

Paula Tiver

From: Paula Kosko
Sent: Wednesday, August 3, 2022 10:47 AM
To: Scott Taylor; Martin G Miller (mgmiller@alaimogroup.com)
Cc: Robert E Kingsbury; Paula Tiver
Subject: R & M Development
Attachments: Letter 1 to David C. Frank Esq_Debra Plaia July 2022.pdf; Letter to David C. Frank July 26 2022 from Plaia Debra.pdf; Memo re CWA liability for Township Storm Water Easement Dishcharge July 28 2022.docx; RM Hearing Adjournment Request to JLUB Secretary 072822.pdf

Good Morning:

I am passing along documents related to R & M Development's revised application and its postponement to September 7 meeting.

Thanks,

Paula Kosko, MPA/RMC
Administrator/Municipal Clerk
Hainesport Township
1401 Marne Highway
PO Box 477
Hainesport NJ 08036
(609) 267-7114 - Phone
(609) 261-4762 - Fax

Tiver

Deborah A. Plaia, Esq.

ATTORNEY-AT-LAW

50 BANCROFT LANE
HAINESPORT, NJ 08036

609.206.1861 (TEL)
EMAIL: daplaia@yahoo.com

July 25, 2022

David C. Frank, Esq.
Attorney At Law
126 Gilbert Road
Bordentown, NJ 08505

Re: R&M Development, Notice of Hearing

Subject: Creekview HOA v. R&M Development
Docket No.: BUR-L-1927-21

Dear Mr. Frank:

I am a resident of the Creekview development and a member of the Homeowner's Association. As you may be aware, your client and Diamantis Children's Trust were sued by Creekview HOA. They were represented in that litigation by Kyle Eingorn of Dembo, Brown & Burns. Creekview was represented by John Novak, Esq. of The Law Offices of John J. Novak, P.C. I assisted Mr. Novak in that litigation.

Kindly be advised, your client is in breach of the Stipulation of Settlement filed on March 9, 2022.

The litigation was resolved by way of a Stipulation of Settlement which I have attached for your convenience. I refer you to paragraph 6 which states:

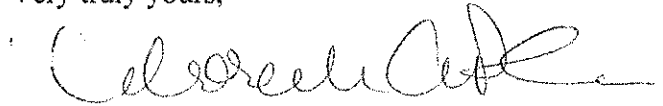
6. In addition, to any statutory service requirements, the Applicants agree to provide the Plaintiff with copies of all documents provided to JLUB and/or the Township in support of an application for amended site plan approval. Applicants will serve said documents upon Plaintiff's counsel **SIMULTANEOUSLY** with any submission to the JLUB and/or Township;

I work with Mr. Novak on a number of cases and speak with him on almost a daily basis. Mr. Novak did not mention to me receipt of any documents from R&M. Consequently, upon receiving your Notice, in an abundance of caution, I called Mr. Novak. He confirmed that he was not provided with a copy of any documents from R&M.

I anticipate that you will advise your client that they were to provide Mr. Novak and Creekview HOA with copies of the documents which were provided to the JLUB. I also anticipate that the hearing will be postponed in order that Creekview HOA can confer with Mr. Novak and determine if it is necessary to engage an engineer to review your documents and if it is necessary to retain Mr. Novak for legal services.

I note that your Notice has an error in it. The previously granted approval for the Applications for Preliminary and Final Major Subdivision were based on an easement which Diamantis and his lawyer Igor Sturm, Esq. claimed existed. I disputed that claim multiple times prior to the filing of the Action in Lieu of Prerogative Writs. The alleged easement was between lots 12 and 13 of Block 100.07 more commonly known as 7 and 9 Wharton Place. There is no Marlton Place in Creekview. Thank you.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Deborah A. Plaia', with a stylized flourish at the end.

Deborah A. Plaia, Esq.

Enclosure

cc: Alex DeAngelis, President, Creekview HOA
John J. Novak, Esq.
John Gillespie, Esq.
Hainesport Joint Land Use Board

NOTICE OF HEARING
HAINESPORT TOWNSHIP
JOINT LAND USE BOARD

In compliance with the Zoning Ordinance of Hainesport Township, Burlington County, New Jersey, and N.J.S.A. 40:55D-1 *et seq.*, notice is hereby given that a hearing will be held by the Hainesport Township Joint Land Use Board on the application of R&M Development, LLC seeking Amended Final Major Subdivision approval concerning development of 41 age restricted residential lots and one basin lot at a property located at 60 Bancroft Lane, and known as Block 100 Lot 8 and part of Lot 8.02 on the Official Tax Map of the Township of Hainesport.

The Board previously granted final major subdivision approval to allow the proposed development by way of Resolution 2021-14. The present application seeks to amend the Board's previous approval to permit installation of a pipe and outfall structure to convey stormwater from the previously approved basin on proposed new lot 12 of Block 100, across adjoining Lots 9 and 10 of Block 100 via an easement to be created for that purpose, and thence to the Rancocas Creek. The Board's previous approval contemplated conveyance of stormwater from the basin via an easement on adjoining Lots 12 and 13 of Block 100.07 to the stormwater piping in the Marlton Place cul de sac, and thence to a basin maintained by the Creekview Community Association. Under the amended plans, no stormwater will be directed from the proposed basin in the proposed new development toward any property within the Creekview development. The subject property lies in Hainesport's Senior Citizen Residential Zone District in which the proposed age restricted lots are permitted as of right. The applicant will request any waivers, design exceptions or variances the Board deems necessary for approval of the submitted plans.

Anyone affected by this application may have an opportunity to be heard at a meeting of the Hainesport Township Joint Land Use Board to be held on August 3, 2022 at 7:00 p.m., at the Hainesport Township Municipal Building, 1 Hainesport Centre, Hainesport, New Jersey 08036.

All documents relating to this application are on file and may be inspected by the public during normal business hours Monday through Friday, in the office of the Hainesport Township Municipal Building, 1 Hainesport Centre, Hainesport, New Jersey 08036.

R&M Development, LLC
By: David C. Frank, Attorney for Applicant

DEMBO, BROWN & BURNS LLP

By: Kyle F. Eingorn, Esquire

NJSC ID# 034382010

1300 Route 73, Suite 205

Mt. Laurel, New Jersey 08054

(856) 354-8866

keingorn@dbblegal.com

ATTORNEYS FOR DEFENDANTS, R&M DEVELOPMENT, LLC AND
DIAMANTIS CHILDREN'S TRUST

CREEKVIEW AND LAKESIDE AT
CREEKVIEW COMMUNITY
ASSOCIATION, INC.,

Plaintiff,

v.

HAINESPORT TOWNSHIP;
HAINESPORT TOWNSHIP JOINT
LAND USE BOARD; R&M
DEVELOPMENT, LLC; DIAMANTIS
CHILDREN'S TRUST; JOHN DOES 1-
10; JANE DOES 1-10; AND ABC CORPS.
1-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY
BURLINGTON COUNTY
LAW DIVISION

Docket No. BUR-L-1927-21

Civil Action

**STIPULATION OF SETTLEMENT
AND DISMISSAL**

THIS STIPULATION OF SETTLEMENT (the "Stipulation") is entered into by and between: Plaintiff, Creekview And Lakeside At Creekview Community Association, Inc.'s (the "Plaintiff") and Defendants, R&M Development, LLC ("R&M"), Diamantis Children's Trust ("Diamnatis" and with R&M, the "Applicants"), Hainesport Township (the "Township") and Hainesport Township Joint Land Use Board (the "JLUB" and with the Applicants, the Township and the Plaintiff, the "Parties"):

WHEREAS, Plaintiff brought this action seeking a determination that the Applicants did not have the right to use a "30' Wide Sanitary Sewer & Storm Sewer Easement" (the "Easement") shown on the Final Plan of Lots Section 3 Creekview, Township of Hainesport, Burlington County,

New Jersey, recorded May 18, 2001, Map Documents Number 3517424 to connect its proposed stormwater management, in the event of a 100-year storm, into the Plaintiff's stormwater sewer system, which runs into the Plaintiff's pond;

WHEREAS, the Plaintiff further brought this action challenge the determinations of the JLUB, as memorialized in Resolution No. 2021-14 (the "Resolution") as it relates to the Applicants' proposed use of the Easement for stormwater management in the event of a 100-year storm;

WHEREAS, the Parties have decided to resolve their differences and claims against each other which did exist or may have existed in the instant matter.

NOW THEREFORE, in consideration of the representations and covenants provided herein and for good and valuable consideration, the sufficiency which is hereby acknowledged, the parties agree as follows:

1. The matter in difference in the above-entitled action having been amicably adjusted between the Parties, it is hereby stipulated and agreed that the same be and it is hereby dismissed with prejudice and without costs against any parties pursuant to the terms that follow;

2. The Applicants, and its successors and assigns, acknowledge and agree that they will take no further action to use the Easement to connect its stormwater management systems to Plaintiff's Pond; however, Applicant, and its successors and assigns, shall have the right to use its previously constructed sanitary sewer connection, through the manhole, which exists on Applicants' Property. Plaintiff does not acknowledge that there was or is a stormwater easement on its Property;

3. Other than the issues related to the discharge of stormwater onto Plaintiff's Property, all of the approvals and waivers granted by the JLUB to the Applicants in the Resolution remain in full force and effect, subject to any conditions contained therein;

4. The Applicants agree to re-engineer the stormwater discharge plans to address a storm event exceeding the 100-year storm, via an easement to be negotiated between the Applicants and the Township and/or to be retained on the Applicants' Property, subject to the review of all designs and engineering by the Township and JLUB professionals and subject to any generally applicable bonding and maintenance obligations;

5. Applicants shall appear before the JLUB, to obtain amended site plan and appurtenant approvals, as it relates to the stormwater discharge arising from a weather event exceeding the 100-year storm, subject to this Order via a hearing pursuant to Whispering Woods v. Middletown Tp., 220 N.J.Super. 161 (Law Div. 1987);

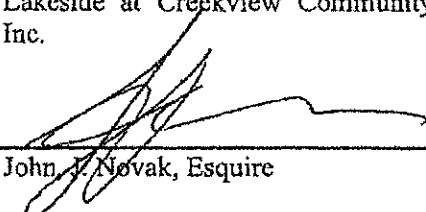
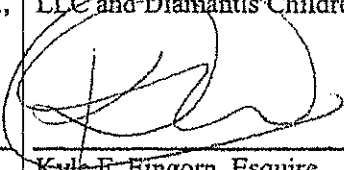
6. In addition, to any statutory service requirements, the Applicants agree to provide the Plaintiff with copies of all documents provided to the JLUB and/or the Township in support of an application for amended site plan approval. Applicants will serve said documents upon Plaintiff's counsel simultaneously with any submission to the JLUB and/or Township; and

7. The Parties shall be deemed to have cooperated in the drafting and preparation of this Stipulation. Hence, any construction to be made of this Stipulation shall not be construed against any Party. This Stipulation may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Stipulation constitute an original signature.

8. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such with respect to its decision to enter into this Stipulation.

9. The Parties herein intending to be legally bound hereby agree to the terms and conditions set forth in this Stipulation of Settlement, as of the date last written below.

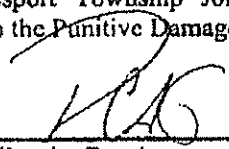
10. The filing of this Stipulation with the Superior Court of New Jersey shall conclude this action and all claims raised thereby and shall close the matter to the Court.

