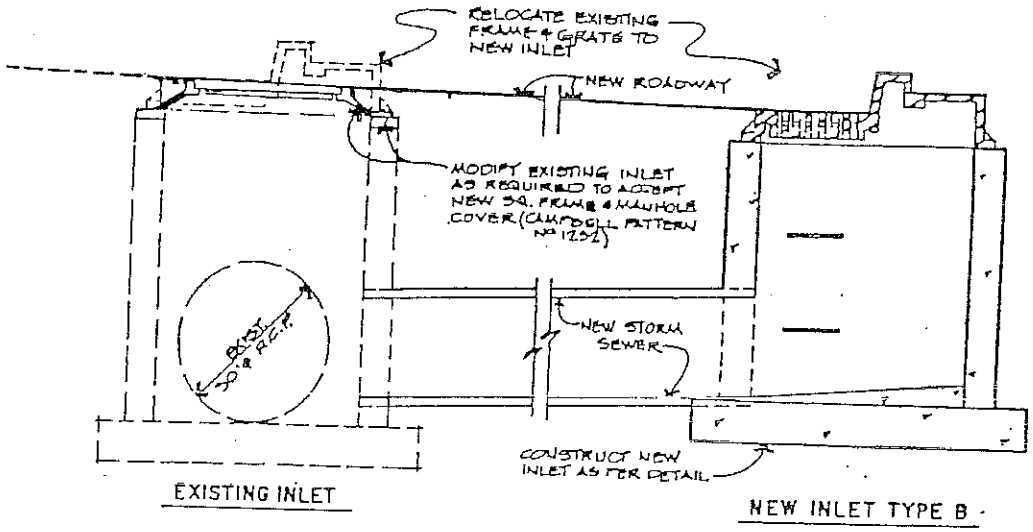
standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
302 Main Street Box 46
Hackettstown, New Jersey 07840
(201) 852-0552

Township of Mendham
INCORPORATED MARCH 30, 1749
BROOKSIDE, NEW JERSEY 07926

D-5
1985

NOTE: DIMENSIONS OF EXISTING INLET, FRAME & GRATE TO BE VERIFIED IN FIELD. MODIFY NEW INLET AND/OR FRAME & COVER PATTERN STYLE AS REQUIRED, TO SUIT.



INLET RELOCATION DETAIL

NOT TO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Box 68
Hackettstown, New Jersey 07840
(201) 852-8858

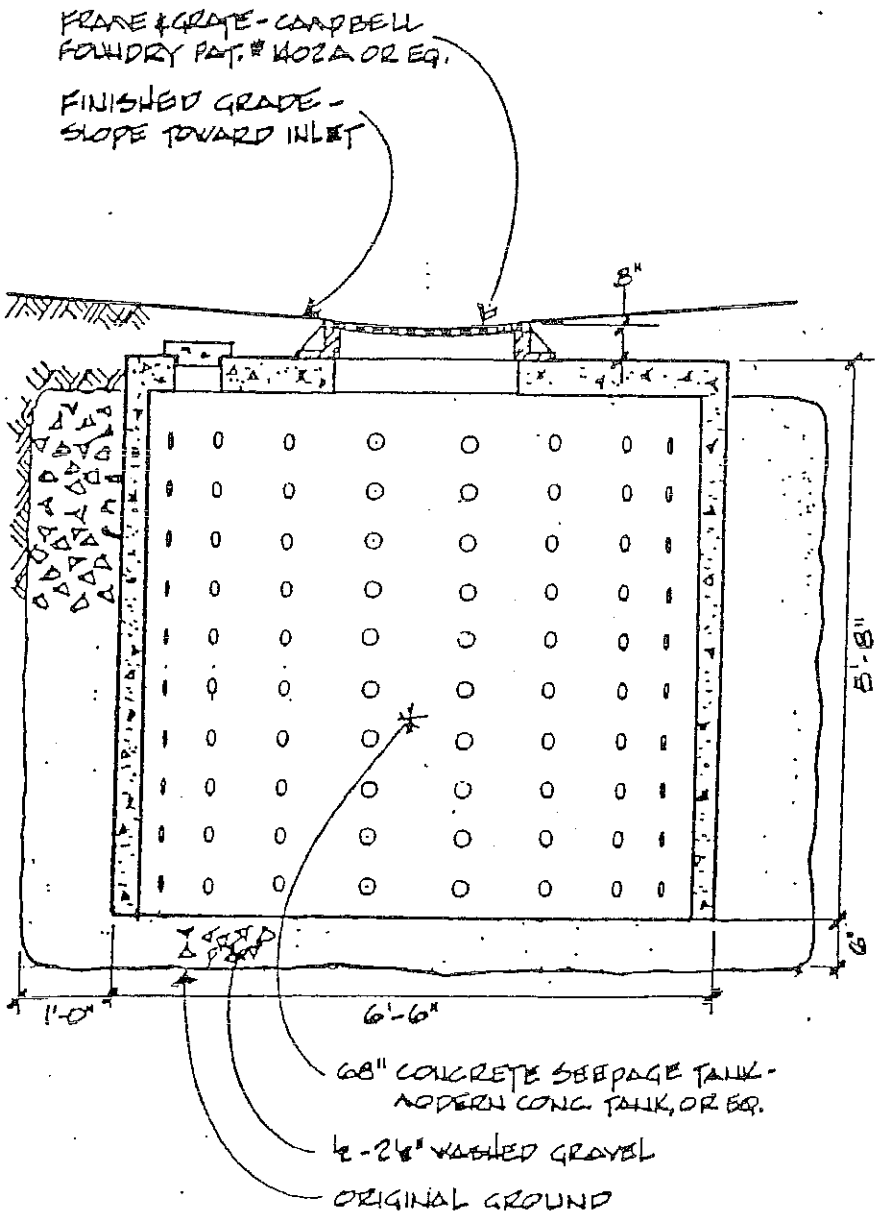
Township of Mendham

INCORPORATED MARCH 30, 1768

BROOKSIDE, NEW JERSEY 07926

D-6

1985



DRY WELL DETAIL

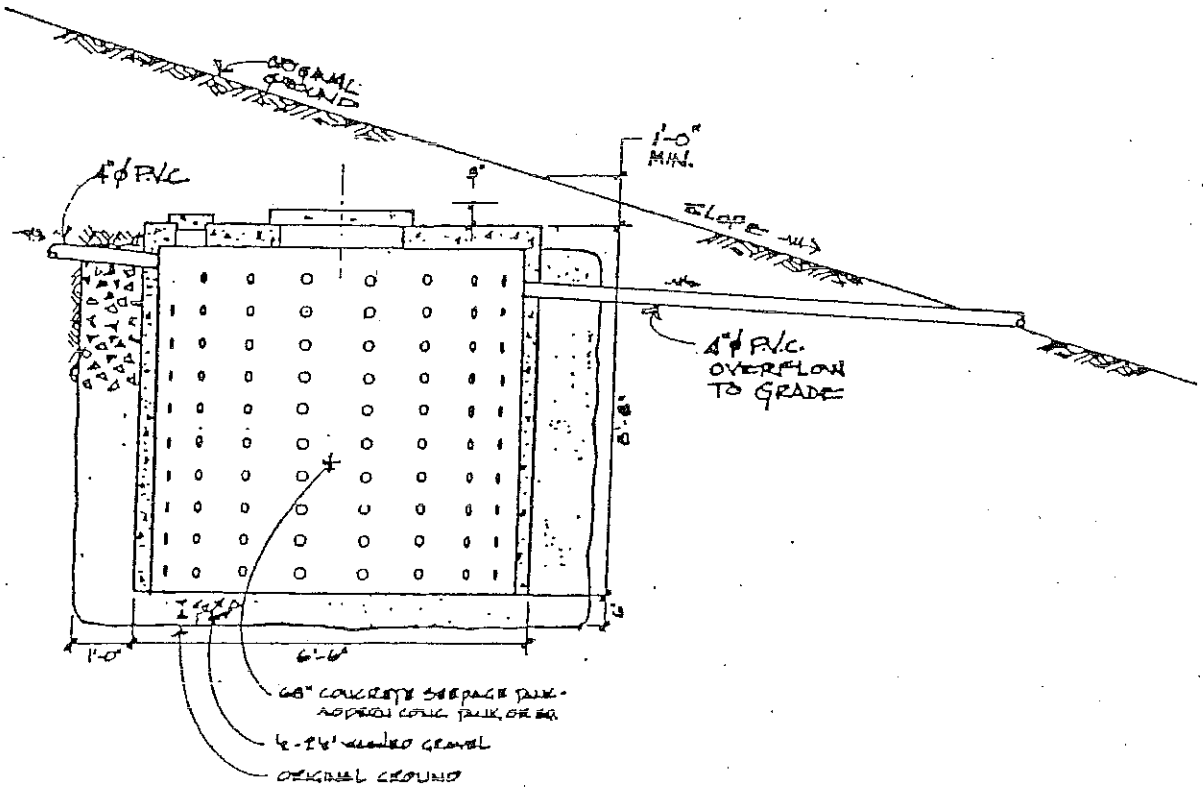
N.T.S.

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
302 Main Street Box 66
Mendham, New Jersey 07945
(201) 853-8854

Township of Mendham
INCORPORATED MARCH 28, 1749
BROOKSIDE, NEW JERSEY 07926

D-7
1985



LEADER DRAIN
DRY WELL DETAIL

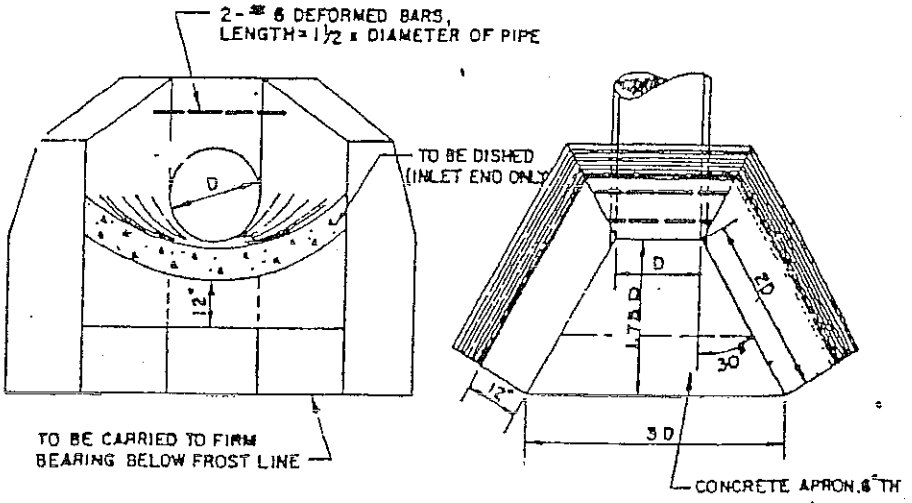
N.T.S.

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 66
Hackettstown, New Jersey 07840
(201) 852-8554

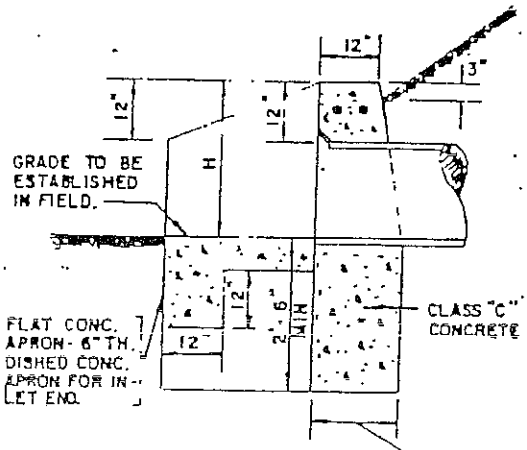
Township of Mendham
INCORPORATED MARCH 28, 1749
BROOKSIDE, NEW JERSEY 07926

D-8
1985



END VIEW OF INLET END ONLY

PLAN



OUTLET END

HEADWALLS IN CUBIC YARDS			APRONS IN CUBIC YARDS
PIPE SIZE	COR. METAL	REIN. CONC.	
12"	1.4 C.Y.	1.4 C.Y.	0.2 C.Y.
15"	1.7	1.7	0.2
18"	2.1	2.1	0.3
21"	2.5	2.5	0.4
24"	2.9	2.9	0.5
27"	3.3	3.4	0.6
30"	3.7	3.8	0.7
36"	4.7	4.8	0.9
42"	5.8	6.3	1.2
48"	7.6	8.4	1.5
54"	9.7	10.7	1.8
60"	12.2	13.4	2.1
66"	15.0	16.4	2.5
72"	18.1	19.9	3.0

GENERAL NOTES

1. ALL EDGES TO BE CHAMFERED 1".
2. CONCRETE TO BE N.J.D.T. CLASS "C".
3. APRONS TO BE 6" THICK CONC., FLAT AT OUTLET END, DISHED AT INLET END.
4. EXPOSED PORTIONS OF WALL TO BE RUBBED & FLOATED.
5. FOR ELLIPTICAL PIPE, THE SPAN SHALL BE SUBSTITUTED FOR D.

CONCRETE HEADWALL

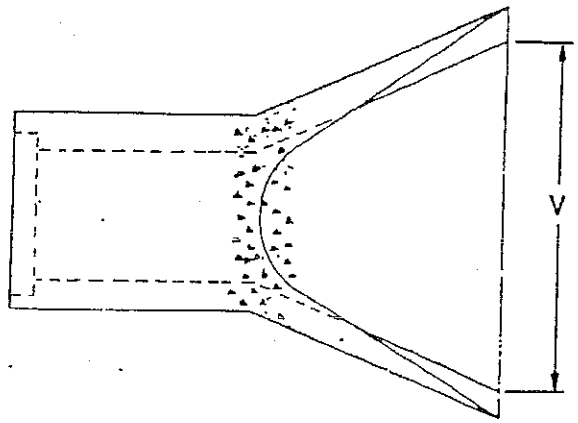
(WINGWALL)

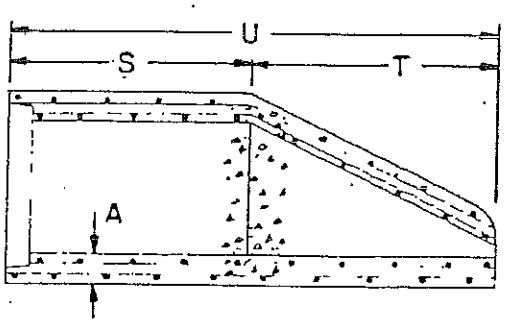
standard detail

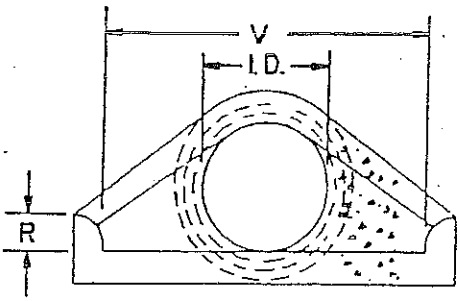
Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
302 Main Street Box 68
Hackettstown, New Jersey 07840
(201) 852-9656

Township of Mendham
INCORPORATED MARCH 29 1749
BROOKSIDE, NEW JERSEY 07926

D-9
1985







I. D.	12	15	18	21	24	27	30	36	42	48	54	60
A	2	2.25	2.50	2.75	3	3.25	3.50	4	4.50	5	5.50	6
R	5	7.5	9	9	10	10	14	14	21	24	27	31
S	24	24	24	24	24	24	26	26	36	30	36	36
T	24	24	24	24	24	24	30	36	60	66	60	60
U	6'	6'	6'	6'	6'	6'	4'-8"	5'-2"	8'	8'	8'	8'
V	24	28	34	40	48	54	60	72	78	84	90	96

NOTE: ALL NUMBERS REPRESENTS INCHES UNLESS OTHERWISE SPECIFIED.

