

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF  
ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER,  
STATE OF NEW JERSEY, GRANTING A FINAL ONE-YEAR EXTENSION OF  
TIME IN WHICH TO PERFECT A PREVIOUSLY GRANTED FINAL MAJOR  
SUBDIVISION APPROVAL, REGARDING PROPERTY LOCATED AT HUGHES  
DRIVE AND VIVIAN LANE OFF OF BUCK ROAD (CR 553), TO WEONA POND,  
LLC, REGARDING PROPERTY BEING FURTHER SHOWN ON THE TAX  
MAPS OF THE TOWNSHIP OF ELK AS BLOCK 44, LOT 1,  
APPLICATION NO.: AD-17-03**

**WHEREAS**, Application No.: AD-17-03 (the "Application") had been filed with the Combined Planning/Zoning Board Adjustment of the Township of Elk, County of Gloucester, State of New Jersey (the "Board") by Weona Pond, LLC (the "Applicant"), by way of a letter Application dated January 17, 2017 and filed by counsel for the Applicant, Dante J. Romanini, Esquire, regarding a request for the Board to grant a final one-year extension to perfect a previously approved final major subdivision regarding property located on Hughes Drive and Vivian Lane off of Buck Road (CR 553), (the "Subject Property"), and being further shown as Block 44, Lot 1 on the Tax Maps of the Township of Elk (the "Township"); and

**WHEREAS**, the Applicant had previously applied for two one-year extensions of time in which to perfect said previously approved final major subdivision, which application was heard at a meeting and public hearing held by the Board on September 21, 2016 at 7:30 P.M., time prevailing, at which time was Dante J. Romanini, Esquire, Tedesco, Gruccio & Reuss, 727 Landis Avenue, PO Box 1327, Vineland, NJ 08362 (the Applicant's Attorney) present on behalf of the Applicant; and

**WHEREAS**, said prior application was heard and approved by the Board at the Board's September 21, 2016 meeting, with said approval being subsequently memorialized by way of the Board's adoption of Resolution No. 2016-22 on October 19, 2016; and

**WHEREAS**, the Board did consider the Applicant's letter Application for a final one-year extension of time at the Board's February 15, 2017 meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, as follows:

### **FINDINGS OF FACT**

1. The Applicant's January 17, 2017 letter Application requesting a final one-year extension of time (from January 15, 2017 through January 14, 2018) in which to perfect a previously approved final major subdivision, was complete and properly before the Board. As such, the Board had jurisdiction to act on the Application.

2. Counsel for the Applicant's letter dated January 17, 2017 from Dante Romanini, Esquire, Tedesco, Gruccio & Reuss, Vineland, N.J., was entered into the record.

3. Mr. Romanini's, January 17, 2017 letter Application represented to the Board that all requirements upon the Applicant to perfect the Final Major Subdivision approval that was previously granted by the Board have been met, but that the Applicant was unable to record the plat prior to the end of the second-year extension which expired on January 15, 2017, and was therefore requesting a final one-year extension.

4. The hearing on the Application was open to the public, at which time no member of the public present spoke either in favor of or opposed to the request.

### **CONCLUSIONS**

The Board concluded that, based on the representations made by Counsel for the Applicant in his January 17, 2017 letter Application, and based on the information known to the Board regarding the prior approvals granted, it is apparent that the Applicant had promptly and diligently pursued all outside agency approvals and requirements, but was unable to perfect the final minor major subdivision approval by way of the recording of the plat within the time period permitted by law, despite its diligent efforts to do so, pursued in a timely manner. Accordingly, the Board finds that the Applicant's request for final one-year extension until January 14, 2018, should be granted pursuant to N.J.S.A. 40:55D-52.a., based on information before the Board, and the representations made by Counsel for the Applicant.

## CONDITIONS

The Applicant shall remain obligated for any and all other conditions, understandings, approvals, agreements, and stipulations made by the Board, as were previously set forth in any and all prior resolutions of approval granted with respect to the Applicant and the development proposed on the Subject Property, that are not otherwise inconsistent with the approval granted herein.

**WHEREUPON**, a motion was made by Board member Afflerbach, which was seconded by Board member Clark, to grant the Applicant a final one-year extension to permit finalization of the requirements of the previously granted final major subdivision approval, said extensions to run until January 14, 2018, at a meeting following a public hearing held on the Applicant's request on February 15, 2017 at 7:30 PM, time prevailing, with the following Board members voting in favor of the motion to grant approval: Afflerbach, Clark, Hughes, McKeever, Nicholson, Poisker, Schmidt, White, Goss (Alternate #1). There were no abstentions or recusals. Board member Shoultz was absent.

**THIS RESOLUTION WAS ADOPTED** at a regularly scheduled meeting of the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, on February 15, 2017 as a memorialization of the approval granted in the above referenced matter by the Board at the Board's regularly scheduled meeting also held on February 15, 2017 on the above referenced letter Application.

**COMBINED PLANNING/ZONING  
BOARD OF ADJUSTMENT 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 Combined Planning/Zoning Board of Adjustment, County of Gloucester, State of New Jersey held on the 15<sup>th</sup> day of February 2017 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 said date on the above cited letter Application.

  
ANNA FOLEY, Secretary

AD-17-03

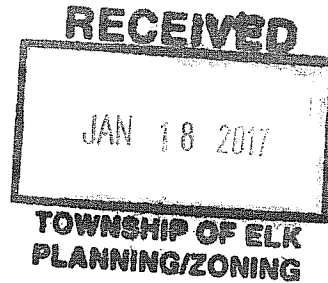
# Tedesco Gruccio & Reuss

Attorneys at Law

FILE COPY

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January 17, 2017

Anna Foley, Board Secretary  
Elk Township Land Use Board  
Municipal Building  
680 Whig Lane  
Monroeville NJ 08343

**Re: Weona Pond, LLC – Final Subdivision Approval  
Block 44, Lot 1  
Resolution 2012-12**

Dear Ms. Foley:

As you know, this firm represents applicant, Weona Pond, LLC. As you also may recall, on September 21, 2016, I appeared before the Board on our client's request for a two-year extension of time to complete the approval. That extension was granted by Resolution of the Board which was adopted in October of 2016.

We are writing to you at this time to request an additional one-year extension of time of the approval. Although we indicated at the time of our appearance in September of last year that we believed this matter could be finalized by the end of the second year extension, which occurred on January 15, 2017, we have found that the review and approval process has taken longer than expected. Accordingly, we are now requesting one final one-year extension until January 15, 2018.

In order to advise the Board as to what has occurred in the recent several months, our engineer has prepared final plans and they have been reviewed by the Planning Board Engineer who has approved their form. In addition, the Planning Board Solicitor, Mr. Taylor, has reviewed the Homeowners' documents and approved their form. Consequently, we are now in a position to finalize this by having the plans signed and recorded and also to record the Homeowners' documents. You should be advised further that the Homeowners Association has been formed by the filing of the appropriate formation documents with the Department of the Treasury.

