

RESOLUTION OF THE JOINT LAND USE BOARD OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING A LIMITED ADMINISTRATIVE CHANGE TO A PREVIOUS APPROVAL REGARDING A MAJOR SUBDIVISION TO VALLEY DEL SOL, REGARDING PROPERTY LOCATED ON BLOCK 6, LOTS 14 & 15 ON THE TAX MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: AD-16-06

WHEREAS, a Letter Application # AD-16-06 (the "Application") for administrative relief, was received from John W. Kornick, PE, K2 Consulting Engineers, Inc., 918 Kings Highway, Haddon Heights, NJ 08035, engineer for Valley of the Sun, LLC, 181 High Street, Mullica Hill, N.J. 08062, a/k/a Valley Del Sol (the "Applicant"), to the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey (the "Board"), regarding property located on Ewan Road (the "Subject Property"), and being further shown as Block 6, Lots 14 & 15 on the tax maps of the Township of Elk (the "Township"), requesting administrative changes to a number of previous conditions regarding a Final Major Subdivision approval granted to the Applicant that had been approved by the Board in 2007, and memorialized by the Board's adoption of Resolution No. 2008-14 on February 20, 2008; and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the Board on the Application on August 17, 2016, at which time were the following present on behalf of the Applicant: John W. Kornick, PE, K2 Consulting Engineers, Inc. (the Applicant's professional engineer); William F. Ziegler, Esquire, Holston, MacDonald, Uzdavinis, Ziegler & Myles, 66 Euclid Street, Woodbury, NJ 08096, (the Applicant's attorney); and Robert Pacilli, the Principal of Valley of the Sun, LLC, a/k/a Valley Del Sol, developer of the Subject Property; Kevin French, the Chairman of the Valley Del Sol Home Owners Association; and Mr. Robert's Johns, a real estate broker who was appearing on behalf of the Applicant to give testimony on residential housing values; and

WHEREAS, Mr. Kornick was stipulated by the Board as an expert in the field of engineering and was qualified to testify as such on behalf of the Applicant for the purposes of the Application, after which were Messrs. Kornick, Pacilli, French, and Johns sworn and provided testimony on the Application;

NOW, THEREFORE, BE IT RESOLVED by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey, as follows:

FINDINGS OF FACT

1. The Application was deemed to be complete and properly before the Board. Therefore, the Board had jurisdiction to act on the Application.

2. The Board's professional engineer, Stan Bitgood, P.E., C.M.E., Federici and Akin Engineers, and the Board's professional planner, Steven M. Bach, PE, RA, PP, CME, of Bach Associates, had been sworn as to any testimony that they would give on behalf of the Board with respect to the Application.

3. The Applicant submitted and entered into the record the following:

- A. Letter dated June 10, 2016 submitted by John Kornick, PE, regarding the letter Application.
- B. Fifteen (15) copies of a Written Statement to the Office of the Planning Board Secretary detailing the requested changes;
- C. Fifteen (15) copies of Resolution No. 2008-14, the memorialized resolution granting the approval;
- D. Fifteen (15) copies of the "Partial Grading Plan" as prepared by K2 Consulting Engineers, Inc. dated May 27, 2016;
- E. A check in the amount of \$100.00 (check no. 1906) made payable to "Elk Township" for the required application fee;
- F. A check in the amount of \$500.00 (check no. 1907) made payable to "Elk Township" for the required review escrow fee;
- G. One (1) signed and notarized copy of the Escrow Agreement;

3. Mr. Ziegler provided background information regarding the Application. Mr. Ziegler stated that Mr. Pacilli had previously initiated the development and then another entity took over the development. Thereafter, the other entity was not able to finalize the development and so Mr. Pacilli stepped back in and took over the development. Mr. Ziegler reviewed Mr. Kornick's letter of June 10, 2016 in which were listed requested changes to four items that had been in the prior resolution of approval, (Resolution No. 2008-14), as well as requested changes to the Declaration of Covenants, Conditions and Restrictions for Valley Del Sol, and changes to the overall subdivision plan. Mr. Ziegler stated that he understood that these requested changes were significant in number and context, and that they should not be addressed by the Board until the public had been noticed as to a public hearing on the matter, so that the public would have the opportunity to come forward and participate in discussion on the Applicant's

request. Therefore, the requests made in the Application for Administrative changes were withdrawn, save one: a previous condition under Resolution No. 2008-14 at page 4, item #2 of the Resolution, as follows: "Whereas, the Applicant further agreed that each home shall be powered by electric either generated by the solar system or supplemented by public electric service. There shall be no other power sources, e.g. natural gas, propane, oil. The Developer's agreement, homeowner documents and point of sale disclosures shall state that each home shall have said solar energy system and that each homeowner is required to sign a document that they may not change said solar energy system for ten (10) years except to increase its capacity." Mr. Ziegler stated that the Applicant is requesting that any condition relating to a restriction against natural gas or propane be removed from the Resolution, Declaration of Covenants, Conditions and Restrictions and/or Developer's agreement.

4. Mr. Pacilli testified at length as to the Valley Del Sol development which consisted of eighteen houses that were proposed, for which seven homes have already been built and one house is in the process of being completed. Mr. Pacilli testified that the original approval for the development required that each home have a minimum 5.2 kilo watt solar system installed. The purpose of the development was to focus on solar energy as the primary means of providing power to the homes, with electric energy supplementing the solar power. Mr. Pacilli testified that because of changes in the laws regarding solar energy, it is no longer economically feasible to power homes solely with solar power, and it has become very expensive to even supplement solar power with public electric. Mr. Pacilli testified that the eighth house currently under construction was for he and his wife, but the request to eliminate the restriction against the use of natural or propane gas was not just for himself, but for the other seven residents in the Valley Del Sol development as well, in addition to future home buyers. Mr. Pacilli testified that all of the homes in the development will still be required to have solar power as per the original Resolution of approval, but that they could supplement such power with gas as an alternative energy source. Mr. Pacilli testified that without this supplemental source, he did not feel that the project could be completed since the viability of solar only power was not something that the marketplace could now support.

5. Mr. French testified that he is the President of the Valley Del Sol HOA and that he has spoken to the other six residents who agreed with him that they would prefer to have the opportunity to supplement the solar energy source and the electric energy source with gas (either natural gas if a gas line ever runs by the Subject Property, or propane gas in the interim) as such a supplemental energy source would be an efficient and cost effective way to lower residential energy costs. Mr. French testified that in his opinion there would be no detriment to the addition of the gas power and that this would greatly improve the opportunity to finish the construction of the remaining lots in the subdivision.

6. Mr. Johns testified that in his experience as a real estate broker having sold thousands of houses over many years that supplementing the solar powered homes with gas would enhance the viability of selling the remaining homes to be built. Mr. Johns testified that in the current housing market, energy costs to heat and operate homes only through solar and/or electric power, has become extremely costly and, hence, not something that the residential market supports. Mr. Johns testified that if solar power failed for any reason, the back-up of electric power only would be extremely costly for residents. Home buyers simply do not want to rely only on electric power, and solar/electric powered homes simply have little if any market. Mr. Johns testified that if permission were granted to supplement solar electric power with gas, this would enhance not only the Applicant's ability to develop the remainder Valley Del Sol project, but it would be also a clean, environmentally friendly alternative to other sources of fuel such as oil.

7. Considerable discussion took place by and between the Board, the Board's professionals, and the Applicant. In particular, that Mr. Pacilli, in constructing his home on the Subject Property, has already installed appliances that could only be powered with gas, without first getting permission to amend the original Resolution which limited all power sources to solar power and electric. Mr. Pacilli apologized to the Board, indicated that at the time he installed the appliances, subject to getting approval by the township's inspectors, he had not remembered that the power source for the homes was limited to solar power and electric power since he had not been involved for a period of time with the individuals who were actually developing the Subject Property. A discussion also took place by and between Mr. Bach (the Board's Planner) and Mr. Bitgood (the Board's engineer) with the Applicant, to review all of aspects of the conditions that the Applicant was requesting. In particular, Mr. Pacilli agreed that as a condition of approval, that a performance bond was not to be released until all of the homes had been built and solar energy installed. Mr. Pacilli agreed to that condition.

8. The hearing on the Application was open to the public at which time no member of the present spoke either in favor of or opposed to the administrative change requested.