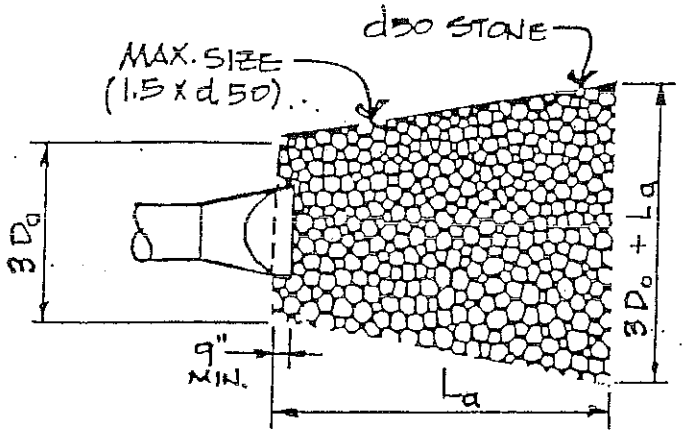
CONCRETE FLARED END SECTION

standard detail

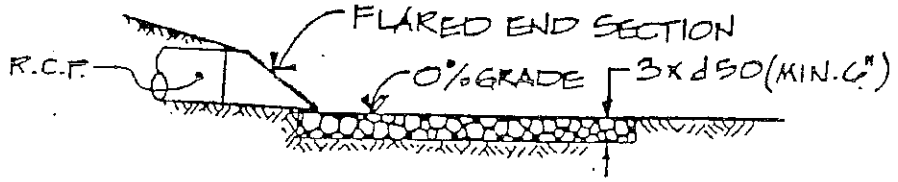
Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street Box 66
Montclairmon New Jersey 07840
(201) 857 4654

Township of Mendham
INCORPORATED MARCH 29 1744
BROOKSIDE NEW JERSEY 07926

D-10
1985



· PLAN ·



· SECTION ·
NO SCALE

· FLARED END RIP RAP DETAIL ·

NOT TO SCALE

D_o = INSIDE DIAMETER OF PIPE

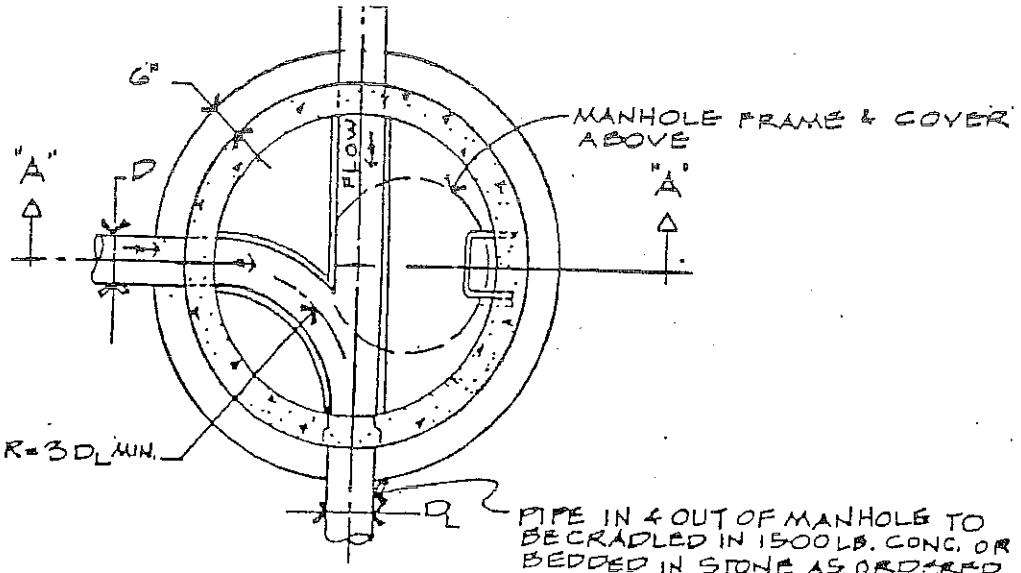
$$L_a = \left(\frac{1.7Q}{D_o^{9/2}}\right) + 8D_o$$

standard detail

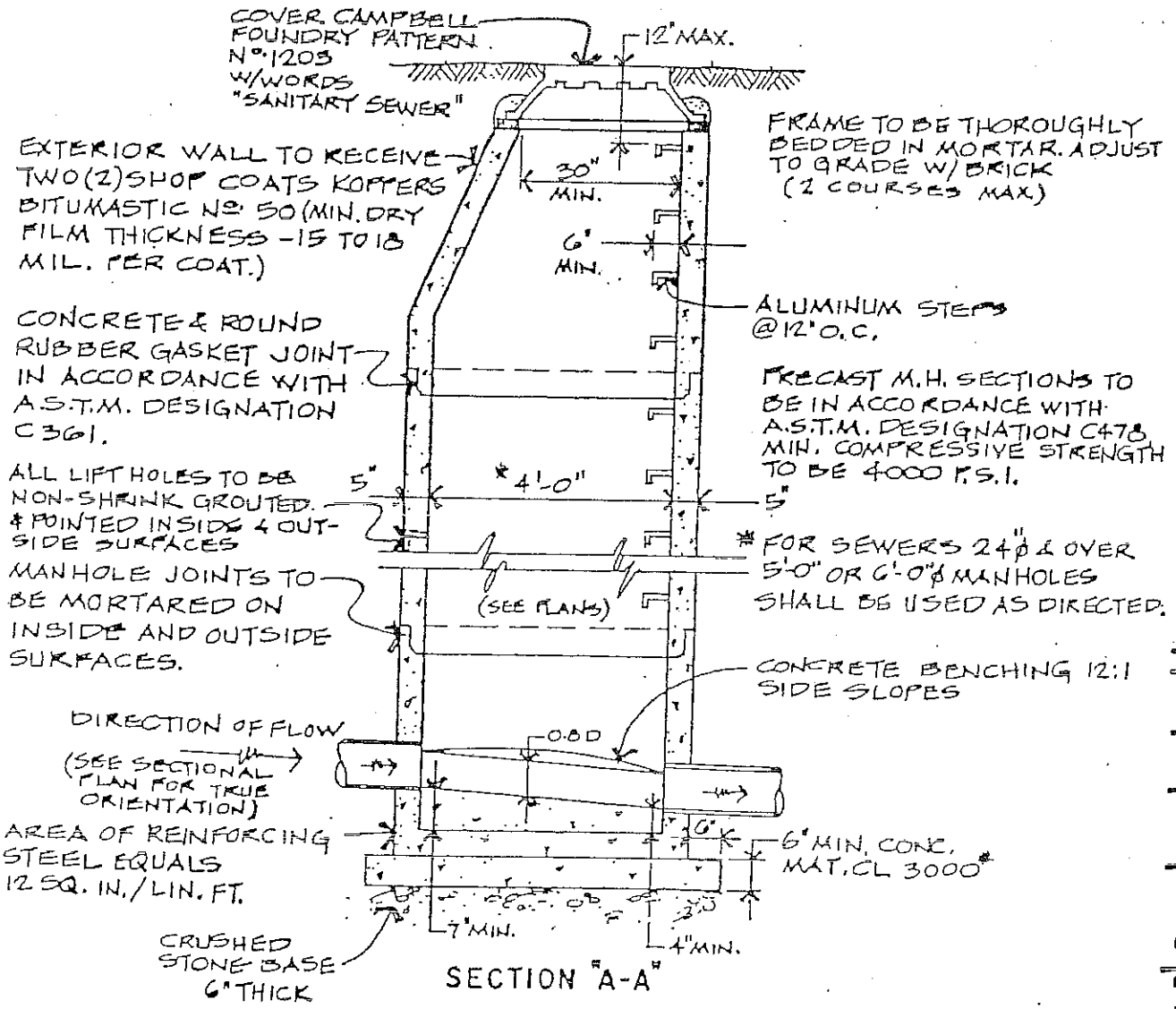
Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
Hackettstown, New Jersey 07840

Township of Mendham
INCORPORATED MARCH 29, 1749
BROOKSIDE, NEW JERSEY 07926

D-11
1985



SECTIONAL PLAN



SECTION "A-A"

PRECAST STANDARD MANHOLE

NOT TO SCALE

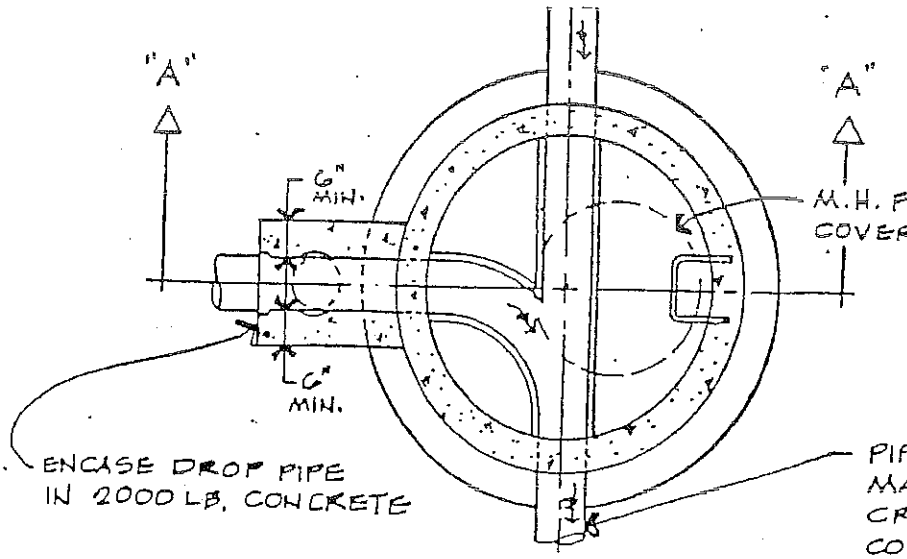
standard detail

Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
370 Main Street Box 66
Hackettstown, New Jersey 07840
(201) 852-9854

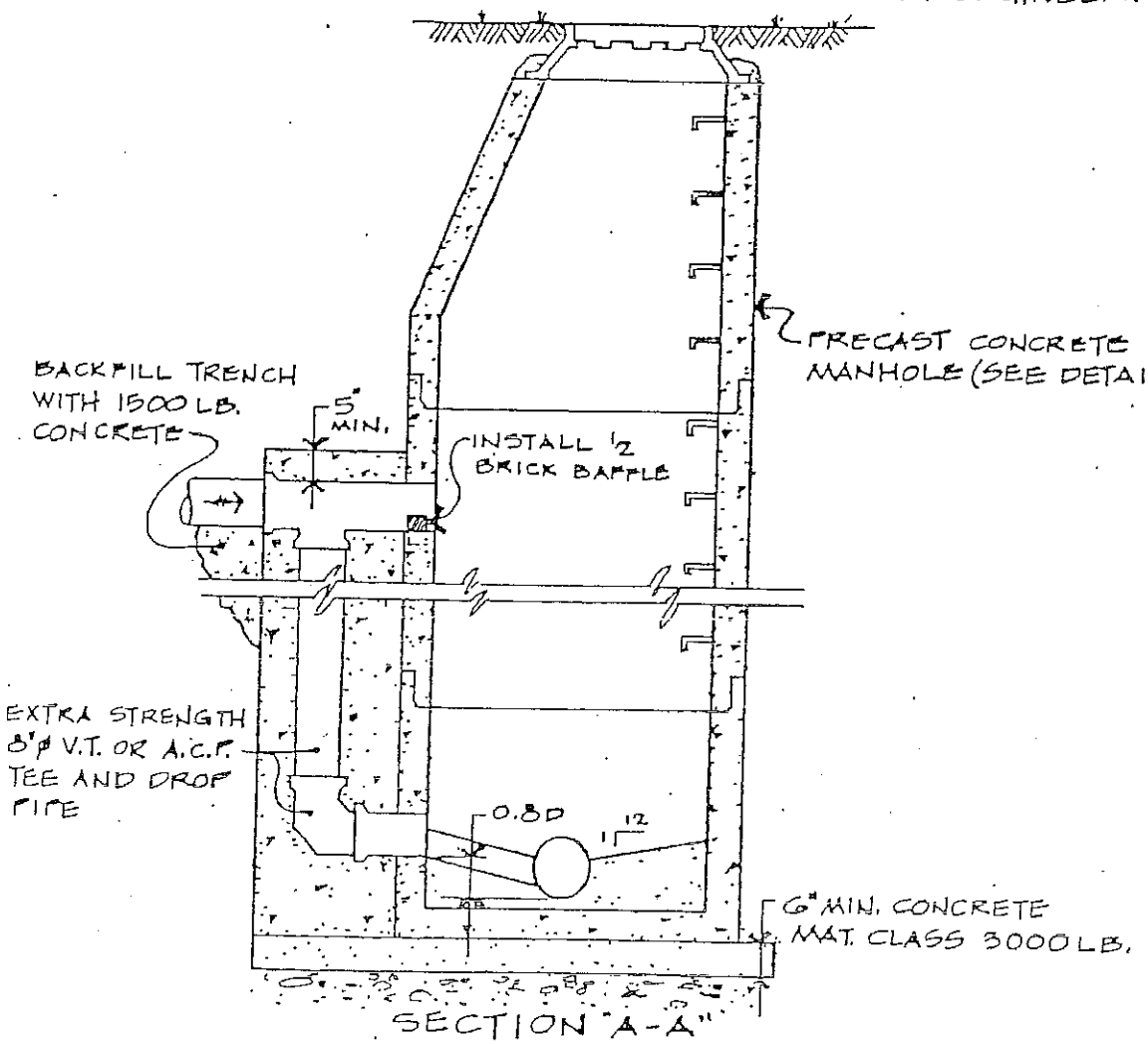
Township of Mendham
INCORPORATED MARCH 28, 1748
BROOKSIDE, NEW JERSEY 07926

S-1
1985

BE USED IN ALL CASES WHERE DIFFERENCE IN INLET & OUTLET INVERTS IS 2 FEET OR GREATER



SECTIONAL PLAN



SECTION "A-A"

TYPICAL PRECAST STANDARD DROP MANHOLE

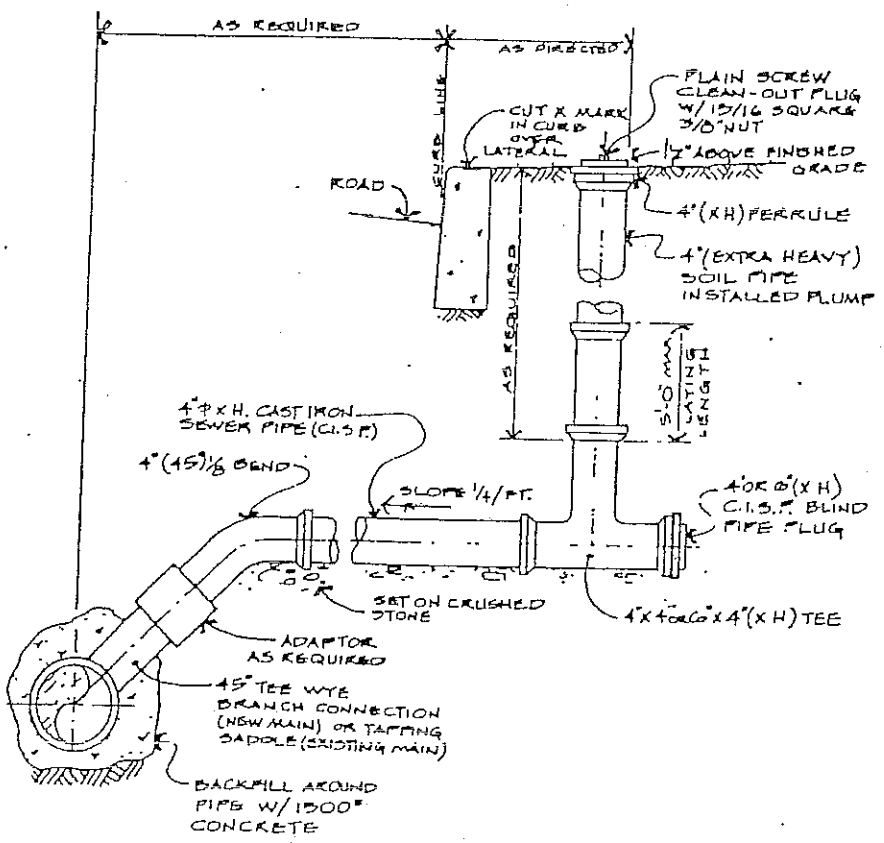
NOT TO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 46
Hackettstown, New Jersey 07840
(201) 852-8858

Township of Mendham
INCORPORATED MARCH 20, 1740
BROOKSIDE, NEW JERSEY 07926

S-2
1985



TYPICAL HOUSE CONNECTION

NOT TO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Box 66
Hackettstown, New Jersey 07840
(201) 852-0338