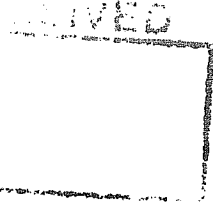
# Tedesco Gruccio & Reuss

Re: Weona Pond, LLC – Final Subdivision Approval  
Block 44, Lot 1  
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January 17, 2017

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Having said all of this, we believe we are ready to record this plat. But in view of the fact that it is beyond the date of the last extension, we feel that it is necessary to file for an additional one-year extension in order to make certain that everything is in proper form. However, since there is really nothing additional to report to the Board at this point in terms of what is being done, we would respectfully request that this extension be granted administratively without the necessity of a hearing and appearance before the Board. Of course if this is not possible, we would gladly appear if the Board so requests.

Please present this matter to the Board for its consideration and advise me whether or not an appearance will be necessary in order to obtain this one final extension. I thank you very much for your attention to this matter.

Sincerely,

Dante J. Romanini

DJR/sh

c: Dale Taylor, Esquire  
Stanley Bitgood, PE  
Lawrence DiVietro, PE  
Joseph & Tricia Conte

**RESOLUTION NO: 2012-12**

**RESOLUTION APPROVING PRELIMINARY AND FINAL MAJOR SUBDIVISION OF BLOCK 44 LOT 1 AND BULK DIMENSIONAL VARIANCES TO CREATE 6 LOTS**

**WHEREAS**, Weona Pond, LLC, with address of 149 Newkirk Station Road, Elmer NJ 08318 is the owner of this property and with the assistance of its attorney, Rocco Tedesco, Esq. has made application for Preliminary Major Subdivision to create 6 lots, 5 residential building lots and one open space lot from property identified as Block 44 Lot 1 upon the tax map of the Township of Elk and to allow five existing residential structures to be located on individual lots; and

**WHEREAS**, Judgment was entered by the Superior Court of Gloucester County on August 14, 2008 by Judge Georgia Curio, AJSC finding that Weona Pond, LLC has the right to continue to utilize the five residential structures on the site as valid pre-existing, non-conforming uses thereby permitting this density deviation. This application now requests dimensional variances and variances from the ordinances pertaining to the design requirements for a major subdivision approval.

**WHEREAS**, The Planning Board of the Township of Elk has met at public hearing on February 15, 2012 to review the application pursuant to the applicable rules of the Planning Board and the applicable ordinances of the Township of Elk; and

**WHEREAS**, the Board considered the report of its Engineer, Mr. Cory Gaskill, PE dated January 30, 2012 and the report of its Planner, Ms. Candace Kanaplue, PP AICP of Bach Associates, PC dated January 31, 2012 which reports are attached hereto and incorporated herein by reference as Exhibit "A"; and

**WHEREAS**, The Applicant has submitted the following items in support of this application:

- a) Application a Preliminary and Final Major Subdivision to the Combined Planning and Zoning Board, Escrow Agreement, Affidavit of Ownership, proof of taxes (paid January 27, 2010), disclosure statement, list of property owners within 200 feet.
- b) Preliminary and Final Subdivision Plan consisting of 4 sheets as follows all prepared by Land Dimensions Engineering:
- c) Cover Sheet, dated January 12, 2010, revised through July 27, 2011.
- d) Survey and Topography of Block 44 Lot 1, dated October 2009, revised through July 27, 2011, and signed January 12, 2010
- e) Final Plan of Lots, dated November 2009 and revised through July 27, 2011.
- f) Improvements Plan dated November 2009 and revised through July 27, 2011.
- g) Individual Sewerage Disposal System Feasibility Study for block 44 lot 1, prepared by South Jersey Engineers, dated November 30, 2009.
- h) Traffic Statement, prepared by Land Dimensions Engineering, dated November 30, 2009.
- i) Stormwater Management Report, prepared by Land Dimensions Engineering, dated November 35, 2009.
- j) Letter of Interpretation issued by the NJDEP, dated July 21, 2006

- k) Environmental Impact Statement, prepared by Land Dimensions Engineering, dated October 14, 2009.
- l) Record and Title search information.
- m) Gloucester County Planning Board Subdivision Application, dated January 14, 2010
- n) Gloucester County Planning Board- Report of Action dated March 16, 2010 – Denied pending satisfaction of comments.
- o) Review Letter from Elk Township Police Department dated February 2, 2010
- p) Fire Safety Review dated January 30, 2012
- q) Report of Township Fire official dated November 2, 2011.
- r) Ten Site Photos.
- s) Letter from Land Dimensions Engineering dated May 25, 2011 responding to completeness requirements.
- t) Letter from Land Dimensions Engineering dated August 23, 2011 responding to completeness requirements.
- u) Transmittal letter to County Tax Assessor dated April 28, 2011.
- v) RSIS Evaluation for Weona Pond, LLC prepared by Traffic Planning and Design, Inc. and dated August 4, 2011.
- w) Response letter from Land Dimensions Engineering dated January 13, 2012.

**WHEREAS**, it appears that the Applicant has followed all procedures in making its application, and that the application, plans and all documents and material submitted therewith were reviewed by Planning Board professionals, the Board members, and were found to be complete and in conformity with all applicable laws and regulations; and

**WHEREAS**, a public hearing was held on February 15, 2012, following proper notice pursuant to Township Ordinances and the Municipal Land Use Act, at which the Board heard testimony from the Applicant and its professionals and provided an opportunity for interested members of the public to make comments or ask questions regarding the application; and

**WHEREAS**, the Board made the following findings and reached the following conclusions:

1. The Applicant proposes to subdivide the 12.34 acre tract to create 6 lots – 5 for existing single family homes (1 home is presently occupied and 4 are vacant), and one 2.87 acre open space lot which contains Weona Pond, to be owned by a homeowner’s association – consisting of the owners of the five residential homes.
2. The site is significantly constrained by the presence of freshwater wetlands and transition area (4.45 acres are wetlands).



3. The property is currently accessed by two unpaved drives off of Buck Road (CR 553), the southerly drive is known as Hughes Drive and the northerly drive is known as Vivian Lane.

4. The property is bordered to the north, east and west by other parcels in the RE Rural Environmental zoning district and to the south by parcels in the RR Recreation Residential zone at Garrison Lake. The surrounding land uses include wooded wetlands to the west, seasonal residential properties on Garrison Lake to the south, and actively farmed, farm qualified properties to the north and east.