CONCLUSIONS

The Board concluded that a very limited administrative change was appropriate to allow the developer and all of the homes either already built, or to be built, within the Valley Del Sol subdivision, to supplement the solar and electric energy sources with either propane gas or natural gas, but no other energy source. The Board concluded that it was in the best interests of the Township to have the Subject Development be completed with all of the improvements that are necessary, and the Board recognized that with changing market conditions, the viability of solar only energy, supplemented by electricity,

was not viable, even though it was deemed to be viable back when the original approvals were granted by the Board for the subdivision in 2008. The Board concluded that granting approval would result in positive aspects for the residents currently in the development, and future residents, as well as the Township in seeing that the development gets finished. The addition of either natural gas or propane gas is a clean energy source and would reduce homeowner's costs, which is a direct benefit to the citizens residing – or to reside – in the Valley Del Sol development. The Board also concludes that it can find no substantial detriments to permitting the additional use of gas as a supplemental energy source to the development, and that the relief requested can be granted as an administrative change to a previously condition of approval.

CONDITIONS

1. The Board presumes that the Applicant's Application, all maps, Exhibits, and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for relief. In the event that it appears to the Board, on reasonable grounds, that the Application, exhibits, maps, and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied on by the Board as they bear on facts that were essential in the granting of the relief requested by the Applicant, the Board may rescind its approval and rehear the Application, either upon the request or application of an interested party, or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

2. At any time after the adoption of this resolution of memorialization, should a party on interest appeal to the Board for an order vacating or modifying any term or conditions as set forth herein, upon the proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the fact(s) at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems to be appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action, as appropriate.

3. The Applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance

upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to N.J.S.A. 40:55D-12.c., and publication of the notice of public hearing in this matter in accordance with law.

4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

5. The Applicant must obtain all approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Attorney, Engineer and Planner.

6. The Applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on this Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The Applicant's escrow account must be current prior to any permits being issued, or constructions or other activity commencing on the approved project, or any certificate of occupancy being issued.

7. The Applicant must obtain any and all other construction or municipal permits, inspections, etc., required with respect to the relief as granted herein.

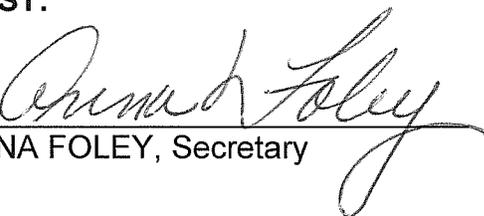
WHEREUPON, a motion was made by Board Member White, which was seconded by Board Member Schmidt, to grant the Applicant's request for an administrative change to a prior condition, with the following Board members voting in favor of the motion to approve: Poisker, Clark, Nicholson, Hughes, McKeever, Shoultz, White, and Schmidt. There were no abstentions or recusals. Board member Barbaro voted "No". Board Members Goss (Alternate Member #1) and Swanson (Alternate Member #2), participated in the hearing on the Application but did not vote.

THIS RESOLUTION WAS ADOPTED by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey, on September 21, 2016 as a memorialization of the approval granted herein as set forth above at the Board's regularly meeting held on August 17, 2016.

**JOINT LAND USE BOARD OF THE
TOWNSHIP OF ELK**

By: 
JEANNE WHITE, Chairperson

ATTEST:

By 
ANNA FOLEY, Secretary

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted at a regularly scheduled meeting of the Elk Township Joint Land Use Board, County of Gloucester, State of New Jersey held on the 21st day of September 2016 at the Township Municipal Building, 680 Whig Lane, Monroeville, N.J. 08343 at 7:30 PM, time prevailing, as a memorialization of the action taken by the Board at the Board's meeting and public hearing held on August 17, 2016 on the above cited Application.


ANNA FOLEY, Secretary

RESOLUTION NO. 2008 – 14

**OF THE ELK TOWNSHIP COMBINED PLANNING AND ZONING BOARD
GRANTING FINAL MAJOR SUBDIVISION FOR
EWAN ROAD, BLOCK 6, LOTS 14 & 15**

APPLICANT – ROBERT JAMES PACILLI HOMES, LLC

WHEREAS, Robert James Pacilli Homes, LLC, of 500 Tomlin Station Road, Mullica Hill, New Jersey, submitted a final major subdivision plan application; and

WHEREAS, the property in question is shown on the Tax Map of Elk Township as Block 6, Lots 14 & 15 – located on Ewan Road; and

WHEREAS, the applicant has proposed a residential subdivision on a 22.68 acre parcel consisting of eighteen (18) new residential lots and one (1) open space lot containing a storm water basin; and

WHEREAS, the tract is zoned LD, Low Density Residential District; and

WHEREAS, the applicant was granted Preliminary Major Site Plan approval on May 16, 2007 memorialized by Resolution 2007 – 28;

WHEREAS, in support of this application for Final Major Subdivision approval, the applicant has submitted a Subdivision Application, i.e. SD – 06 – 20, a site plan consisting of Sheets SP – 1 to 12, dated June 1, 2006 and most recently revised September 21, 2007 as prepared by Ronald N. Curio, P.E. of Adams, Rehmann & Heggan Associates, Inc., of 850 South White Horse Pike, Hammonton, New Jersey 08037; and

WHEREAS, in further support of this application for Final Major Subdivision approval, the applicant has submitted an outbounds & topographical survey consisting of one sheet dated December 7, 2005 and revised on June 16, 2006 as prepared by Charles

A. Atkinson, P.L.S. of Adams, Rehmann & Heggan Associates, Inc., of 850 South White Horse Pike, Hammonton, New Jersey 08037; and

WHEREAS, in further support of this application for Final Major Subdivision approval, the applicant has submitted an environmental impact statement dated March of 2007 as prepared by Adams, Rehmann & Heggan Associates, Inc., of 850 South White Horse Pike, Hammonton, New Jersey 08037; and

WHEREAS, in further support of this application for Final Major Subdivision approval, the applicant has submitted drainage calculations dated June 12, 2006 and most recently revised on October 1, 2007 as prepared by Ronald N. Curcio, P.E. of Adams, Rehmann & Heggan Associates, Inc., of 850 South White Horse Pike, Hammonton, New Jersey 08037; and

WHEREAS, in further support of this application for Final Major Subdivision approval, the applicant has submitted individual sewage disposal system feasibility study dated January 30, 2006 as prepared by Sanford S. Mersky, P.E. of South Jersey Engineers LLC, P.O. Box 1406, Voorhees, New Jersey 08043; and

WHEREAS, in further support of this application for Final Major Subdivision approval, the applicant has submitted a Final Plan of Lots consisting of one sheet dated February 28, 2006 and revised on September 29, 2007 as prepared by Charles A. Atkinson, P.L.S. of Adams, Rehmann & Heggan Associates, Inc., of 850 South White Horse Pike, Hammonton, New Jersey 08037; and

WHEREAS, in further support of this application for Final Major Subdivision approval, the applicant has submitted for demonstrative purposes a “conventional development lot yield plan” consisting of one sheet dated November 6, 2006 and revised on March 13, 2007 as prepared by Ronald N. Curcio of Adams, Rehmann & Heggan Associates, Inc., of 850 South White Horse Pike, Hammonton, New Jersey 08037; and

WHEREAS, the applicant appeared before the Elk Township Combined Planning and Zoning Board on December 19, 2007 represented by William F. Ziegler, Esquire of Holston, MacDonald, Uzadavinis, Eastlack, Ziegler & Lodge; and

WHEREAS, The applicant offered testimony from Ronald N. Curio, a professional engineer of Adams, Rehmann & Heggan Associates, Inc., 850 South White Horse Pike, Hammonton, New Jersey 08037, Fred Hauber, a principal of Eastern Energy Services, Inc., 4 Ridge Road, Southampton, NJ 08088, and Robert J. Pacilli, a principal of R.J.P. Homes; and

WHEREAS, the Elk Township Combined Planning and Zoning Board has considered the report dated December 13, 2007, from Sickels & Associates, the Board's professional engineer, the report dated November 19, 2007, from Bach Associates, P.C., the Board's professional planner, and the report dated May 15, 2007 from the Elk Township Environmental Commission, all of these review letters are incorporated and made a part herein; and

WHEREAS, members of the public were permitted to speak on the application at the regularly scheduled Combined Planning and Zoning Board held on Wednesday, December 19, 2007; and

WHEREAS, one (1) member of the public living near the subject parcel had questions regarding the size of the cul de sac, the detention basin fence and if sidewalks are to be provided; and

WHEREAS, there was testimony by Fred Hauber of Eastern Energy as to the value of an energy efficient home utilizing solar power indicating that each home shall have at a minimum a 5.2 kilowatt solar generating system installed with the ability to increase capacity. Furthermore, each home shall be engineered to maximize energy efficiency, again, in an effort to qualify for various tax credits and benefits; and