LAW OFFICES OF JOHN J. NOVAK, P.C. Counsel for the Plaintiff, Creekview and Lakeside at Creekview Community Assoc., Inc. 	DEMBO, BROWN & BURNS LLP Counsel for Defendants, R&M Development, LLC and Diamantis Children's Trust 
John J. Novak, Esquire	Kyle F. Eingorn, Esquire
PARKER McCAY, P.A. Counsel for Defendants, Hainesport Township and Hainesport Township Joint Land Use Board as to the Punitive Damages Claim	MADDEN & MADDEN, PA Counsel for Defendants, Hainesport Township and Hainesport Township Joint Land Use Board
John C. Gillespie, Esquire	Matthew P. Madden, Esquire

8. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such with respect to its decision to enter into this Stipulation.

9. The Parties herein intending to be legally bound hereby agree to the terms and conditions set forth in this Stipulation of Settlement, as of the date last written below.

10. The filing of this Stipulation with the Superior Court of New Jersey shall conclude this action and all claims raised thereby and shall close the matter to the Court.

LAW OFFICES OF JOHN J. NOVAK, P.C. Counsel for the Plaintiff, Creekview and Lakeside at Creekview Community Assoc., Inc.	DEMBO, BROWN & BURNS LLP Counsel for Defendants, R&M Development, LLC and Diamantis Children's Trust
John, J. Novak, Esquire	Kyle F. Eingorn, Esquire
PARKER McCAY, P.A. Counsel for Defendants, Hainesport Township and Hainesport Township Joint Land Use Board as to the Punitive Damages Claim 	MADDEN & MADDEN, PA Counsel for Defendants, Hainesport Township and Hainesport Township Joint Land Use Board  3/4/2022
John C. Gillespie, Esquire	Matthew P. Madden, Esquire

Deborah A. Plaia, Esq.

ATTORNEY-AT-LAW

50 BANCROFT LANE
HAINESPORT, NJ 08036

609.206.1861 (TEL)
EMAIL: daplaia@yahoo.com

July 26, 2022

David C. Frank, Esq.
Attorney At Law
126 Gilbert Road
Bordentown, NJ 08505

Re: R&M Development, Notice of Hearing

Subject: Clean Water Act

Dear Mr. Frank:

I am a resident of the Creekview development and a member of the Homeowner's Association. This letter supplements my letter of July 25, 2022 and is intended to bring to your attention the Clean Water Act.

After drafting my letter of July 25, 2022, I thought about a case in which I, along with Mr. Novak, are presently involved wherein Shark River Cleanup Coalition is suing the Township of Wall and the property owner under the CWA. In your Notice of Hearing, you stated that the new design calls for the installation of a pipe and outfall structure conveying stormwater from the previously approved basin ultimately to the Rancocas Creek. Under the Clean Water Act, your client is required to have permits and meet certain design criteria. Should your client fail to obtain the proper permits and meet the design criteria, your client, along with the Township of Hainesport can be sued under the Clean Water Act. Any private citizen may sue. Anyone pursuing such litigation is entitled to recover attorneys' fees.

FYI: Congress enacted the CWA [Clean Water Act] to 'restore and maintain the chemical physical and biological integrity of the Nation's waters.' 33 U.S.C. § 1251(a). Towards that end, the CDWA prohibits the discharge of any pollutant, including dredged or fill material, by any person into navigable waters unless authorized by an appropriate permit. Altamaha Riverkeeper, Inc. v. U.S. Army Corps of Engineers, 309 F. App'x 355, 356 (11th Cir. 2009) (citing 33 U.S.C. § 1311(a)). Pursuant to section 402 of the CWA (TWA § 402'), parties that discharge pollutants to navigable waters must obtain a permit under the National Pollutant Discharge Elimination System (NPDES) program, which imposes effluent limitations and other water quality standards, from either the Environmental Protection Agency (EPA) or an EPA-approved state permit program. 33 U.S.C. § 1342. Black Warrior River-Keeper, Inc. v.

Drummond Co., 387 F.Supp. 3d 1271, 1278 (N.D. Ala. 2019). The CWA authorizes citizen enforcement actions against any person "alleged to be in violation" of an effluent limitation or standard under the CWA or an administrative order by the EPA or a state. 33 U.S.C. § 1365(a)(1). The Act requires plaintiffs to give notice of the alleged violations at least sixty (60) days prior to commencing a citizen suit. Id. § 1366(b)(1). Courts may award civil penalties and grant equitable relief. Id. §§ 1365(a), 1319(d). To establish a CWA violation, plaintiffs must show that there was a discharge of a pollutant into waters of the United States from a point source without a NPDES permit. State of Ga. V. City of East Ridge, 949 F.Supp. 1571 (N.D. Ga. 1996); Parker v. Scrap Metal Processors, Inc., 386 F.3d 993, 1014 (11th Cir. 2004).

If your client does not have the proper permits and design criteria, your client is exposing itself and the Township of Hainesport to a lawsuit. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Deborah A. Plaia', with a stylized flourish at the end.

Deborah A. Plaia, Esq.

cc: John Gillespie, Esq.
Hainesport Joint Land Use Board



Memorandum

Date: April 19, 2024
To: John C. Gillespie, Esq.
From: Robert G. Lamilla, Esq.
Re: Hainesport Township- Clean Water Act Letter

Background

The Township received a letter on July 26, 2022 from Deborah A. Plaia, Esq., a resident of Hainesport Township (the “Township”) in the Creekview development. The underlying subject of the letter is the development of houses in the Township and the developer’s plan to obtain an easement through land owned by the Township for the installation of a stormwater pipe, which will ultimately discharge into the Rancocas Creek. The Township has conditionally approved this plan to deal with the stormwater, provided that the developer obtain all relevant permits.

The letter intimated that the Township may be sued under the Clean Water Act (“CWA”), 33 U.S.C. §1251, et seq., if a discharge occurs from the outfall pipe and into the Rancocas Creek.

Question Presented

Does the developer’s plan to run a stormwater pipe through an easement on Township property expose the Township to liability under the CWA?

Discussion

The CWA in New Jersey is administered by the New Jersey Department of Environmental Protection under the Water Pollution Control Act (“WPCA”) N.J.S.A 58:10A-1, et seq. Under the WPCA, persons are prohibited from discharging any pollutant into the waters of the State without a valid New Jersey Pollutant Discharge Elimination System (“NJPDES”) permit.

The letter is correct in noting that without a proper permit, the “discharger” can face liability under the CWA and WPCA through an enforcement suit by the DEP or EPA as well as through citizen suits brought pursuant to 33 U.S.C. § 1365(a)(1). However, in this case, the Township is not a discharger, as the Township is merely allowing a stormwater outfall pipe to be installed within an easement and the approval of said pipe is conditioned upon the developer obtaining the proper permits from the DEP. The Township is not planning on taking ownership of the stormwater pipe nor is the Township planning to discharge into the pipe. Therefore, the Township will not incur liability as a “discharger” since the Township will only have a properly permitted pipe passing

COUNSEL WHEN IT MATTERS.™

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through its property. By itself, having a pipe running through one's property does not give rise to liability under the CWA or WPCA.

For reference, liability under the CWA requires the establishment of following four elements:

1. the defendant is a "person" under the CWA;
2. the defendant is adding pollutants to the waters of the United States or State;
3. those pollutants are being released from a "point source" such as an outfall pipe; and
4. the defendant either does not have a permit for the discharge of pollutants from the point source, or the defendant does have a permit, but is violating the permit.

See 33 U.S.C. §§ 1311, 1342, 1362.

Additionally, the Township should already have a NJPDES MS4 permit as a Tier A municipality. The MS4 permit authorizes the discharge of stormwater from small municipal separate storm sewer systems.

Based on the circumstances present here, the Township does not appear to have liability under the CWA by virtue of a stormwater pipe passing through an easement on Township property.

4869-1951-4412, v. 1

DAVID C. FRANK

ATTORNEY AT LAW

(609)267-2494

david@njlandlawyer.com

MAIL:
126 GILBERT ROAD
BORDENTOWN
NEW JERSEY 08505

OFFICE:
126 GILBERT ROAD
JACKSONVILLE
NEW JERSEY 08505

July 28, 2022

Ms. Paula Tiver, Secretary
Hainesport Township Joint Land Use Board
Township Municipal Building
1 Hainesport Centre
Hainesport, New Jersey 08036

Via: Email

Re: ***R&M Development, LLC***
Block 100 Lot 8 and part of Lot 8.02
Application for Amended Final Major Subdivision
Request for Hearing Adjournment

Dear Ms. Tiver,

As you know, I represent R&M Development, LLC, which has pending before your Board an application for Amended Final Major Subdivision approval. We are docketed to be heard at your August 3, 2022 regular meeting, and have mailed and published notices for a hearing on that date. I have sent proofs of mailing to you and will send proofs of publication as soon as I receive them from the Burlington County Times.

The Final Major Subdivision approval for which we seek an amendment was memorialized by the Board's Resolution 2021-14. My client's current application addresses concerns of the adjoining Creekview Homeowners' Association that were litigated under Docket No. BUR-1927-21. The Creekview HOA's claims in that case were settled by way of a Stipulation of Settlement and Dismissal filed with the Court on March 9, 2022.

That Stipulation required that my client serve upon the HOA's counsel, simultaneously with any submission to the JLUB and/or Township, copies of all documents provided to the JLUB and/or the Township in support of an application for amended site plan approval.

Through an oversight, we did not serve Plaintiff's counsel with copies of our application documents until yesterday. My client desires that the Creekview HOA have sufficient time to satisfy itself that the proposed plan amendments satisfy the terms of the parties' settlement.

R&M
Hainesport LDB
July 28, 2022
Hearing Adjournment Request

Accordingly, we respectfully request that the Board take jurisdiction of our application at the Board's August 3, 2022 meeting solely for the purpose of adjourning the public hearing on the application to the time and date certain of the Board's September regular meeting, and without further mailed and published notices. My client consents to an extension of time for decision by the Board consistent with this requested hearing adjournment.

Thank you for your assistance.

Very Truly Yours,

A handwritten signature in black ink that reads "David C. Frank". The signature is written in a cursive, slightly slanted style.

David C. Frank, Esq.

cc via email only:

Client
Robert Kingsbury, Esquire
John Gillespie, Esquire
John J. Novak, Esquire
Paula Kosko
Jack Gravlin, PE

Paula Tiver

From: John C. Gillespie <jgillespie@parkermccay.com>
Sent: Thursday, September 16, 2021 1:17 PM
To: Paula Tiver
Cc: Paula Kosko; Joan T. Horner
Subject: FW: Creekview and Lakeside at Creekview Community Association, Inc. Lawsuit
Attachments: Summons Lakeside Creekside HOA Rcd Sept 15 2021.pdf

Hi Paula. Could you do me a favor? Could you please make copies of the following docs, and I can pick them up, or you can scan and email to me? I need: Resolution adopted on June 22, 2020; Res 2020-10, adopted 8/5/20; copy of the easement referred to in par. 8, p.3 of Res.2021-14; the TDG and Alaimo review letters referred to in para. 5 and 6 of the same Res. Also, did the attorney, or anyone else, ask for the recording of either or all of the following hearings: 12/4/19; 6/22/20; 7/1/21? Thanks.

John C. Gillespie, Esquire
Of Counsel
Municipal, Government and Redevelopment

PARKER McCAY P.A.

O: 856-985-4083
jgillespie@parkermccay.com

From: Paula Kosko <pkosko@hainestownship.com>
Sent: Thursday, September 16, 2021 11:58 AM
To: John C. Gillespie <jgillespie@parkermccay.com>
Cc: Joan T. Horner <jhorner@parkermccay.com>
Subject: Creekview and Lakeside at Creekview Community Association, Inc. Lawsuit

***** External Email – This email has come from outside of Parker McCay. Think before you click on links, open attachments, or reply! *****

Good Morning,

Please find attached the Summons filed in Superior Court by John J Novak on behalf of Creekview and Lakeside at Creekview Community Association, Inc. We received it yesterday, September 15.

