

SEP 25 2008

Prepared by:

FRANCIS C. ACCISANO, ESQ.

PLANNING BOARD OF THE TOWNSHIP OF FREEHOLD

**RE: THOMAS E. RITCHIE AND LYNN RITCHIE
APPLICATION NO: 880-07
PRELIMINARY MAJOR SUBDIVISION APPROVAL
MEETING DATE: SEPTEMBER 18, 2008**



RESOLUTION

Mr. Gatto offered the following Resolution and moved its adoption which was seconded by Committeewoman Avalone.

WHEREAS, THOMAS E. RITCHIE and LYNN RITCHIE, hereinafter referred to as the Applicant are the owners of Lot 33.01 in Block 69.01 as shown on the tax map of the Township of Freehold and located on Route 33 & Wemrock Road; and

WHEREAS, the Applicant has submitted an application for Preliminary Major Subdivision Approval as more particularly described hereinafter; and

WHEREAS, if required, the Applicant gave notice pertaining to the public hearing to be held on said application in accordance with the Revised Statutes of the State of New Jersey and Section 190-7 of the Freehold Township Land Use Ordinance; and

WHEREAS, pursuant to said notice a public hearing was conducted by the Freehold Township Planning Board at the Freehold Township Municipal Complex on September 4, 2008; and

WHEREAS, the Applicant presented the testimony of the following persons;

Richard DiFolco, a professional engineer and professional planner; and

WHEREAS, the Planning Board received certain exhibits into evidence which are enumerated in Schedule A to this Resolution; and

WHEREAS, the Freehold Township Planning Board carefully considered all of the evidence and exhibits presented and the questions and comments of interested property owners and based thereon has made the following findings of fact and conclusions of law:

CLARE FRENCH, CTY. CLK.
MONMOUTH COUNTY, NJ

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WHEREAS, if required, the Applicant gave notice pertaining to the public hearing to be held on said application in accordance with the Revised Statutes of the State of New Jersey and Section 190-7 of the Freehold Township Land Use Ordinance; and

WHEREAS, pursuant to said notice a public hearing was conducted by the Freehold Township Planning Board at the Freehold Township Municipal Complex on September 4, 2008; and

WHEREAS, the Applicant presented the testimony of the following persons;

Richard DiFolco, a professional engineer and professional planner; and

WHEREAS, the Planning Board received certain exhibits into evidence which are enumerated in Schedule A to this Resolution; and

WHEREAS, the Freehold Township Planning Board carefully considered all of the evidence and exhibits presented and the questions and comments of interested property owners and based thereon has

made the following findings of fact and conclusions of law:

1. Applicant seeks preliminary major subdivision approval to permit the development of the premises in the following manner: the creation of ten lots, nine lots for the construction of single family residences and one lot for storm water management.
2. The premises are located in the R-80 zone and the proposed use is a permitted use therein.
3. The application does not satisfy the bulk requirements of the zone in the following particulars:

Lot 33.04 – Lot Depth: 300' required – 271' provided

Lot 33.05 – Lot Depth: 300' required – 285' provided

Lot 33.06 – Lot Width: 250' required – 194.91' provided

Lot 33.06 – Frontage: 200' required – 98.04' provided

Lot 33.07 – Lot Width: 250' required – 183.20' provided

Lot 33.07 – Frontage: 200' required – 76.44' provided

Lot 33.09 – Lot Width: 250' required – 194.33' provided

Lot 33.09 – Frontage: 200' required – 172.55' provided

Lot 33.10 – Lot Width: 250' required – 182.21' provided

Lot 33.10 – Frontage: 200' required – 52.87' provided

Lot 33.11 – Lot Width: 250' required – 164.23' provided

Lot 33.11 – Frontage: 200' required – 140.78' provided

Planning Board finds that the Applicant could have configured the proposed subdivisions so as to conform with the bulk requirements of the Freehold Township Land Use Ordinance hereinbefore mentioned. The alternative offered by the Applicant results in a substantial reduction in the length of proposed new roads and a large decrease in impervious surface coverage. The lots proposed by the Applicant are substantially

sized and in most cases exceed the area requirements of the zone. The Planning Board finds that the Applicant's proposal and the granting of the variances will promote the general welfare, will result in preservation of the environment and the more efficient use of land. The Planning Board further finds that the relief sought by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Freehold. Therefore, the requested variances are granted.

4. The Applicant has requested pursuant to N.J.S.A. 40:55D-51 that it be granted certain exceptions from the requirements of the Freehold Township Land Use Ordinance (hereinafter called waivers) pertaining to the following:
 - (a) Submission waivers;
 - (b) Design waivers for the installation of sidewalks along Route 33 and Wemrock Road.