5. The Site does not comply in all respects with the bulk standards required by the Applicable ordinances of the Township of Elk. The table below demonstrates both the areas of the compliance and those areas where variances are needed:

Section	Required	Proposed Lot 1	Lot 1.01	Lot 1.02	Lot 1.03	Lot 1.04	Lot 1.05
96-71D(1) Maximum Density	.4 unit per upland acre	5 homes proposed, 3 are permitted (density variance not required as result of Court determination)					
96-71D(2) Minimum Lot size	80,000 square feet	125,111 sq ft	65,681 sq ft	79,333 sq ft	78,472 sq ft	74,780 sq ft	115,625 sq ft
96-71D(3) Front yard	50 feet	NA	111 feet	315 feet	63 feet	139 feet	45 feet
96-71D(4) Rear yard	40 feet	NA	218 feet	46 feet	213 feet	52 feet	74 feet
96-71D(5) Side Yards	Min 20 feet Aggregate 50	NA	28/126 feet	34/74 feet	94/197 feet	47/230 feet	147/544 feet
96-71D(6) Lot width	150 feet	293 feet	164 feet	225 feet	285 feet	272 feet	599 feet
96-71D(7) Lot Depth	200 feet	386 feet	391 feet	422.8 feet	417.7 feet	251.4 feet	158 feet
96-71D(9) Lot Frontage	135 feet	0	0	0	0	0	26.67 feet
96-71D Height	35 feet max	NA	Complies	Complies	Will comply	Complies	Complies
96-80 Accessory setbacks	20 feet for structures 200 sf or less, zone setbacks for larger		Shed 24 feet from front			Garage 29 feet from rear	
96-47.1 Agricultural Buffer	100 feet plus setbacks	NA	98' provided to lot 3*	Complies except for existing road	150 feet req, 63 feet provided	150 feet req, 139 feet provided	NA

6. Many of the dimensional variances required are pre-existing conditions created by the placement of the existing residences on the site, which the Court has determined may lawfully continue. The Applicant testified that the structures are old and moving them to comply with the ordinances would potentially damage the structure resulting in a financial hardship to the Applicant.

7. For a C(1) variance, the Applicant must demonstrate that the strict application of the zoning regulations to the property create a hardship or result in exceptional practical difficulties by reason of the exceptional shape of the property, the exceptional topographic conditions uniquely affecting the property, or the structures lawfully existing upon the property.

8. The lot area deviations are caused by the unique nature of this parcel and the pre-existing structures thereon. By creating separate lots for each dwelling the Applicant is moving this tract closer to conformity with the current ordinances.

9. The Applicant has requested a variance from the lot frontage requirements, since 5 of the 6 proposed lots will not have frontage on a public street. N.J.S.A. 40:55D-35 provides that no permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to the proposed building or structure; also the street must be suitably improved in accordance with Township standards. While the five houses already exist, the principle of providing adequate access to protect the public health, safety and general welfare applies. As a result significant improvements are required of both Hughes Drive and Vivian Lane. N.J.S.A. 40:55D-36 provides that where the enforcement of N.J.S.A. 40:55D-35 would present practical difficulties, or unnecessary hardship, or where the circumstances of the case do not require the structure to be related to a street, the Planning Board may vary the requirement of N.J.S.A. 40:55D-35 and allow the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety.

10. Hughes Drive will be relocated to eliminate encroachments onto adjacent properties. The driveways will be constructed of stone and will be a minimum of 10 feet in width. There was significant water collecting and ponding within the access roads, indicating that grading is needed. Hughes Drive, Vivian Lane and the emergency access road shall be designed in compliance with AASHTO standards or approved equal to accommodate a minimum 22,000 lbs axel load.

11. The Board finds that The new lots will have the beneficial use of the open space area and having each home on its own lot addresses planning concerns. Based upon the pre-existing nature of this site and the design improvements presented by the Applicant, the Applicant has met the positive criteria in support of a grant of the dimensional or bulk variances. The Board finds that these deviations will not create a substantial detriment to the public welfare or the zoning plan for the area and grants the dimensional variances requested as set forth in the chart above.

12. The property owner shall grant to the Township an easement for ingress and egress over both Hughes Drive and Vivian Lane which shall be perpetual and recorded upon the land records. The easement must be defined by legal metes and bounds and the form of easement and the legal description must be submitted to the Board professionals for their review and approval prior to filing.

13. Proposed lot 1 is a common open space area to be owned by a Homeowners Association. The HOA and the Township shall be granted access rights over Hughes Drive and Lots 1.01 and 1.02 to ensure access to maintain the open space and pond. The easement must be defined by legal metes and bounds and the form of easement and the legal description must be submitted to the Board professionals for their review and approval prior to filing. The Applicant shall follow the sample access easement preferred by the Fire Code Official for use in drafting this document.

14. The Applicant shall file a written request with the Township Clerk requesting the Township of Elk to enforce the provisions of Title 39 of the New Jersey Revised Statutes on all drive isles within the project. The provisions of Title 39 shall be made applicable to said roads and drive isles at the discretion of the Township and with the approval of the Commissioner of Transportation of New Jersey.

15. Today's homeowner/taxpayer generally has service expectations beyond what may have been expected from a rural municipality when the houses were initially constructed. The potential for service delivery to the proposed lots relates to the public good. Since the proposed access driveways will not be owned or maintained by the Township, there will be no snow removal, trash pickup, mail delivery or school bus service to these residences. A disclosure of this limited service must be set forth in the subdivision deeds and recorded upon the land records of the County and must be prominently disclosed in any contracts for the sale of these units.

16. The application indicates that Hughes Drive is currently blocked for vehicular access. The Applicant shall indicate on the Plan that the access shall be reopened for use by the future owners of lots 1.02 and 1.05.

17. A 12 foot wide gravel emergency access road shall be installed to connect Hughes Drive and Vivian Lane. Chains or cable gates shall be installed at each end of the emergency access road to prevent unauthorized use. The type of lock and signage shall be reviewed and approved by the board engineer and the fire official. An easement shall be granted to the Township to provide access rights.

18. The plan shall be revised to depict a turn off or pull off area on Hughes lane to allow for safe vehicular movement. In addition, two vehicle turn around areas, one on proposed lot 1.03 and one on remainder lot 1 shall be provided. This design revision shall be reviewed and approved by the Board Engineer.

19. Though the site functioned in the past with 7 houses on one lot sharing access; maintenance was the ultimate responsibility of one property owner. With 5 separate property owners, the shared maintenance responsibility will need to be clearly defined. The roadways must be maintained to allow for the access to these private residences by emergency vehicles, fire trucks, tanker trucks and ambulances. A maintenance schedule of the driveways and one for the pond and common area will be prepared by the Applicant and submitted to the Board Engineer for his review and approval. This schedule shall be recorded upon the land records as part of the Home Owners Association declaration of covenants and restrictions and will be supplied to each new owner of a lot in this subdivision.

20. The Applicant has shown the wetlands areas on the property and the 50 foot wetlands transition area and has provided the Letter of Interpretation issued by the NJDEP dated July 21, 2006. The Applicant must produce proof that this LOI is current and in full force and effect from the NJ DEP. If the LOI has expired, the Applicant must submit a renewed or reissued LOI for the site.

21. Four of the five houses are partly within the wetlands transition buffer area. The Applicant's professionals have testified that since these homes have existed for many years, they may continue undisturbed. Nevertheless, this presents a special condition on these lots which must be disclosed to the potential home owners. It will be difficult for new property owners to identify the buffer and wetland areas. Markers shall be placed at intervals of 100 feet to identify the wetlands boundary, and a wetlands map be provided to purchasers of the properties. The plan showing the delineation of the wetlands areas as approved by the NJ DEP must be recorded upon the land records.