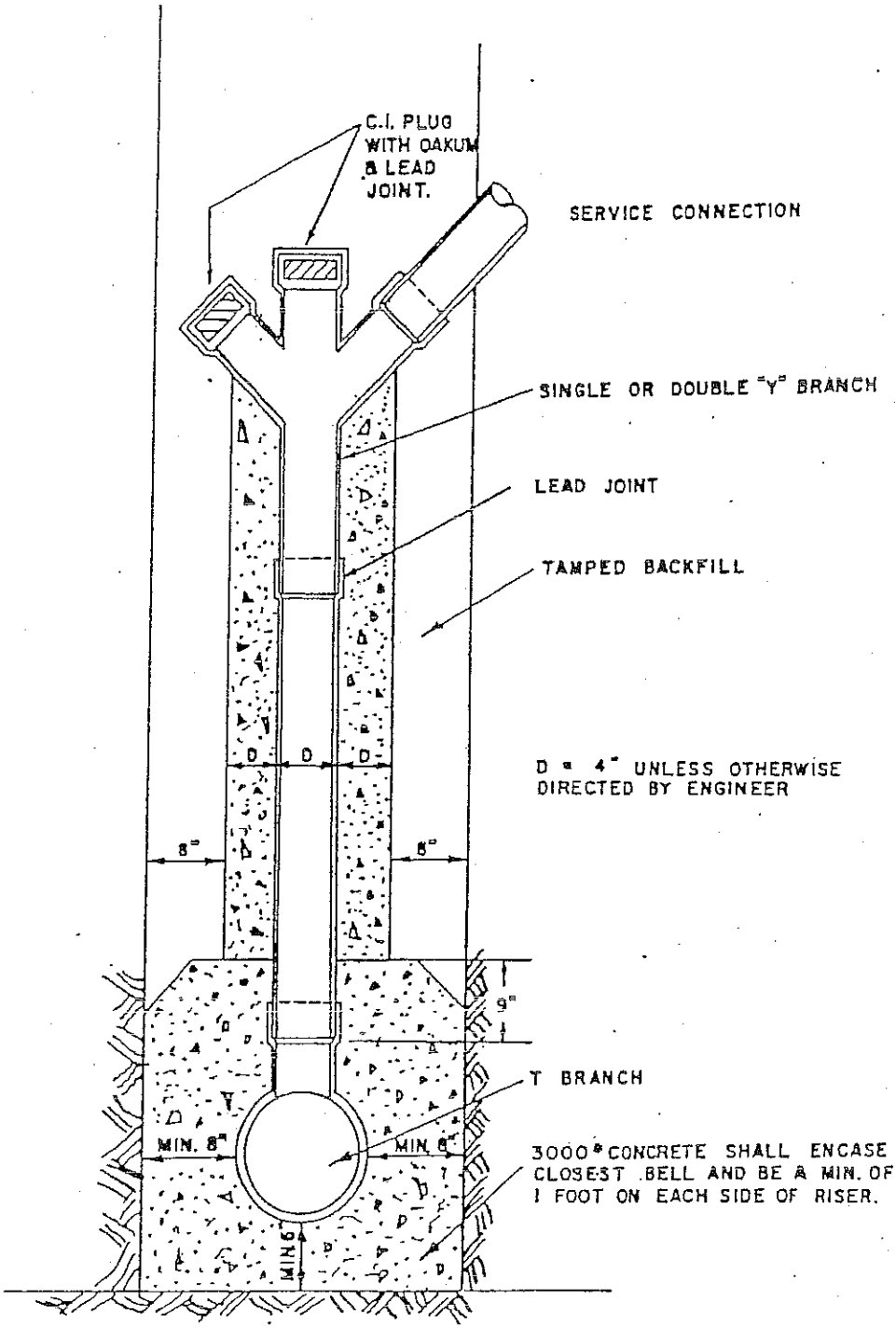
Township of Mendham

INCORPORATED MARCH 28, 1749

BROOKSIDE, NEW JERSEY 07926

S-3

1985



RISER

NO SCALE

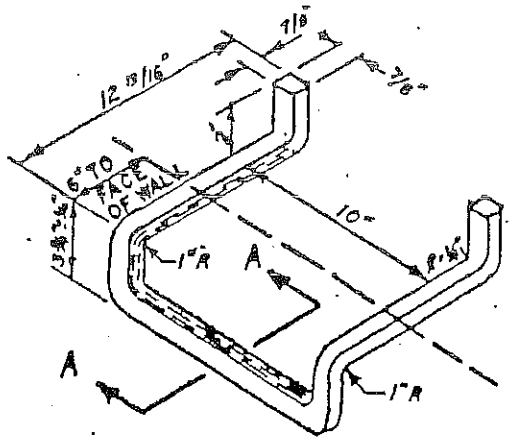
standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street Box 45
Hackettstown, New Jersey 07840
(201) 852-8338

Township of Mendham
INCORPORATED MARCH 28, 1749
BROOKSIDE NEW JERSEY 07926

S-4

1985

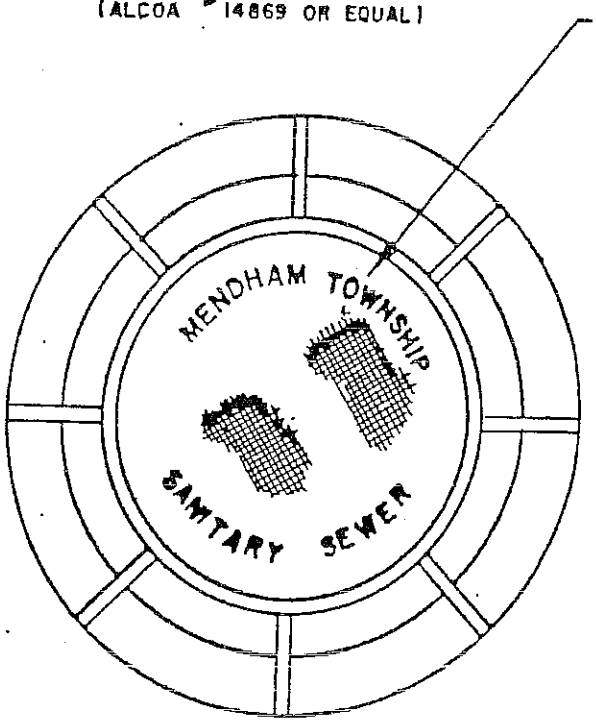


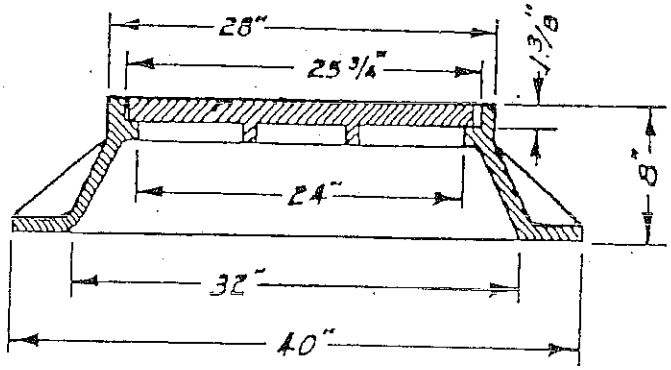
NOTE: PORTION EMBEDDED IN MASONRY TO BE COATED WITH COAL TAR PITCH, VARNISH OR OTHER APPROVED MATERIAL

SECTION A-A

ALUMINUM MANHOLE STEP

(ALCOA # 14869 OR EQUAL)





FRAME & COVER

CAMPBELL FOUNDRY COMPANY NO. 1203 OR EQUAL.

WEIGHT OF COVER: 185 LBS

WEIGHT OF FRAME: 340 LBS

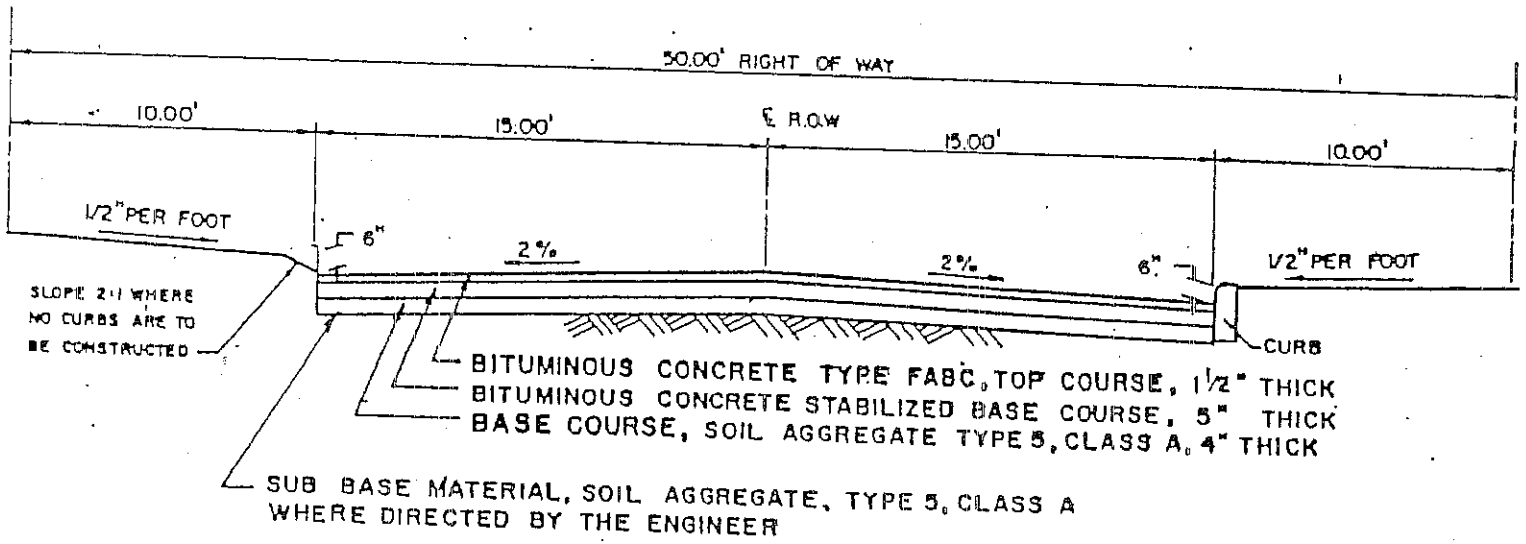
standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 46
Hackettstown, New Jersey 07840
(201) 852-8556

Township of Mendham

INCORPORATED MARCH 28, 1749

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
Brookside, New Jersey 07926



DETAIL OF STANDARD ROAD SECTION

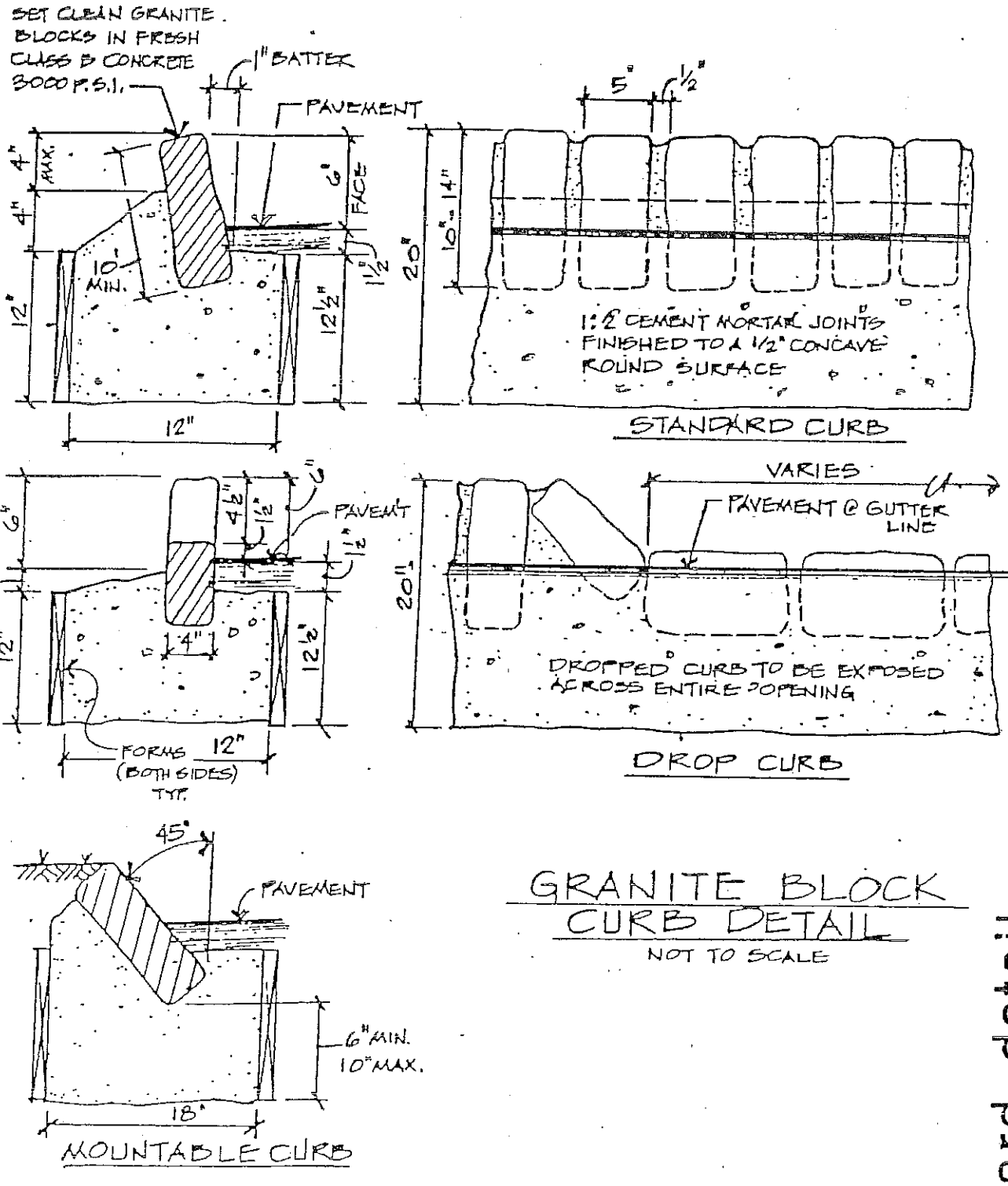
NOT TO SCALE

Township of Mendham

R-1

standard detail

INCORPORATED MARCH 20, 1749
BROOKSIDE, NEW JERSEY 07926
1008



GRANITE BLOCK CURB DETAIL

NOT TO SCALE

standard detail

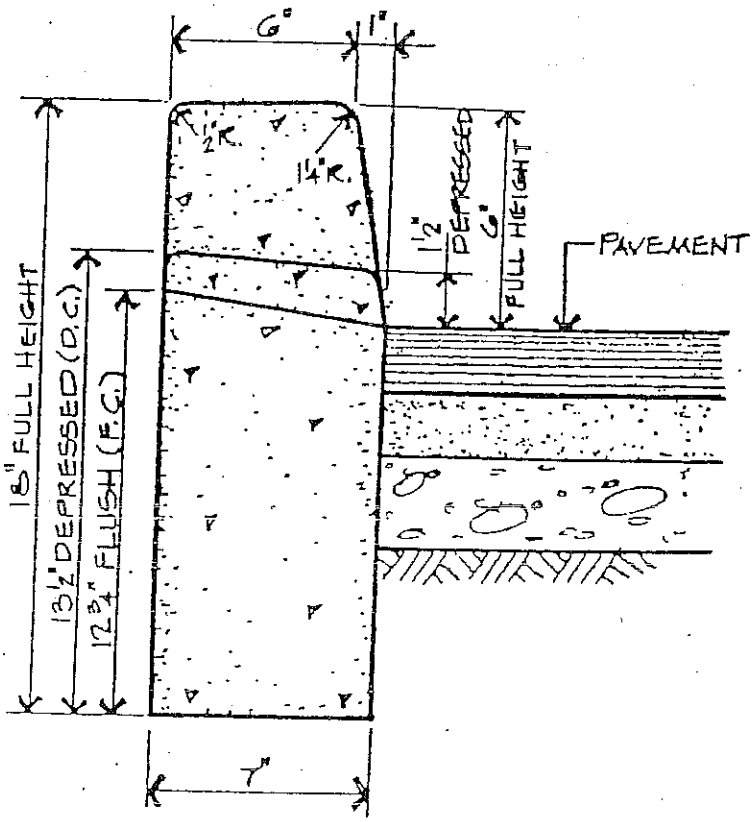
Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
370 Main Street Box 68
New Hackensack, New Jersey 07840
(201) 697-8656

Township of Mendham
INCORPORATED MARCH 20, 1749
BROOKSIDE, NEW JERSEY 07926

R-2
1985

NOTES:

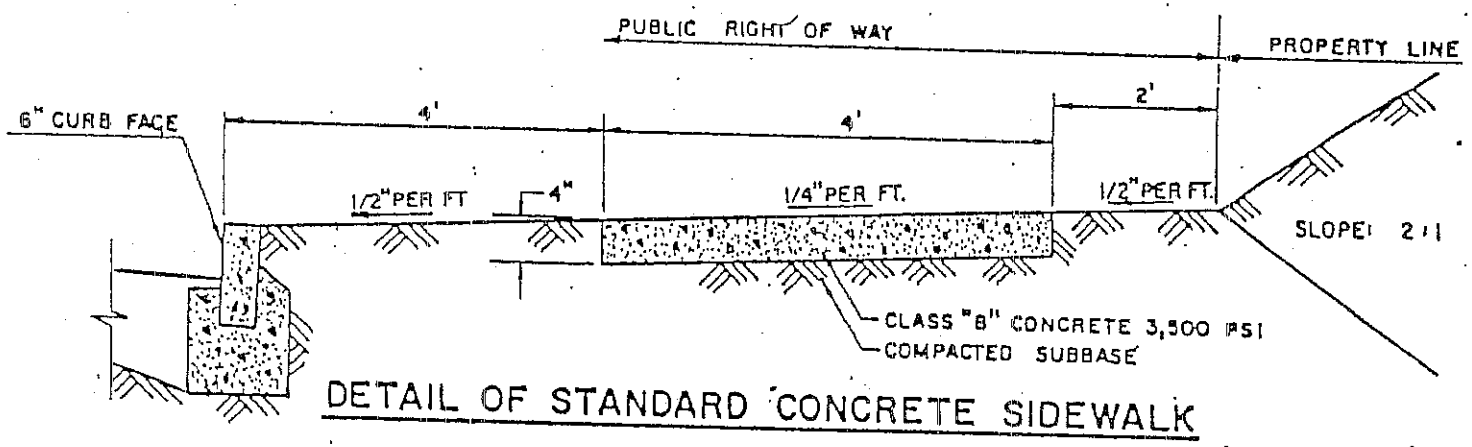
1. CONCRETE TO BE 4000 P.S.I.
2. EXPOSED CORNERS TO BE ROUNDED WITH 3/4" RADIUS.
3. PROVIDE 1/2" PREFORMED BITUMINOUS EXPANSION JOINTS EVERY 20 L.F.
4. TRANSITIONS FROM FULL HEIGHT TO DEPRESSED TO BE MADE WITH 18" (MIN.) OGEE CURVE. TRANSITIONS TO FLUSH CURB TO BE AS FOR DEPRESSED CURB OR AS INDICATED ON PLAN.