The Planning Board finds that there is no system of sidewalks in this area of the municipality which is essentially rural and sidewalks would remain essentially unused and would simply generate additional impervious surface coverage. Therefore, the literal enforcement of these requirements will exact undue hardship upon the Applicant. The project will continue to reflect overall conformity with the zone plan and Master Plan of the Township of Freehold and therefore the requested waivers are granted.

5. The Applicant has obtained approval from the Freehold Soil Conservation District for a soil erosion and sediment control plan.
6. The application is subject to approval from the Monmouth County Planning Board and the Applicant has secured Preliminary approval from the Monmouth County Planning Board.
7. The Applicant has acknowledged that municipal water services for the site are not now available. The possibility exists that another developer may extend the municipal water line along State Highway 33 at which time water service to the subject premises shall be

available. The Applicant has agreed that in the event that they elect to develop their premises first they shall be required to extend the municipal water system so that the residences can be serviced by public water. Similarly, the Applicant is currently proposing the use of septic systems on the subject premises although municipal sewer service may be available at the time the construction is under taken. The Applicant will install dry sewer lines in the anticipation of municipal sewer service. The Applicant shall also make a fair share contribution to the Township of Freehold toward expansion of the regional sewer system.

8. The subject premises contain heritage trees which are to be preserved and protected as required by the Freehold Township Shade Tree Commission.
9. The Applicant proposes an infiltration basin for storm water retention with any discharge to be accommodated by use of a swale running to Wemrock Road. The Planning Board determined that this should be accomplished with the use of piping rather than the swale and the project will require redesign in that regard.
10. The Applicant has proposed access to the infiltration basin from the so called Wemrock Road extension from Freehold Raceway Mall. In the event that such access has not been constructed as of the time the Applicant proposes to commence construction, the Applicant shall be required to make alternate provision for access to the infiltration basin.

NOW THEREFORE BE IT RESOLVED by the Freehold Township Planning Board based on the foregoing findings of fact and conclusions of law that the application for Preliminary Major Subdivision Approval known as case number 880-07 is hereby approved subject however to the following:

SPECIFIC CONDITIONS

1. The Developers Agreement with the Township of Freehold shall specifically address the subject of water main extension and contribution to the regional sewer system as described herein.

2. The Applicant shall comply with the requirements of the Freehold Township Shade Tree Commission regarding heritage trees.
3. The Applicant shall redesign the facilities for discharge from the storm water infiltration basin to provide for piping as opposed to the swale currently proposed. The size, location and composition of the pipe system shall be subject to review and approval by the Freehold Township engineer.
4. In the event that the time of Final Approval the Wemrock Road extension has not been completed the Applicant shall be required to obtain approval from the Freehold Township Planning Board for alternate access to the proposed storm water infiltration basin.

GENERAL CONDITIONS TO APPROVALS

1. **Conditions and Agreements in Record.** The Developers Agreement with the Township of Freehold shall specifically require that the Applicant extend the facility for public water to service the site that in the event that said extension has not been completed by others. The Applicant shall make provision for the extension of municipal sewer facilities to service the residences on this site and shall provide dry sewer lines in anticipation of such connections. The Applicant shall redesign the project to accommodate out flow from the infiltration basin by a system of pipes rather than a swale. The Applicant shall comply with all other requirements, agreements and conditions contained in the record of the proceedings in this matter including those set forth in the reports of the Freehold Township agencies, boards, commissions and staff which have not been satisfied or specifically waived by the Board.
2. **Escrow Accounts.** It is a condition of the approval granted by the Planning Board herein that the applicant shall pay any additional escrow fees required under Section 190-10 of the Land Use Ordinance of the Township of Freehold in order to pay the expenses for professional services related to the within application. The applicant shall not receive a signed subdivision plat, deed of subdivision, signed site plan, construction permit, certificate of occupancy, nor shall the applicant receive any other municipal authority to proceed with the development described herein unless and until the chief financial officer of the Township certifies that sufficient funds remain in the escrow account to pay the aforesaid expenses.
3. **Developer's Agreements.** In conjunction with any application for Final Approval, no site plan or subdivision plat shall be signed by the Chairperson, Secretary or Engineer unless and until the applicant shall enter a developer's agreement with the Township Committee of the Township of Freehold associated with this development which agreement shall include provision for any water main or sewer extension required for the project and shall further post such performance guaranties and deposits as shall be required in order to assure completion and maintenance of improvements required by the Land Use Ordinance of the Township of Freehold and this resolution. The Applicant shall further have filed with the Clerk of Monmouth County all deeds of easement or other conveyances associated with the development to establish rights of way, access, utility location, sight triangles, conservation areas, landscape buffers and the like and shall provide such assurances of title as may be required by the Township Attorney. Further, in the event that any off-tract improvements are required in conjunction with the proposed development for which the applicant is to pay a pro-rata share allocation of cost pursuant to Section 190-64 et seq. of the Freehold Township Land Use Ordinance, then provision for such contributions shall be made in the Developer's Agreement.