22. The final subdivision plat shall include the fresh water wetlands line and transition area

demarcation certified by the NJ DEP to be currently accurate. The plan and the Home owner's association document filed upon the land records shall contain the following statement.

23. "The expansion of existing structures, construction of additional structures or improvements and/or the disturbance of soil or vegetation is subject to the New Jersey regulations of Fresh water wetlands and any such proposed activity may be prohibited or may require additional approvals and/or permits from the New Jersey Department of Environmental Protection."

24. The Applicant or future homeowners will not be permitted to construct, decks, pools, or other accessory uses or structures within the wetland buffer areas. The Applicant is aware that no additional disturbance may take place within the wetlands buffer areas without express permission from the NJDEP. A notice regarding the wetlands restrictions shall be included in the subdivision deeds for these lots and prominently disclosed in any agreement for sale.

25. The Applicant shall plant native vegetation tolerant of wetland conditions around the east and north sides of the pond in order to mitigate runoff and improve water quality. These additional plantings shall be reviewed and approved by the Board Planner.

26. Section 96-47.1 of the Unified Development Code requires agricultural buffers, in addition to required setbacks, for site plan and subdivision applications. The farmland buffer requirement is intended to ensure that farms and other development may coexist harmoniously, without undue impacts to the farm or the adjacent development. As a major subdivision, the agricultural buffer requirements apply to this application, but one of the existing houses is already within the buffer and two are within the setback from the buffer. Section 96-47.1B(2)(a)[1][c] provides that the agricultural buffer is not required when the adjacent land is a woodlot or wetlands incidental to the farming operation. The portion of lot 3 (which is farm assessed) adjacent to the subject lot is a wooded wetland area. The Board determined that the preexisting nature of these deviations could not be effectively mitigated. A variance was granted.

27. The Applicant shall include a notice in all subdivision deeds which sets forth the surrounding farm use, to ensure that the future owners of proposed lots 1.01, 1.02, 1.03, and 1.04 acknowledge and understand the potential impacts of the adjacent farm.

28. As permitted non-conforming uses, the five existing houses may be restored and repaired (N.J.S.A. 40:55D-68) but may not be enlarged. The Applicant shall include this limitation in all contracts for the sale of these lots as a point of sale disclosure.

29. There are existing fence and accessory structure encroachments on the Hughes Lane portion of proposed lot 1.05. These shall be removed.

30. Tree protection fencing shall be installed to delineate the limits of clearing in the areas where clearing will be required for the proposed septic fields. The Applicant will add a note regarding tree protective fencing to the plans.

31. Some of the homes are currently serviced by very old and out dated wells and septic systems which may not be adequately functioning. The Applicant is aware that each home must have a functioning septic and potable well water. The repair and replacement of any system has to be approved by the Gloucester County Department of Health and this Board has no jurisdiction to direct repair.

32. The existing bridge to the island in Weona Pond shall be removed.

33. A dry hydrant to draft water from Weona Pond, shall be installed adjacent to the vehicle

turnaround on remainder lot 1. The installation shall insure that the draw is adequate and below the frost line. Protective bollards are to be placed next to the dry hydrant and signage approved by the fire official and the Board engineer shall be installed. The fire department will test the system periodically each year. If there is damage to the system it must be repaired by the Homeowner's association. This must be part of the HOA budget and must be set forth and disclosed to the new owners as part of the Home Owners Association Declaration of Covenants and restrictions. The Dry Hydrant system must be tested by the Township Fire department before the performance bond is released or any certificates of occupancy are issued for these residential structures. The Applicant agrees to this restriction on the issuance of a certificate of occupancy. A water draw easement shall be prepared by the Applicant, approved by the fire official and recorded on the land records of the County.

34. No certificate of occupancy shall issue for houses serviced by Hughes Drive or Vivian Lane until the road which provides access to the unit has been inspected and deemed to be in satisfactory condition by the Township Engineer and the Township Fire official, and all street signs and stop signs are installed.

35. Members of the public appeared to discuss the site, the hazard of the lake, the depth of the water, and the various improvements contemplated. To the extent possible their concerns were addressed by the Board and disclosures or plan revisions required to accommodate the factors raised.

36. According to members of the public, Garrison Lake has a 99 year lease which may interfere with this project. The Applicant's attorney shall investigate and provide a copy of the lease to the Board professionals or report that none exists. If in fact this lease right interferes with the design the Applicant shall reappear before the Board for a modification of the approval to address the needed redesign.

37. The Applicant agreed to comply with the plan revisions set forth in the review letters of the Board professionals attached hereto as an exhibit.

38. The obligation of maintenance for the roadway improvements, the dry hydrant, the emergency access drive, bollard and chains, and other public improvements 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.

39. The open space lot shall be dedicated to the Homeowners Association by deed in fee simple. The legal descriptions for these lots are to be submitted to the Planning Board Engineer for his review and approval and the deeds are to be submitted to the Planning 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 open space which shall include mowing and other maintenance as may be required. The maintenance schedule must be approved by the Planning Board Engineer.

40. 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 be revised to contain a note to this effect.

41. All rights-of-way and easements to be dedicated to the Township shall be defined by legal descriptions in the form of deed or in the Homeowners Declaration of Covenants which shall be filed upon the land records of the County. The legal descriptions shall be submitted to the Planning 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.

42. 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.

43. 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)".

44. As a condition of this approval, the Applicant shall be required to post a performance guarantee and a maintenance guarantee with the Township to secure the completion and the maintenance of site improvements in an amount to be determined by statute 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. At least ten percent of the performance guarantee must be paid in cash or certified check if required by Ordinance at the time the guarantee is posted. The Applicant has testified that all of the planned public improvements shall be completed and fully installed within two years of the date the final plats are signed. Therefore, 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 guarantees and the inspection escrow must be posted prior to the time the Board Chairman and the Secretary affix their signatures to the plans and prior to the commencement of construction of any approved improvement which ever event occurs first in time.

45. The Applicant has represented that a Homeowners Association will be formed which will be responsible for the maintenance and repair of the common area, the access ways, the dry hydrant and other responsibilities 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 Board engineer and the Solicitor of the Planning Board for their review and approval prior to the signing of the plans.

46. The Homeowners Association documents shall be submitted to the Solicitor of the Planning Board for her review and approval prior to the signing of the final plats. The Applicant shall include in its Homeowners Association documents a listing of all easements and restrictions and the lots affected by same.

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

48. 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.

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

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

51. 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.

52. 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, maintenance requirements, the existence homeowners association and its specific responsibilities, the wetlands and wetland buffer restrictions, the location and existence of the emergency access and the adjacent farm use. The text of this point of sale disclosures shall be approved by the Solicitor of the Planning Board prior to the signing of the final plats.