Thanks,

Paula Kosko, MPA/RMC
Administrator/Municipal Clerk
Hainesport Township
1401 Marne Highway
PO Box 477
Hainesport NJ 08036
(609) 267-7114 - Phone
(609) 261-4762 - Fax

John J. Novak
THE LAW OFFICES OF
JOHN J. NOVAK, P.C.
Attorney ID#: 018721989
The Hooper-Franklin Bldg.
3 Franklin Avenue
Toms River, NJ 08753
E-mail: rose.jjn.pc@comcast.net
Tel: 732-505-4321
Attorney for Plaintiff: Creekview and Lakeside at Creekview Community Association, Inc.

CREEKVIEW AND LAKESIDE AT CREEKVIEW COMMUNITY ASSOCIATION, INC.	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff	:	LAW DIVISION BURLINGTON COUNTY
v.	:	DOCKET NO.: BUR-L-1927-21
HAINESPORT TOWNSHIP, HAINESPORT TOWNSHIP JOINT LAND USE BOARD, R&M DEVELOPMENT, LLC, DIAMANTIS CHILDREN'S TRUST, JOHN DOES 1-10, JANE DOES 1-10 AND ABC CORPS. 1-10	:	SUMMONS
Defendants	:	

From the State of New Jersey
To the Defendant(s) Named Above: Hainesport Township

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of services with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not

protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

MICHELLE M. SMITH, ESQ.
Clerk of the Superior Court

Dated: September 14, 2021

Name of Defendant to be Served: Hainesport Township

Address of Defendant to be Served: One Hainesport Centre
Hainesport, NJ 08036

**DIRECTORY OF SUPERIOR COURT DEPUTY CLERK'S OFFICES
COUNTY LAWYER REFERRAL AND LEGAL SERVICES OFFICES**

ATLANTIC COUNTY Deputy Clerk of the Superior Court Civil Division, Direct Filing 1201 Bacharach Blvd., First Floor Atlantic City, NJ 08401 Lawyer Referral Legal Services 609-345-3444 609-348-4200	GLOUCESTER COUNTY Deputy Clerk of the Superior Court Civil Case Management Office Attn: Intake First Fl, Court House 1 North Broad Street Woodbury, NJ 08096 Lawyer Referral Legal Services 609-848-4589 609-848-5360	OCEAN COUNTY Deputy Clerk of the Superior Court 118 Washington Street Toms River, NJ 08754 Lawyer Referral 732-240-3666 Legal Services 732-341-2727
BERGEN COUNTY Deputy Clerk of the Superior Court Civil Division, Room 115 Justice Center, 10 Main Street Hackensack, NJ 07601-7698 Lawyer Referral Legal Services 201-488-0044 201-487-2166	HUDSON COUNTY Deputy Clerk of the Superior Court Civil Records Dept. Brennan Court House, 1 st Floor 583 Newark Avenue Jersey City, NJ 07306 Lawyer Referral Legal Services 201-798-2727 201-798-6353	PASSAIC COUNTY Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton Street Paterson, NJ 07505 Lawyer Referral Legal Services 973-278-9223 973-523-2900
BURLINGTON COUNTY Deputy Clerk of the Superior Court Central Processing Office Attn: Judicial Intake First Fl, Courts Facility 49 Rancocas Road Mount Holly, NJ 08060 Lawyer Referral Legal Services 609-261-4862 800-496-4570	HUNTERDON COUNTY Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08822 Lawyer Referral Legal Services 609-735-2611 609-782-7979	SALEM COUNTY Deputy Clerk of the Superior Court 92 Market Street POB 18 Salem, NJ 08079 Lawyer Referral Legal Services 856-678-8363 856-451-0003
CAMDEN COUNTY Deputy Clerk of the Superior Court Civil Processing Office Hall of Justice 1 st Floor, Suite 150 101 S. Fifth Street Camden, NJ 08103-4001 Lawyer Referral Legal Services 609-964-4520 856-964-2010	MERCER COUNTY Deputy Clerk of the Superior Court Local Filing Office Courthouse 175 S. Broad Street POB 8068 Trenton, NJ 08650 Lawyer Referral Legal Services 609-585-6200 609-695-6249	SOMERSET COUNTY Deputy Clerk of the Superior Court Civil Division Office New Court House, 3 rd Fl PO Box 3000 40 North Bridge Street Somerville, NJ 08876 Lawyer Referral Legal Services 908-685-2323 908-231-0840
CAPE MAY COUNTY Deputy Clerk of the Superior Court Central Processing Office 9 N. Main Street Box DN-209 Cape May Court House Cape May, NJ 08210 Lawyer Referral Legal Services 609-463-0313 609-465-3001	MIDDLESEX COUNTY Deputy Clerk of the Superior Court Middlesex Vicinage Second Floor - Tower 56 Paterson Street, PO Box 2633 New Brunswick, NJ 08903 Lawyer Referral Legal Services 732-828-0053 732-249-7600	SUSSEX COUNTY Deputy Clerk of the Superior Court 43-47 High Street Newton NJ 07860 Lawyer Referral 973-267-5882 Legal Services 973-383-7400
CUMBERLAND COUNTY Deputy Clerk of the Superior Court Civil Case Management Office Broad & Fayette Street PO Box 10 Bridgeton, NJ 08302 Lawyer Referral Legal Services 856-692-6207 856-451-0003	MONMOUTH COUNTY Deputy Clerk of the Superior Court 71 Monument Park PO Box 1269 Court House, West Wing Freehold, NJ 07728 Lawyer Referral Legal Services 732-431-5544 732-866-0020	UNION COUNTY Deputy Clerk of the Superior Court 1 st PL Court House 2 Broad Street Elizabeth NJ 07207-6073 Lawyer Referral Legal Services 908-353-4715 908-354-4340
ESSEX COUNTY Deputy Clerk of the Superior Court Civil Customer Service Hall of Records, Room 201 465 Dr. Martin Luther King, Jr. Blvd. Newark, NJ 07102 Lawyer Referral Legal Services 973-622-6207 973-624-4500	MORRIS COUNTY Deputy Clerk of the Superior Court Civil Division Washington and Court Streets PO Box 910 Morristown, NJ 07930-0910 Lawyer Referral Legal Services 973-267-5882 973-973-6911	WARREN COUNTY Deputy Clerk of the Superior Court Civil Division Office Court House 415 Second Street Belvidere, NJ 07823-150 Lawyer Referral Legal Services 973-267-5882 908-475-2010

BURLINGTON COUNTY
SUPERIOR COURT
49 RANCOCAS ROAD
MT HOLLY NJ 08060

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (609) 288-9500
COURT HOURS 8:30 AM - 4:30 PM

DATE: SEPTEMBER 09, 2021
RE: CREEKVIEW COMMUNITY ASSOCIATI VS HAINESPORT TOW
DOCKET: BUR L -001927 21

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4.

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE
JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST
DEFENDANT, WHICHEVER COMES FIRST.
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON JEANNE T. COVERT

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (609) 288-9500.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: JOHN J. NOVAK
JOHN J. NOVAK, PC
THE HOOPER-FRANKLIN BUILDING
3 FRANKLIN AVE.
TOMS RIVER NJ 08753

ECOURTS

Civil Case Information Statement

Case Details: BURLINGTON Civil Part Docket# L-001927-21

Case Caption: CREEKVIEW COMMUNITY ASSOCIATI VS
HAINESPORT TOW

Case Initiation Date: 09/09/2021

Attorney Name: JOHN J NOVAK

Firm Name: JOHN J. NOVAK, PC

Address: THE HOOPER-FRANKLIN BUILDING 3
FRANKLIN AVE.

TOMS RIVER NJ 08753

Phone: 7325054321

Name of Party: PLAINTIFF : Creekview Community
Associatio

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Are sexual abuse claims alleged by: Creekview Community
Associatio? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Plaintiff's Complaint includes counts for Civil Rights violations, Trespass and Creation of a Nuisance

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the
court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)

09/09/2021

Dated

/s/ JOHN J NOVAK

Signed

John J. Novak
THE LAW OFFICES OF
JOHN J. NOVAK, P.C.
Attorney ID#: 018721989
The Hooper-Franklin Bldg.
3 Franklin Avenue
Toms River, NJ 08753
E-mail: rose.jjn.pc@comcast.net
Tel: 732-505-4321

Attorney for Plaintiff: Creekview and Lakeside at Creekview Community Association, Inc.

CREEKVIEW AND LAKESIDE AT
CREEKVIEW COMMUNITY
ASSOCIATION, INC.

Plaintiff

v.

HAINESPORT TOWNSHIP,
HAINESPORT TOWNSHIP JOINT LAND
USE BOARD, R&M DEVELOPMENT, LLC,
DIAMANTIS CHILDREN'S TRUST, JOHN
DOES 1-10, JANE DOES 1-10 AND ABC
CORPS. 1-10

Defendants

: SUPERIOR COURT OF
NEW JERSEY

: LAW DIVISION
BURLINGTON COUNTY

: DOCKET NO.: BUR-L-1927-21

: CIVIL ACTION
Including
ACTION IN LIEU OF
PREROGATIVE WRIT

Plaintiff, Creekview and Lakeside at Creekview Community Association, Inc.,
(hereinafter, "Creekview") by way of Complaint against the Defendants, Hainesport Township,
Hainesport Township Joint Land Use Board, R&M Development, LLC, Diamantis Children's
Trust, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10, say as follows:

PARTIES

1. Plaintiff, Creekview and Lakeside at Creekview Community Association, Inc.
(hereinafter, "Creekview") is a non-profit corporation formed under the laws of New Jersey and
the Homeowner's Association for a community of single-family homes and townhouses located
in the town of Hainesport, County of Burlington, State of New Jersey.

2. Defendant, Hainesport Township (hereinafter, "Hainesport"), is a duly constituted municipality in the County of Burlington, State of New Jersey with an address of: One Hainesport Centre, Hainesport, NJ 08036.

3. Defendant, Hainesport Township Joint Land Use Board (hereinafter, "JLUB"), is the duly constituted land use board of the Township of Hainesport with an address of: One Hainesport Centre, Hainesport, NJ 08036.

4. Defendant R&M Development, LLC (hereinafter, "R&M") is a Pennsylvania business with a business address of 322 Wyndmoor Lane, Huntington Valley, PA 19006 and is authorized to conduct business in the State of New Jersey. Upon information and belief, R&M's registered agent is Marie Holcombe who resides at 725 Wyngate Road, in the Town of Somerdale, County of Camden, State of New Jersey. Upon information and belief, Marie Holcombe is also a member of R&M Development, LLC.

5. Defendant Diamantis Children's Trust, (hereinafter, "Diamantis"), is a New Jersey resident with a permanent address of 309 Longshore Drive, in the town of Cherry Hill, County of Camden, State of New Jersey.

6. Defendant Diamantis Children's Trust is the owner of property located at Block 100, Lots. 8.02 and 8.03 on the Hainesport Township Tax map. Said property is an 11.30 acre tract identified as 60 Bancroft Lane for which R&M was seeking Preliminary and Final Subdivision approval.

7. John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 are fictional names of public employees, design professionals, landowners, applicants for subdivision approval, and developers whose identities are presently unknown, but who may have liability to the plaintiff.

8. In or about 2019, defendant R&M Development filed its application for

Preliminary Major Subdivision approval for the project known as Diamantis Senior Citizen Subdivision aka Longbridge Estates. The proposed development includes the construction of a stormwater retention pond.