WHEREAS, Fred Hauber testified that the State of New Jersey has a rebate program offering funding in the amount of \$3.80/watt and that he has utilized said

program since 1989 and never experienced a problem with funding and further, that each home's system is approximately \$40,000.00 with a developer's contribution of \$18,000.00 and the State of New Jersey's contribution of \$22,000.00; and

WHEREAS, there was discussion and concern among Board members about responsibility for installation of said solar systems if there was to be a problem with the State of New Jersey funding program. As a result, it was agreed to by the applicant that a Developers Agreement shall be prepared stating that there shall be no release of the performance bond until solar power systems are installed in each house – however, said performance bond may be reduced down to thirty (30%) percent of the bond amount, but no lower than thirty (30%) percent pending full compliance; and

WHEREAS, the applicant further agreed that each home shall be powered by electric either generated by the solar system or supplemented by public electric service. There shall be no other power sources, e.g. natural gas, propane, oil. The Developer's Agreement, homeowner documents and point of sale disclosures shall state that each home shall have said solar energy system and that each homeowner is required to sign a document that they may not change said solar energy system for ten (10) years except to increase its capacity; and

WHEREAS, the applicant has requested additional variances for final approval for Lots 14.06, 14.07, 14.13, 14.15, and 14.16 from the front yard setback requirement where 25 foot front yard setback is provided where 40 foot is required. These variances were necessitated by the configuration of the revised cul-de-sacs as requested by the Board and the Board decided that the benefits of the grant of said variances will outweigh any detriments and that there would be no substantial detriment to the public or impairment of the zone plan in so doing approved said variances; and

WHEREAS, the applicant has requested relief in the form of a waiver from the setback and buffer requirements for Lots 14.01 and 14.13 and the Board finds said request acceptable and consonant with the proffered final plan; and

WHEREAS, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public;

NOW, THEREFORE, BE IT RESOLVED that the application for approval of the Final Major Subdivision Plan for Block 6, Lots 14 & 15 is **APPROVED** subject to approval of all other governmental agencies, the review letters of the Board's professionals and the following:

1. A Home Owners Association for Common Elements shall be formed to address, inter alia, maintenance and repair of the common areas and drainage systems and basins, underground infiltration systems, tree lines, landscaping farm fencing, detention basins and fencing, center island maintenance and such other responsibility as may be set forth herein. The Home Owners Association documents shall be forwarded to the Board's Chairman, solicitor, engineer and planner. These Home Owners Association documents are subject to the review and approval of the Board's solicitor and professionals prior to the signing of the plans.

2. The applicant will install solar powered street lighting to further enhance and emphasize the energy efficient aspects of the project.

3. The cartway shall be 30 feet wide instead of the RSIS 28 feet and an Agreement to Exceed RSIS Standards shall be prepared and subject to review by the Board's solicitor.

4. The applicant is granted a waiver from installing sidewalks along Ewan Road.

5. A Basin Maintenance Trust Fund shall be established by the Home Owners Association. The creation of and the supporting Basin Maintenance Trust Fund documents are subject to approval by the Board's solicitor and other professionals.

6. To the extent that the design requires easements outside a dedicated right of way, they shall be dedicated by Deed of Easement and described by legal description

and depicted by metes and bounds description upon the plats. The legal descriptions for these easements shall be submitted to the Board engineer for his review and approval prior to the signing of the final plats. The form of Deeds shall be submitted to the Solicitor of the Board for his review and approval prior to the signing of the final plats.

7. The Homeowners Association will be responsible for the maintenance and repair of the common areas and drainage systems and basins, underground infiltration systems, tree lines, landscaping farm fencing, detention basins and fencing, center island maintenance and such other responsibility as may be set forth herein. The Homeowners Association declaration and bylaws shall include the requirements for maintenance and such other matters. Any easements required for the maintenance obligations of the Homeowners Association shall run to the benefit of the Homeowner Association and must provide that should the Homeowner Association disband or become defunct, the obligation of maintenance for the improvement shall fall upon the individual property owners within the development. The Deeds of easement must be submitted to the Planning/Zoning Board engineer and the Solicitor of the Planning/Zoning Board for their review and approval prior to the signing of the plans.

8. The Applicant agrees that the maintenance of all drainage facilities which impact the private lots shall not be the responsibility of the Township of Elk but shall be individually maintained by the homeowners upon whose property the drainage facilities are situate. The Applicant shall disclose this obligation in all contracts for the sale of the lots.

9. The obligation of basin maintenance and the budget for same shall be set forth as a line item in the Homeowners Association Declaration of Covenants and Restrictions. The Applicant shall also include a disclosure of this maintenance responsibility and the cost in a point of sale disclosure to all future purchasers of lots in this phase of the development. This disclosure shall be contained in all contracts to purchase these lots.

10. All basin lots are to be dedicated to the Homeowners Association by deed in fee simple. The legal descriptions for these lots are to be submitted to the Board Engineer for his review and approval and the deeds are to be submitted to the Board Solicitor for her review as to form prior to the signing of the final plats. All information to support the legal descriptions is to be shown on Plan of Lots. The Deed of conveyance shall contain a maintenance schedule for the detention basin, which has been approved by the Board Engineer.

11. The Applicant shall submit copies of the certificate of incorporation of the Homeowners Association to the Board prior to the signing of the final plats.

12. The Applicant has agreed that the Homeowners Association shall provide for a formula to permit the individual lot owners to have control of the Association no later than the date when 75 percent of the lots have been sold to individual homeowners.

13. The Homeowners Association must be responsible to insure the common areas and facilities and the Homeowners Association declaration shall specifically refer to this obligation.

14. The Applicant shall establish a Homeowners Association budget for the maintenance and future repair and replacement of the common facilities, insurance and other obligations of the homeowners association and the Homeowners Association declaration shall set forth this budgetary item.

15. The Homeowners Association declaration shall contain the text of the point of sale disclosures required by this approval.

16. Homeowners Association documents must state that they may not be amended to remove the obligations of maintenance, which rest with the Homeowners Association or the individual lot owners.

17. The Applicant shall include in all contracts for the sale of lots, disclosures of the easements and restrictions applicable to the development, the recycling requirements of the Township of Elk, the detention basin maintenance requirements, the homeowners association and its specific responsibilities, the wetlands and wetland buffer restrictions, the landscape easements and the location and existence of the emergency access easement. The text of this point of sale disclosures shall be approved by the Solicitor of the Board prior to the signing of the final plats.

18. Under no circumstances shall any soil or earth be sold or otherwise removed from the site unless application is made and approval granted by the Township of Elk. Topsoil moved during construction shall be redistributed so as to provide at least 4 inches of cover to all areas of the subdivision. The plans shall contain a note to this effect.

19. The Applicant shall submit grading plans for each lot, which evidence grading that conforms to the Township ordinances. The Board engineer must approve these plans.

20. In accordance with N.J.A.C. 5:21-4.12 of the New Jersey Residential Site Improvement Standards, all electric, telephone, television, and other communication facilities, both main and service lines servicing new developments, shall be provided by underground wiring within easements or dedicated public rights-of-way. These are to be within the right-of-way due to a lack of proposed easements.

21. All rights-of-way and easements to be dedicated to the Township shall be defined by legal descriptions in the form of deed of easement and said deeds shall be filed upon the land records of the County. All rights of way for roadways shall be dedicated in fee simple. All information to support legal descriptions is to be shown on Plan of Lots. The legal descriptions shall be submitted to the Board engineer for his review and approval and the form of deed shall be submitted to the Township Solicitor for his review and approval prior to the signing of the final plats. These deeds shall be filed before the final plats and may not be subordinate to any other interest.

22. All wetland and wetland buffer restrictions are to be recorded upon the land records of the County in the form of deed restrictions defined by legal descriptions. All information to support legal descriptions is to be shown on Plan of Lots. The Deeds of Restriction shall be filed prior to the filing of the plats. The legal descriptions shall be submitted to the Board engineer for his review and the deeds shall be submitted to the Solicitor of the Board for his review as to form prior to the signing of the final plats.

23. The applicant must obtain the correct block and lot numbers from the Tax Assessor. Written verification must be received by this office prior to final review and signature of the deeds and/or plat.