53. The Applicant shall comply with all affordable housing statutes and regulations promulgated by the State of New Jersey, or any of its agencies and the Township of Elk, if applicable. The rules regulating the provision of affordable housing are in flux and the ultimate amount of the housing obligation and set-aside have yet to be established. (Residential) The Applicant's affordable housing obligation shall be established at the time of the application for building permit. In the event that the law requires the construction of affordable units and it is determined by the Township that circumstances exist which preclude the Applicant from building the required affordable housing in this project, the Applicant and/or its successors in interest shall pay, the authorized development fee in accordance with the Township's development fee ordinance and the State statutes in force at the time of the application for building permit. Should a development fee be paid, the Applicant shall pay this fee pursuant to law.

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

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

56. The Applicant must contact the Planning Board 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.

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

58. 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.

59. 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 Planning Board Engineer for his review and approval and for signature. These plans shall be filed with the Planning Board Office.

60. This plan may be subject to the review and approval of all other governmental entities or agencies

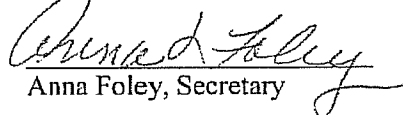
with jurisdiction over this development. Evidence of these approvals must be submitted to the Township Planning Department and this office prior to the final signature of plans. All approvals must not be subject to appeal. This includes but is not limited to the Gloucester County Planning Board. The Gloucester County Soil Conservation District, and the New Jersey Department of Environmental Protection. The Applicant must obtain all necessary demolition and construction permits.

61. This approval shall expire and be void ab initio if the final plats and all other documents required by the approval are not filed upon the land records of the County within 95 days of the date the Township Officials have signed the plats.

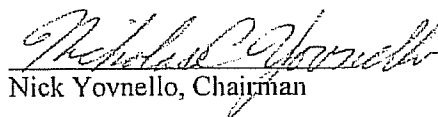
**NOW THEREFORE BE IT RESOLVED**, that the application of Weona Pond, LLC for Preliminary and Final Major Subdivision approval and bulk variance approvals is **GRANTED** subject to the conditions set forth above.

Voting in favor: Carter, McCreery, Nicholson, Shoultz, Yovnello, McKeever, Tondo

Attest:

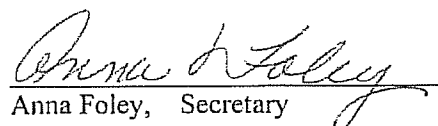
  
Anna Foley, Secretary

ELK TOWNSHIP PLANNING/ZONING BOARD

  
Nick Yovnello, Chairman

#### CERTIFICATION

The undersigned hereby certifies that the above is a true copy of a resolution adopted by said Board on the 21<sup>st</sup> day of March, 2012.

  
Anna Foley, Secretary





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Reply to:  Bridgeton  Salem or  Mays Landing

Albert A. Fralinger, Jr., PE, PLS & PP  
 J. Michael Fralinger, Sr. (1957-2009)  
 Charles M. Fralinger, PLS  
 Carl R. Gaskill, PE, PLS, PP & CME  
 Stephen J. Nardelli, PE, PP & CME  
 Barry S. Jones, PLS & PP  
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 William J. Olbrich, PLS  
 Matthew Baldino, PE, CME  
 Robert A. Mulford, III, PE, CME  
 Corey R. Gaskill, PE  
 J. Michael Fralinger, Jr., PE

October 14, 2011

Civil Engineering  
 Land Use Planning & Design  
 Site Engineering  
 Traffic Engineering  
 Land Surveying  
 Municipal Engineering  
 Soils Investigation  
 Traffic Impact Studies  
 NJDOT Permitting  
 Phase I Environmental Studies  
 Permeability Testing  
 Septic System Design  
 Wetlands Delineation  
 Global Positioning Surveying (GPS)  
 Geographic Information Systems (GIS)  
 Planning/Zoning Board Representation

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

c/o Anna Foley, Board Secretary

Re: Preliminary and Final Major Subdivision Application for Weona Pond, LLC  
 Block 44, Lot 1  
 Elk Township, Gloucester County, NJ  
 Application No. SD-10-01  
 Our Comm. No. 25449.00 – Technical Review #1

Dear Chairman and Members of the Board:

I have reviewed the following documents submitted in further support of the above referenced application for preliminary/final major subdivision. The property is known as Block 44, Lot 1. The site is located in the "RE" Rural Environmental Zoning District.

1. Elk Township Subdivision Application, No. SD-10-01, Confirmation indicating all real estate taxes are current (dated 1/27/10), Applicant Escrow Agreement, Affidavit of Applicant & Affidavit of Ownership, Disclosure Statement, Checklist and Waiver Statement, Record and Title.
2. Ten Site Photos, no date.
3. Gloucester County Planning Board, Subdivision Application, dated 01/14/10.
4. Gloucester County Planning Board, Report of Action, dated 03/16/10
5. NJDEP Letter of Interpretation, dated 07/21/06.
6. Traffic Impact Statement, prepared by Land Dimensions Engineering, dated 11/30/09.

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 Mays Landing • New Jersey • 08330  
 Phone: 609-625-5159 • Fax: 856-455-9702

Branch Office: 115 Fifth Street • Salem • NJ • 08079  
 Phone: 856-933-0688 • Fax: 856-933-2608

TO: ELK TOWNSHIP PLANNING/ZONING BOARD  
RE: WEONA POND, LLC

OCTOBER 14, 2011  
PAGE 2 OF 6

7. Individual Sewage Disposal System Feasibility Study, prepared by South Jersey Engineers LLC, dated 11/30/09.
8. Stormwater Management Report, prepared by Land Dimensions Engineering, dated 11/25/09
9. Environmental Impact Statement, prepared by Land Dimensions Engineering, dated 10/14/09.
10. Elk Township Department of Public Works review letter, dated 02/22/10.
11. Elk Township Police Department review letter, dated 02/02/10.
12. Planner's review letter to the Board from Leah Furey, PP, AICP, of Bach Associates, PC, dated 04/09/10.
13. Response letter to planner's review letter, by Rocco J. Tedesco, Esq., dated 06/10/10.
14. RSIS Evaluation Letter, prepared by Traffic Planning and Design, Inc., dated 05/04/11.
15. Planner's review letter to the Board from Leah Furey, PP, AICP, of Bach Associates, PC, dated 06/06/11.
16. Completeness Response letter, from Land Dimensions Engineering, dated 05/25/11.
17. Resolution 2010-19, adopted 08/18/11.
18. Completeness Response letter, from Land Dimensions Engineering, dated 08/23/11.
19. Transmittal letter to County Tax Assessor, dated 04/28/11.
20. RSIS Evaluation for Weona Pond, LLC, prepared by Traffic Planning and Design, Inc., dated 08/04/11.
21. Planner's review letter to the Board from Leah Furey, PP, AICP, of Bach Associates, PC, dated 09/06/11.
22. Plan Sheets prepared by Land Dimensions Engineering, consisting of the following:

Sheet	Title	Dated	Last Revised
1 of 4	Cover Sheet	01/12/10	07/27/11
2 of 4	Plan of Survey and Topography	01/12/10	07/27/11
3 of 4	Final Plan of Lots	01/12/10	07/27/11
4 of 4	Improvements Plan	01/12/10	07/27/11

The following comments are offered regarding the completeness of the major subdivision plan:

Project Description:

This is an application by Weona, L.L.C. for a preliminary and final major subdivision to create 6 lots: 5 for existing single family homes (1 currently occupied, 4 currently vacant), and 1 homeowner's association lot on an ±12.34 acre parcel with access from Buck Road (CR 553). The proposed lots will be serviced by individual well and septic systems.