9. In or about 2019, Defendant submitted site plans and a stormwater management plan with the application for Preliminary Major Subdivision approval. The stormwater management plan was amended in January 2021. The design of the stormwater retention pond includes a stormwater emergency spillway, as identified in defendant's drawings and by defendant's engineer, which orients stormwater from the proposed development towards property not owned by defendants. Said emergency spillway would result in stormwater overflow being discharged onto neighboring properties, including Creekview's pond.

10. The design of the stormwater retention pond includes the installation of a stormwater pipe on privately owned properties located at 7 Wharton Place and 9 Wharton Place. Said properties are part of the Creekview development. Any overflow of stormwater runoff would flow from defendants' retention pond onto the stormwater pipe located on 7 and 9 Wharton Place and would thereafter discharge into Creekview's pond which is privately owned.

11. Defendants do not have any agreement with plaintiff permitting defendant to discharge any overflow onto plaintiff's property. Defendants do not have any agreement with the owners of the properties located at 7 and 9 Wharton Place whereby those landowners have agreed to own or operate the pipe defendants intend to place on their property. Defendants have not obtained an easement deeded to Hainesport Township for the pipe they intend to lay at 7 and 9 Wharton Place. Accordingly, defendants are in violation of the Residential Site Improvement Standards (RSIS) which states, in pertinent part:

N.J.A.C. 5:21-7.3(j)

No pipe shall be placed on private property unless the owner of the land is to own or operate the pipe, or an easement deeded to the municipality is obtained.

12. The Creekview pond is privately owned property on which there are wetlands.
13. 7 Wharton Place and 9 Wharton Place are also private properties located within the Creekview development and not on defendants' property.
14. Creekview's pond is a retention pond which was designed for the beneficial use of the Creekview development. The residents of Creekview pay a yearly homeowner's association fee. A significant portion of Creekview's homeowner's association fees is dedicated to the maintenance of Creekview's retention pond.
15. Any homeowner's association formed by defendants would not contribute towards the maintenance of Creekview's retention pond although defendant's proposed retention pond is designed to overflow into Creekview's pond in an emergency.
16. Defendants Hainesport and the JLUB are aware that Creekview's pond is private property on which there are wetlands as defendants passed a Resolution in 1998 which addressed Creekview's pond and the wetlands.
17. Resolution 1998-12 (hereinafter, the "Resolution"), was adopted by the Hainesport Planning Board on March 4, 1998. Said Resolution related to the application for Preliminary Major Subdivision Approval granted to Quaker NJ Construction, Inc. Quaker NJ Construction, Inc. was the developer of plaintiff's development which came to be known as Creekview.
18. The Terms and Conditions of the Resolution included, *inter alla*, the following:
 - F. Since some lots will be impacted by either wetlands or wetlands buffers,

the Applicant shall be required to provide reasonable and meaningful disclosure to future purchasers of impacted lots by way of disclosure at the time of sale as well as placing a deed restriction in deeds for those lots so affected.

- I. All open space, including the lake, shall be owned and maintained by the Home Owners Association (HOA) to be formed by the applicant/developer. The township will only accept for dedication the internal streets and roadways of the project.

19. The initial public hearing on the proposed subdivision was conducted on December 4, 2019. At that time, objections were raised to the use of the properties located at 7 and 9 Wharton Place in the absence of an easement. Objections were raised over maintenance of the pipes to be laid at 7 and 9 Wharton Place. Objections were also raised to the use of the Creekview pond in the absence of an easement. Objections were raised on the basis that lots by the Creekview pond are subject to flooding.

20. In response, defendants R&M Development, Diamantis Children's Trust and representatives acting on their behalf represented that they had a stormwater easement for the properties known as 7 Wharton Place and 9 Wharton Place. The RSIS requires that defendants obtain an agreement from the owners of 7 and 9 Wharton Place whereby the landowners agree to own or operate the pipe or defendants can obtain an easement deeded to the municipality. Defendants have no such agreement with the owners of 7 and 9 Wharton Place and have not obtained an easement deeded to Hainesport Township. Accordingly, defendants are not in compliance with the RSIS and by giving approval to defendants' application for major subdivision, Hainesport and the JLUB deviated from the RSIS. Said action was arbitrary, capricious and unreasonable.

21. Defendants did not refute the assertion that they do not have an easement to discharge water into the Creekview pond. The RSIS prohibits defendants from locating

detention facilities, wet or dry, so as to adversely affect adjacent property. Defendants' retention pond includes an emergency spillway oriented towards Creekview which would result in stormwater discharge being directed into Creekview's pond in violation of the RSIS. The location of an emergency spillway which directs stormwater onto neighboring properties is a violation of the RSIS. Defendants Hainesport and the JLUB deviated from the RSIS by granting approval of an application for subdivision which does not comply with the RSIS. This grant of approval was arbitrary, capricious and unreasonable.

22. No decision was made as to the application for Preliminary Major Subdivision approval on December 4, 2019, and the matter was continued.

23. On June 22, 2020, defendants again appeared before the JLUB to continue their application for preliminary subdivision approval. Objections were again raised with respect to the easement on 7 Wharton Place and 9 Wharton Place. Objections were also made to the use of the Creekview pond in the absence of an easement and on the basis that the area is subject to flooding. Defendants were also informed that there are wetlands on the Creekview property.

24. Preliminary Subdivision approval was granted on June 22, 2020.

25. In or about June 2020, resident Sandra Saouaf, submitted to the JLUB secretary information and a report she had obtained from the Division of Fish and Wildlife relative to threatened and endangered species.

26. In or about April 2021, Ms. Saouaf learned that the information and report she gave to the JLUB secretary was not contained within the file for the application for R&M Development. Upon information and belief, Ms. Saouaf was informed that the JLUB secretary was instructed by the then Mayor and Solicitor to not place the information and report in the applicant's file. When Ms. Saouaf discovered that her information and report were not contained

therein, she raised questions as to the missing documents. Thereafter, in or about June 2021, the current Mayor instructed that the information and report be placed in the applicant's file.

27. On or about June 28, 2021, defendants R&M and Diamantis submitted an environmental expert's report addressing Ms. Saouaf's allegations as to the presence of threatened and endangered species on the Diamantis property—less than 72 hours before the next public hearing.

28. The R&M and Diamantis expert's report was not made available for public inspection at least 10 days prior to being considered by defendant JLUB as required by the Open Public Meetings Act, N.J.S.A. 40:55D-10b.

29. On July 1, 2021, defendants appeared before the JLUB for Final Major Subdivision approval.

30. The JLUB heard testimony from the engineer for defendant R&M Development and Diamantis Children's Trust who stated that the stormwater management system was designed for a 100-year storm. However, he acknowledged defendant's intentions to install a stormwater pipe on 7 and 9 Wharton Place which he asserted would be used for stormwater overflow in the event of a storm greater than a 100-year storm. Any stormwater overflow would thereafter be discharged into Creekview's pond.

31. The JLUB also heard testimony from defendants' environmental expert who testified as to threatened and endangered species. Defendants' environmental expert claimed, *inter alia*, that there were no bog turtles on defendants' property as there are no wetlands on plaintiff's property. This was with less than 10 days and, in fact, less than 72 hours for the public to review the expert's report.

32. At that time, objections were raised to granting Final approval due to environmental concerns and the submission of an environmental expert's report which was not made available for public inspection 10 days before the meeting. Objections were also raised on the basis that there are wetlands on Creekview's property which is adjacent to defendants' property.

33. Objections were again raised on the basis that defendants did not have an easement to discharge stormwater into Creekview's pond.

34. Defendant JLUB again ignored those objections which decision was arbitrary capricious and unreasonable. Defendant JLUB also claimed to have no knowledge of the presence of wetlands despite the fact that the language of the 1998 Resolution adopted by the Hainesport Planning Board acknowledged the presence of wetlands on Creekview's property. Not only was the language of the 1998 Resolution read into the record on June 22, 2020, but 2 current JLUB members, Thomas McKay and Leticia Kelley, were members of the Board in 1998.

35. Final Subdivision approval was granted on July 1, 2021. Resolution 2021-14 was adopted on August 4, 2021, granting Final Major Subdivision Approval and is attached hereto as Exhibit "A."

36. The Residential Site Improvement Standards govern the design and maintenance of stormwater management systems provided for major developments. N.J.A.C. 5:21-7.1 et seq.

37. N.J.A.C. 5:21-7.3(j) prohibits the installation of a stormwater pipe on private property without an agreement with the owner of the property agreeing to own or operate the pipe or an easement deeded to the municipality and states, in pertinent part:

- (j) No pipe shall be placed on private property unless the owner of the land is to own or operate the pipe, or an easement deeded to the municipality is

obtained.

38. N.J.A.C. 5:21-7.8 prohibits locating a stormwater management system where it will interfere with or adversely affect surface waters adjacent to the site and states, in part:

- (b) Design engineers shall locate detention facilities (either "wet" or "dry") so as to not interfere with or adversely affect existing surface waters on the site or adjacent to the site.

39. The Residential Site Improvement Standards also require that a stormwater management system comply with the DEP Stormwater Management Rules N.J.A.C. 7:8-5 and 6.

The system does not comply with the RSIS.

40. N.J.A.C. 7:8-5.2(i) states:

(i) Design standards for stormwater management measures are as follows:

- 1. Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, 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).

41. In the absence of an agreement with the owners of the properties located at 7 and 9 Wharton Place to own or operate the pipe and in the absence of an easement deeded to the municipality, defendants do not have a valid easement between 7 and 9 Wharton Place and no right to install a stormwater pipe between 7 and 9 Wharton Place.

42. In the absence of an easement or an agreement with plaintiff, defendants do not have the right to use Creekview's privately owned pond for stormwater discharge.

43. Defendants' stormwater management system also fails to consider the presence of wetlands in and around plaintiff's pond and the impact any stormwater overflow from defendants' stormwater would have on the lots in and around Creekview's pond which are already subject to flooding.

FIRST COUNT

(Adoption of Resolution 2021-14 was Arbitrary, Capricious, Unreasonable and Without Adequate Basis in Law or Fact)

44. Plaintiff incorporates by reference all of the allegations of the preceding paragraph as if alleged more fully at length herein.
45. The adoption of Resolution 2021-14 was arbitrary, capricious, unreasonable and without adequate factual or legal basis where:
- a. Defendants have not obtained an agreement from the owners of 7 and 9 Wharton Place to own or operate the stormwater pipe and have not obtained an easement deeded to the municipality as required by N.J.A.C. 5:21-7.3(j) which prohibits the installation of a stormwater pipe on private property without an agreement with the owner of the property agreeing to own or operate the pipe or an easement deeded to the municipality and states, in pertinent part:
 - (j) No pipe shall be placed on private property unless the owner of the land is to own or operate the pipe, or an easement deeded to the municipality is obtained.
 - b. Defendants R&M and Diamantis do not have an easement or agreement to discharge emergency overflow from the proposed retention pond into the Creekview's pond. Orienting the emergency spillway and overflow from defendants' pond onto plaintiff's pond could interfere with or adversely affect Creekview's retention pond in violation of N.J.A.C. 5:21-7.8 which prohibits locating a stormwater management system where it will interfere with or adversely affect surface waters adjacent to the site and states, in part:
 - (b) Design engineers shall locate detention facilities (either "wet" or "dry") so as to not interfere with or adversely affect existing surface waters on the site or adjacent to the site.
 - c. Defendants R&M and Diamantis failed to consider the wetlands located in and around Creekview's pond and that the lots located in and around the pond are subject to flooding in violation of N.J.A.C. 7:8-5.2(i) which states:
 - (i) Design standards for stormwater management measures are as follows:
 - 1. Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to,

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).