24. Pursuant to Township Ordinance 70-6, the Housing Trust Fund, a development fee is required. Fifty (50%) Percent of the fee is required at the issuance of building permits and the remainder upon the issuance of Certificate of Occupancy. The Applicant and owner are reminded that site safety is their responsibility. The cover sheet of the plans must state that “The owner, or his representative, is to designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21 (e) of the N.J. Uniform Construction Code and CFR 1926.32 (f) (OSHA Competent Person)”.

25. Prior to signing of the final plats, the Applicant must post a performance guarantee in the amount of 120% of the estimated cost of all site work, a street lighting bond and a maintenance bond. The amount of the guarantees must be based on an estimate that has been prepared by the Applicant and approved by the Township Engineer. This approval is conditioned upon these estimates and will be supplemented by a written report of the Township Engineer setting forth the amount of the bonds required. The Performance bond must run for a period of two years. All bonds must be in a form, which is acceptable to the Solicitor of the Township of Elk, and the bonds shall be submitted to the Solicitor of the Township for his review and approval prior to the signing of the final plats. The Applicant shall also post a cash inspection escrow deposit as required by the Ordinance, in an amount to be established by the Township Engineer. The inspection escrow must be posted prior to the issuance of any construction permits.

26. The Developer must file "As Built" plans with Elk Township and submit a copy of same to the Board Engineer for his review and approval. No performance guarantee shall be released until the "As Built" plans are filed.

27. Prior to the signing of the final plats the Applicant must obtain the certification of the Board engineer that all improvements as indicated upon the final plats are in conformance with the requirements of the approval granted by the Board.

28. The Applicant must contact the Board's office to settle any outstanding review escrow accounts prior to the signing of the final plats and the issuance of building permits. The Applicant must pay any and all required fees that are due or may become due to the Township within seven (7) days notice thereof, including but not limited to settlement of any outstanding review escrow accounts.

29. The Applicant must provide proof of current tax payment to the Board Secretary prior to issuance of any building permit for the project.

30. The Applicant must comply with all representations made, either personally or through any representative, during the course of its application to the Board, and in all plans, documents or other materials filed or presented with the application and must satisfy all of the above conditions prior to the signing of the final plats for this phase of the development, unless a different dead line is set forth herein.

31. Copies of final plats for this project must be available for inspection by prospective purchasers in all sales trailers and/or locations.

32. To the extent that the plans submitted by the Applicant do not conform to the conditions of this approval, the Plans must be modified to reflect these conditions. The Applicant shall submit ten copies of the modified plans to the Board Engineer for his review and approval and for signature. These plans shall be filed with the Board's office.

33. There shall be landscaping easements dedicated to the Home Owners Association to permit the Home Owners Association to enter upon the individual lots to

maintain the street trees which shall be planted by the Developer. The easement shall be of duration to encompass the entire maintenance period such that it will not expire until at least two years beyond the acceptance of the improvement by the Township.

34. All wetland and wetland buffer easements are to be disclosed to the individual homeowners by point of sale disclosures and the effected lots shall be restricted by deed of restriction which describes the area of the wetlands and the wetlands transition areas by legal descriptions. All information to support legal descriptions is to be shown on Plan of Lots.

35. This plan may be subject to the review and approval of all other governmental entities or agencies with jurisdiction over this development. Evidence of these approvals must be submitted to the Township Planning/Zoning Department and this office prior to the final signature of plans. All approvals must not be subject to appeal. This includes but is not limited to the Gloucester County Planning/Zoning Board. The Gloucester County Soil Conservation District and the New Jersey Department of Environmental Protection. The Applicant must obtain all necessary demolition and construction permits.

36. Since the applicant does not propose any recreational improvements on the site, the applicant shall remit Two Thousand Five Hundred (\$2,500.00) Dollars per unit to the recreation fund. This shall be paid in two installments; One Thousand Two Hundred and Fifty (\$1,250.00) Dollars upon the granting of a unit's building permit and One Thousand Two Hundred and Fifty (\$1,250.00) Dollars upon the granting of a unit's certificate of occupancy.

37. The radius of the cul-de-sac, at the curb line, is now 61 feet where 49 feet was previously proposed therefore exceeding the RSIS standards and therefore an Agreement to Exceed RSIS Standards shall be prepared and subject to review by the Board's solicitor.

38. The applicant shall install sidewalk and curbing throughout the interior of the development.

39. The applicant shall request of Elk Township that parking shall be only on the side of Ewan Road opposite of the proposed development.

40. The applicant shall place deed restrictions of those wetland areas within the development in a form similar to that used by the N.J.D.E.P. The language of said deed restrictions and legal descriptions shall be submitted to the Board engineer for his review and to the Solicitor of the Board for his review prior to the signing of the final plats. The Deeds of Restriction shall be filed prior to the filing of the plats.

41. The applicant shall place marker monuments where each property line crosses wetlands to demark where the wetlands begin.

42. The applicant shall construct a split rail fence with wire mesh and adverse plantings to surround the detention basin.

43. The applicant shall provide a 15 foot wide emergency access easement between Lots 14.13 and 14.14. The language of said deed easement shall be submitted to the Solicitor of the Board for his review

44. An issue for final approval was the applicant attempting to remove an existing 12 inch DIP pipe crossing Ewan Road and replace it with a 15 inch pipe. This issue no longer exists as the applicant has replaced said 12 inch pipe with a 15 inch pipe.

45. The applicant shall not utilize a sales trailer at the proposed development and the applicant has agreed to return for Board review of any proposed signage.

46. The applicant agrees to permit the Board's planner to determine the type of grasses to be planted in the stormwater basin's pre-treatment area.

47. An open issue for final approval was a proposed easement between proposed Lots 14.05 and 14.06 as shown on the plan for a possible future roadway extension to abutting properties. This issue no longer exists as the lot to the south has been permanently preserved pursuant to the Farmland Preservation Program and shall not be developed; the easement is therefore not necessary.

48. An open issue for final approval was whether or not “dry” hydrants shall be installed. This issue has been resolved and it is the Board’s decision not to require “dry” hydrants therefore the applicant shall not install “dry” hydrants.

49. The applicant is granted a waiver from the setback and buffer requirements for Lots 14.01 and 14.13.

50. The applicant shall prepare a point of sale disclosure reflecting the twenty (25) foot landscape easement across the entire front of the development on Ewan Road to be maintained by the Homeowners’ Association.

51. The applicant shall provide a twenty (20) foot drainage easement between Lots 14.15 and 14.16 with deed restrictions to prohibit fencing to facilitate basin access and emergency vehicles with said easements subject to review by the Board’s solicitor and engineer.

52. The applicant shall provide point of sale disclosures to any lots abutting an existing farm regarding the existence and expectancies of said agricultural use with said disclosure subject to review by the Board’s solicitor.

53. Any and all provisions as required by previous resolution shall be satisfied and incorporated into this resolution as if fully set forth herein.

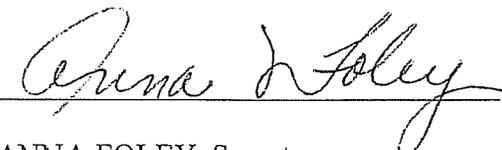
BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Township clerk, Township Construction Official, Township Tax Assessor, and the Township Zoning Officer.

Voting in favor: Carter, McCreery, Nicholson, Shoultz, Streit, Swanson, Yovnello, White

ELK TOWNSHIP COMBINED PLANNING AND ZONING BOARD

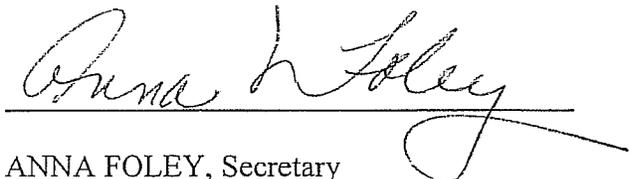
By: 
NICK YOVNELLO, Chairman

ATTEST:


ANNA FOLEY, Secretary

Certification

I hereby certify that the foregoing Resolution is a true and correct copy of a Resolution adopted by the Township Combined Planning and Zoning Board at its regular meeting on February 20, 2008, its decision of December 19, 2007


ANNA FOLEY, Secretary

December 13, 2007

Elk Township Planning Zoning Board
667 Whig Lane Road
Monroeville, NJ 08343

Attn: Chairman & Members of the Board

Re: FINAL MAJOR SUBDIVISION
ROBERT PACILLI HOMES, LLC
BLOCK 6, LOTS 14 AND 15
EWAN ROAD
ELK TOWNSHIP, GLOUCESTER COUNTY, NJ
S&A FILE NO. EPB-225