Zoning Requirements:

The site is located within the RE, Rural Environmental Zoning District. The following are required for this zone:

The bulk zoning requirements as per Section 96-71.D, RE District:

Description	Required	Proposed	Compliance
Minimum Lot Size	80,000 sf	65,680.83 sf	No
Front Yard (minimum)	50 ft	45 ft ±	No
Rear Yard (minimum)	40 ft	46 ft ±	Yes
Min. Side Yard (one side/agg.)	20/50 ft	34 ft ±/74 ft ±	Yes
Minimum Lot Depth	200 ft	158.13 ft	No
Minimum Lot Frontage	135 ft	0 ft	No
Minimum width at building line	150 ft	164.15 ft	Yes
Principle Building Height (max)	35 ft	35 ft	Yes
Maximum Building Coverage	15%	15%	Yes
Maximum Impervious Coverage	20%	*	*
Accessory Setbacks (min)	20 ft for structures 200 sf or less, zone setbacks for larger structures	24' front 29' rear	No
Maximum Density	0.4 Units/acre of uplands	5	See Planner's Letter
Agricultural Buffer	100 ft in addition to zone setbacks	63 ft	No

Variations Requested:

- Minimum lot size variance (Lots 1.01, 1.02, 1.03, 1.04)
- Minimum lot frontage variance (Lots 1, 1.01, 1.02, 1.03, 1.04, 1.05)
- Minimum lot depth variance (Lot 1.05)
- Minimum front yard setback variance for accessory building (Lots 1.02, 1.04)
- Agricultural buffer variance (Lots 1.02, 1.03, 1.05)

Technical Review

Residential Site Improvement Standards (RSIS) (NJAC 5:21):

1. Provide a note on the plans indicating, "Individual subsurface disposal systems shall comply with NJAC 7:9A-3.2 and 3.16. NJAC 5:21-6.1(d)

Buffers (Section 96-47):

2. Refer to the Board Planner's review letter, dated 9/6/11, for buffer comments.

Landscaping and Buffers (Section 96-50):

3. Plans indicate that portions of Vivian Lane are to be re-established within the property limits. This will require the clearing of vegetation and potentially the removal of topsoil in order to place stone. A note must be provided on the "Improvements Plan" (sheet #4 of 4), follows: Section 96-50.C(11)

"No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide cover to all areas of the subdivision and shall be seeded or planting."

Streets (Section 96-62) & Traffic Signs (Section 96-64):

4. The Applicant is reminded that no certificates of occupancy will be issued until all street signs and stop signs are installed and approved. Section 96-62.W(5) & Section 96-64.D

General Comments/Concerns:

5. The Applicant should comply with all the comments indicated within Board Planner's revised review letter dated 9/6/11.
6. Applicant should provide testimony in regard to how trash pick-up, snow removal, mail delivery, school busing, etc. will be handled. The Elk Township Public Works Department letter, dated 02/22/10, indicates that for trash/dump trucks to utilize the existing driveways a turnaround area should be provided at dead ends.
7. The plans should be submitted to the Fire Official for review and driveway access approval.
8. An RSIS evaluation, dated 8/4/11, has been provided by the applicant and has been found to be accurate in regard to the private driveway status of Hughes Drive and Vivian Lane as depicted on the "Improvements Plan" (sheet #4 of 4). Accordingly RSIS requirements do not apply to Hughes Drive or Vivian Lane.
9. Plans do not meet the standards of the "Map Filing Law" and do not comply with N.J.A.C. 13:40-5.1 et seq. Plans must conform to these standards as a condition of any approval.
10. The block and lots shown on the preliminary plan shall be numbered in accordance with the system of numbers which will ultimately be the numbers shown on the Township Tax Map. Section 96-31.C.(9).

Applicant's engineer has provided a copy of their request to the Gloucester County Tax Assessors Office requesting new block/lot numbers, and indicated they have

received no response to date, and have stated that this information will be added to the plans upon receipt. Provision of this information should be a condition of any approval.

11. Applicant's engineer has indicated during a project meeting on 07/20/11 that the Vertical Datum reference (which is currently referenced to a Plan of Survey by Millennium Engineering) would be certified by the applicant's surveyor and the notes referencing the other surveyor's work would be removed since copies of that work cannot be supplied in support of the submitted plans. This information has not been updated on the plans at this time. This revision must be a condition of any approval.
12. Vivian Lane, between Buck Road and Hughes Drive, has several minor potholes that should be patched/repared. (See attached photos)
13. Vivian Lane, between Hughes Drive and its terminus (i.e. along proposed lots 1.01, 1.02, 1.03, 1.04) is in poor condition. Many large potholes exist which need to be patched/repared. Repair of this section of Vivian Lane should be a requirement of approval. (See attached photos)
14. The Limit of Disturbance line in relation to the relocation/re-establishment of Hughes Drive should be shown on the plans and flagged or fenced in field for definite location. A note should be provided on the plan to require same.
15. No Certificates of Occupancy should be issued until both Hughes Drive and Vivian Lane have been inspected and are deemed to be in satisfactory condition by the Township Engineer and the Township Fire Chief.
16. HOA documents for maintenance and management of the common areas (i.e. proposed Lot 1, Vivian Lane and Hughes Drive) must be provided for review and approval by the solicitor as a condition of any approval.
17. The applicant will be required to submit an engineer's estimate for all site improvements so that performance bond/inspection escrow deposit amounts can be established.
18. The following agency approvals are required for this application:
  - a. Gloucester County Planning Board.
  - b. Gloucester County Soil Conservation District certification.
  - c. Gloucester County Board of Health (well and septic systems).
  - d. NJDEP Letter of Interpretation, if applicable.
  - e. NJDEP Wetlands Delineation approval, if applicable.
  - f. Any and all agencies having jurisdiction.

The above items must be addressed by the applicant's engineer prior to and/or as a condition of preliminary major subdivision plan approval by the Board.

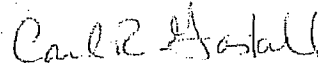
Should you have any questions, please feel free to give me a call.