46. On December 4, 2019, June 22, 2020, and July 1, 2021 objections were made to;

- a. the placement of a stormwater pipe on the properties located at 7 and 9 Wharton Place in the absence of a valid easement;
- b. the use of Creekview's pond for stormwater overflow in the absence of an easement.
- c. the use of Creekview's pond for stormwater overflow where the lots are subject to flooding.
- d. the owners of the properties located at 7 and 9 Wharton Place objected to maintaining the stormwater pipe.

47. The JLUB's adoption of Resolution 2021-14 was also arbitrary, capricious and unreasonable where the public was denied the opportunity to inspect and rebut an environmental expert's report submitted by defendants, which submission did not comport with the Open Public Meeting Act, N.J.S.A. 40:55D-10B.

48. N.J.S.A. 40:55D-10b requires that documents be made available for public inspection at least 10 days before the date of the hearing.

49. On or about June 28, 2021, defendants R&M Development, LLC and Diamantis Children's Trust submitted an environmental expert's report which was intended to address allegations of resident Sandra Saouaf that there existed endangered species on defendants' property.

50. Defendants JLUB meeting was conducted on July 1, 2021.

51. The public did not have the statutory opportunity to inspect defendants' experts' report and, in fact, was unaware of the report until the July 1, 2021 JLUB meeting. If the public

had the opportunity to inspect the report, they could have consulted with their own environmental expert and perhaps engage one for rebuttal testimony.

52. Accordingly, the public was deprived of a fair hearing in this regard. That is, in and of itself, arbitrary, capricious and unreasonable.

53. On July 1, 2021, the Hainesport Defendants took testimony from and considered the testimony of defendants' experts over the objection of its own JLUB member.

54. Defendant's Hainesport and the JLUB's acceptance of the environmental expert's report submitted by defendants R&M Development, LLC and Diamantis Children's Trust; hearing testimony by and considering testimony from defendants' expert on an environmental report that was in violation of N.J.S.A. 40:55D-10b.

55. The JLUB's adoption of Resolution 2021-14 was arbitrary, capricious and unreasonable where the public was denied the opportunity to inspect and rebut an environmental expert's report submitted by defendants, which submission did not comport with the Open Public Meeting Act, N.J.S.A. 40:55D-10B.

56. The JLUB's adoption of Resolution 2021-14 was arbitrary, capricious and unreasonable where defendants R&M and Diamantis did not comply with the Residential Site Improvement Standards.

WHEREFORE, Plaintiff Creekview and Lakeside at Creekview Community Association, Inc. demand judgment against Defendants Hainesport Township, Hainesport Township Joint Land Use Board, R&M Development, LLC, Diamantis Children's Trust, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 for an Order:

- a. Finding that the approval of Resolution 2021-14 was arbitrary, unreasonable and capricious, without adequate basis in law or fact; and,
- b. Reversing the approval and voiding the Resolution; and,

- c. Attorneys' fees and costs;
- d. Granting such other relief as the Court deems appropriate.

SECOND COUNT
(Violation of N.J.S.A. 40:55D-10b, The Open Public Meeting Act)

57. Plaintiff incorporates by reference all of the allegations of the preceding paragraph as if alleged more fully at length herein.

58. The JLUB violated the Open Public Meeting Act, N.J.S.A. 40:55D-10b where the public was denied the opportunity to inspect and rebut an environmental expert's report submitted by defendants, which submission did not comport with the Open Public Meeting Act, N.J.S.A. 40:55D-10B.

59. N.J.S.A. 40:55D-10b requires that documents be made available for public inspection at least 10 days before the date of the hearing.

60. On or about June 28, 2021, defendants R&M Development, LLC and Diamantis Children's Trust submitted an environmental expert's report which was intended to address allegations of resident Sandra Saouf that there existed endangered species on defendants' property.

61. Defendants JLUB meeting was conducted on July 1, 2021.

62. At that time, the JLUB took testimony from and considered the testimony of defendants' experts.

63. Defendants' environmental expert testified as to the contents of his report and testified, including, *inter alia*, that there are no bog turtles on defendants' property based on his assertion that there are no wetlands on defendants' property.

64. One of defendant JLUB's own board members objected to the submission of the report and the testimony given by defendants' expert as it was not timely submitted or adequately made available to the public.

65. Objections were also raised by the public as to the late submission of defendants' expert's report and it was brought to the JLUB's attention that there are wetlands on plaintiff's adjacent property.

66. The JLUB claimed to have no knowledge of the presence of wetlands on plaintiff's property despite the fact that the Hainesport Planning Board had adopted a Resolution in 1998 acknowledging the presence of wetlands and despite the fact that 2 current members of the JLUB were on the Hainesport Planning Board in 1998.

67. The public did not have the statutory opportunity to inspect defendants' experts' report and, in fact, was unaware of the report until the July 1, 2021 JLUB meeting. If the public had the opportunity to inspect the report, they could have consulted with their own environmental expert and perhaps engage one for rebuttal testimony.

68. Accordingly, the public was deprived of a fair hearing in this regard.

69. Defendant's Hainesport and the JLUB violated the Open Public Meeting Act, N.J.S.A. 40:55D-10b by considering the environmental expert's report submitted by defendants R&M Development, LLC and Diamantis Children's Trust; by hearing testimony given by defendants' expert; and, by considering testimony from defendants' expert on an environmental report that was not submitted in accordance with N.J.S.A. 40:55D-10b.

WHEREFORE, Plaintiff Creekview and Lakeside at Creekview Community Association, Inc. demand judgment against Defendants Hainesport Township, Hainesport Township Joint Land Use Board, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 for an Order:

- a. Finding that Hainesport Township and the Hainesport Township Joint Land Use Board violated the Open Public Meeting Act, N.J.S.A. 40:55D-10b;
- b. Impose appropriate and warranted penalties thereunder, including voiding of actions taken by Defendants Hainesport Township and Hainesport Township Joint Land Use Board in violation of the Open Public Meetings Act, N.J.S.A. 40:55D-10b.
- c. Attorneys' fees and costs;
- d. Granting such other relief as the Court deems appropriate.

THIRD COUNT
(Trespass)

70. Plaintiff incorporates by reference all of the allegations of the preceding paragraph as if alleged more fully at length herein.

71. Any stormwater overflow from defendants' R&M Development's and Diamantis' proposed retention pond onto Creekview's private property constitutes a trespass in the absence of an easement.

72. As such, plaintiff has been damaged.

WHEREFORE, Plaintiff Creekview and Lakeside at Creekview Community Association, Inc. demand judgment against Defendants Hainesport Township, Hainesport Township Joint Land Use Board, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 for an Order:

- a. Prohibiting defendants from trespassing onto plaintiff's private property;
- b. Compensatory damages;
- c. Punitive Damages;
- d. Attorneys' fees and costs;
- e. Granting such other relief as the Court deems appropriate.

FOURTH COUNT
(Creation of a Nuisance)

73. Plaintiff incorporates by reference all of the allegations of the preceding paragraph as if alleged more fully at length herein.

74. The construction of a retention pond which directs stormwater overflow onto Creekview's private property is the creation of a nuisance and interferes with plaintiff's right to quiet enjoyment of its private property.

75. As such, plaintiff has been damaged.

WHEREFORE, Plaintiff Creekview and Lakeside at Creekview Community Association, Inc. demand judgment against Defendants Hainesport Township, Hainesport Township Joint Land Use Board, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 for an Order:

- a. Prohibiting defendants from creating a nuisance and interfering with plaintiff's right to quiet enjoyment of plaintiff's private property;
- b. Compensatory damages;
- c. Punitive damages;
- d. Attorneys' fees and costs;
- e. Granting such other relief as the Court deems appropriate.

FIFTH COUNT
(Violations of 42 U.S.C. § 1983 and § 1988)

76. Plaintiff incorporates by reference all of the allegations of the preceding paragraph as if alleged more fully at length herein.

77. Defendants R&M and Diamantis' proposed retention pond permits, in an emergency, the overflow of stormwater runoff from their pond into Creekview's privately owned pond.

78. On July 1, 2021, Defendants Hainesport Township and the JLUB approved the application for final subdivision approval despite knowing that the proposed pond would have stormwater overflow from defendants' proposed pond onto private property for which there is no easement.

79. Defendants Hainesport and the JLUB have interfered with plaintiff's property rights by permitting defendants to use plaintiff's private property for stormwater overflow from defendants' proposed retention pond into plaintiff's privately owned pond

80. Plaintiff's right and interest in its privately owned property is guaranteed by the United States Constitution.

81. Defendants' conduct is a violation of 42 U.S.C. § 1983 and § 1988.

82. As such plaintiff has been damaged.

WHEREFORE, Plaintiff Creekview and Lakeside at Creekview Community Association, Inc. demand judgment against Defendants Hainesport Township, Hainesport Township Joint Land Use Board, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 for an Order:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs;
- d. Granting such other relief as the Court deems appropriate

SIXTH COUNT

(Violations of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.)

83. Plaintiff incorporates by reference all of the allegations of the preceding paragraph as if alleged more fully at length herein.

84. The New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq. guarantees equal protection of any substantive rights and prohibits interference with any substantive rights

guaranteed by State Laws, the New Jersey Constitution and the Constitution of the United States substantive rights under New Jersey's Constitution and State Laws and states:

- c. Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or enjoyment of those substantive rights, privileges or immunities has been interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive relief or other appropriate relief. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

85. Defendants have violated plaintiff's civil rights guaranteed under the New Jersey Civil Rights Act by denying plaintiff's equal protection of plaintiff's substantive rights and by permitting defendants to interfere with plaintiff's substantive rights guaranteed under the State Laws, the New Jersey Constitution and the Constitution of the United States.

86. The New Jersey Constitution guarantees protection of plaintiff's property rights and states in Article I:

ARTICLE I RIGHTS AND PRIVILEGES

1. All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

87. The Residential Site Improvement Standards govern the design and maintenance of stormwater management systems provided for major developments. N.J.A.C. 5:21-7.1 et seq.

88. N.J.A.C. 5:21-7.3(j) prohibits the installation of a stormwater pipe on private property without an agreement with the owner of the property agreeing to own or operate the pipe or an easement deeded to the municipality and states, in pertinent part:

- (j) No pipe shall be placed on private property unless the owner of the land is to own or operate the pipe, or an easement deeded to the municipality is obtained.

89. N.J.A.C. 5:21-7.8 prohibits locating a stormwater management system where it will interfere with or adversely affect surface waters adjacent to the site and states, in part:

- (b) Design engineers shall locate detention facilities (either "wet" or "dry") so as to not interfere with or adversely affect existing surface waters on the site or adjacent to the site.

90. The Residential Site Improvement Standards also require that a stormwater management system comply with the DEP Stormwater Management Rules N.J.A.C. 7:8-5 and 6. The system does not comply with the RSIS.

91. N.J.A.C. 7:8-5.2(i) states:

- (i) Design standards for stormwater management measures are as follows:

- 1. Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, 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).

92. Defendants are in violation of the New Jersey Constitution and the United States Constitution by failing to give equal protection to plaintiff's property rights and by allowing defendants to interfere with plaintiff's property rights.

93. Defendants Hainesport and the JLUB have failed to give plaintiff equal protection of the laws of the State of New Jersey and are permitting defendants R&M and Diamantis to interfere with plaintiff's substantive rights where defendants Hainesport and the JLUB are permitting defendants R&M and Diamantis to discharge emergency overflow water from their proposed retention pond into Creekview's privately owned pond in violation of the New Jersey Residential Site Improvement Standards.