FILE COPY
RECEIVED
DEC 13 2007
TOWNSHIP OF ELK
PLANNING/ZONING

Dear Chairman & Members of the Board:

Our office is in receipt of the application for Final Major Subdivision Approval of the property known as Block 6, Lots 14 and 15. The property is located in the "LD" Low Density Residential Zoning District. We received the following in support of the application:

1. Elk Township Subdivision Application Form
2. Variance Request Description
3. Proof of payment of Taxes
4. Revised engineering design plans prepared by Adams, Rehmann and Heggan Associates, Inc. and are dated June 1, 2006 and last revised on October 1, 2007. The plans submitted are as follows:

| SCHEDULE OF SHEETS | | | |
|--------------------|---|----------|----------|
| SHEET | TITLE | DATE | REVISED |
| 1 | COVER SHEET | 06/01/06 | 10/01/07 |
| 2 | DEVELOPMENT PLAN | 06/01/06 | 10/01/07 |
| 3 | GRADING PLAN | 06/01/06 | 10/01/07 |
| 4 | STORMSEWER PLAN | 06/01/06 | 10/01/07 |
| 5 | ROAD "A" AND "B" PROFILES | 06/01/06 | 10/01/07 |
| 6 | EWAN ROAD AND STORMSEWER PROFILES | 06/01/06 | 10/01/07 |
| 7 | LANDSCAPE AND LIGHTING PLAN | 06/01/06 | 10/01/07 |
| 8 | LANDSCAPE AND LIGHTING DETAILS | 06/01/06 | 10/01/07 |
| 9 | SOIL EROSION PLAN | 06/01/06 | 10/01/07 |
| 10 | SOIL EROSION AND SEDIMENT CONTROL NOTES & DETAILS | 06/01/06 | 10/01/07 |
| 11 | DEVELOPMENT DETAILS | 06/01/06 | 10/01/07 |
| 12 | DRAINAGE DETAILS | 06/01/06 | 10/01/07 |
| | DRAINAGE CALCULATIONS | 06/12/06 | 10/01/07 |

RE: FINAL MAJOR SUBDIVISION
 ROBERT PACILLI HOMES, LLC
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The following items were previously submitted as part of the application:

1. Preliminary Assessment & Site Investigation, signed by Henry D. Wiegel, PE and Chris Gardner, Sr. Environmental Tech, of ARH dated August 2005.
2. Individual Sewage Disposal System Feasibility Study, signed by Sandford S. Mersky, PE, of South Jersey Engineers, LLC, Voorhees, New Jersey dated January 30, 2006.
3. Outbounds and Topographic Survey, sheet 1 of 1, signed and sealed by Charles A. Atkinson, PLS of ARH, last revised 6/16/06.
4. Conventional Development Lot Yield Plan prepared by Adams, Rehmann and Heggan Associates, Inc. and are dated November 6, 2006.
5. Environmental Impact Statement prepared by Adams, Rehmann and Heggan Associates, Inc. and is dated March, 2007.

Background

This project received Preliminary Major Subdivision approval on June 20, 2007, as written in Resolution 2007-28.

The applicant is proposing a subdivision creating 19 lots, (18) residential lots and (1) stormwater management/open space lot. The applicant previously provided a Yield Plan that which shows the project will have 0.79 units per acre on the 22.65 acre property.

The applicant had previously submitted an application for the property requesting a variance from the cluster provision Section 96-73C (1) which requires a minimum of 25 acres. That application was denied by the planning board.

The current application does not include a request for a variance to the cluster ordinance, but rather, includes requests for specific bulk variances as identified below.

Zoning

The following bulk standards apply:

"LD" Low Density Residential Zoning District Regulations

| Lot Standards | Code section | Required | Proposed | Compliance |
|---------------------------------|--------------|-----------|--------------|------------|
| Max. Gross Density | 96-69D(1) | 1 UNIT/AC | 0.79 UNIT/AC | YES |
| Min. Lot Area | 96-69D(2)(a) | 40,000 SF | 25,179 SF | NO* |
| Min. Lot Frontage | 96-69D(9) | 135 FT | 115 FT | NO* |
| Min. Width (@ Building Line) | 96-69D(6)(a) | 150 FT | 125 FT | NO* |
| Min. Depth | 96-69D(7) | 200 FT | 200 FT | YES |
| Min. Front (principal) | 96-69D(3) | 40 FT | 25 FT | NO** |
| Min. Side: (principal) One/Both | 96-69D(5) | 10/50 FT | 10/35 FT | NO* |

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| Lot Standards | Code section | Required | Proposed | Compliance |
|------------------------|--------------|----------|----------|------------|
| Min. Rear: (principal) | 96-69D(4) | 40 FT | 40 FT | YES |
| Max. Building Height: | 96-69D(10) | 35 FT | <35 FT | YES |

* Variances Granted ** Variance Required for Final

Variances Granted as part of the Preliminary Approval

1. Variance from providing the minimum lot size requirement of 40,000 SF for proposed lots 14.02, 14.03, 14.04, 14.05, 14.06, 14.07, 14.14, 14.15, 14.16, 14.17 and 14.18.
2. Variance from providing the minimum lot width of 150' for proposed lots 14.03, 14.04, 14.08, 14.09, 14.10, 14.11, 14.14, 14.15, and 14.16.
3. Variance from providing the minimum lot frontage of 135' for proposed lots 14.05, 14.06, 14.08, 14.09, 14.10, 14.11, 14.13, 14.15, and 14.16.
4. Variance from providing the minimum combined side yard of 50' for all proposed lots.

Additional Variances Required for Final Approval

1. A Variance is required for the front yard setbacks for the lots located on the bulbs of the revised cul-de-sacs. The front yards for Lots 14.06, 14.07, 14.13 and 14.14 are now shown with 25' front yard setbacks where 40' are required.

Final Major Subdivision Application

This application is for final approval but also represents the applicant's response to effect compliance with the Preliminary Subdivision approval.

This review is structured to

- A. Address compliance with our May 9, 2007 Preliminary Plan review.
- B. Address compliance with the resolution of approval
- C. Address any new issues raised for conformance with Final approval that was not considered in the Preliminary plan review

Each of the original comments is noted and the status noted below

Layout and Circulation

1. The applicant is proposing one (1) entrance into the project from Ewan Road, an Elk Township road. RSIS regulates the number of units allowed to be serviced by one (1) entrance based on traffic volumes. Generally, this calculation limits the number of units to a maximum of 24 units. The applicant is proposing 18 lots and therefore complies.

Satisfied. No comment required.

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2. The applicant is proposing a cart way width of 28 feet in accordance with RSIS standards. This would result in parking being restricted to one-side of the proposed street. A roadway width of 30 feet would eliminate the need for "no parking" areas along both proposed roads. The Board has approved this request in the past. If approved as proposed, the applicant must request the adoption of a "no parking" Ordinance by the Township Committee and subsequently, install signage. Cost for processing this request would be the burden of the applicant. This issue must be resolved prior to Final approval.

Partially satisfied. The applicant has revised the plans to show a 30' cartway width, which exceeds RSIS standards. A completed "Agreement to Exceed" the RSIS standards must be executed. This should be coordinated with the Board's solicitor.

3. The radius of the cul-de-sac, at the curblineline, is 49 feet. In the past, the Planning Board and the Elk Township's Fire Official have requested that applicant consider increasing the radius to allow for safer access for Fire equipment and School Bus access. This should be discussed.

Partially satisfied. The applicant has revised the plans to show the radius of the cul-de-sac, at the curblineline at 61 feet, where 49 feet was previously proposed. This size cul-de-sac, therefore exceeds RSIS standards. A completed "Agreement to Exceed" the RSIS standards must be executed. This should be coordinated with the Board's solicitor.

4. No emergency access has been proposed for this project. The Board should obtain comment from the Township Fire Chief and Emergency Management.

Satisfied. A 15' wide stabilized access located within an 18' wide easement has been proposed between Lot 14.13 and 14.14, connecting Ewan Road with the un-named Road "B".

5. The plan appears to show proposed easements for future possible roadway extensions at the ends of each proposed street. The way the easements are currently shown, they are not connected to the cul-de-sacs, which make them inefficient. Also, if these roadways are to be extended, a further reduction in lot size would result for lots 14.05 and 14.06.

Partially Satisfied. The road ROWs and easements have been reconfigured to facilitate the possible future connections. It is not clear how this easement will serve the intended purpose. That is, if the easement is in favor of Elk Township, is the construction of a future roadway extension an "entitlement" for the developer of the adjacent parcel (i.e. as paving an unimproved ROW may be). Although this is not a consideration that requires any plan revisions for the developer of this property, the deed of easement may require such clarification.