TO: ELK TOWNSHIP PLANNING/ZONING BOARD  
RE: WEONA POND, LLC

OCTOBER 14, 2011  
PAGE 6 OF 6

Very truly yours,

Fralinger Engineering PA



Carl R. Gaskill, PE, PLS, PP & CME

CRG/cg/kmm

cc: Joan Adams, Esq.  
Leah Furey Bruder, PP, AICP  
Rocco J. Tedesco, Esq.  
Land Dimensions Engineering  
Joe and Tricia Conte, Weona Pond LLC, Applicant



Vivian Lane at Buck Rd



Looking at Vivian Lane from Buck Road



Along Vivian Lane towards Buck Rd



Along Vivian Lane towards Buck Rd





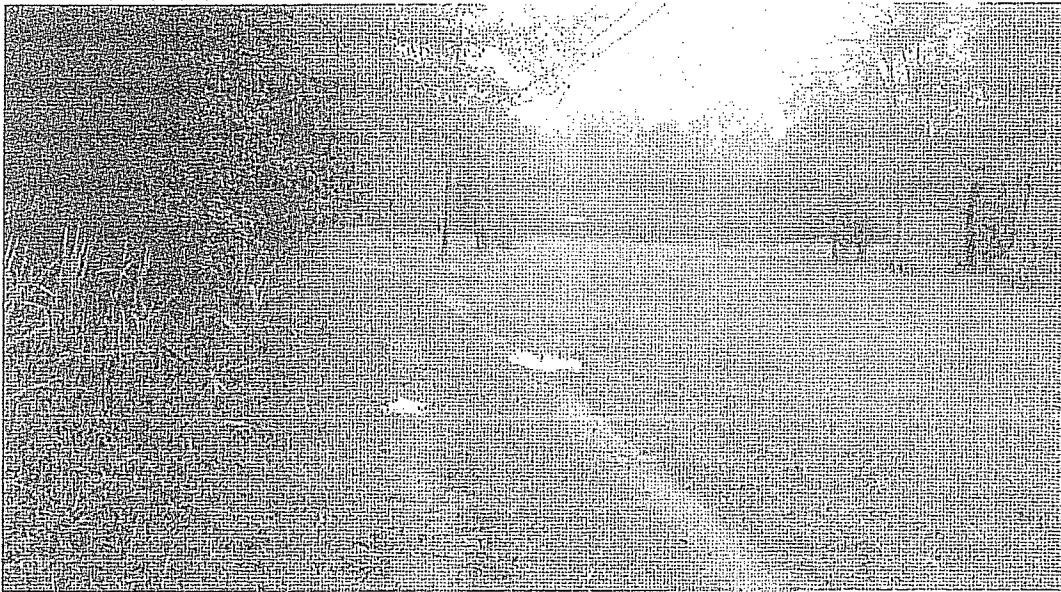
Towards terminus of Vivian Lane at edge of proposed Lots 1.02 & 1.03



Vivian Lane, towards Hughes Lane, at edge of proposed Lots 1.02 & 1.03



Vivian Lane, towards Hughes Lane, along proposed Lot 1.02



Hughes Lane from Vivian Lane



Along Hughes Lane looking towards Vivian Lane from edge of proposed Lots 1 & 1.05



Hughes Lane looking towards proposed Lot 1.05 from edge of proposed Lots 1 & 1.05



At house on prop Lot 1.05 looking towards bend in Hughes Lane



At bend in Hughes Lane looking toward Buck Rd



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Reply to:  Bridgeton  Salem or  Mays Landing

Albert A. Fralinger, Jr., PE, PLS & PP  
J. Michael Fralinger, Sr. (1957-2009)  
Charles M. Fralinger, PLS  
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Soils Investigation  
Traffic Impact Studies  
NJDOT Permitting  
Phase I Environmental Studies  
Permeability Testing  
Septic System Design  
Wetlands Delineation  
Global Positioning Surveying (GPS)  
Geographic Information Systems (GIS)  
Planning/Zoning Board Representation

January 30, 2012

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

C/o: Anna Foley, Board Secretary

Re: Preliminary and Final Major Subdivision Application for Weona Pond, LLC  
Block 44, Lot1  
Elk Township, Gloucester County, NJ  
Our Comm. No. 25449.00 – Fire Safety Review Update

Dear Members of the Board:

On Tuesday January 24<sup>th</sup>, I attended a meeting with Elk Township Fire Officials (Elk Township Fire Marshall, the Fire Chief for Ferrell Volunteer Fire Company, and the Fire Chief for Aura Volunteer Fire Company), Land Dimension's Engineering (Applicant's Engineer) and Weona Pond LLC (Mr. Conte).

At the meeting the fire safety concerns for this project were discussed and the following items were agreed to:

- o The existing bridge to the island in Weona Pond is to be removed.
- o Two vehicle turnaround locations, one on Proposed Lot 1.03 and one on Remainder Lot 1, are to be provided.
- o 12' wide gravel emergency access road is to connect between Hughes Drive and Vivian Lane, chain/cable gates are to be provided at each end of the emergency access road to prevent unauthorized use. Approved locks and signage to be provided.

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- o A dry hydrant, to draft water from Weona Pond, is to be placed adjacent to the vehicle turnaround on Remainder Lot 1. Protective bollards are to be placed next to the dry hydrant. Approved signage to be provided.
- o No further widening of Hughes Drive or Vivian Lane in addition to what is currently proposed is to be required.
- o Hughes Drive, Vivian Lane and the access emergency access road are to be designed, in compliance with AASHTO Standards or approved equal, to accommodate a minimum 22,000 lbs axel load.

All plan modifications/revisions required to incorporate the above items, must be provided for review and approval as a condition of any approval.

Should you have any questions, please feel free to give me a call.

Very truly yours,

Fralinger Engineering PA



Corey Ronald Gaskill, PE & CME

Cc: Joan Adams, Esq.  
Leah Furey Bruder PP, AICP  
Rocco J. Tedesco, Esq.  
Andrew Hogg, PE, Land Dimensions Engineering  
Joe and Tricia Conte, Weona Pond LLC, Applicant

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January 31, 2012

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

Attn: Anna Foley, Secretary

Re: Weona Pond, LLC  
Preliminary and Final Major Subdivision  
Block 44, Lot 1  
Vivian Lane/ Hughes Lane  
RE Rural Environmental District  
Elk Township SD-10-01  
Bach Associates Proj. # ET2010-2

Dear Chairman and Members of the Board:

Since our prior letter dated September 6, 2011, we have been contacted by Land Dimensions regarding several issues in our letter. In an effort to be more efficient at the upcoming hearing, we have revised our letter accordingly.

We have received the revised major subdivision plan, improvements plan, and supplemental materials submitted by Land Dimensions Engineering on behalf of their client Weona Pond, LLC in support of an application for a Preliminary and Final Major Subdivision at the above referenced site. The Land Use Board held a completeness hearing on the application at the July 21, 2010 meeting and the application was deemed incomplete. At the hearing the applicant provided testimony in support of the requested waivers and also agreed to provide additional information for review. The Board granted waivers from several checklist items and required additional information for several other items. The Board empowered its engineer to review the additional information when submitted and to administratively deem the application complete without the need for a second completeness hearing if all of the requisite information is provided.