4. **Availability of Public Water and Public Sewer.** In the event that the Township of Freehold is subject to any limitation on its water diversion rights, or if there shall be any moratorium or other restriction of whatever nature pertaining to public water supply or public sewer, then the within approval is expressly conditioned upon the ability of the Township Committee of the Township of Freehold to provide these utilities to the proposed development.
5. **Private Wells and Septic Systems.** Development of the subject premises employing a private well is contingent upon satisfaction of the Freehold Township Health Officer that a proper potable water supply will be available. Septic systems shall meet the requirements of N.J.A.C. 7:9A "Standards for the Construction of Individual Subsurface Sewage Disposal Systems" and the Freehold Township Water Resources Protection Ordinance.
6. **Other Governmental Approvals.**
 - 6.1 **Monmouth County Planning Board.** If the within application is subject to review and approval from the Monmouth County Planning Board, and said approval has not been obtained, then the within approval shall be deemed to be conditioned upon the applicant securing approval from the Monmouth County Planning Board. If the applicant has obtained conditional approval from the Monmouth County Planning Board then such County conditions shall be satisfied as further conditions of this approval.
 - 6.2 **Freehold Soil Conservation District.** If the within application is subject to the New Jersey Soil Erosion and Sediment Control Act, and the applicant has not obtained certification of a soil erosion and sediment control plan from the Freehold Soil Conservation District, then the within approval shall be deemed to be conditioned upon the applicant securing certification of its soil erosion and sediment control plan.
 - 6.3 **Department of Environmental Protection.** If the subject premises are affected by any freshwater wetlands or freshwater wetland transition areas the applicant shall obtain from the State of New Jersey Department of Environmental Protection all required letters of interpretation, permits or other authority necessary to permit the development to proceed. Further, if the applicant requires any stream encroachment permit from the New Jersey Department of Environmental Protection, the securing of such permit shall be deemed to be a condition of this approval. If the application involves public water service, the applicant shall obtain permits as required from the N.J.D.E.P. Bureau of Safe Drinking Water relative to extension of the Township water system. If the application involves public sewer service, the applicant shall obtain permits as required from the N.J.D.E.P. Division of Water Quality to extension of sanitary sewers of either the Township, Manasquan River Regional Sewage Authority and Ocean County Utilities Authority or the Township and Western Monmouth Utilities Authority as applicable.
 - 6.4 **State Highway Permits.** If the proposed development is on a State highway, the applicant shall obtain such highway access permits or other permits as shall be required by the State of New Jersey Department of Transportation.
7. **Modifications of Plans.** In the event that any other agency having jurisdiction over the application or any portion thereof requires modifications of the plans approved by the Freehold Township Planning Board, such modifications may require further action by the Planning Board

and in no event shall the Freehold Township Planning Board be deemed to have given authority for development of the project in any manner other than as shown on the approved plans herein. Any modifications to the plan submitted to other concerned governmental agencies shall simultaneously be submitted to the Planning Board.

8. **Storm Water Detention/Retention/Re-Charge Basins.** If the applicant has proposed to dedicate to the Township of Freehold any lot or lots within the development for storm water management facilities, then at the time of acceptance by the Freehold Township Committee, the applicant shall post with the Township of Freehold a maintenance guaranty for said facilities for a ten-year period as provided by the Freehold Township Land Use Ordinance and as calculated by the Freehold Township Engineer.
9. **Dedication of Lands.** The within approval is subject to the applicant securing the acceptance by the Township Committee of the Township of Freehold of any lands proposed by the developer to be dedicated to the Township of Freehold and associated with this development.
10. **Taxes and Assessments.** All taxes and assessments applicable to the subject premises shall be paid and current.
11. **Restrictive Covenants.** Any restrictive covenant or other condition of record proposed to be included in deeds to purchasers shall be set forth on the final plat and a copy thereof shall be submitted to the Board for approval.
12. **Plan Revisions.** It is a condition of this approval that the Applicant submit to the Planning Board within 90 days of the date of the adoption of this resolution the revised plats, maps, reports or other data containing the additions or corrections specified in the record of the proceedings including but not limited to those additions or corrections set forth in the reports of Freehold Township agencies, boards, commissions and staff. No construction permits shall issue nor shall any further action whatsoever be taken on account of the application until this condition is met. Further, in the event that the correctly revised data is not submitted within the 90-day period aforesaid, the Planning Board shall presume that the applicant does not intend to submit the revisions and therefore the within approval shall be rendered null, void and of no further effect.
13. **Mount Laurel Contribution.** If applicable to this development, the applicant shall pay its contribution to the Township of Freehold Mount Laurel Housing Fund in the manner required by Section 190-224 of the Freehold Township Land Use Ordinance and N.J.A.C. 5:92-18.1. As amended by New Jersey Assembly Bill A500 which became law on July 17, 2008.
14. **Breach of Conditions.** Failure to satisfy any conditions set forth herein or a subsequent breach of any such condition or a failure by the applicant to discharge any obligation hereunder will result in the reconsideration and possible revocation or rescinding of the within approval. A certification by the Freehold Township Engineer that the applicant has breached any such conditions shall immediately terminate the right of the applicant to obtain construction permits, certificates of occupancy or any other government authorizations necessary in order to continue or complete development of the project pending a hearing before the Freehold Township Planning Board regarding the breach.
15. **Waiver regarding Installation of Sidewalks.** If the Planning Board has granted a waiver for