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6. The plan indicates proposed sidewalks on both sides of the internal roadway. No sidewalk is shown along Ewan Road. A waiver request would be required if the applicant is not proposing sidewalk in this location.

Satisfied. The plan indicates proposed sidewalks on both sides of the internal roadway. Preliminary approval was granted waiving the requirement of having sidewalk installed along Ewan Road.

Stormwater Management

The project includes a proposed infiltration stormwater management basin. It has generally been designed in accordance with the requirements of the NJ State Stormwater Management Regulations. The basin is design to accept runoff from the abutting lands and stormwater collection and conveyance system provided for the project.

1. The applicant's proposal includes a provision to remove an existing 12 inch DIP pipe crossing Ewan Road. The applicant's engineer shall provide additional information concerning the outlet structure of the proposed stormwater management basin. The information shall include a downstream analysis. We recommend that the applicant consider replacing the existing 12 inch diameter outlet pipe and install a new culvert crossing at approximately station 7 + 30. This may require acquisition of an easement from the owner's of Block 2, lot 15.

Partially satisfied. The plans have been revised to indicate the existing 12" DIP pipe crossing Ewan Road is to be removed and replaced with a 15" Class IV RCP storm pipe. This pipe ties into an inlet with an existing 12 inch diameter DIP pipe exiting and then crossing into lot 15. Although we continue to recommend replacement of this 12 inch line as well, if stability/capacity calculations for the pipe and ditch can be provided the replacement of the 12 inch line would not be required.

2. A Low Impact Development checklist must be provided.

Open. The list has not been provided.

3. A basin operations and maintenance schedule and manual must be provided.

Partially Satisfied. The plans (sheet 10 of 12) includes basin maintenance standards. We recommend that a manual that can be included in the HOA documents be prepared.

4. A cost estimate for future maintenance and operations of the basin shall be provided.

Open. The list has not been provided.

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5. An easement in favor of Elk Township shall be provided to the basin area as well as the noted easement between lots 14.15 and 14.16, to facilitate enforcement and continued operation of the basin as it services the runoff from roadways which will be dedicated to Elk Township.

Open. The list has not been provided.

6. We recommend that two or three access driveways to the basin be provided to facilitate emergency vehicles. As the areas for the two endwalls and the emergency spillway will need to be free of vegetation, these may be the most appropriate locations. We recommend that the applicant's engineer coordinate, with our office, these access drive locations and particular details; i.e. width, slope, material.

Partially satisfied. An easement has been provided between lots 14.15 and 14.16. however the type of surface, width has not been provided. This area will require deed restrictions to prohibit fencing.

7. The barrier berm separating the two portions of the basin shall be dimensioned.

Satisfied. This dimension has been provided.

8. We have some concerns regarding the permeability of the underlying soils within the basin. The Soil Permeability results reflect K3 values for the materials. This classification generally provides materials with adequate performance. However, the soil boring logs indicate the presence of glauconite clay within the horizon of soil that would require infiltration. We request that the applicant's engineer verify the results of the permeability test as they relate to the soils in question.

Satisfied. The report delineates the permeability class of the soils to be K3, a moderate to good permeability.

Additional Stormwater Management Comments

- F1. The applicant's engineer shall provide additional information concerning the outlet structure of the proposed stormwater management basin. The information shall include a downstream analysis.

Grading and Drainage

1. Driveway slopes shall be added to the plans

Satisfied. Driveway slope have been added to the plan.

2. The odd numbered contours are not labeled.

Satisfied. The odd number contours are now labeled.

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3. The invert elevations of the headwalls and flared end sections shall be added to the grading plan.

Satisfied. The invert elevations have been added to the plans.

4. We recommend that inlet nos. 12 and 19 be relocated to the ROW of Ewan Road. This will facilitate collection of roadway runoff and eliminate the need for easements in favor of the Homeowner's Association and Township of Elk.

Satisfied. Inlet #12 has been relocated out into the Ewan Road right-of-way. A manhole has also been added to eliminate the need for any stormwater easements in the area. Inlet #19 in this location has been deleted.

5. The applicant shall describe to the board how the divided stormwater basin is designed to function.

Satisfied. The applicant provided adequate testimony at the Preliminary Plan hearing.

6. The applicant shall provide testimony as to why 8" heads for the type "B" inlets are to be utilized as opposed to the standard 6" heads.

Satisfied. The applicant provided adequate testimony at the Preliminary Plan hearing.

7. One of the inlets located at station 1+50 on Road "B" has an incorrect grate elevation.

Satisfied. The grate elevation has been corrected.

8. The applicant shall provide testimony concerning the proposed outlet structure system for the stormwater basin.

Satisfied. The applicant provided adequate testimony at the Preliminary Plan hearing.

9. A profile shall be provided for the existing and proposed storm pipe that is to be utilized as part of the basin outlet structure.

Open. No profile has been provided.

10. The proposed inlet No. 1 shall be relocated to facilitate the potential roadway extension. As located, the inlet would be located in the center of the future roadway

Satisfied. The inlet has been relocated.

Additional Grading and Drainage Comments for Final Review

- F1. A profile shall be provided for the storm pipe crossing from the basin outlet structure to the northern side of Ewan Road where the proposed pipe ends.
- F2. The front yard grading for Lot 14.09 shall be revised
- F3. The grading between Lot 14.10 and 14.11 shall be revised.

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Landscaping and Lighting Plan

1. The street light at the terminus of Road "B" should be relocated to preclude it being in the center of the roadway should the roadway be extended in the future.

Satisfied. The fixture has been relocated.

2. We defer all landscaping issues to the Township Planner except that all planting materials shall be removed from areas where conflicts with storm drains, other utilities and sight lines exist.

Satisfied. Landscaping material locations have been revised to eliminate conflicts with utilities, storm drains, etc.

Additional Landscaping and Lighting Comments for Final Review

- F1. The applicant is proposing solar lighting for all street lights located within the project on Road "A" and Road "B". The only traditional electric street light proposed (cobra head) is at the intersection of Ewan Road with Road "A".
- F2. We recommend consideration of eliminating three fixtures Between lots 14.02/14.03, 14.03/14.04 and the one fronting 14.12.

Paving and Curbing

1. The paving section of 2" of bituminous surface course, 4" of bituminous stabilized base course and 6" of dense graded aggregate exceeds the RSIS standard paving section of 1 1/2" of bituminous surface course, 3 1/2" of bituminous stabilized base course and 6" of dense graded aggregate, which is acceptable.

Satisfied previously.

A request for a reduction in paving section, as prescribed by RSIS, must be submitted and approved prior to construction.

Statement only. No action required.

2. The detail sheet has a detail that shows a widening of Ewan Road. The plans do not designate where this widening is proposed. Our previous review letter recommended that Ewan Road be widened to a width of 30' along the property frontage. The applicant's engineer shall provide documentation and testimony regarding the configuration of the entrance and comment on the need for any auxiliary lanes; acceleration/deceleration.

Partially satisfied. The applicant provided testimony regarding the lack of need for auxiliary lanes. However, the entrance configuration includes paving tapers that need additional spot elevations and coordination with widening detail on sheet 11 of 12.

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Environmental Impact Statement

1. The applicant shall provide information concerning issues raised by the Township Environmental Commission in their letters dated October 16, 2006 and May 15, 2007.

Partially Satisfied. We defer to the environmental commission on the status of any outstanding issue.

2. This document references that the land is currently used as cultivated farmland. The report makes no reference of testing for agricultural pesticides. The presence of arsenic, lead and/or any other pesticides may exist on the site. We recommend sampling and testing for these contaminant in accordance with the NJDEP standards.

Open. We continue to recommend this testing.

3. The applicant is requesting variance relief from the ordinance with the main justification being the orientation to provide a solar powered community. We request that the Environmental Impact Statement address the environmental benefits of this type of developments as they relate to air quality, preservation of non-renewable resources, etc.

Partially satisfied. The applicant provided sufficient testimony and received the required variance. We continue to recommend that the Environmental Impact Statement be amended to include the solar issue as it will provide record documentation in addition to the testimony.

Miscellaneous Comments

1. The applicant is proposing sidewalk on both sides of the proposed roadway terminating at the entrance on Ewan Road.

Satisfied. No additional information required.

2. Due to the increase in traffic on Ewan Road, we would recommend consideration be given to a "no parking" restriction along the project side of Ewan Road and the appropriate signage. This will require the review and approval of the Township Committee.