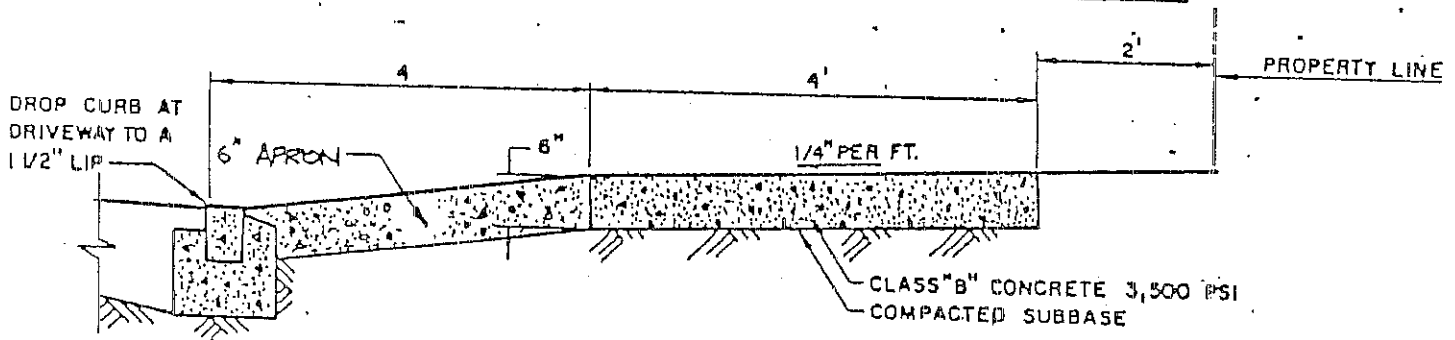
CONCRETE CURB DETAIL
Not To Scale

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
373 Main Street Box 44
Hackettstown New Jersey 07840
(201) 852-9656



DETAIL OF STANDARD CONCRETE SIDEWALK



DETAIL OF STANDARD CONCRETE DRIVEWAY CROSSING

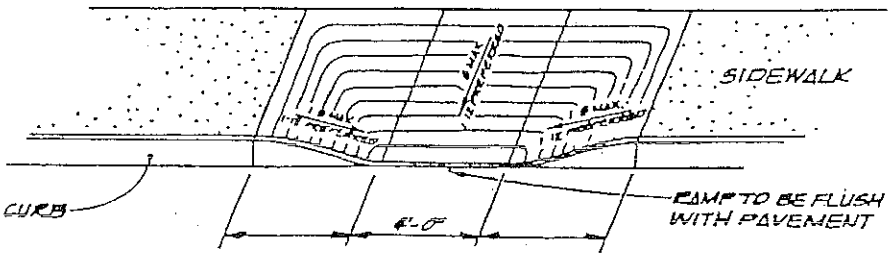
1. SUBBASE SHALL BE COMPACTED TO THE SATISFACTION OF THE ENGINEER.
2. CLASS "B" CONCRETE 3500 PSI IN 28 DAY (1:1.75:3.5 MIX)
3. MINIMUM CEMENT CONTENT OF SIX AND ONE-HALF (6-1/2 BAGS PER CUBIC YARD OF CONC.)
4. MAXIMUM WATER CEMENT RATIO OF FIVE AND ONE-HALF (5-(1/2) GALS. PER SACK OF CEMENT.)
5. ALL CONCRETE SHALL BE AIR-ENTRAINED AND CONTAIN AN AIR CONTENT OF 6%± 1%
6. 3/16" CONSTRUCTION JOINTS EVERY 4'.
7. SURFACES SHALL BE BRUSHED TRANSVERSELY TO A NEAT FINISH AND ALL JOINTS AND EDGES SHALL BE CLEAN

Township of Mendham
INCORPORATED MARCH 28, 1749
BROOKSIDE, NEW JERSEY 07926

R-4

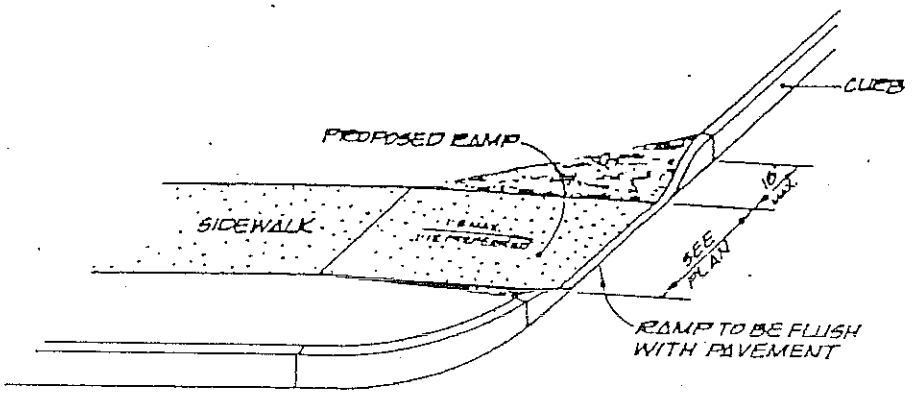
1985

standard detail



HANDICAP RAMP DETAIL

NO SCALE



HANDICAP RAMP DETAIL

NO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 46
Hackettstown, New Jersey 07840
(201) 852-4854

Township of Mendham

INCORPORATED MARCH 25, 1748
BROOKSIDE NEW JERSEY 07926

R-5

1985

SOIL EROSION CONTROL NOTES

SPECIFICATION - MATERIALS:

TOPSOIL: MATERIAL STRIPPED FROM THE SITE SHALL BE REDISTRIBUTED.

FERTILIZER: FERTILIZER SHALL BE 5-10-10 GRADE, UNIFORM IN COMPOSITION, FREE-FLOWING AND SUITABLE FOR APPLICATION WITH APPROVED EQUIPMENT. FERTILIZER SHALL BE APPLIED AT A RATE OF 14 LBS. PER 1000 SQ. FT.

LIME: LIME SHALL BE GROUND LIMESTONE CONTAINING NOT LESS THAN 85 PER CENT OF TOTAL CARBONATES AND SHALL BE GROUND TO SUCH FINENESS THAT AT LEAST 50 PER CENT WILL PASS THROUGH A 100-MESH SIEVE AND AT LEAST 90 PER CENT WILL PASS THROUGH A 20-MESH SIEVE. LIME SHALL BE APPLIED AT A RATE OF 135 LBS. PER 1000 SQ. FT.

SEED: ALL SEED USED SHALL BE LABELED IN ACCORDANCE WITH U.S. DEPARTMENT OF AGRICULTURE RULES AND REGULATIONS UNDER THE FEDERAL SEED ACT. SEED WHICH HAS BECOME WET, MOLDY, OR OTHERWISE DAMAGED IN TRANSIT OR IN STORAGE WILL NOT BE ACCEPTABLE. THE MINIMUM MIXTURE APPLICATION RATE BY WEIGHT OF PURE LIVE SEED IN EACH LOT OF SEED SHALL BE AS FOLLOWS:

SEED TYPE	MINIMUM RATE (LBS. PER 1000 SQ. FT.)
PERENNIAL RYEGRASS	1/2
CHEWINGS RED FESCUE	3/8
CREEPING RED FESCUE	3/8
KENTUCKY BLUEGRASS	3/8

THE AGGREGATE PERCENTAGE OF MATERIAL OTHER THAN GRASS USED AS STATED ABOVE SHALL INCLUDE ALL NONVIABLE SEED, SHAFF, HULLS, LIVE SEED OF CROP PLANTS OTHER THAN THOSE SPECIFIED ABOVE HARMLESS INERT MATTER AND WEED SEED NOT EXCEEDING 0.50 PER CENT OF THE TOTAL WEIGHT OF THE MIXTURE.

MULCH: MULCH MATERIALS SHALL BE UNROTTED SALT HAY OR SMALL GRAIN STRAW AT THE RATE OF 1-½ TO 2 TONS PER ACRE, OR 70 TO 90 POUNDS PER 1000 SQUARE FEET. MULCH SHALL NOT BE GROUND OR CHOPPED INTO SHORT PIECES. MULCH ANCHORING SHALL BE APPLIED ON SLOPES EXCEEDING 10%, USING A PEG AND TWINE, MULCH NETTING, MULCH ANCHORING TOOL OR LIQUID, MULCH BINDER METHOD AS APPROVED BY THE S.C.S.

HAY BALES: HAY BALES FOR FILTERS AND/OR DIVERSIONS SHALL BE UNROTTED SALT HAY OR SMALL GRAIN STRAW STANDARD SIZE BALES TIED WITH BALING WIRE.

TEMPORARY VEGETATIVE COVERS: ALL AREAS DISTURBED AND NOT TO BE CONSTRUCTED ON WITHIN 14 DAYS SHALL RECEIVE TEMPORARY COVER. COVERS FOR TEMPORARY EROSION CONTROL SHALL CONSIST OF PLACEMENT OF LIME AND FERTILIZER AT THE INDICATED RATES. THE LIME/FERTILIZER MIX SHALL BE WORKED INTO THE SOIL PRIOR TO PLACING RYEGRASS SEEDING AT THE RATE OF ONE POUND PER 1000 SQUARE FEET. ALL AREAS SHALL BE MULCHED AND ANCHORED AS REQUIRED.

PERMANENT VEGETATIVE COVER: DURING THE PERIODS BETWEEN MARCH 15 TO JUNE 1 AND AUGUST 1 TO OCTOBER 15, PERMANENT VEGETATIVE COVER SHALL BE PLACED ON THE PROPERLY PREPARED SUBGRADE WITHIN TEN (10) DAYS OF FINAL GRADING. AREAS WHICH ARE FINAL GRADED DURING PERIODS OTHER THAN GIVEN ABOVE SHALL BE STABILIZED WITH TEMPORARY COVER AND MULCH UNTIL THE SUBSEQUENT SEEDING SEASON. PERMANENT COVERS SHALL CONSIST OF LIME AND FERTILIZER APPLIED OVER DISTRIBUTED AND PREPARED TOP SOIL. MULCH SHALL BE APPLIED AND MAINTAINED UNTIL GROWTH IS WELL ESTABLISHED.

GENERAL:

1. THE SOIL CONSERVATION SERVICE AND MUNICIPAL AUTHORITIES SHALL BE NOTIFIED NO LESS THAN 72 HOURS IN ADVANCE OF INITIATION OF CONSTRUCTION.

2. ALL WORK, INCLUDING SEEDBED PREPARATION, SEEDING, MULCHING, MULCH ANCHORING, IRRIGATION AND CLEANUP, SHALL BE CARRIED OUT IN ACCORDANCE WITH THE PROVISIONS OF THE "STANDARDS FOR EROSION AND SEDIMENT CONTROL IN NEW JERSEY".

3. SEDIMENT AND EROSION CONTROL FACILITIES SHALL BE INSTALLED PRIOR TO ANY MAJOR SOIL DISTURBANCE, OR IN THEIR PROPER SEQUENCE AS WORK PROGRESSES. THEY SHALL BE MAINTAINED UNTIL PERMANENT PROTECTION IS ESTABLISHED.

4. ANY DISTURBED AREAS, INCLUDING NEW BERMS, DIVERSIONS AND SWALES, THAT WILL BE LEFT EXPOSED FOR MORE THAN 14 DAYS, AND NOT SUBJECT TO CONSTRUCTION OR REGRADING ACTIVITIES FOR MORE THAN 3 DAYS, MUST BE STABILIZED ACCORDING TO SPECIFICATIONS APPEARING ON THIS PLAN.

5. PERMANENT VEGETATION TO BE SEEDED OR SODDED ON ALL EXPOSED AREAS WITHIN 10 DAYS AFTER FINAL GRADING. MULCH SHALL BE USED AS NECESSARY FOR PROTECTION UNTIL SEEDING IS ESTABLISHED. COVER SHALL BE MAINTAINED AS REQUIRED FOLLOWING INSTALLATION TO ENSURE NORMAL GROWTH.

6. CONSTRUCTION OPERATIONS SHALL BE CARRIED OUT IN SUCH A MANNER THAT WILL MINIMIZE EROSION AND AIR AND WATER POLLUTION. STATE AND LOCAL LAWS CONCERNING POLLUTION ABATEMENT SHALL BE COMPLIED WITH.

7. IN AREAS SUBJECT TO BORROW OR FILLING OPERATIONS, TOPSOIL SHALL BE REMOVED AND USED TO CREATE DIVERSION BERMS. STOCKPILE EXCESS TOPSOIL IN AREAS INDICATED.

8. ALL INLETS AND CATCH BASINS SHALL BE PROTECTED IMMEDIATELY AFTER PLACEMENT BY A HAYBALE FILTER AND SUCH PROTECTION WILL REMAIN UNTIL THE AREA IS PERMANENTLY STABILIZED.

9. ALL SEDIMENT BASINS WILL BE CLEANED PERIODICALLY WHEN TRAP EFFICIENCY HAS BEEN REDUCED TO LESS THAN 50 PERCENT.

10. ALL TREES, BRUSH, STUMPS, AND OTHER OBJECTIONABLE MATERIAL SHALL BE REMOVED SO THEY WILL NOT INTERFERE WITH CONSTRUCTION OR PROPER FUNCTIONING OF DIVERSIONS. ALL DITCHES OR GULLIES WHICH MUST BE CROSSED WILL BE FILLED AND COMPACTED PRIOR TO OR AS PART OF THE CONSTRUCTION. FENCE ROWS AND OTHER OBSTRUCTIONS THAT WILL INTERFERE WITH CONSTRUCTION OR OPERATION OF CONTROL FACILITIES ARE TO BE REMOVED.

11. THE BASE FOR BERMS IS TO BE PREPARED SO THAT A GOOD BOND IS CREATED BETWEEN THE ORIGINAL GROUND AND THE PLACED FILL. VEGETATION IS TO BE REMOVED AND THE BASE THOROUGHLY DISCED BEFORE PLACEMENT OF FILL.

12. PUBLIC ROADWAYS ADJOINING THE PROJECT SITE SHALL BE KEPT FREE OF SOIL AND SEDIMENT CARRIED FROM THE SITE. CLEAN SUCH AREAS WEEKLY OR AS OTHERWISE DIRECTED BY THE OWNER, S.C.S. OR MUNICIPAL AUTHORITIES.

13. DRIVEWAYS SHALL BE STABILIZED WITH 2" (MIN.) OF SAND/GRAVEL MIX AND DRIVEWAY SIDESLOPES SEEDED AND MULCHED WITHIN 10 DAYS OF GRADING.

14. CO-ORDINATE INSTALLATION OF PERMANENT VEGETATIVE COVER WITH LANDSCAPING WORK.

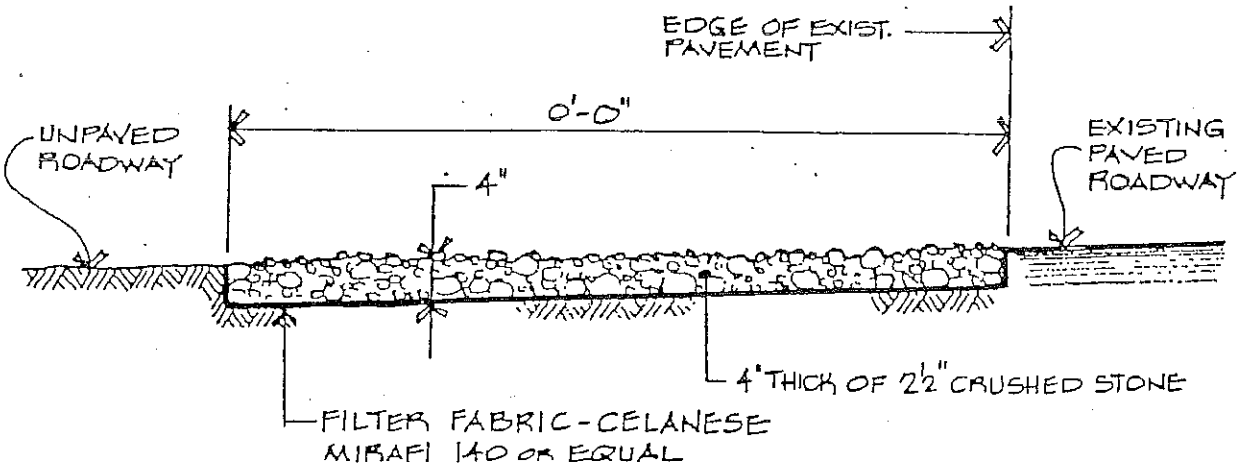
standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Box 46
Hackettstown, New Jersey 07840
(201) 852-8654

Township of Mendham
INCORPORATED MARCH 28, 1749
BROOKSIDE, NEW JERSEY 07926

SE-1
1985

NOTE:
CRUSHED STONE BLANKET SHALL BE MAINTAINED IN GOOD CONDITION UNTIL THE UNPAVED ROADWAY IS STABILIZED.