the installation of sidewalks in conjunction with this approval then, in accordance with Section 190-73 of the Freehold Township Land Use Ordinance, Applicant shall contribute sixty percent of the reasonable cost of sidewalk installation as calculated by the Freehold Township Engineer to the sidewalk construction account of the Township.

- 16. Signage and Appearance.** The Planning Board has reviewed and approved the Applicant's proposal concerning signage, lighting and exterior configuration, materials and colors. The Planning Board has considered the findings and reports of the Freehold Township Historical Commission pursuant to Section 190-233(H) in this regard. It is a condition of this approval that the signage, building and site improvements be constructed in strict accordance with the approved signage and appearance plans as finally approved by the Board. The approved signage and appearance plans shall consist of those plans marked into evidence at the time of the public hearing including all modifications of those plans required by the Board and entered in the record. No Certificate of Occupancy shall issue for any such building unless and until the Zoning Officer shall certify that there has been compliance with this requirement.
- 17. Lapse of Protection.** Pursuant to N.J.S.A. 40:55D-49, the statutory protections afforded by the within action shall expire three years from today's date.

BE IT FURTHER RESOLVED that a copy of the within resolution certified by the Secretary of the Board to be a true copy be forwarded to the Clerk of the Township of Freehold and within ten days of today's date to the Applicant herein. Further notice of this decision shall be published in accordance with the Revised Statutes of the State of New Jersey and the Freehold Township Land Use Ordinance.

ROLL CALL

YES: Mr. Gatto, Mr. Louro, Mr. Platt, Mr. Bazzurro, Mr. White, Mayor Golub, Committeewoman Avallone, Mr. Kash, Mr. Bruno and Mr. McGirr.

NO: ----

ABSENT: ----

ABSTAINED: ----

DISQUALIFIED: Mr. Shortmeyer.

DATE: September 18, 2008

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution which was passed by the Freehold Township Planning Board at its meeting on September 18, 2008.

Peter Platt, Acting Secretary

17. **Lapse of Protection.** Pursuant to N.J.S.A. 40:55D-49, the statutory protections afforded by the within action shall expire three years from today's date.

BE IT FURTHER RESOLVED that a copy of the within resolution certified by the Secretary of the Board to be a true copy be forwarded to the Clerk of the Township of Freehold and within ten days of today's date to the Applicant herein. Further notice of this decision shall be published in accordance with the Revised Statutes of the State of New Jersey and the Freehold Township Land Use Ordinance.

ROLL CALL

YES: Mr. Gatto, Mr. Louro, Mr. Platt, Mr. Bazzurro, Mr. White, Mayor Golub, Committeewoman Avallone, Mr. Kash, Mr. Bruno and Mr. McGirr.

NO: ----

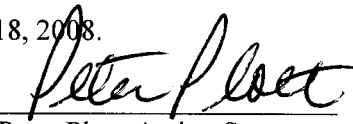
ABSENT: ----

ABSTAINED: ----

DISQUALIFIED: Mr. Shortmeyer.

DATE: September 18, 2008

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution which was passed by the Freehold Township Planning Board at its meeting on September 18, 2008.


Peter Platt, Acting Secretary

State of New Jersey:

County of Monmouth: ss:

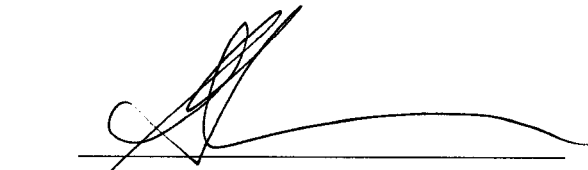
Be it remembered on this 18th day of September, 2008, before me, an Attorney at Law of the State of New Jersey personally appeared Peter Platt, who being duly sworn by me, according to law on his oath stated:

1. He is the Acting Secretary of the Planning Board of the Township of Freehold;
2. The within Resolution represents the action taken by the Freehold Township Planning Board at its meeting of September 18, 2008.

Record and return to:

FRANCIS C. ACCISANO, ESQ.
10 West Main Street
Freehold, New Jersey 07728




FRANCIS C. ACCISANO

Attorney at Law of New Jersey