Open. As stated in the Preliminary approval, the applicant shall make a request to Elk Township to install "No Parking" signs along Ewan Road within the project limits.

3. We recommend that all corner lots be deed restricted to access from one (1) street.

Partially Satisfied. The plan indicates driveways that are compliant. We recommend that a note be added to the plans.

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4. The project proposes side entry garages with varying driveway/side yard setbacks. The detail sheet shows driveways offset at 5 feet. This would require a variance from Ordinance o-8-2006 which requires a minimum 10 foot offset from the property line unless the driveway services the abutting lot also. The applicant shall provide clarification on their intent.

Open. A variance is required to keep the driveways 5' from the property lines.

5. The driveway detail includes a maximum grade of 12%. We recommend that the slope of the driveways be limited to a maximum of 10%.

Open. We continue to make this recommendation.

6. No parking signs have been proposed on Road "A" but not on Road "B". These signs shall be added.

Satisfied. No parking signs are no longer required with the 30' wide cartways that have been provided.

7. The sight triangles are located in the wrong location. The apex shall be moved back to the location of where the operator of a vehicle will be located sitting at the individual stop bars.

Satisfied. The sight triangles have been relocated and are acceptable.

8. The chief of the fire department, in his letter dated October 3, 2006, requested the installation of dry hydrants at several locations. The applicant shall provide testimony concerning the addition of dry hydrants.

Open. This issue has not be resolved. It is our understanding that the applicant does not wish to provide a dry line and dry hydrants. This issue would need to be coordinated with the Elk Township MUA and the fire code official.

9. Ewan Road shall be labeled on all plan sheets containing the entire site.

Satisfied. The labels have been provided.

10. A vertical curve shall be added to Road "B" where the grade changes from 0.75% to 2.87%.

Open. The profile has not been revised.

11. The profile for Road "A" shall be extended to the curblineline at the end of the cul-de-sac.

Open. The profile has not been revised.

12. Ewan Road shall be shown at the beginning of the profile for Road "A".

Satisfied. This information has been provided.

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13. There is some text that was cut off on storm profile "C".
Satisfied. The profile has been revised.
14. The delineation for the handicap ramps shall be provided on the entire ramp, as per ADA standard 4.7.7.
Satisfied. The detail has been revised.
15. The applicant shall provide testimony on the need for a fence around the basin. Disclosure of expected periods of inundation, embankment slopes and types of landscaping material that may act as a deterrent shall be discussed.
Satisfied. Testimony and plan revisions have been provided.
16. The wetlands delineation for the ditch on the adjacent property has not been identified as verified by NJDEP or subject to an existing LOI. The applicant shall provide testimony and revise plan accordingly.
Satisfied. The plan notes the NDEP LOI.
17. The applicant shall address the requirements for recreation.
Open. This issue shall be resolved.
18. The project name, if any, and all proposed street names shall be submitted to the Township Committee for approval.
Open. These issues shall be resolved prior to final approval.
19. Earthwork computations should be provided to evaluate the amount of fill material needed and potential number of truck deliveries required and potential truck routes.
Partially Satisfied. Earthwork calculations are shown on plans. The calculations show an excess of material. A permit for removal of the excess must be received from Elk Township.
20. The plans do not indicate a location for a sales trailer at this time. The applicant shall disclose whether they intend to utilize a sales trailer.
Open. This shall be determined.

Additional Miscellaneous Comments for Final Review

1. The applicant has proposed a 4' high split rail fence with wire mesh as requested. The locations of all gates for access to the basin shall be shown on the plans.
2. The Preliminary approval indicates that the applicant shall pay \$2,500 per unit towards the Township's recreational requirements.

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3. The applicant shall not utilize a sales trailer for this project unless a separate site plan application is submitted for review and approval to the Elk Township Planning Board.
4. No subdivision plat for recording purposes was submitted with the application. We reserve comments until receipt/review of this document.

Outside Agency Approvals

The subdivision appears to need the following outside approvals:

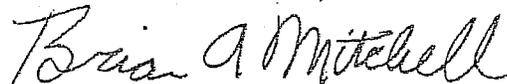
1. Gloucester County Planning Board
2. Gloucester County Soil Conservation District
3. Gloucester County Health Department

Should the board grant approval of the Final Subdivision application, the applicant would be subject to posting of performance guarantees and inspection escrows prior to any construction. Individual lot grading plans shall also be submitted for conformance of the Township's Ordinances.

The applicant shall be prepared to address the aforementioned items during the hearing. Please feel free to contact our office with any questions or concerns you may have regarding the above referenced project.

Very truly yours,

SICKELS & ASSOCIATES, INC.



Brian A. Mitchell, PE, CME
Elk Twp. Planning Zoning Board Engineer

BAM:bc

cc: John Alice, Esq, ETP/ZB Conflict Solicitor
Leah Furey, PP, ETP/ZB Planner
Dennis Marchei, ET Fire Official
Darlene Campbell, ET Tax Assessor
ET Environmental Committee
Robert Pacilli Homes, LLC, Applicant
Pauline Bersani, Owner (Lot 14)
Louis Giacobbe, Owner (Lot 15)
William Ziegler, Esquire, Applicant's Attorney
Ronald Curcio, PE, Applicant's Engineer
Sandford S. Mersky, PE, Applicant's Engineer



BACH Associates, P C
ENGINEERS • ARCHITECTS • PLANNERS

November 19, 2007

Elk Township Planning/Zoning Board
667 Whig Lane Road
Monroeville, NJ 08343

RECEIVED

Attn: Anna Foley, Secretary

NOV 28 2007

Re: Robert James Pacilli Homes, LLC
Block 6, Lots 14 and 15
450 and 466 Ewan Road
Major subdivision with variance; LD – Low Density Residential District
Elk Township, Gloucester County, New Jersey
SD-06-20
Bach Associates Proj. # ET2007-4

TOWNSHIP OF ELK
PLANNING/ZONING

Dear Chairman and Members of the Board:

We have reviewed the final subdivision plans and supporting documents submitted by Robert James Pacilli Homes, LLC for final major subdivision approval at the above referenced 22.68 acre site. The applicant received preliminary approval on May 16, 2007 via resolution 2007-28. The purpose of this review is to determine whether the final plans are consistent with the conditions of preliminary approval and to address any issues that were outstanding at the time of preliminary approval.

The tract consists of two previously agricultural lots totaling 22.65 acres and contains a small wetlands area in the southeast corner of the site. With the exception of some perimeter vegetation, the site is cleared of trees. The site is located in the LD low density residential zoning district and is surrounded on all sides by other lots in the same district. Lands to the south and east are permanently preserved farms.

The applicant has proposed to make this an energy efficient development with solar cells on each home, which necessitates a particular building orientation. Specifically, to create an efficient solar community, the building orientation must be within 15 degrees of southern exposure. The application is for 18 single family residential lots and one (1) storm water and open space lot, based on the applicant's analysis of a "by-right" development scenario, with bulk variances to permit a lot configuration that will accommodate the solar energy system.

The applicant has submitted the following materials in support of the final subdivision application:

1. Subdivision Application (application SD-06-20) dated October 2, 2007.
2. Major subdivision plans consisting of 12 sheets dated June 1, 2006, revised to September 21, 2007 and prepared by Adams, Rehmann and Heggan Associates, Inc.
3. Outbound and Topographical Survey dated December 7, 2005 and revised through June 16, 2006 prepared by Adams, Rehmann and Heggan Associates, Inc.

4. Conventional Development lot yield plan prepared by Adams, Rehmann and Heggan Associates, Inc and dated November 6, 2006.
5. Drainage Calculations revised through October 1, 2007 prepared by Adams Rehmann & Heggan Associates, Inc.
6. Letter from the Police Chief dated October 3, 2007 indicating that no problems are anticipated related to the subdivision.

Completeness

This application is complete for review. However, the applicant should submit the "Major Subdivision Plan" that will be filed. We have received the 12 sheet set, but the subdivision plan should show the easements and restrictions.