GRAVEL WHEEL CLEANER

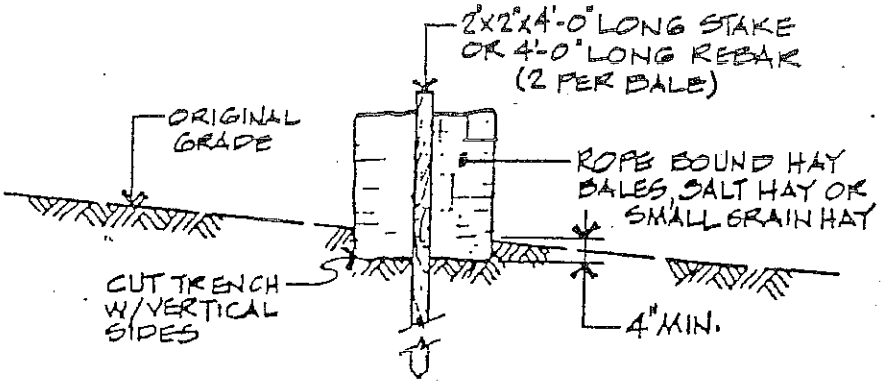
NOT TO SCALE

standard detail

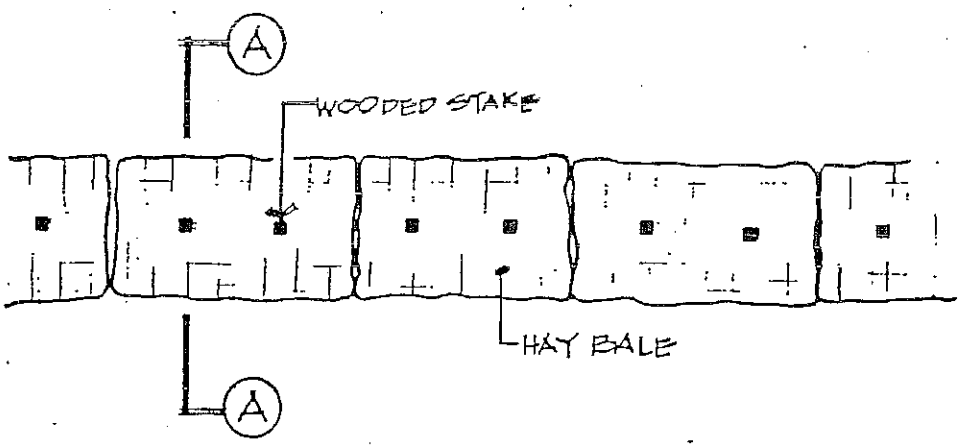
Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
303 Main Street Box 48
Hackettstown, New Jersey 07840
(201) 852-8558

Township of Mendham
INCORPORATED MARCH 26, 1948

SE-2



SECTION A-A



CONSTRUCTION SPECIFICATIONS

1. BALES SHALL BE PLACED IN A ROW WITH ENDS TIGHTLY ABUTTING THE ADJACENT BALES.
2. EACH BALE SHALL BE EMBEDDED IN THE SOIL A MINIMUM OF 4".
3. BALES SHALL BE SECURELY ANCHORED IN PLACE BY STAKES OR REBARS. ANGLE 1st STAKE TOWARD PRECEEDING BALE.
4. INSPECTION SHALL BE FREQUENT; REPAIR OR REPLACE AS NECESSARY.
5. BALES TO BE REMOVED AFTER INSTALLATION OF STORM SYSTEM SO AS NOT TO BLOCK OR IMPEDE DRAINAGE.

HAY BALE FILTER

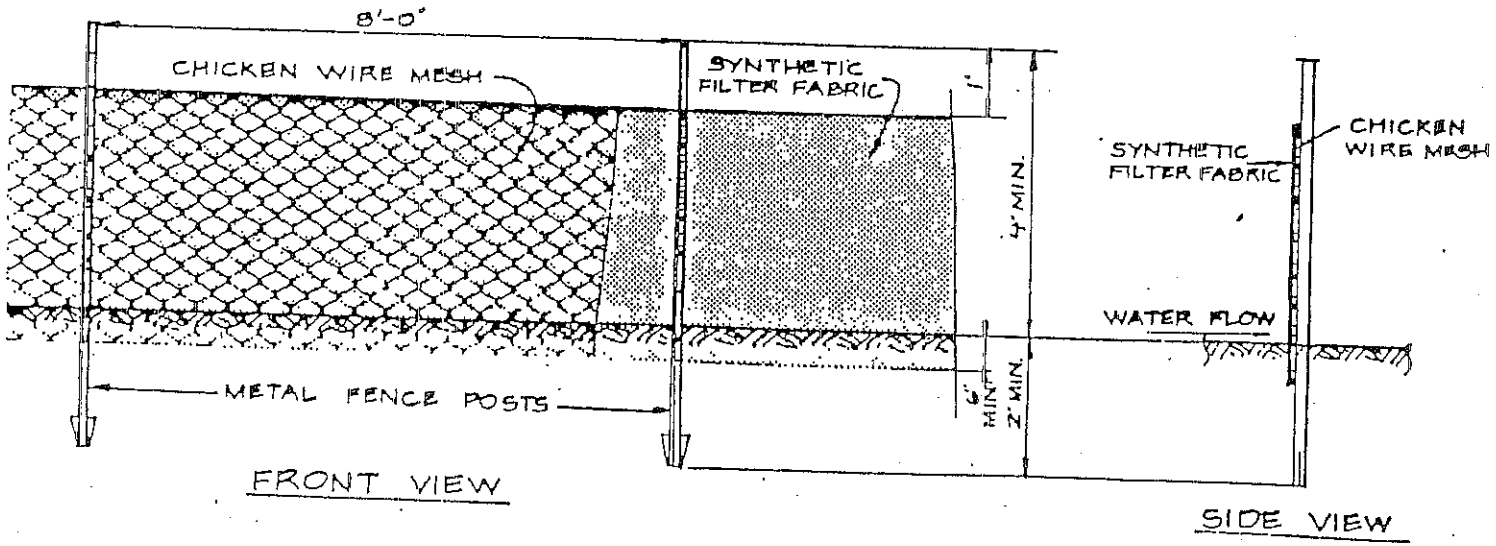
standard detail

Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
Hackettstown, New Jersey 07840

Township of Mendham
INCORPORATED MARCH 15, 1744
BROOKSIDE, NEW JERSEY 07926

SE-3
1985

Castle Balut & Associates
Engineers • Surveyors • Planners • Consultants
570 Main Street, Box 68
Hackettstown, New Jersey 07840
(201) 852-0820



SEDIMENT FILTER FENCE

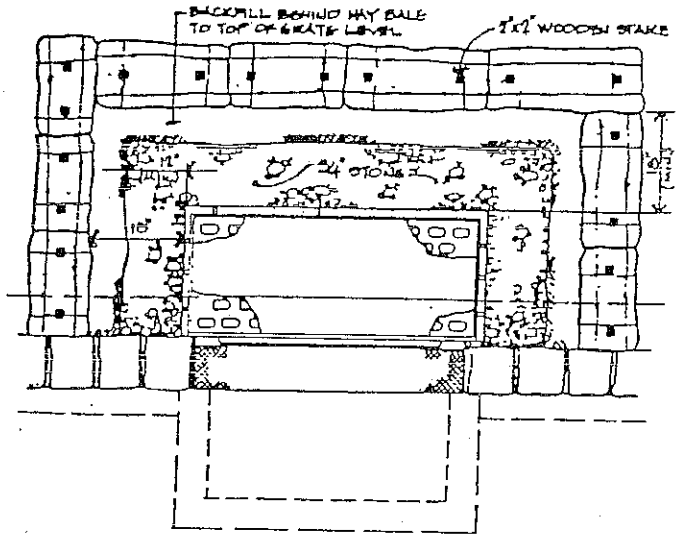
NOT TO SCALE

Township of Mendham

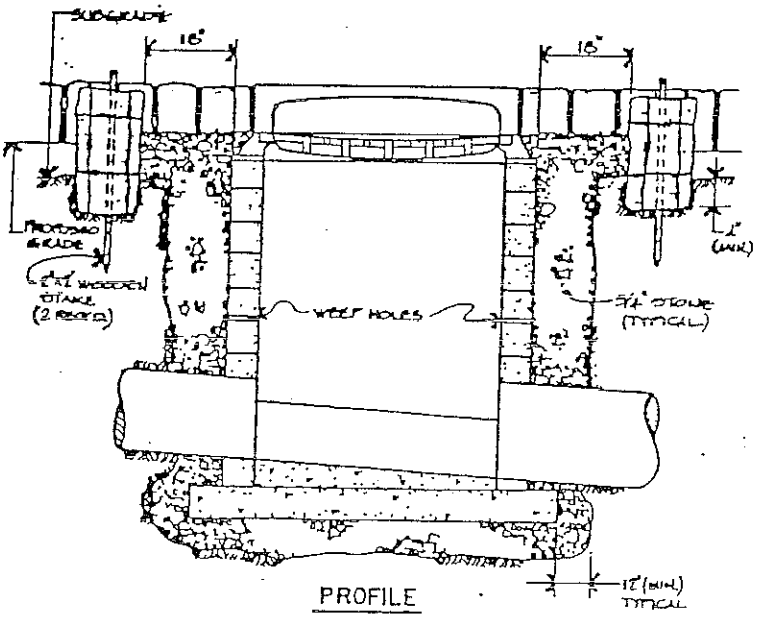
INCORPORATED MARCH 30 1749
BROOKSIDE, NEW JERSEY 07926

SE-4
1985

standard detail



PLAN



PROFILE

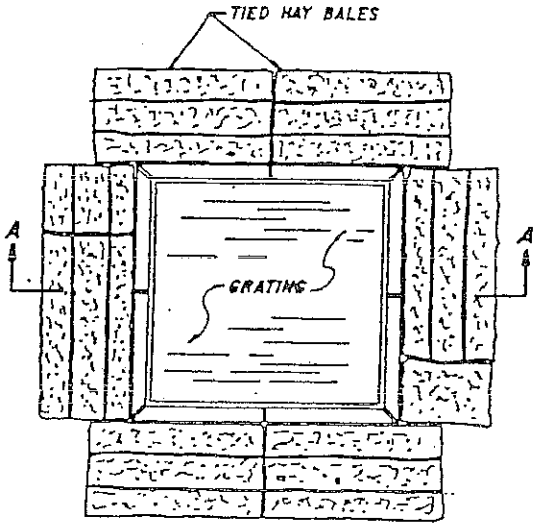
SEDIMENT FILTER
TYPE "B" INLET
Not To Scale

standard detail

Costle Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Main Street Rte 46
Hackettstown, New Jersey 07840
(201) 852-8854

Township of Mendham
INCORPORATED MARCH 20, 1749

SE-5



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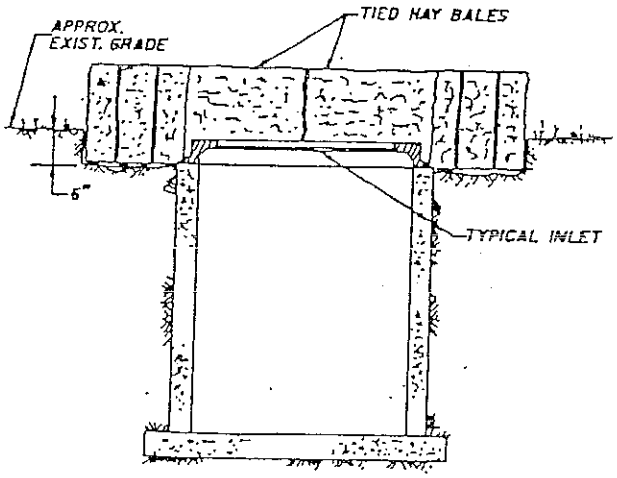


SECTION A-A

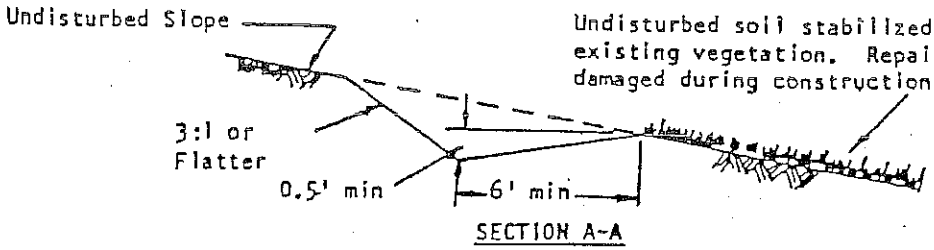
SEDIMENT FILTER
TYPE "A" "B" "E" INLET
NOT TO SCALE

standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
372 Route 46
Parsippany, New Jersey 07840
(201) 857-8858

Township of Mendham
INCORPORATED MARCH 28, 1748
BROOKSIDE, NEW JERSEY

SE-6



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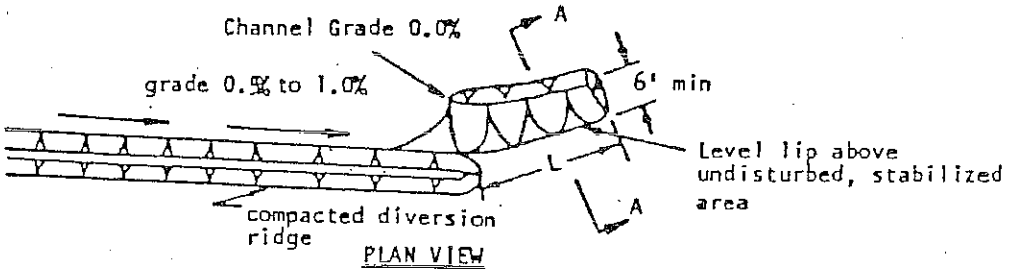


PLAN VIEW

DESIGN CRITERIA

Spreader length will be determined by estimating Q_{10} (10 year storm frequency) flow and selecting the appropriate length from Table.

Designed Q_{10} (cfs)	Minimum Length ("L" in Feet)
Up to 10	15
11 to 20	20
21 to 30	26
31 to 40	34
41 to 50	44
51 to 60	56
61 to 70	70
71 to 80	86
81 to 90	100

GENERAL NOTES:

1. Construct level lip on zero percent grade to insure uniform spreading of storm runoff (converting channel flow to sheet flow).
2. Level spreaders must be constructed on undisturbed soil (not on fill).
3. Entrance to spreader must be graded in a manner to insure that runoff enters directly onto the zero percent graded channel.
4. Storm runoff converted to sheet flow must outlet onto areas already stabilized by existing vegetation.
5. Periodic inspection and maintenance must be provided to insure intended purpose is accomplished.

LEVEL SPREADER

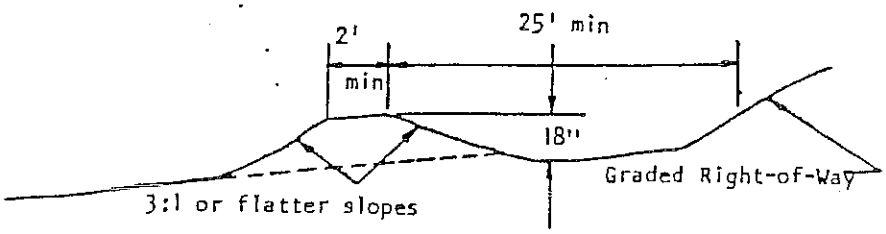
standard detail

Costic Balut & Associates
Engineers • Surveyors • Planners • Consultants
207 Main Street Box 66
Harbertown, New Jersey 07860
(201) 852-8854

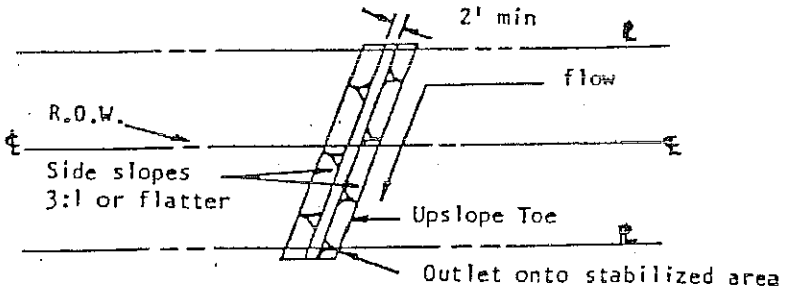
Township of Mendham
INCORPORATED MARCH 28, 1949
BROOKSIDE, NEW JERSEY 07926

SE-7
1985

FOR USE ON DRAINAGE AREAS OF 5 ACRES OR LESS. LARGER AREAS REQUIRE A DIVERSION DESIGN.