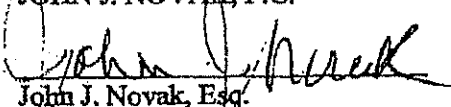
94. As such plaintiff has been damaged.

WHEREFORE, Plaintiff Creekview and Lakeside at Creekview Community Association, Inc. demand judgment against Defendants Hainesport Township, Hainesport Township Joint Land Use Board, John Does 1-10, Jane Does 1-10 and ABC Corps. 1-10 for an Order:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs;
- d. Granting such other relief as the Court deems appropriate.

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, I certify that the matter in controversy is not the subject of another action pending in any court or of a pending arbitration proceeding and that no other action or arbitration proceeding is contemplated and that no other parties should be joined in this action at this time.

THE LAW OFFICES OF
JOHN J. NOVAK, P.C.
By: 
John J. Novak, Esq.
Attorney for Plaintiff: Creekview and Lakeside at
Creekview Community Association

Dated: September 9, 2021

CERTIFICATION PURSUANT TO R. 4:69-4

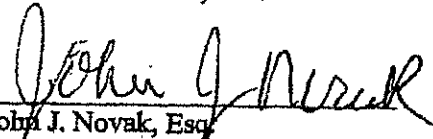
I certify that the Transcripts of December 4, 2019, June 22, 2020 and July 1, 2021 have been ordered. A copy of Resolution 2021-14 is attached hereto.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues so triable,

THE LAW OFFICES OF
JOHN J. NOVAK, P.C.

By:



John J. Novak, Esq.
Attorney for Plaintiff: Creekview and Lakeside at
Creekview Community Association

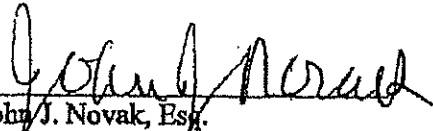
Dated: September 9, 2021

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, John J. Novak, Esq. is designated as trial counsel on
behalf of the plaintiff, Creekview and Lakeside at Creekview Community Association.

THE LAW OFFICES OF
JOHN J. NOVAK, P.C.

By:



John J. Novak, Esq.
Attorney for Plaintiff: Creekview and Lakeside at
Creekview Community Association

Dated: September 9, 2021

CASE NO. 19-09B

**TOWNSHIP OF HAINESPORT
JOINT LAND USE REVIEW BOARD
RESOLUTION NO. 2021-14**

**RESOLUTION GRANTING DESIGN WAIVER
AND FINAL MAJOR SUBDIVISION APPROVAL,
SUBJECT TO CONDITIONS, FOR
41 RESIDENTIAL LOTS
ON BLOCK 100, LOTS 8.03 & 8.02, TAX MAP
TOWNSHIP OF HAINESPORT**

WHEREAS, R & M Development, LLC has made application to the Hainesport Joint Land Use Review Board for final major subdivision approval for 41 single-family, age restricted residential lots (total of 42 lots) on Block 100, Lot 8 and part of Lot 8.02, Tax Map, Township of Hainesport; and

WHEREAS, the matter coming on to be heard at a public meeting on July 1, 2021, pursuant to all notices required by law, and the Board having heard the testimony presented and having examined the exhibits filed, finds the following facts and conclusions of law:

- A. The subject property is an 11.30 acre tract identified as 60 Bancroft Lane, currently zoned SC, Senior Citizen Residential. The parcel is currently vacant, undeveloped and wooded.
- B. The initial public hearing on the subdivision was conducted on December 4, 2018. At that meeting the Board made the following determinations regarding the application:
 1. A waiver was granted from the requirement to provide an on-site recreation area.

CASE NO. 19-098

2. The applicant was required to submit a copy of the 2003 EIS Statement as part of the application.
 3. The request for a traffic study waiver was denied.
 4. A decision was not made at that time regarding preliminary subdivision approval.
 5. A Resolution regarding these decisions was memorialized on June 22, 2020.
- C. At the JLUB meeting on June 22, 2020 the applicant again appeared seeking preliminary subdivision approval. The testimony and decisions made as a result of that meeting were memorialized in Resolution 2020-10 adopted August 5, 2020, in which the Board granted preliminary subdivision approval, subject to the conditions specified in the Resolution.
- D. The applicant's next appearance before the Board was July 1, 2021, seeking final subdivision approval. Testimony in support of final subdivision approval was presented by Jack J. Gravlin, Jr., P.E., as the Project Engineer. Mr. Gravlin gave detailed testimony regarding the following issues related to final subdivision approval:
1. The Ground Water Mounding analysis indicates that the development of the project for houses will not impact basements on adjoining residential lots.
 2. The stormwater drainage basin has been modified to comply with the Board's approval requirement that the entire 100-year storm be stored on-site without discharge impacting adjoining property.

CASE NO. 19-09B

3. The subdivision plan provides a 18-foot wide lot (Lot 48) for pedestrian access to the adjacent public park.
4. Regarding the landscape plan, the applicant has inventoried every tree currently on the site. There are a total of 1,120 trees existing. 226 of these trees will be protected and preserved from removal for the development. 83 new infill trees will be added. Each individual lot will have 3 new trees planted for a total of 82 trees. The applicant is requesting a waiver from the requirement to replace trees on a one-to-one ratio (Ordinance Section 104-14) and to permit tree replacement at a caliber size of 2 ¼ inches.
5. The applicant will agree to comply with the review letter of the Board Planner (Taylor Design Group - March 31, 2021).
6. The applicant will agree to comply with the terms and conditions of the review letter of the Board Engineer (Alamo Association of Engineers - May 18, 2021) with the exception of Item 11 which pertains to approval of the identification of Paris Court.
7. The subdivision will meet all Residential Site Improvement Standards (RSIS).
8. The sewer pipe has already been installed in the 30-foot-wide sanitary sewer and stormwater easement connecting to Windsor Place on the adjacent development. This easement has not expired and continues to be available for use by the applicant.

CASE NO. 19-098

9. The applicant will install a development identification sign with lighting and location to be approved by the Board Planner and Board Engineer.
 10. The drainage basin will be surrounded by a 3-board post and rail fence. The street trees will be located with consideration given to minimizing the heaving of sidewalks as the trees mature.
- E. Chris Alvazoglou testified as the Project Builder regarding the style housing. There will be 3 model homes available. The sizes will range from 1,450 square feet to 1,900 square feet. Basements will be available and 2-car garages will be included.
- F. In response to comments submitted by a member of the public regarding the possible presence of threatened and endangered species on the property being developed, the applicant presented the testimony of Chris Koutouzakis who is qualified as an Environmental Scientist. Mr. Koutouzakis expanded on his threatened and endangered species assessment report dated June 28, 2021. He summarized the report as follows:

The NJ DEP Landscape Project has no habitat identified for threatened or endangered species mapped on the development site. The most recent version of the Landscape Project was released in 2017. According to current NJ DEP mapping applications, there are no wetlands or State open waters on the development site. As a result, there is no expected impact to bog turtles, swamp pink or sensitive vetch. NJ DEP has responded to

CASE NO. 19-098

rare wildlife sightings by stating that the barred owl sightings were accepted and the redheaded woodpecker sighting was rejected. Thus the barred owl is the only State or Federal threatened or endangered species that can be documented on this particular site. The preferred method to avoid a violation of the NJ Endangered and Non-Game Species Conservation Act of 1973 is to restrict tree clearing during potential nesting period, which is identified as April 1 thru August 31. Although the presence of the redheaded woodpecker is not accepted as documented on the site, the mitigation regarding tree removal would extend to September 10 for this species of bird.

G. During the public portion of the hearing the Board heard testimony which is summarized as follows:

1. Deborah A. Plala, Esq., objected to the late submission of the June 29, 2021 report from the applicant's Environmental Scientist. She also expressed concern regarding the potential for stormwater run-off onto adjacent development sites. The applicant responded that the stormwater basin has been designed to accommodate even a 100-year storm event and that the soils in the development area are extremely porous and accommodating to onsite drainage infiltration.
2. Sandra J. Sacusaf reemphasized the findings of her submission dated July 2, 2020 regarding the protection of threatened and endangered species. She cited the presence of the bog turtle, barred owl and

CASE NO. 19-09B

redheaded woodpecker on the site supported by photographs. She urged the Township to purchase a strip of the land for environmental preservation of these species.

H. The Board finds that the applicant's final subdivision submission is in substantial compliance with the preliminary subdivision approval granted on June 22, 2020 and memorialized by Resolution 2020-10 adopted August 5, 2020. Subject to compliance with the terms and conditions set forth in this Resolution, the applicant is granted final major subdivision approval as authorized under NJS40:55D-50 of the Municipal Land Use Law. The terms and conditions of the final subdivision approval are identified as follows:

1. A waiver is granted from the 1 to 1 tree replacement ratio set forth in Section 104-14 of the Ordinance. The applicant shall preserve existing trees and plant new trees as proposed in Paragraph D-4 of this Resolution. The tree caliber of 2 1/4 inches is acceptable to the Board Planner and approved by the Board. The type of new trees to be planted shall be subject to the approval of the Board Professional Planner.
2. The applicant shall comply with the terms and conditions of the review letter of the Board Engineer (March 21, 2021) except as waived herein regarding Item 11.
3. The applicant shall comply with the terms and conditions of the review letter of the Board Professional Planner.

CASE NO. 19-09B

4. The installation of street lighting shall be subject to the approval of the Board Planner and Board Engineer.
5. In order to provide protection for the possible presence of endangered species, no tree cutting on the property is permitted between the dates of March 1 to September 10 in any given year.
6. The applicant shall provide an easement for the placement of a development identification sign on adjacent property. The form of easement shall be subject to review and approval by the Board Attorney prior to filing.
7. All construction of new dwellings in the subdivision shall be accomplished in accordance with the applicable provisions of the Building Code and all other applicable Municipal Ordinances, Codes and State Statutes. The Applicant shall also be responsible for any COAH fees applicable to the subdivision.
8. The rights, duties and obligations of the applicant with respect to final major subdivision approval shall be as set forth in New Jersey Statute 40:55D-50 (final approval of major subdivisions) and NJS40:55D-53 (guarantees required).

CASE NO. 19-098

Date: August 4, 2021

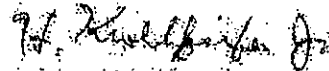
MOTION TO GRANT FINAL MAJOR SUBDIVISION APPROVAL WITH
CONDITIONS

YES

NO

McKay
MacLachlan
Gilmore
Tricoci
Baggio
Bradley
Kosko
Krollfeifer, Jr.