Variations

The Board granted variances from the following sections of the Elk Township Unified Development Code:

1. From section 96-69D(2)(a) to permit undersized lots from 25,179 square feet to 39,384 square feet for eleven of the proposed lots (14.02, 14.03, 14.04, 14.05, 14.06, 14.07, 14.14, 14.15, 14.16, 14.17, 14.18) where 40,000 square feet are required.
2. From section 96-69D(6) to permit less than the required minimum lot width of 150 feet for nine of the proposed lots (14.03, 14.04, 14.08, 14.09, 14.10, 14.11, 14.14, 14.15, 14.16).
3. From section 96-69D(9) to permit less than the required minimum lot frontage of 135 feet on nine of the proposed lots (14.05, 14.06, 14.08, 14.09, 14.10, 14.11, 14.13, 14.15, 14.16). The minimum proposed will be 115 feet.
4. From section 96-69D(5) to permit less than the minimum combined side yards of 50 feet for all of the proposed lots. The minimum proposed will be 35 feet.

The following new variance is required:

1. From section 96-69D to permit front yard setbacks of 25 feet for lot 14.08 and 35 feet for lot 14.07 where 40 feet are required in order to provide a larger cul-de-sac radius as requested.

We offer the following comments for the Board's consideration:

1. The maximum gross density for the LD zoning district is 1 unit per acre. The applicant proposes to develop at .79 units per acre, which is complaint. The proposed lot layout required a number of variances to achieve the desired efficiency; however the number of permitted lots was not increased.
2. The applicant agreed as a condition of preliminary approval to enter into a developer's agreement that would obligate the developer to implement the proposed solar energy

system for each home and that the future homeowners would agree to utilize the system for at least ten years. The applicant should confirm the intent to abide by this condition.

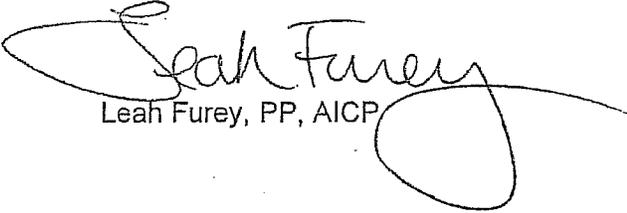
3. The applicant revised the plans to provide 30 wide cart way in excess of the RSIS requirement for 28 feet and has shown 13 solar powered street lights along the proposed roadways. One Cobra Head Light is proposed at the intersection with Ewan Road, as is required by the County.
4. It does not appear that the proposed conservation easement/restriction for the wetlands and buffer area have been shown on the plans. The legal descriptions of these areas should be submitted for review by the engineer and solicitor. The applicant agreed to place a conservation restriction on these areas.
5. The applicant agreed that a Homeowners Association would be established for property maintenance and other issues. The proposed HOA documents must be submitted for review.
6. In accordance with the resolution of preliminary approval, one of the open issues for discussion prior to final approval was the recommendation that the applicant provide an easement between lots 14.05 and 14.06 for future roadway extension to abutting lot 28.01. The lot to the south has been permanently preserved by the Farmland Preservation Program. Therefore it is hoped and intended that the property will not be developed. The easement is therefore not necessary.
7. The applicant has agreed to contribute to the Housing Trust fund in accordance with section 70-6 of the Township Code to assist the Township in meeting its affordable housing obligations.
8. The applicant has agreed to monument the wetlands and buffer areas so that the owners of lots 14.11, 14.10 and 14.09 will know where the protected areas are located. This should be shown on the subdivision plan.
9. The north arrow on the tax map on sheet one of the subdivision plan set should be corrected.
10. The application states that the cartways will be 28 feet wide, whereas the plans show that the cartways will be 30 feet wide as was agreed at the time of preliminary approval. Applicant should confirm.
11. The applicant does not propose any recreational improvements on the site, rather they propose to contribute \$2,500.00 per unit to the recreation fund that the Township may use to implement its recreation plans to benefit the community. Applicant should confirm that 50% will be paid upon the issuance of a building permit and 50% will be paid upon the issuance of a C.O.
12. In accordance with section 96-47, a 25 foot perimeter buffer is required between single family detached housing developments and other single-family detached housing developments. Applicant has shown the required 25 foot buffer. Applicant should indicate whether they have considered installing a fence along the boundary with the active farm.

Robert James Pacilli Homes, LLC
Block 6, Lots 14 and 15
Ewan Road
Page 4 of 4

13. The applicant has not shown any proposed site identification signage. The applicant should show the location of signage on the plan if it is anticipated. It is recommended that site identification sign be a ground sign not exceeding 16 square feet for the copy area.

We reserve the option to make additional comments as more information becomes available. Please call with any questions.

Very truly yours,
BACH Associates, PC



Leah Furey, PP, AICP

cc: Joan Adams, Esq.
Brian Mitchell, P.E.
Robert J. Pacilli, Applicant
Ronald Curcio, PE
William F Zeigler, Esq

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Elk Township Environmental Commission
667 Whig Lane
Monroeville, NJ 08343
Phone: 856-881-6525 Ext. 14

RECEIVED

MAY 15 2007

TOWNSHIP OF ELK
PLANNING/ZONING

MEMORANDUM

To: Elk Township Planning & Zoning Board
Chairman and Members of the Board

From: Environmental Commission

Date: May 15, 2007

Cc: Brian Mitchell, PE, CME
Marc Shuster, PP, AICP
Joan Adams, Esq.

Re: **R.J. Pacilli Homes- Major Subdivision**
Revised Application
Block 6, Lots 14 & 16
Ewan Road

The Elk Township Environmental Commission (ETEC) has had a brief opportunity to review this revised application at our May 9, 2007 meeting and offer the following recommendations, comments, and/or concerns for the Board's consideration:

Proposed Activity: The applicant is proposing a major subdivision and seeking a variance for the minimum lot size and various setback distances. The lots are proposed to be serviced with individual onsite wells and septic disposal systems. Property is currently farmed agricultural field with no buildings or dwellings.

Comments:

1. Upon review of the Preliminary Assessment and Site Investigation submitted, we understand that soil testing for historic use of pesticides and herbicides revealed residual amounts within the soil, but at levels below the NJDEP Residential Direct Contact Soil Cleanup Criteria and that no further investigations are recommended.
2. We understand that a yield plan has been prepared to support the proposed 18 lots, but that the applicant is seeking a variance from the minimum lot size requirements. Given the proposal for undersized lots, we recommend that the plans be revised to demonstrate that the minimum setback distances required by NJAC 7:9A are provided.
3. We notice by the proposed grading plan that a significant amount of fill appears to be required. Will fill material need to be imported, or will onsite fill generated by grading be sufficient? If fill material is to be imported, we recommend that clean fill certifications be considered to ensure that the fill soil complies with all NJDEP criteria and that contaminated soil is not utilized.

Elk Township Environmental Commission
667 Whig Lane
Monroeville, NJ 08343
Phone: 856-881-6525 Ext. 14

4. The plans reflect the temporary stockpile being located within the wetland transition area. The location of the stockpile should be located outside of the wetland and transition areas. The limit of disturbance should also be revised to be located outside of the wetland area. We would also recommend that temporary protective measures (i.e. silt fence and construction or snow fencing, etc.) be implemented to alert construction personnel of the wetlands location and provide a barrier to keep workers and equipment out of the wetland areas.
5. What type of vegetation is proposed in the area of the stormwater basin's pre-treatment area? We would recommend consideration of native, wetland grass/vegetation be utilized in this area of pre-treatment.
6. We are concerned about the close proximity of the proposed septic disposal field on Lot 14.18 to the stormwater management basin. We would recommend relocation of the disposal field to the opposite side of the lot, further away from the basin. The minimum setback distance of 75' between the disposal field and an open water body, as required by NJAC 7:9A, should be provided.
7. Based upon our review of the soil log information included in the Environmental Impact Report, it appears that soils which may be questionable for supporting septic systems exist on the site. We recommend that additional information regarding the suitability of the soil for individual septic systems be provided. Also, the locations of these test pits were not provided. Lastly, the soil logs appear to indicate that elevated disposal fields (above existing grade) may be required; however, the proposed grading scheme does not appear to reflect the elevated ground surface above the disposal fields which may be warranted. We recommend that this be further evaluated by the applicant's engineer.
8. According to the information provided, we understand that the orientation of the houses is 15 degrees to southern exposure as they intend to utilize solar energy. We ask the applicant to provide further description of the solar energy measures proposed to be utilized as part of this project. We are pleased to see the possible consideration of solar energy measures and strongly encourage the use of passive solar energy and any other energy/fuel saving measures.

The ETEC respectfully reserves the opportunity to provide additional comments, should they arise, following the issuance of this letter or as more information becomes available.

We respectfully submit these comments, concerns, and recommendations for the Planning & Zoning Board's consideration in the review of the above application.

Respectfully on behalf of,
Elk Township Environmental Commission

Teal S. Jefferis
Chairman