CROSS SECTION



PLAN VIEW

DESIGN CRITERIA

Top width - 2 ft. min.
Height - 18 in. unless otherwise noted on the plans (height measured from the upslope toe to top of the dike).
Side slopes - 3:1 or flatter (flat enough to allow construction traffic to cross if desired).
Grade - 0.5% to 1.0%
Spacing - 100 to 300 feet between diversions. (The steeper the slope the closer the spacing should be. Spacing may be checked by the Universal Soil Loss Equation

GENERAL NOTES:

1. Top width may be wider and side slopes may be flatter, if desired.
2. Field location should be adjusted as needed to provide a stabilized safe outlet.
3. Diverted runoff shall outlet onto an undisturbed stabilized area, a prepared level spreader, or into a slope protection structure.
4. Periodic inspection and required maintenance must be provided.

INTERCEPTOR DIVERSION
FOR GRADED RIGHT-OF-WAY

standard detail

The following Ordinances have not been incorporated into the Land Use Code Book:

ORDINANCE 3-2013
AN ORDINANCE OF THE TOWNSHIP OF MENDHAM ADOPTING AND IMPLEMENTING AMENDED ZONING MAP

ORDINANCE 6-2013
AN ORDINANCE OF THE TOWNSHIP OF MENDHAM AMENDING CHAPTER 21, SECTIONS 21-6.4 AND 21-6.5; AND AMENDING THE DEFINITION OF "HEIGHT OF STRUCTURE"

ORDINANCE 9-2013
AN ORDINANCE OF TOWNSHIP OF MENDHAM DELETING CHAPTER 20 "SOIL EXTRACTION REGULATIONS" AND CHAPTER 24 "LOT DEVELOPMENT PERMIT" AND CREATING A NEW CHAPTER 20 "LAND DISTURBANCE"

ORDINANCE 10-2013
AN ORDINANCE OF THE TOWNSHIP OF MENDHAM IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY AMENDING VARIOUS CHAPTERS AND SUBSECTIONS OF THE TOWNSHIP CODE PERTAINING TO: FEES FOR COPIES OF CERTAIN PUBLIC RECORDS; FEES FOR PERMITS; AND PENALTIES
(Sections 4, 5 and 6 pertain to Land Use)

ORDINANCE 12-2013
AN ORDINANCE OF THE TOWNSHIP OF MENDHAM AMENDING CHAPTER XII GENERAL DEFINITIONS AND CHAPTER XXI ZONING REGULATIONS, SECTION 4.5B SUPPLEMENTARY REGULATIONS, SIGNS

ORDINANCE 12-2014
AN ORDINANCE AMENDING AN ORDINANCE ENTITLED "AN ORDINANCE CREATING A NEW "REUSE OF EXISTING BUILDINGS OVERLAY DISTRICT" IN A PORTION OF THE R-10 ZONE, PERMITTING THE REUSE OF EXISTING BUILDINGS FOR MULTIPLE USES AS A CONDITIONAL USE, AMENDING CHAPTER XXI "ZONING REGULATIONS" OF THE LAND USE ORDINANCE OF THE TOWNSHIP OF MENDHAM

ORDINANCE 3-2013
TOWNSHIP OF MENDHAM
MORRIS COUNTY – NEW JERSEY

AN ORDINANCE OF THE TOWNSHIP OF MENDHAM ADOPTING AND IMPLEMENTING AMENDED OFFICIAL ZONING MAP

BE IT HEREBY ORDAINED by the Township Committee of the Township of Mendham as follows:

Whereas the Township of Mendham has need to adopt and amended Zoning Map in accordance with the Master Plan and zoning ordinances of the Township of Mendham;

Now therefore be it hereby ordained as follows:

SECTION ONE: There is hereby adopted as the official Zoning Map of the Township of Mendham that certain map prepared by Ferriero Engineering dated May 2012 and captioned "Zoning Map, Township of Mendham, Morris County, NJ." Said Zoning Map shall control all land uses in the Township of Mendham and all prior zoning maps are hereby repealed to the extent inconsistent herewith.

SECTION TWO: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION THREE: All ordinances of the Township of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR: This ordinance shall take effect upon final passage and publication thereof as provided by law.

INTRODUCED: 3/11/2013

PUBLIC HEARING: 7/8/2013

ADOPTED: 7/8/2013

ADVERTISED: 3/14/2013

ADVERTISED: 7/11/2013

ATTEST:

Kathleen Potter

Kathleen Potter, RMC
Township Clerk

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

Richard A. Merkt
Mayor

ORDINANCE 6-2013
TOWNSHIP OF MENDHAM
MORRIS COUNTY – NEW JERSEY

AN ORDINANCE OF THE TOWNSHIP OF MENDHAM AMENDING CHAPTER 21, SECTIONS 21-6.4 AND 21-6.5; AND AMENDING THE DEFINITION OF "HEIGHT OF STRUCTURE'

BE IT HEREBY ORDAINED by the Township Committee of the Township of Mendham as follows:

SECTION ONE:
Chapter 21 Section 21-6.4 e. is amended to read in its entirety as follows:

"e. In addition to the restrictions in "d." above, an accessory structure with a footprint area in excess of 100 square feet shall not be closer to the side or rear lot line than the minimum setback distance required for the principal building, provided, however, that in the R-3, R-5, and R-10 Zone Districts, driveways and parking areas shall be set back from the side lot lines a minimum distance equal to one-half the applicable side yard setback dimension required for the principal structure in the respective zone district."

Chapter 21 Section 21-6.5 f. is amended to read in its entirety as follows:

"f. An accessory structure with a footprint of 100 square feet or less, shall be located no less than 10 feet from the side or rear property line, while also respecting the restrictions set forth in "a" through "d", above.

The definitions section of Chapter 21 is herby amended as follows:

HEIGHT OF STRUCTURE- The vertical distance measured from the average finished grade around a structure to the horizontal projection

of the highest point of the roof of a structure. The average finished grade shall be as computed by averaging spot grade elevations at no greater than 15 foot intervals along a line that is 10 feet distant and parallel to the outer perimeter of the structure. Additional spot grade elevations may be required to properly incorporate abrupt grade changes into the calculation.

SECTION TWO

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION THREE

All ordinances of the Township are inconsistent with the provisions of this of Mendham which ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR

This ordinance shall take effect upon final passage and publication thereof as provided by law.

INTRODUCED: 5/28/2013

ADVERTISED: 5/31/2013

PUBLIC HEARING: 7/08/2013

ADOPTED: 7/08/2013

ADVERTISED: 7/11/2013

ATTEST:

Kathleen Potter

Kathleen Potter, RMC
Township Clerk

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

Richard A. Merkt
Mayor

ORDINANCE 9 -2013
TOWNSHIP OF MENDHAM
MENDHAM COUNTY – NEW JERSEY

AN ORDINANCE OF THE TOWNSHIP OF MENDHAM DELETING CHAPTER 20 "SOIL EXTRACTION REGULATIONS" AND CHAPTER 24 "LOT DEVELOPMENT PERMIT" AND CREATING A NEW CHAPTER 20 "LAND DISTURBANCE"

BE IT HEREBY ORDAINED by the Township Committee of the Township of Mendham as follows:

SECTION ONE:
Chapter 20 and Chapter 24 of the Ordinances of the Township of Mendham are hereby deleted in their entirety.

A new Chapter 20 is hereby created to be known as:

CHAPTER XX
LAND DISTURBANCE AND LOT GRADING PERMIT

I. Lot Grading Plan Permit

A. Definitions

APPLICANT- A person requesting permission to engage in lot grading activity

LOT GRADING PLAN – A plan to control soil erosion and sedimentation which meets or exceeds the Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee and has been reviewed and approved by the proper Township authority. (hereinafter referred to as the "plan" and or "lot grading plan")

CLEARING – The cutting or removal of trees as regulated in the Township Tree Removal Ordinance.

CRITICAL AREA – An area as defined in Chapter XII of the Township ordinances, including wetlands, flood hazard areas, areas of shallow water table soils, recharge soils or steep slopes.

CUT – That portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface.

LAND DISTURBANCE – The stripping, filling or removal of soil or the removal of vegetation. The cutting of trees, with or without stump removal, is disturbance.

DIVERSION – A channel constructed across or at the bottom of a slope.

EROSION- Detachment and movement of soil or rock fragments by water, wind, ice or gravity.

EXCAVATION – Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

EXISTING GRADE – The vertical location of the existing ground surface prior to cutting or filling.

FILL – A man-made deposit of soil, rock or other materials.

FINISHED GRADE - The final grade or elevation of the ground surface.

FLOODPLAIN – The land bordering or adjacent to a river, stream, lake, pond, swamp or other waterway which is subject to flooding as evidenced by:

A. Observed or recorded flood events;
B. Floodplains as delineated by the NJDEP;
C. Alluvial soil as shown on soil maps; or
D. As determined by other soil or hydraulic studies.

GRADING – Any stripping, cutting, filling, stockpiling or any combination thereof, and shall include the land in its cut or filled condition.

IMPERVIOUS SURFACE- That portion of a lot which is improved or is proposed to be improved with principal and accessory buildings or structures, driveways, parking lots, pedestrian walkways, pools, retaining walls, decks or patios or any man-made improvements of the ground surface that reduces the ability for the soil to accept runoff as compared to natural conditions.

LAND – Any ground, soil or earth, including marshes, swamps, drainage ways and rock outcrops.

LIMIT OF GRADING – The boundary line formed between those areas of a site which are to be graded and the existing natural topography of the property. The limit of grading shall be synonymous with a no cut-no fill line.

LIMIT OF LOT GRADING – The boundary line formed between all portions of the site where lot grading will occur and the existing natural area of the property.

LOT GRADING – Any activity involving the clearing, grading, transporting, filling or excavation of land, stump removal or any other activity which causes land to be exposed to danger of erosion, but not including normal cultivation practices incident to customary farming activity. "LOT GRADING" shall be synonymous with "LAND DISTURBANCE".

LOT GRADING PERMIT – A certificate issued to perform work under this article.

MULCHING – The application of plant or other suitable materials to the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover.

NATURAL GROUND SURFACE – The existing ground surface of land prior to any grading excavation or other land disturbances.

RIPARIAN BUFFER/RIPARIAN ZONE – The riparian buffer or zone is the land and vegetation within a State regulated water and extending either 50 feet, 150 feet or 300 feet from the top of bank along both sides of the regulated water, depending on the environmental sensitivity of the water as determined by the NJDEP.

SEDIMENT – Soil material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or gravity as a result of erosion.

SEDIMENT BASIN – A pond, basin or other sediment basins, desilting basins, silt traps or other acceptable methods. Whenever feasible, development shall include structures or measures that provide for the detention of water and deposit of sediment.

SOIL CONSERVATION DISTRICT – The Morris County Soil Conservation District, which is a governmental subdivision of the state organized in accordance with the provisions of N.J.S.A. 4:24-1 et seq.

SOIL EROSION, SEDIMENT CONTROL AND FLOOD PREVENTION PLAN – A plan which fully indicates necessary land treatment measures, including a schedule of the timing for their installation, which will effectively prevent floods and minimize soil erosion and sedimentation. Such measures shall be equivalent to or exceed standards adopted by the New Jersey State Soil Conservation Committee and administered by the Morris County Soil Conservation District.

STANDARDS – Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee in review of soil erosion and sediment control plans.

STORMWATER MANAGEMENT FACILITY OR BASIN – A pond, basin or other structure or measure that provides for temporary storage and/or treatment, and /or infiltration of storm water runoff and which includes a spillway, pipe, weir or other component to release the runoff at a controlled rate of flow.

STRIPPING - Any activity which removes or significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations.

VEGETATIVE PROTECTION – Stabilization or erosive or sediment-producing areas of land by covering the soil with one or more of the following:

A. Permanent seeding or permanent plantings producing long-term vegetative cover of land;
B. Short-term seeding or short-term plantings producing temporary vegetative cover of land; or
C. Sodding, producing areas covered with a turf of perennial sod-forming grass.

WATERCOURSE – Any natural or artificial watercourse, stream, river, creek, ditch, channel, canal, conduit, culvert, drain, gully, ravine, wash or other waterway in which water flows in a defined direction or course, either continuously or intermittently, within a definite channel including any area adjacent to inundation by reason of overflow of floodwater.

WETLANDS – Areas regulated by the NJDEP under the Freshwater Wetlands Protection Act Rules and defined therein.

B. No land within the Township shall be cleared, brush hogged, disturbed, graded, excavated, except as follows:

Basic Requirements

1. It shall be unlawful for any person to perform land disturbance of any portion of land in excess of 3,500 square feet, create an increase in impervious surface in excess of 1,000 square feet or remove ten trees having a diameter of 10" or greater unless and until a plan has been submitted to and approved by the Planning Board, Board of Adjustment or Township Engineer as provided for herein.

2. A Lot Grading Plan shall be filed with and become part of any application for a construction permit or zoning permit if the limits of proposed land disturbance, impervious surface, and/or tree removal meet the threshold limits identified above. Such plan shall be prepared by a Professional Engineer licensed in the State of New Jersey in accordance with State law and accompanied by the required fees.

3. No land area in excess of 3,500 square feet within the Township shall be cleared, brush hogged, disturbed, graded, excavated or filled by a person for purposes including, but not limited to, the construction of roads or driveways, the filling of land, the excavation of land, the removal of natural resources, the mining of minerals or the development of recreational or educational facilities unless and until a plan has been submitted to, and approved or waived by the Planning Board, Board of Adjustment or Township Engineer and the Township Zoning Officer has issued a valid lot grading permit.

4. The Planning Board, Board of Adjustment or Township Engineer, in approving a plan, exemption, waiver or building permit may impose reasonable conditions or requirements designated or specified on, or in connection therewith.

5. Projects which have primary jurisdiction vested in the Planning Board shall have the permit approved by the Planning Board. Projects that do not require Planning Board approval shall have the permit approved by the Township Engineer. Projects that require relief from any provisions of the Township zoning standards or this section may have the permit approved by the Board of Adjustment, unless it is determined that a separate Lot Grading Permit is required as a condition of approval . Any Board approval shall consider the recommendations and conditions outlined by the Township Engineer.

C. Issuance of Permit

1. The Township Zoning Officer shall issue a Lot Grading Permit upon receipt of a letter of approval from the Township Engineer.

D. Minor Amendments to Plan

1. Amendments, changes or modifications of a minor nature to a plan required as a result of conditions arising in the field during construction may be ordered or approved by the Township Engineer. Additional escrow fees may be required if determined by the Township Engineer.

E. Contents of Plan

1. The tax map sheet, block and lot number, date, graphic scale, North arrow and the names and addresses of owner or owners of the tract, the applicant, if other than the owner, and of the engineer who prepared the plan.

2. All lot lines and lot line dimensions.

3. Front, side and rear yard setbacks as required per the zone and dimensions to existing and proposed structures.

4. Location of all proposed buildings, dimensions thereof, and the first floor elevation.

5. Location of all buildings, wells and septic systems on adjoining lots.

6. The plan shall comprise a map and written drainage calculations, together with all drawings, plans, construction details or specifications as are necessary or appropriate under the circumstances, which fully and adequately describe both temporary and permanent measures to be employed to control, minimize and protect against soil erosion, sedimentation and flooding from a proposed lot grading, taking into account the particular nature and characteristics of the land, the surrounding area, the watercourses, the land disturbance and the development involved.

7. The plan shall cover all stages and aspects of the proposed land disturbance and planned development from grading, stripping, excavation and other site preparation through and including both final grading and the installation of permanent improvements. It shall accordingly include a time schedule indicating:
    a. The anticipated starting and completion dates of each step in the land disturbance and development sequence.
    b. The time of exposure of each land area prior to the completion of effective erosion and sediment control measures.
    c. The sequence of installation of planned erosion and sediment control measures as related to the disturbance and development sequence referred to in E(2)a above.

8. The plan shall include the soil boundaries on the property based on the USDA Soil Survey Maps.

9. An earthwork analysis shall be provided to determine the net cut or fill for the project.

10. A key map, at a scale of between 1"=1000' and 1"=500' shall be provided.

11. The plan shall include a North arrow and a written and graphic scale.

12. The plan shall include a line drawn at the perimeter of the area of land disturbance and it is to be labeled "limit of land disturbance". The proposed area contained within the limit of land disturbance, measured in square feet, shall be shown on the plan.

13. The plan shall show all existing improvements and existing topography (2 foot contours) based on a survey prepared by a New Jersey licensed surveyor. The improvements shown shall include all existing utilities, improvements, structures, trees greater than 6 inches in diameter, septics and wells. The plan shall show all proposed improvements, proposed utilities, proposed retaining walls, proposed fences, proposed topography (2 foot contours), proposed spot elevations, storm water management facilities, soil erosion and sediment control measures, and applicable notes and construction details.

14. The plan shall include a graphic representation of all steep slopes regulated by the Township and a tabulation of the area of disturbance of each slope category. The steep slope areas shall, at a minimum, be shown within 25 feet of the limit of land disturbance and calculated between 2 foot contour intervals. The regulated slope areas shall be delineated perpendicular to the existing contour lines.