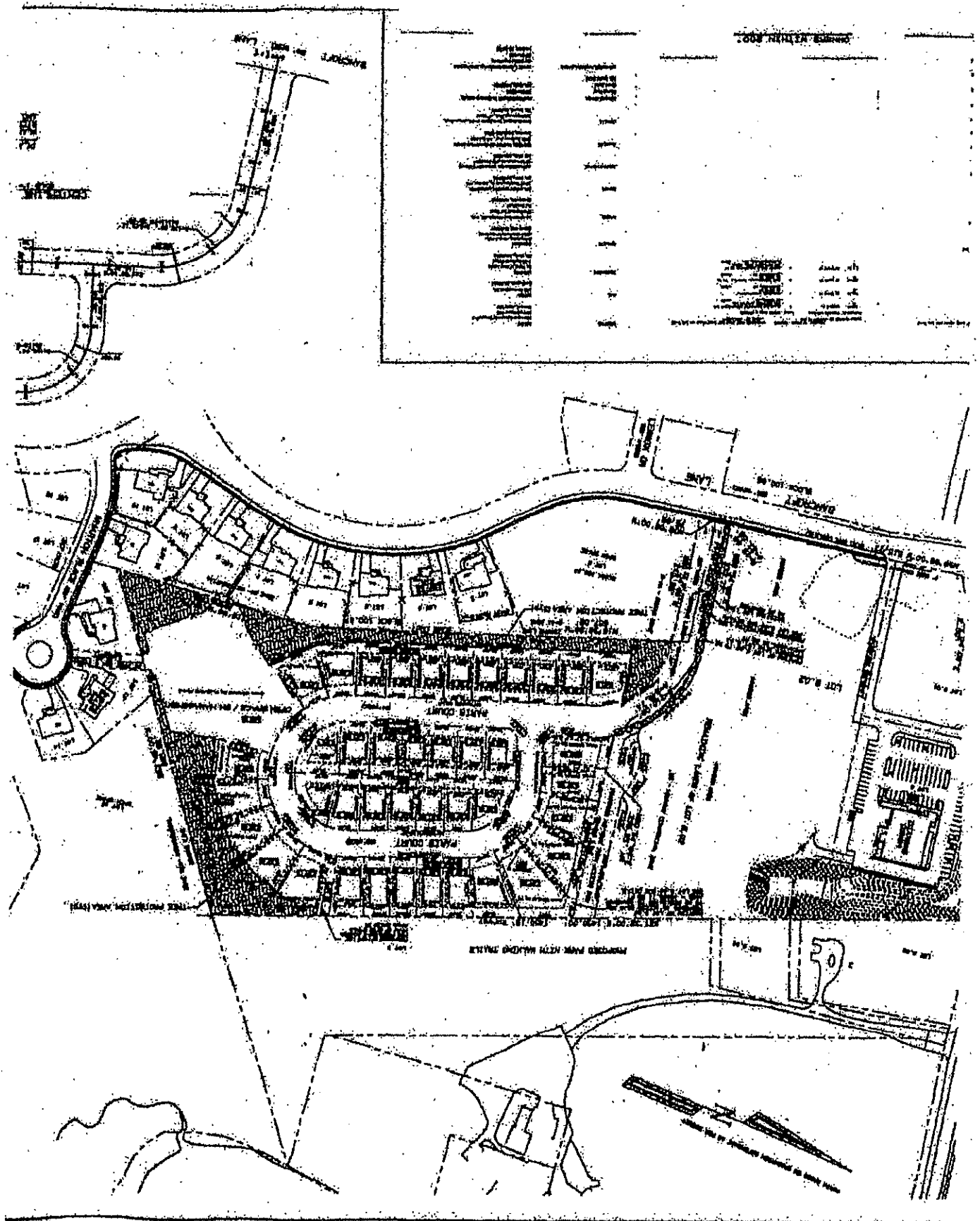
Kelley



H. KROLLFEIFER, JR.,
BOARD CHAIRMAN



PAULA TIVER
BOARD SECRETARY



Paula Tiver

From: Paula Tiver
Sent: Thursday, September 30, 2021 2:34 PM
To: John C. Gillespie
Cc: Paula Kosko; Robert Kingsbury; Joan T. Horner
Subject: RE: Creekview and Lakeside v. Hainesport
Attachments: 2021 July MinutesA.docx

John,

Here are the draft minutes of July 1, 2021 Land Use Board meeting.

Have a wonderful evening,
Paula Tiver, CTC/CMR
Hainesport Township
PO Box 477
One Hainesport Centre
Hainesport, NJ 08036
Phone: (609)267-2730 ext 107
Fax: (609) 267-0806
Email: ptiver@hainesporttownship.com

From: John C. Gillespie [mailto:ygillespie@parkermccay.com]
Sent: Thursday, September 30, 2021 2:19 PM
To: Paula Tiver <ptiver@hainesporttownship.com>
Cc: Paula Kosko <pkosko@hainesporttownship.com>; Robert Kingsbury <rekingsbury@kingsburylaw.net>; Joan T. Horner <jhorner@parkermccay.com>
Subject: Creekview and Lakeside v. Hainesport

Good afternoon Paula. I know they haven't been approved yet by the JLUB, but do you have draft minutes of the June and July meetings regarding the R&M / Diamantis application that I could have now? Plaintiffs haven't supplied us w/ transcripts yet, and I need something to help me understand what plaintiffs are saying in this complaint. Thanks very much.

John C. Gillespie, Esquire
Of Counsel
Municipal, Government and Redevelopment



PARKER McCAY

O: 856-985-4083

F: 856-489-6980

jgillespie@parkermccay.com

PARKER McCAY P.A.

9000 Midlantic Drive, Suite 300

Mount Laurel, New Jersey 08054

P: 856-596-8900 F: 856-596-9631

www.parkermccay.com



**HAINESPORT TOWNSHIP JOINT LAND USE BOARD
MINUTES**

Time: 7:00 PM

July 1, 2021

1. Call to Order

The meeting was called to order at 7:00 pm by Mr. Krollfeifer.

2. Flag Salute

All participated in the Flag Salute

3. Sunshine Law

Notice of this meeting was published in accordance with the Open Public Meetings Act By posting on the municipal bulletin board, publication in The Burlington County Times and Courier-Post Newspapers, and by filing a copy with the Municipal Clerk

4. Announcement of "No new business after 11:00 PM"

5. Roll Call

Present: Mayor Gilmore, Mr. MacLachlan, Mrs. Kelley, Mr. McKay, Mr. Tricocci, Mrs. Baggio, Ms. Kosko, Mr. Krollfeifer, Mr. Bradley, Mr. Murphy

Absent: Mrs. Tyndale, Mr. Sylk, Mrs. Cuniglio

Also Present: Robert Kingsbury, Esq., Board Attorney
Scott Taylor, Planner
Martin Miller, Engineer
Kathy Newcomb, Zoning Officer
Paula Tiver, Board Secretary

6. Items for Business

**A. Case 19-09B: R & M Development
Block 100 Lots 8.03 & 8.02
60 Bancroft Lane
Major Final Subdivision
Attorney: Igor Sturm**

Mr. Sturm attorney, this is for final approval for major final subdivision. Mr. Gravlin will present and Chis Koutouzakis, environmental expert, give testimony regarding his environmental study.

Mr. Gravlin was sworn in. He gave his credentials. They are requesting a major final subdivision approval. It consists of Block 100 Lot 8.03 and a portion of Lot 8.02. There

*Adopted
minutes avail.
on top
webpage

www.hainesport
township.com*

Paula Tiver

From: David Frank <dave@njlandlawyer.com>
Sent: Monday, July 18, 2022 3:16 PM
To: Paula Kosko
Cc: Rami Hassidim; Chris Aivazoglou; Avra Gross; Jack J Gravlin Jr., P.E.; Scott Taylor; Paula Tiver; Robert Kingsbury
Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Paula,

Thank you very much.

Dave

From: Paula Kosko <pkosko@hainesporttownship.com>
Sent: Monday, July 18, 2022 3:09 PM
To: David Frank <dave@njlandlawyer.com>
Cc: Rami Hassidim <ramiyh@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; Avra Gross <agradevelop@gmail.com>; Jack J Gravlin Jr., P.E. <jjgpe@verizon.net>; Scott Taylor <Staylor@tdgplanning.com>; Paula Tiver <ptiver@hainesporttownship.com>; Robert Kingsbury <rekingsbury@kingsburylaw.net>
Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

Hi Dave:

I just received confirmation from another applicant that they are going to postpone to September. I will put R & M Development, LLC on August 3, 2022 JLUB agenda.

Paula Kosko, MPA/RMC
Administrator/Municipal Clerk
Hainesport Township
1401 Marne Highway
PO Box 477
Hainesport NJ 08036
(609) 267-7114 - Phone

(609) 261-4762 - Fax

From: Paula Kosko
Sent: Monday, July 18, 2022 11:40 AM
To: David Frank <dave@nilandlawyer.com>
Cc: Rami Hassidim <ramiwh@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; Avra Gross <agradevelop@gmail.com>; Jack J Gravlin Jr., P.E. <jjgpe@verizon.net>; Scott Taylor <Staylor@tdgplanning.com>; Paula Tiver <ptiver@hainesporttownship.com>; Robert Kingsbury <rekingsbury@kingsburylaw.net>
Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

Good Afternoon Dave,

Attached is the signed Resolution giving consent to R & M Development, LLC to file the JLUB application.

The JLUB did not meet in July and the full agenda for that meeting has moved to August. There is a slight possibility that one of the applicants will have to postpone to September. If that is the case, we may be able to get you on for August. Otherwise, we have an Agenda Prep meeting tomorrow and I will get a meeting certain for either September 7 or October 5 for R & M Development amended application. Please note that the board currently has a large site application on September's agenda.

Best,

Paula Kosko, MPA/RMC
Administrator/Municipal Clerk
Hainesport Township
1401 Maine Highway
PO Box 477
Hainesport NJ 08036
(609) 267-7114 - Phone
(609) 261-4762 - Fax

From: David Frank <dave@nilandlawyer.com>
Sent: Friday, July 15, 2022 7:56 AM
To: Paula Kosko <pkosko@hainesporttownship.com>
Cc: Rami Hassidim <ramiwh@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; Avra Gross <agradevelop@gmail.com>; Jack J Gravlin Jr., P.E. <jjgpe@verizon.net>; John C. Gillespie <jgillespie@parkermccay.com>; Joan T. Horner <jhorner@parkermccay.com>
Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Paula,

Thank you for your assistance in getting us before the Committee with our request for authorization to appear before the LDB concerning the Township-owned property.

Is the Board able to docket us to be heard on August 3, 2022?

Dave

From: David Frank

Sent: Monday, July 11, 2022 10:48 AM

To: Paula Kosko <pkosko@hainesporttownship.com>

Cc: Rami Hassidim <ramiyh@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; John C. Gillespie <jgillespie@parkermccay.com>; Joan T. Horner <jhorner@parkermccay.com>; Jack J Gravin Jr., P.E. <jjgpe@verizon.net>

Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

Paula,

Thank you very much.

Dave

From: Paula Kosko <pkosko@hainesporttownship.com>

Sent: Monday, July 11, 2022 10:46 AM

To: David Frank <dave@njlandlawyer.com>

Cc: Rami Hassidim <ramiyh@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; John C. Gillespie <jgillespie@parkermccay.com>; Joan T. Horner <jhorner@parkermccay.com>; Jack J Gravin Jr., P.E. <jjgpe@verizon.net>

Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

Good Morning Dave:

Yes, you are correct in all the below. We provided the governing body with Jack's July 5, 2022 Drainage Easement Request for Consent, Land Areas of Easement and Dedications and several plans. I am confident these documents are sufficient for the body ahead of tomorrow evenings meeting. It is my understanding that Mayor MacLachlan will invite you and Jack up to provide a verbal description of the request prior to the resolution being introduced for consideration.

See you in person tomorrow night.

Best,

Paula Kosko, MP A/RMC
Administrator/Municipal Clerk
Hainesport Township
1401 Marne Highway
PO Box 477
Hainesport NJ 08036
(609) 267-7114 - Phone
(609) 261-4762 - Fax

From: David Frank <dave@njlandlawyer.com>

Sent: Monday, July 11, 2022 10:08 AM

To: Paula Kosko <pkosko@hainesporttownship.com>

Cc: Rami Hassidim <ramihv@gmail.com>; Chris Alivazoglou <cvoz1973@gmail.com>; John C. Gillespie <jgillespie@parkermccay.com>; Joan T. Horner <jhorner@parkermccay.com>; Jack J Gravin Jr., P.E. <jigpe@verizon.net>

Subject: RE: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Paula,

I see that a resolution authorizing my client's application to the Land Development Board concerning the drainage improvements on the proposed easement over Twp. lands is on the agenda for tomorrow night's governing body meeting.