15. The plan shall depict any state regulated areas including, but not limited to, freshwater wetlands transition areas, riparian zones, Special Water Resource Protection Areas within 25 feet of the limit of disturbance. All watercourses, streams and State Open Waters within 300 feet of the land disturbance shall be shown on the map. The type of outside agency approval and status of any/all required outside agency approvals shall be noted on the plan.

16. All trees 6 inches or greater in diameter to be removed as part of the project shall be shown in accordance with the requirements of the Township tree removal ordinance. All trees within 25 feet of the limit of disturbance shall be shown.

17. Projects that meet the definition of "major development" under the Township storm water ordinance shall have storm water management systems designed to meet the standards

for major development. The plan shall show the location of all permeability testing as required by Appendix E of the Best Management Practices (BMP) manual

18. Projects that do not meet the threshold for "major development" under the Township storm water ordinance shall be designed as follows:
    a. If the project creates 1,000 square feet or more of proposed impervious surface, the project must collect and store in drywells or other infiltration systems, approved by the Township Engineer, the equivalent of 3" of runoff from each square foot of proposed impervious surface. For the purposes of this section any existing impervious surface that was installed without approvals is considered "proposed".
    b. If the project creates 3,500 square feet or more of land disturbance, soil erosion and sediment control measures in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey shall be shown on the plan and implemented.

F. Responsibility of Applicant
    a) "Stake" State regulated area.
    b) Maintain or repair any of the above or any drainage facilities damaged or otherwise adversely affected by reason of the applicant's project. Such maintenance or repair work shall be promptly performed.
    c) Promptly remove sediment from any stream or watercourse, pond, lake, or drainage facility resulting from the applicant's project.

2. No person shall block, impede the flow of, alter or construct any material thing or commit any act which will affect normal or flood flow in any stream or watercourse without having obtained a lot grading permit from the Township and, where required from the County of Morris and the State of New Jersey.

3. An objective of the plan shall be to maximize groundwater recharge and to minimize runoff.

4. Soil erosion and sediment control measures shall, at a minimum, conform to the Standards for Soil Erosion and Sediment Control in New Jersey, as amended or supplemented. All soil erosion control measures designed for the project must be maintained in working order for the entirety of the project.

5. A permit shall be obtained, when necessary, from the Morris County Soil Conservation District.

6. The applicant shall retain a copy of the approved plan on the site and shall provide a copy of the approved plan to the site contractor.

7. The applicant shall be responsible for any damage to public improvements caused during the course of the work or installation of the improvement.

G. Additional Plan Requirements

In addition to the above, to the extent feasible in particular situations, the following measure or considerations shall be incorporated in the plan:

1. The smallest practical area of land shall be disturbed at any one time during development and the duration of such disturbance shall be kept to a practical minimum.

2. Whenever feasible, natural vegetation and the natural ground surface shall be retained and protected.

3. Temporary vegetative cover and/or mulching shall be used to protect areas from erosion during construction of the development.

4. Diversion and outlets, both temporary and permanent, shall be constructed and/or installed to accommodate the runoff caused by the changed soil and surface conditions during and after development.

5. Disturbed soil shall be stabilized as quickly as practicable.

6. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped and removed by the use of debris basins, sediment basins or other approved measures.

7. To the greatest extent practicable, the applicant shall preserve natural features and existing grades, thereby keeping grading, stripping and excavation to a minimum.

8. Adequate provisions shall be made to minimize surface water from damaging slopes and embankments. Diversion may be used for this purpose.

9. Fill shall be placed and stabilized so as to minimize erosion and shall not encroach on watercourses closer than 100 feet, unless specifically approved.

10. During grading operations, approved methods of dust control will be exercised.

11. During grading, excavation and other construction activities, slopes and embankments shall be stabilized by mulching with straw with a binder, or jute or other geotextile fabric staked in position and/or seeded with annual rye grass or other acceptable method.

12. Permanent vegetative protection, plant cover, lawn or ground cover and mechanical erosion control devices and measures shall be installed or constructed, and completed, as soon as practically possible.

13. Permanent improvements, such as pavement, catch basins, curbs, etc., shall be installed or constructed, and completed as soon as practically possible in the construction sequence.

14. Permanent storm water management facilities shall be constructed whenever feasible to temporarily retain the increased runoff from modifications to the land. Such facilities shall conform with standards and criteria established or approved by the Township Engineer in accordance with the Township storm water control ordinance.

15. Maintain existing drainage patterns and natural land cover to the extent possible and minimize any negative impacts to surrounding property owners or natural resources.

H. Approval of Lot Grading Plan; conditions
   1. Conditions. In considering and approving a plan, the Planning Board, Board of Adjustment or Township Engineer as the case may be:
      a. Shall have the right, among other things, to fix the time schedule for exposure of land areas and for the construction and installation of improvements or the taking of other measures to prevent soil erosion and sedimentation, and may require that such work or measures be completed prior to any site development work.
      b. Shall provide for the posting of performance and maintenance guarantees where appropriate.
      c. May refer the plan to the Township Environmental Commission, the Soil Conservation District, the Tree Preservation Committee and/or any other qualified governmental agency or agencies.
      d. May impose reasonable conditions or requirements necessary or desirable for the proper implementation of the plan, in accordance with the purposes and intent of this article.

2. Notice of decision; time. Written notice shall be provided to the applicant indicating the decision on the plan. Such decision shall be made within a period of 30 days of submission of the complete application, unless, by mutual agreement, this period is extended for an additional 30 days. Failure to make a decision within such period, or any extension thereof, shall constitute approval.

3. Deviations from approved plan. After a plan has been approved, it shall be unlawful for the application, or any person performing services in implementing the plan, to deviate, change, amend or modify the plan, except in accordance with 1(D).

I. Performance Guaranty

In cases where the scope of the project warrants, the applicant shall post a performance guaranty in an amount to be established by the Township Engineer to guarantee the construction or installation of the measures included in the plan. The guaranty may be in the form of a performance bond issued by a surety in a form approved by the Township Attorney, a certified check returnable after full compliance, or other type of surety as may be approved by the Township Attorney. At least 10% of the surety shall be posted by certified check. The guaranty shall be released after all work has been completed in accordance with the approved plan. No guaranty shall be released until all construction and re-vegetation measures have been fully established and approved and all inspection fees have been paid to the Township as provided for herein.

J. Enforcement; Inspection

1. The requirements of this article shall be enforced by the Township Engineer, who shall also inspect or require adequate inspection of the work carried our pursuant to this article.

2. Generally, inspections shall be conducted at the following times:
   a. Prior to the establishment of measures, to discuss the details of location, changes due to field conditions, etc.
   b. Intermittently during the establishment of vegetative and structural measures.
   c. After completion of all construction and establishment of vegetation.
   d. At other times as may be necessitated because of unsatisfactory conditions.

3. If the Township Engineer finds conditions other than as shown in the plan, or in the event of failure to comply with the plan or any condition thereto, he may refuse to inspect and/or approve further work and may require necessary measures to be promptly installed and may require modifications to the plan when, in the judgment of

the Township Engineer, such are necessary to properly control soil erosion, sediment and storm water runoff. The Township Engineer may also issue stop-work orders and seek other penalties as provided for in Chapter 22-2.

4. The applicant and contractor shall have a copy of the approved plan on site during construction.

5. In the event of failure to comply with the requirements of this section, the Zoning Officer and/or Construction Official shall refuse to issue building permits and/or certificates of occupancy and may revoke building permits which may have been previously issued.

K. Fees

1. Each application for approval of a plan shall be accompanied by a fee determined in accordance with the section 13-14 of the Township Ordinance.

2. In addition to the application fee, the applicant shall pay the costs of plan review and inspections by the Township Engineer or his representative at the rates currently in effect at the time of any such inspections. These costs will be paid from an escrow account established at the time of application in an amount of $3,000.00. Any unused escrow will be returned to the applicant after the final inspection for the project has been performed and all invoices with regard to review and inspection have been paid.

L. Exemptions

1. Land Disturbance for yards, gardens, swimming pools or other minor improvements where the total area of land disturbance is less than 3,500 square feet and the duration of the land disturbance does not exceed 30 days are specifically exempt from the requirements of this article.

2. Land Disturbance associated with the construction of an alteration to a failing individual subsurface sewage disposal system is exempt from the requirements of this article.

3. Land Disturbance in connection with Woodland Management Plans that have been approved by the Township.

M. Appeals

1. Appeals from decisions under this article shall be made in writing to the Township Committee. Such appeal shall be filed with the Township Zoning Officer within 10 days of the date of such decision.

The appellant shall be entitled to a hearing before the Township Committee within 30 days from the date of appeal.

N. Violations and Penalties

1. If any person violates the provisions of this article, the Township may institute a civil action in Superior Court for injunctive relief to prohibit and prevent such violation and such court may proceed in a summary manner.

2. The Township Engineer and the Township Zoning officer are authorized to issue notices of violation pursuant to this Chapter.

3. Any person convicted of a violation of this Chapter shall be subject to the fines and penalties set forth in Chapter 22-2 of the Mendham Township Ordinances. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

SECTION TWO

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION THREE

All ordinances of the Township are inconsistent with the provisions of this of Mendham which ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR

This ordinance shall take effect upon final passage and publication thereof as provided by law.

INTRODUCED: 9-09-2013

ADVERTISED: 9-18-2013

PUBLIC HEARING: 12-09-2013

ADOPTED: 12-09-2013

ADVERTISED: 12-12-2013

ATTEST:

Kathleen Potter, RMC
Township Clerk

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

Richard A. Merkt
Mayor

ORDINANCE 10-2013

AN ORDINANCE OF THE TOWNSHIP OF MENDHAM IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY AMENDING VARIOUS CHAPTERS AND SUBSECTIONS OF THE TOWNSHIP CODE PERTAINING TO: FEES FOR COPIES OF CERTAIN PUBLIC RECORDS; FEES FOR PERMITS; AND PENALTIES

WHEREAS, the Township of Mendham desires to amend and supplement various Chapters and Subsections to reflect statutory requirements and cost increases.

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

Section 1. Chapter II, "Administration," Subsection 2-41.2 Fees for Copies, of the Township Code of Mendham is hereby amended in its entirety to read as follows:

a. Photo Copies

Letter size	$.05 per page
Legal size	$.07 per page

b. Zoning Map, five dollars ($5.00).

c. Returned check fee twenty-five dollars ($25.00)

d. Master Plan seventy-five dollars ($75.00)

Section 2. Chapter V, "Animal Control," Subsection 5-2.2 License Fees, of the Township Code of Mendham is hereby amended to read as follows:

a. 5-2.2 Dog license

Neutered fee	$12.00 ($10.80 municipal/ $1.20 State)
Un-neutered fee	$15.00 ($12.00 municipal/$3.00 State)
Late fee	$5.00

b. 5-5.3 Cat license

Neutered fee	$12.00 ($10.80 municipal/ $1.20 State)
Un-neutered fee	$15.00 (12.00 municipal/$3.00 State)
Late fee	$5.00

Section 3. Chapter VI, "Alcoholic Beverage Control," Subsection 6-3.4 License Fees; Maximum Number, of the Township of Mendham is hereby amended in its entirety to read as follows:

License Fees; Maximum Number. Only the following alcoholic beverage licenses shall be in effect in the Township at any one time: one (1) retail plenary consumption license and one (1) club license.

The annual license fees for the sale or distribution of alcoholic beverages in the Township shall be as follows:

Class of License	Annual License Fee
Plenary Retail Consumption License	$2,500.00
Club License	$185.00

Section 4. Chapter XXV, "Buildings and Housing" of the Township Code of Mendham is hereby amended to read as follows:

a. 25-1.4 Building sub-code

New construction/additions	$0.34/cu. ft. $65.00
Additions	$0.34/cu. ft. $65.00
Alter, renovate, repairs, minor construction:	
Min	$65.00
$0.00-$50K	$28.00/ est. $1,000
$50K-100K	+$22.00/est. $1,000
$100K and greater	+$19.00/est. $1,000
Combination-additions & renovation/alteration (sum of fees, computed separately)	
Construction of a barn	$0.0016/ cu.ft. Min $65.00
Pool- in-ground	$135.00
Plumbing sub-code	
Fixtures	$15.00
Boiler, furnace hot water heater	$65.00
Minimum fee	$65.00
Electrical sub-code	
Minimum fee	$65.00
1-50 receptacles	$50.00
Each additional 1-25 receptacles	$15.00
Each motor or electrical device	
1-10 HP/KW	$15.00
10-50 HP/KW	$65.00
50-100 HP/KW	$150.00
Over 100 HP/KW	$550.00
Min fee- Photovoltaic Systems	
0-50 KW	$75.00
51-100 KW	$200.00
Over 100 KW	$600.00

Minimum Fee-Annual pool bonding Inspection	$125.00
Fire sub-code	
Sprinkler systems (R-2, R-3, R-4)	$100.00/system
Demolition	$75.00/structure
Residential removal permit	min $65.00
Sign permits	$65.00
Certificate of Occupancy-Temporary	$35.00

Section 5. Chapter XXVIII, "Fire Prevention and Protection"

a. 28-2.1 Smoke Sensitive Alarm Fee

Inspection & certificate for re-sale

More than 10 business day's notice	$50.00
Less than 10 business day's notice	$75.00
4 business days or less notice	$125.00

Section 6. Chapter XIII "Land Use Procedures and Fees"

a. 13-14.1(a) Filing Fees

Concept plan	$250.00
Zoning permit fee	$35.00

Section 7. Chapter XXIX "Streets and Driveways"

a. Section 29-2.3 Road Openings

Minor road opening permit fee	$125.00 plus bond
Major road opening permit fee	$225.00 plus bond
Driveway permit fee	$50.00 plus bond

Section 8. Chapter XXXI "Source Separation and Recycling"

a. 31-1.4 Tire disposal-without rims	$5.00
b. Tire disposal-with rims	$10.00
c. Car battery disposal	$10.00
d. Mulch/wood chip delivery	$35.00

Section 9. "Board of Health Chapter IV "Wells and Water Supply Systems"

a.	BH:4-13a	
	Application	$230.00
	Alteration	$120.00
	Repair	$60.00
	Certificate of Potability	$45.00
b.	BH:4-13b	
	Re-inspection	$60.00
c.	BH:5-7a Work Performance Time Fee	$110.00/day
d.	BH:5-15b I.S.D.S. application	$560.00
	Alteration application	
	New disposal field	$560.00
	No new field, new tank or D box	$390.00
	No new tank, field or box	$225.00
	Repair	$120.00
	Subdivision-septic feasibility application	$250/lot
e.	BH:5-15c re-inspection	$115.00
f.	BH:5-15e Certificate of Continued Use	$45.00

Section 10.
If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

Section 11.
All ordinances of the Township are inconsistent with the provisions of this of Mendham which ordinance are hereby repealed to the extent of such inconsistency.

Section 12.
This Ordinance shall take effect after final passage and publication pursuant to law.

INTRODUCED: 10/15/2013 ADVERTISED: 10/18/2013

PUBLIC HEARING: 10/29/2013

ADOPTED: 10/29/2013 ADVERTISED: 11/01/2013

ATTEST:

Kathleen Potter

Kathleen Potter, RMC
Township Clerk

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

Richard A. Merkt
Mayor

ORDINANCE 12-2013
TOWNSHIP OF MENDHAM
MENDHAM COUNTY – NEW JERSEY

AN ORDINANCE OF THE TOWNSHIP OF MENDHAM AMENDING CHAPTER: XII GENERAL DEFINITIONS AND CHAPTER XXI ZONING REGULATIONS, SECTION 4.5B SUPPLEMENTARY REGULATIONS, SIGNS

BE IT HEREBY ORDAINED by the Township Committee of the Township of Mendham as follows:

SECTION ONE: Chapter XII- DEFINITIONS of the general ordinances of the Township of Mendham is hereby amended as follows:

GENERAL DEFINITIONS
The definitions of "SIGN" and "SIGN AREA" are deleted.

SECTION TWO: Chapter XXI -ZONING REGULATIONS
Section 21 Supplementary Regulations -4.5 b. Signs is hereby deleted and replaced with the following new section:

Signs.

A. Purposes of Regulations. The purposes of these regulations are:

1. To maintain and preserve the Township of Mendham as a pleasing and attractive environment so as to improve the quality of life of all residents of the Township

2. To aid in preserving and enhancing the aesthetic, environmental and historic character of the Township.

3. To protect, conserve and enhance property values.

4. To enable the identification of places of residence and business.

5. To allow for the communication of information necessary for the conduct of commerce.

6. To minimize the size and number of signs and sign messages necessary to identify a residential or business location and the nature of any such business.

7. To lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation, excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.

B. Definitions.

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, 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.

C. Permit Required

1. All signs hereafter erected or altered, except those exempted as identified below shall conform to the provisions of this chapter. Any signs not specifically permitted are hereby prohibited.

2. Permits required. It shall be unlawful for any person to erect, structurally alter or relocate any sign without first obtaining a permit and making payment of the required fee. Permits shall be reviewed and issued by the Zoning Officer. Except that a complying exempt sign shall not require a permit fee.

3. Consent. No sign permit will be issued without the written consent of the landowner or the person in control of the premises.

D. Sign Permit Exemptions. Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this chapter. The exemption shall apply to the requirement for sign permit only. No sign permits shall be required for the following signs:

1. Any public notice or warning required by a valid and applicable Federal, State or local law, regulation or chapter.

2. Any sign which is inside a building, not attached to a window or door, and is not readable from a distance of more than three (3) feet beyond the lot line of the lot or parcel nearest to where such sign is located.

3. Holiday lights and decorations with no commercial message.

4. Any sign indicating the name of a building and/or date of construction and/or other incidental information about its construction, which sign is cut into a masonry surface or made of bronze or similar permanent material including historic tablets, cornerstones, memorial plaques and emblems which do not exceed four (4) square feet in area from a single viewpoint.

5. Traffic control signs on private property, the face of which meets the Department of Transportation standard, and which contain no commercial message of any sort.

6. Flags of the United States, New Jersey, the Township of Mendham, foreign nations having diplomatic relations with the United States, other flags adopted or sanctioned by an elective legislative body of competent jurisdiction and flags flown in conjunction with the flag of the United States, provided that such a flag does not exceed sixty (60) square feet in area and is not flown from a pole in excess of forty (40) feet in height. A flag's area shall be in reasonable proportion to the length of the pole from which it is displayed. Not more than three (3) flags may be flown from any one (1) pole. The statutory requirements associated with flags and general accepted standards of flag display etiquette shall be observed.

7. Signs forbidding trespassing, hunting, fishing or trapping as authorized by the fish and game laws not to exceed one (1) square foot in size and further provided that no such sign shall be located less than fifty (50) feet from one another.

8. Signs or banners advertising public or quasi-public events that are posted with the permission of the Township Committee or of any person to whom the Township Committee has delegated this authority according to guidelines set by the Township Committee.

9. U.S. Postal signage and regulation mailboxes.

10. Decorative flags which include no commercial message.

11. Farm and residential property identification signs, street number designations, postal boxes and customary farm warning signs in each case not to exceed two (2) square feet in area.

E. Temporary signs in all zones.

No permits are required to be issued for temporary signs. The following temporary signs shall be permitted in all zones, and shall comply with the following regulations.

1. Temporary signs inside windows and doors of commercial establishments not covering more than twenty (20%) percent of any

given window or door and which shall be removed within thirty (30) days of the date of erection. These signs shall not unreasonably obstruct light and visibility. Three such signs per calendar year shall be permitted.

2. Signs denoting the architect, engineer, contractor or tradesman, when placed upon property in which there is work under construction and not exceeding six (6) square feet in area. Such signs shall be removed within ten (10) days of the completion of the work.

3. Temporary signs indicating a political preference or a political event, provided that such signs do not exceed sixteen (16) square feet in area on any one surface. The signs shall be removed within fifteen (15) days after the completion of the political function. Nothing herein shall be deemed to permit the erection or installation of any political signs upon any pole, tree or in a public right of way, and their erection or installation is hereby specifically prohibited.

4. Temporary signs advertising the sale or rental of the premises upon which it is situated, provided that such signs do not exceed four (4) square feet, and which shall be removed within seven (7) days of when the purpose of the sign is fulfilled. Balloons may only be attached to signs permitted at the premises on weekends and legal holidays. Separate open house signs and direction signs to the open house shall also be permitted in the public right of way at the closest intersections to the property on weekends and legal holidays only.

5. Banner signs sponsored by a charitable, religious, educational, public or other public service oriented entity or organization announcing a special event or function. Any such signs shall be erected no earlier than thirty (30) days prior to the event and shall be removed no later than ten (10) days after the event.

F. Prohibited Signs

1. No sign shall be erected, used or maintained in any way which simulates official, directional or warning signs erected or maintained by the State of New Jersey, by any county or municipality, or by any public utility or similar agency concerned with the protection of public health or safety.

2. No sign shall be lighted by means of flashing or intermittent illumination. This shall include Electronic Message Centers (EMC's), which are also referred to as digital signs or computer-controlled electronic signs that change copy or images more frequently than once per minute.

3. No sign or any part of any sign shall be moving or give the illusion of movement.

4. No neon or similarly illuminated sign or decorative element shall be permitted. No sign shall have exposed high-intensity illumination or reflective material.

5. No sign shall obstruct any window, door, fire escape, stairway or opening intended to provide light or ingress or egress to or from any building or structure, with the exception that twenty (20%) percent of any window or door may be occupied by signage as permitted in Section E.1 above.

6. No sign shall be placed, located or displayed upon any sidewalk or area between the sidewalk and curb.

7. No sign shall be placed upon or above any roof.

8. No signs shall be allowed that are placed on or affixed to vehicles and/or trailers which are parked on a public right of way, public property or private property so as to be visible from a public right of way where the apparent purpose is to advertise a product, service or activity or direct people to a business or activity located on the same or nearby property. This is not intended, however, to prohibit signs placed on or affixed to vehicles or trailer where the sign is incidental to the primary use of the vehicle or trailer.

9. No sign shall be illuminated by other than white, non-flashing, non-moving illumination. The direct source of light shall not be visible from any point along the boundary lines of the property.

G. Signs Permitted for Residential Zones and Uses

1. Name plate signs not exceeding one square foot in area, or professional or announcement signs not exceeding two square feet in area. Said signs may be placed anywhere in the front yard.

H. Signs Permitted for Nonresidential Zones and Uses

One business sign not exceeding four (4) square feet in area shall be permitted as an accessory use on each lot. The sign shall be attached flat to the wall of the building and may be illuminated only be indirect which illumination, non-flashing and non-moving. All signs shall be properly maintained. Whenever a business use is terminated, the sign accessory thereto shall be removed.

I. Signs Permitted for Institutional Uses

Institutional uses as defined in this ordinance shall be permitted one (1) freestanding monument sign not exceeding twenty-four (24) square feet in area and no higher than six (6) feet above the adjacent ground elevation. Such signs shall be either internally or externally illuminated as approved by the reviewing agency.

SECTION THREE

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION FOUR

All ordinances of the Township of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION FIVE

This ordinance shall take effect upon final passage and publication thereof as provided by law.

INTRODUCED: 11-26-2013

ADVERTISED: 12-04-2013

PUBLIC HEARING: 12-23-2013

ADOPTED: 12-23-2013

ADVERTISED: 12-28-2013

ATTEST:

Kathleen Potter, RMC
Township Clerk

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

Richard A. Merkt
Mayor

TOWNSHIP OF MENDHAM ORDINANCE NO. 12-2014

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED " AN ORDINANCE CREATING A NEW "REUSE OF EXISTING BUILDINGS OVERLAY DISTRICT" IN A PORTION OF THE R-10 ZONE, PERMITTING THE REUSE OF EXISTING BUILDINGS FOR MULTIPLE USES AS A CONDITIONAL USE, AMENDING CHAPTER XXI "ZONING REGULATIONS" OF THE LAND USE ORDINANCE OF THE TOWNSHIP OF MENDHAM

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MENDHAM, NEW JERSEY, as follows:

SECTION 1. Chapter XXI, Section 21-2.1, Zone Districts.of the Land Use Ordinance is hereby amended to insert a new overlay zone district as follows:

"Reuse and Reconstruction of Existing Buildings Overlay Zone within the R-10 Zone district retaining the underlying R-10 zone plan and requirements"

SECTION 2. Section 21-2.2.Zoning Map and Schedule of Requirements of the Land Use Ordinance of the Township of Mendham is hereby amended to read as follows:"21-2.2 Zoning Map and Schedule of Requirements. The property designated on the official tax map of the Township of Mendham as Block 100, Lot 17.03, which is also delineated and designated on the map entitled 'Township of Mendham, Mendham County, New Jersey, Zoning Map,) including the Schedule of Requirements appearing thereon, is hereby designated as an overlay zone district within the R-10 Zone entitled the 'Reuse and Reconstruction of Existing Buildings Overlay Zone."

SECTION 3.A new section, section 21-5B is *hereby* created to read as follows:

21-5B REUSE AND RECONSRUCTION OF EXISTING BUILDING OVERLAY ZONE

21-58.1 Alternate reuse of existing buildings. In addition to the uses permitted in the underlying R-10 Zone, any combination of the following uses are permitted as a conditional use provided that the standards of section 21-4.6.g., Reuse and Reconstruction of Existing Buildings, are met:

a. Principal permitted uses

(1) Governmental uses.
(2) Churches, houses of worship, and related religious uses.
(3) Elementary, intermediate and high schools teaching academic
(4) subjects.
(5) Public assembly hall or theater ancillary to (1), (2), or (3) above.

(6) Non-profit office uses.
(7) Assisted living facility.
(8) Hospice.
(9) Intermediate Care Facility
(10) Long-term Care Facility
(11) Age restricted residences.
(12) Day care facility.
(13) Gymnasium use in the existing gymnasium building.
(14) Residences for onsite employees of the uses located in the Reuse and Reconstruction of Existing Buildings Overlay district.
(15) Administrative offices for building owners.

b. Permitted accessory uses: Any use normally accessory and incidental to the principal permitteduse.

c. Affordable Housing Obligation The developer using this overlay option shall either construct affordable housing units off-site or make a payment in lieu of construction, such election shall be made prior to the approval of the first construction permit.. The number of affordable units to be constructed off-site or the amount of payment in lieu of construction shall be equal to five percent (5%) of the total number of dwelling units proposed in the project. In the alternative, the developer may elect to par a "development fee" equal to three quarters of one percent (.0075) of the equalized assessed value of the new and or reconstructed units at the site consistent with applicable Council on Affordable Housing (COAH) regulations.

Payment of the Fee

(1) Developers shall pay 50% of the estimated development fee to the Township at the issuance of building permits. At the issuance of certificates of occupancy for each unit, the appropriate development fee shall be based on the percent of equalized assessed value of the development and the remaining portion of the fee, as appropriate, shall be paid. The developer shall be responsible for paying the difference between the fee calculated at building permit and paid at issuance of a certificate of occupancy.

(2) In the event any of the conditions described in N.J.A.C. 5:97-8-13(a) occur, the Council shall be authorized, on behalf of the municipality, to direct the manner in which all funds in the affordable housing trust fund shall be expended. Such revenues shall immediately become available for expenditure once the Council has notified the Municipal Clerk and Chief Financial Officer that such a condition has occurred. In furtherance of the foregoing, Mendham Township shall, in establishing its housing trust fund pursuant to N.J.A.C. 5:97-8.1, ensure that the Township has provided written authorization, in the form of an escrow agreement, to permit the Council to direct the disbursement of such revenues from the account following the delivery to the bank of the aforementioned written

notification provided by the Council to the Township's Clerk and Chief Financial Officer.

(3) Fees shall be collected and held in escrow until COAH has approved the Township Affordable Housing Plan or other use is approved.

(4) Imposed and collected developer's fees that are challenged shall be placed in an interest-bearing escrow by Mendham Township. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

(5) Payment and collection shall be as prescribed in Form N-RDF or any authorized replacement.

c. Housing trust fund

(1)

There is hereby created an interest-bearing housing trust fund to be maintained in a designated depository institution approved by the Township Committee for the purpose of receiving the development fees from residential (and nonresidential) developers. All development fees paid by developers pursuant to this subsection shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to a spending plan approved by COAH.
[Amended 12-17-2008 by Ord. No. 41-08]

(2)

If COAH determines that the Township of Mendham is not in conformity with COAH's rules on development fees, COAH is authorized to direct the manner in which all development fees collected pursuant to this section shall be expended. Such authorization is pursuant to this subsection, COAH's rules on development fees and the written authorization from the Township Committee to the depository for the fund.

(3)

In establishing the housing trust fund, the Township shall provide written authorization, in the form of a three-party escrow agreement among the Township, the bank and COAH, to permit COAH to direct the disbursement of funds as provided for in N.J.A.C. 5:97-8.13(b). This three-party escrow agreement shall be submitted to COAH within seven days from the opening of the trust fund account. All interest accrued in the housing trust fund shall be affordable housing activities approved by COAH.

d.Use of funds.

(1)

Money deposited in a housing trust fund may be used for any activity approved by COAH for addressing the Township's low- and moderate-income housing obligation. Such activities may include, but are not necessarily limited to: housing rehabilitation, new construction, regional contribution agreements, the purchase of land for low- and moderate-income housing, extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income households, and administrative costs necessary to implement Mendham Township's housing element. The expenditure of all money shall conform to a spending plan approved by COAH.

(2)

At least 30% of the revenue collected shall be devoted to render units more affordable. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region. Examples of such activities include, but are not limited to, down payment assistance, low-interest loans, rental assistance, and rehabilitation.

(3)

No more than 20% of the revenues shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include: personnel, consultant services, space costs, consumable supplies, and rental or purchase of equipment.

(4)

Development fee revenues are not to be expended to reimburse Mendham Township for housing activities that preceded first- or second-round substantive certification.

(5)

Mendham Township shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and nonresidential developers, payment in lieu of constructing affordable housing on-site and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

SECTION 5. Section 21-4.6, CONDITIONAL USES, is hereby amended to add a new subsection to read as follows:

"21-4.6.g., REUSE AND RECONSTRUCTION OF EXISTING BUILDINGS. Existing buildings in the Reuse and Reconstruction of Existing Buildings Overlay Zone district may be reused for any of the uses listed in section 21-5B.1 provided the following

regulations and standards are met. For the purposes of this Section "principal building" shall mean the original Mosle ansion and the attached wings. All of the remaining structures on the site shall be considered "accessory buildings".

1. Any reuse of existing buildings involving a change of use shall require conditional use approval in accordance with this section. The developer shall have the right to demolish accessory buildings and, at the discretion of the developer, to reconstruct them in accordance with the strict limitations set forth in Section 3(b) below of this ordinance.

2. The lot area must be at least 18 acres in Mendham Township.

3. (a) No new principal building floor area shall be created except for minor alterations that may be needed for code compliance, handicapped access, elevator installations orother improvements that do not significantly alter the building area and except for the construction of penthouses on top of the existing wings of the principal building provided that the height of the penthouses does not exceed the highest point of the existing principal building. Any minor alteration of the principal building shall not result in the minimum building setback from property boundaries being less tha 80 feet.

(b) Reconstruction of accessory buildings shall be subject to the following requirements:

(1) Minimum setback from property boundaries: 80 feet.
(2) Maximum height: 35 feet.
(3) Minimum portion of each existing building footprint upon which reconstructed building to be located: 25%
(4) Maximum increase of area of each existing footprint: 20%

4. The total impervious surface coverage shall be no more than 218,000square feet. Underground parking areas that are not below buildings and are covered by natural or landscaped surfaces shall not be included in the calculation for the impervious coverage limitation. However, such areas shall be considered as impervious coverage for stormwater management purposes.

5. Any use providing medical care shall provide its own ambulance service for its patients.

6. The amount of existing building floor area devoted to the uses permitted in the Reuse and Reconstruction of Existing Buildings Overlay Zone shall be shown on the site plan together with a calculation of the total floor area proposed to devoted to each use. The following parking standards shall utilized as a gauge for determining the maximum intensity of use. For the purpose of this section higher intensity uses are those that generate more need for parking. Accessory uses shall be counted as the principal use for

these purposes. The total intensity of reuse and reconstruction of buildings for any combination of permitted uses shall not exceed a total of 200 parking spaces theoretically needed as calculated utilizing the following standards

BUILDING FLOOR AREA DEVOTED TO:	PARKING SPACES
Church services and other worship	One for each three seats or one for each 72 inches of bench seating; however, there shall be no theoretical parking need generated if services are limited to weekends and/or evenings after 5:00 P.M.
Public assembly hall, theater	One for each three seats or one for each 75 sq. ft. of assembly area; however, there shall be not theoretical parking need generated if such uses are limited to weekends and/or evenings after 5:00 P.M.
Non-profit office and governmental uses	One for each 200 sq. ft.
Hospice, Intermediate and longterm care facilities.	One per unit
Gymnasium use	One for each 200 sq. ft.
Assisted living facility	0.5 per unit
On-site employee residences	One per unit
Age restricted residences	Two per unit
Day care facility	One per every 600 sq. ft.
Elementary school	Two per classroom
Intermediate school	2 per classroom
High school	2 per classroom

The above parking standards are solely intended for calculating the maximum intensity of use. The ability to physically provide more than 200 parking spaces on site shall not constitute a valid reason to reuse or reconstruct building space with a higher percentage of higher intensity uses.
[Added 12-17-2008 by Ord. No. 41-08]

SECTION 6.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION 7.

All ordinances of the Township of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8.

This Ordinance shall take effect after final passage and publication pursuant to law.

I, Elizabeth Rego, Acting Clerk of the Township of Mendham hereby certify the forgoing to be a true copy of an ordinance introduced by the Township Committee of the Township of Mendham and duly adopted by the Governing Body.

Introduction 12/8/14.

Adoption 12/23/14.

E. Rego

Elizabeth Rego, Acting, Clerk

Maribeth

Maribeth Thomas, Mayor