My understanding is that our engineer, Jack Gravin, and I should appear at the meeting and be available to address any questions that may arise. Please let me now if I am incorrect in that understanding and further if it would be advisable for us to provide anything additional to aid the Twp. Committee in deciding the question.

It is also my understanding that while a virtual option for meeting appearance is available, it is the Committee's preference that we be physically present at their meeting.

Please advise.

Thanks,

Dave Frank

From: Jack J Gravin Jr., P.E. <jjgpe@verizon.net>
Sent: Tuesday, July 5, 2022 10:57 AM
To: Paula Kosko <pkosko@hainesporttownship.com>
Cc: David Frank <dave@njlandlawyer.com>; Robert Kingsbury, Esq <rekingsbury@kingsburylaw.net>; Rami Hassidim <ramiyh@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; John C. Gillespie <jgillespie@parkermccay.com>; Joan T. Horner <jhorner@parkermccay.com>; Martin Miller, PE <mgmiller@alaimogroup.com>; Scott Taylor, PP <Staylor@tdgplanning.com>
Subject: Re[2]: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

Hi Paula,

Attached is a letter listing the areas of the Township easement and the two (2) lots to be dedicated to the Township for Park access. Our attorney asked that I provide this information for your use. Thanks.

Jack

Jack J. Gravin Jr., P.E.
Professional Engineer
609-965-0405 (Phone / Voice Mail)
609-965-0105 (Fax)

Mailing Address
P.O. Box 221
West Berlin, NJ 08091

jjgpe@verizon.net

----- Original Message -----

From "Paula Kosko" <pkosko@hainesporttownship.com>

To "Jack J Gravin Jr., P.E." <jjgpe@verizon.net>

Cc "David Frank, Esq" <david@njlandlawyer.com>; "Robert Kingsbury" <rekingsbury@kingsburylaw.net>; "Rami Hassidim" <ramiyh@gmail.com>; "Chris Aivazoglou" <cvoz1973@gmail.com>; "John C. Gillespie" <jgillespie@parkermccay.com>; "Joan T. Horner" <jhorner@parkermccay.com>; "Martin Miller, PE" <mgmiller@alaimogroup.com>; "Scott Taylor" <Staylor@tdgplanning.com>
Date 7/5/2022 10:33:47 AM

Subject RE: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

Thank you Jack.

Best,

Paula Kosko, MPA/RMC
Administrator/Municipal Clerk
Hainesport Township
1401 Marne Highway
PO Box 477
Hainesport NJ 08036
(609) 267-7114 - Phone
(609) 261-4762 - Fax

From: Jack J Gravlin Jr., P.E. <jjgpe@verizon.net>

Sent: Tuesday, July 05, 2022 10:25 AM

To: Paula Kosko <pkosko@hainesporttownship.com>; Robert Kingsbury <rekingsbury@kingsburylaw.net>; Rami Hassidim <ramihv@gmail.com>; Chris Aivazoglou <cvoz1973@gmail.com>; John C. Gillespie <jgillespie@parkermccay.com>; Joan T. Horner <jhorner@parkermccay.com>; Martin Miller, PE <mgmiller@alaimogroup.com>; Scott Taylor <Staylor@tdgplanning.com>

Subject: Township Park Easement for Longbridge Estates, Diamantis / R&M Development

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Paula,

Attached are the following: Transmittal Letter / Request for Consent and Plan Sheets 2,4,9, R4 Dated 5/27/2022.

By copy of this Email I am requesting our attorney, David Frank, Esq., confirm the formal request for consent.

Hard copies will be delivered to you office later today. Thank you.

Jack

Jack J. Gravlin Jr., P.E.
Professional Engineer
609-965-0405 (Phone / Voice Mail)
609-965-0105 (Fax)

Mailing Address
P.O. Box 221
West Berlin, NJ 08091

jjgpe@verizon.net

TOWNSHIP OF HAINESPORT

RESOLUTION 2022-105-7

**CONSENTING TO FILING OF LAND USE APPLICATION INVOLVING MUNICIPAL
PROPERTY FOR STORMWATER DISCHARGE THROUGH BLOCK 100, LOTS 9 & 10**

WHEREAS, R & M Development, LLC, 322 Wyndmoor Lane, Huntington Valley PA, 19006, has made application to the Hainesport Township Joint Land Use Board for a revised site plan/subdivision application for a development called "Diamantis Senior Citizen Subdivision, a/k/a Longbridge Estates"; and

WHEREAS, the property sought to be developed is located at Block 100, Lot 8.03 and part of Lot 8.02; and

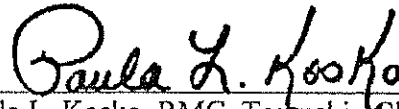
WHEREAS, the stormwater discharge/runoff proposed to serve this development would cross municipal property known as Block 100, part of Lots 9 and 10; and

WHEREAS, the Township Committee has reviewed the proposed plans, and has considered the request of the Developer that the Township Committee consent, as the owner of property upon which the developments stormwater must traverse, to the submission of this application before the Joint Land Use Board; and

WHEREAS, Township Committee is prepared to issue its consent, on a conditional basis.

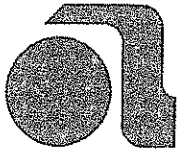
NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hainesport, County of Burlington and State of New Jersey, that the Township does hereby grant its consent to the filing of the application by R & M Development, LLC; but that any activity proposed to take place on municipal property shall not be permitted unless and until the Township negotiates an easement agreement with the applicant and/or owner and/or developer of the property.

I, Paula L. Kosko do hereby certify this to be a true copy of a resolution adopted by the Hainesport Township Committee at their regular meeting on July 12, 2022.



Paula L. Kosko, RMC, Township Clerk
Township Administrator

	Motion	Second	Yes	No	Abstain	Absent
Levinson	X		X			
Gilmore		X	X			
Montgomery			X			
Clauss			X			
MacLachlan			X			



Richard A. Alaimo Association of Engineers

200 High Street, Mt. Holly, New Jersey 08060 Tel: 609-267-8310 Fax: 609-267-7452

July 27, 2022

Ms. Paula Tiver, Secretary
Hainesport Township Joint Land Use Board
1501 Tasker Avenue
PO Box 265
Hainesport, NJ 08036

Re: Hainesport Township Joint Land Use Board
Diamantis Children's Trust
(Longbridge Estates)
Proposed Senior Housing
Block 100, Lot 8, P/O Lot 8.02
Revised Subdivision Plan Review
Our File: C-0293-0302-001

Dear Ms. Tiver and Board Members:

We have received the application, plans, and associated documents submitted for the referenced project. The site is located on the easterly side of Bancroft Lane, approximately 650' south of the intersection with Route 38, and is adjacent to the Woods at Creekview development. The parcel is approximately 11.30 acres and is currently zoned SC, Senior Citizen Residential. The parcel is vacant and is heavily wooded.

The applicant appeared before the Board last year regarding the proposed subdivision. A summary of the application is as follows:

The applicant is proposing to subdivide the parcel into forty-five (45) lots. Age-restricted single-family detached dwellings are proposed on forty-one (41) of the lots. The other proposed lot will be designated for open space. The applicant is proposing to construct a single access road from Bancroft Lane to the forty-one (41) proposed residential lots. An additional 10' of property will be transferred from Lot 8.02 to Lot 8 along the proposed entrance driveway to accommodate the proposed 60' wide right of way. A portion of Lot 8.02 will be dedicated to the Township to allow for the construction of an access Road from the proposed Paris Court roadway to the Township park located on adjoining Lot 9.

We reviewed the application, tax map, and the following plans and documents:

- "Longbridge Estates Diamantis Senior Citizen Subdivision", final development plans prepared by Jack J. Gravlin Jr., PE, dated January 28, 2021, revised May 27, 2022.
- Gravlin response letter dated October 5, 2021.

- Consulting Engineers -

Civil • Structural • Mechanical • Electrical • Environmental • Planners

The plans have been revised to eliminate the proposed infiltration basin emergency outflow pipe connection to the existing stormwater manhole in Wharton Place. The emergency outflow pipe has now been redirected across proposed Lots 14 through 17 and ultimately discharging 378' downstream at an A inlet within the Township open space.

The majority of the comments on our November 22, 2019 and April 2, 2021 preliminary subdivision plan review reports have been addressed. Based on our review of the current submission, we offer the following comments for the Board's consideration:

1. As previously mentioned, the proposed emergency outflow pipe now traverses proposed Lot 14 through 17. A drainage easement should be delineated on the plan and shown on the final plan of lots to be filed with the County. We recommend that the pipe be relocated to the adjacent open space so that the need for an easement can be eliminated.
2. An emergency spillway location should be provided for the proposed infiltration basin.
3. The slope of the proposed storm pipe between manhole #5 and the A inlet should be corrected to read 0.0022'/'.
4. We recommend that the proposed A inlet be changed to an open bottom type inlet to assure that stormwater remaining in the pipe will infiltrate.
5. The outlet structure detail should be revised to note an outfall pipe invert elevation of 33.75.
6. A deed description and Legal deed document for the proposed drainage easement to be located within the Township property should be submitted for review.
7. A Stormwater Management Maintenance Plan should be submitted in accordance with the State Best Management Practices Manual.
8. We defer to the Township Planner regarding comments pertaining to the proposed landscaping, buffers, pedestrian circulation, and open space requirements.
9. Any approval given to this plan should be made contingent upon review and/or approval by the following outside agencies:
 - a. Hainesport Township Planner
 - b. Hainesport Township Fire Official
 - c. Burlington County Planning Board
 - d. Burlington County Soil Conservation District
 - e. Mount Holly Municipal Utilities Authority
 - f. New Jersey Department of Environmental Protection

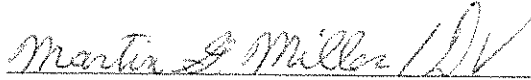
*Richard A. Alaimo Association of Engineers
- Consulting Engineers -*

10. The applicant's engineer is advised that all plan revisions must be noted on the plan as such, and a revision date must be put on the plan each time it is revised. Approval of plans by this office will only be for the original plan and noted revisions. The approval will not extend to cover unnoted revisions.
11. A cost estimate is required for any proposed site improvements in order to calculate inspection escrow. After preparation of the estimate, we will forward the required inspection escrow amount to the Township under separate cover. Inspection escrows shall be posted with the Township Clerk.
12. All proposed easements, deed restrictions and protective covenants should be identified at this juncture.
13. The applicant should submit certification that all taxes on the property have been paid to date.
14. Any and all outstanding administrative comments from our previous reports must be addressed.

Should you have any questions, please do not hesitate to call.

Very truly yours,

RICHARD A. ALAIMO ASSOCIATION OF
ENGINEERS


Martin G. Miller, PE, PLS, PP, CME
Senior Project Engineer

MGM:DV

cc: Hainesport Township Joint Land Use Board Members
Robert E. Kingsbury, Solicitor, Hainesport Township Joint Land Use Board
Scott D. Taylor, AICP, PP, Hainesport Township Board Planner
Diamantis Children's Trust (309 Longstone Dr., Cherry Hill, NJ 08003)
R&M Development (322 Wyndmoor Lane, Huntington Valley, PA 19006)
David C. Frank, Esq, (126 Gilbert Road, Bordentown, NJ 08505)
Jack J. Gravlin, Jr., PE (P.O. Box 221, West Berlin, NJ 08091)

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*Richard A. Alaimo Association of Engineers
- Consulting Engineers -*