The applicant proposes to subdivide the 12.34 acre tract to create 6 lots – 5 for existing single family homes (1 is presently occupied and 4 are vacant), and one 2.87 acre open space lot to be owned by a homeowner's association. The site is significantly constrained by the presence of freshwater wetlands and buffers (4.45 acres are wetlands). The property is currently accessed by two unpaved access drives off of Buck Road (CR 553), the southerly drive is known as Hughes Lane and the northerly drive is known as Vivian Lane. The property is bordered to the north, east and west by other parcels in the RE Rural Environmental zoning district and to the south by parcels in the RR Recreation Residential zone at Garrison Lake. The surrounding land uses include wooded wetlands to the west, seasonal residential properties on Garrison Lake to the south, and actively farmed, farm qualified properties to the north and east.

**Recent History of this Site**

In 2006 the applicant submitted a use variance application to permit an increase in density above the permitted maximum density in the RE zone along with a subdivision concept plan for

the property. At the time the applicant proposed 5 lots. The use variance application was denied by the Land Use Board in accordance with Resolution No. 2006-34. The applicant then appealed the decision, which ultimately resulted in oral opinion issued on August 14, 2008 by Judge Georgia Curio, AJSC and a final Judgment was issued on September 3, 2008. The Judge reversed the Board's decision and determined that Weona Pond, LLC has the right to continue to utilize the five residential structures on the site as valid pre-existing, non-conforming uses. The Judge also opined that the Elk's denial of the variance application was arbitrary, unreasonable and capricious, thus eliminating the need for the applicant to obtain a use variance for the existing density on the site. The determination addresses only the D(5) use variance (increase in density above the density allowed by the current zoning). The applicant must still address all other applicable issues related to a major subdivision approval. In 2010 the applicant filed an application for a major subdivision to create a separate lot for each existing house and one lot for the common area (the pond). In July 2010 the application was deemed incomplete, and in May 2011 and again in August 2011 the applicant submitted additional information for review.

#### **Submission Items**

The applicant has submitted the following items in support of this application:

1. Application a Preliminary and Final Major Subdivision to the Combined Planning and Zoning Board, Escrow Agreement, Affidavit of Ownership, proof of taxes (paid January 27, 2010), disclosure statement, list of property owners within 200 feet.
2. Preliminary and Final Subdivision Plan consisting of 4 sheets as follows all prepared by Land Dimensions Engineering:
  - Cover Sheet, dated January 12, 2010, revised through July 27, 2011.
  - Survey and Topography of Block 44 Lot 1, dated October 2009, revised through July 27, 2011, and signed January 12, 2010
  - Final Plan of Lots, dated November 2009 and revised through July 27, 2011.
  - Improvements Plan dated November 2009 and revised through July 27, 2011.
3. Individual Sewerage Disposal System Feasibility Study for block 44 lot 1, prepared by South Jersey Engineers, dated November 30, 2009.
4. Traffic Statement, prepared by Land Dimensions Engineering, dated November 30, 2009.
5. Stormwater Management Report, prepared by Land Dimensions Engineering, dated November 35, 2009.
6. Letter of Interpretation issued by the NJDEP, dated July 21, 2006
7. Environmental Impact Statement, prepared by Land Dimensions Engineering, dated October 14, 2009.
8. Record and Title search information.
9. Gloucester County Planning Board Subdivision Application, dated January 14, 2010



10. Gloucester County Planning Board- Report of Action dated March 16, 2010 – Denied pending satisfaction of comments.
11. Review Letter from Elk Township Police Department dated February 2, 2010
12. Ten Site Photos.
13. Letter from Land Dimensions Engineering dated May 25, 2011 responding to completeness requirements.
14. Letter from Land Dimensions Engineering dated August 23, 2011 responding to completeness requirements.
15. Transmittal letter to County Tax Assessor dated April 28, 2011.
16. RSIS Evaluation for Weona Pond, LLC prepared by Traffic Planning and Design, Inc. and dated August 4, 2011.
- 17. Response letter from Land Dimensions Engineering dated January 13, 2012.**

#### Completeness

At the Board's July 2010 meeting the application was deemed incomplete and the Board's engineer was given the authority to review the additional information required when it is submitted and to administratively deem the application complete without the need for an additional completeness hearing (Resolution 2010-29). The applicant submitted additional information on May 27, 2011, which was reviewed and the application remained technically incomplete (June 28, 2011). The outstanding items were related to the engineering aspects of the plan. Revised plans were again submitted on August 23, 2011 and the Board's engineer has recommended that **the application be deemed complete and scheduled for a preliminary subdivision hearing** (September 1, 2011).

1. The following checklist items were waived by the Board for the purpose of plan review with the understanding that necessary information would be provided by the applicant during the review process or as a condition of approval as the case may be: #8, #12, #30, #42, #62, #63, #65, #70, #75.
2. The Board did not waive the following checklist items, but the Board's engineer recommends that the items be waived for the purpose of completeness and submitted as a condition of any approval.
  - **#19** requires that the applicant provide the new block and lot numbers approved by the tax assessor. *The applicant has filed a request with the Gloucester County Tax Assessor.*
  - **#28** requires the reference meridian and graphic scale. *The applicant is required to update the Vertical Datum to be certified by the applicant's surveyor.*

#### Variances

The requested variances are outlined on the table on the following page.

At the hearing the applicant must provide testimony to justify the requested variances. For a C(1) variance, the applicant must demonstrate that the strict application of the zoning regulations to the property create a hardship or result in exceptional practical difficulties by reason of the exceptional shape of the property or the exceptional topographic conditions uniquely affecting the property, or the structures lawfully existing upon the property. For a C(2) variance the applicant must show that the proposed variance advances the purposes of municipal land use law and that the benefits of the deviation would substantially outweigh any detriments. The applicant should address whether the proposed variances will substantially impair the intent of the Master Plan or zoning plan and whether there are any potential detrimental impacts to the public good.





The following variances are required for the subdivision as proposed. The shaded cells require variances.

Section	Required	Proposed Lot 1	Lot 1.01	Lot 1.02	Lot 1.03	Lot 1.04	Lot 1.05
96-71D(1) Maximum Density	.4 unit per upland acre	5 homes proposed, 3 are permitted (density variance not required as result of Court determination)					
96-71D(2) Minimum Lot size	80,000 square feet	125,111 sq ft	65,681 sq ft	79,333 sq ft	78,472 sq ft	74,780 sq ft	115,625 sq ft
96-71D(3) Front yard	50 feet	NA	111 feet	315 feet	63 feet	139 feet	45 feet
96-71D(4) Rear yard	40 feet	NA	218 feet	46 feet	213 feet	52 feet	74 feet
96-71D(5) Side Yards	Min 20 feet Aggregate 50	NA	28/126 feet	34/74 feet	94/197 feet	47/230 feet	147/544 feet
96-71D(6) Lot width	150 feet	293 feet	164 feet	225 feet	285 feet	272 feet	599 feet
96-71D(7) Lot Depth	200 feet	386 feet	391 feet	422.8 feet	417.7 feet	251.4 feet	158 feet
96-71D(9) Lot Frontage	135 feet	0	0	0	0	0	26.67 feet
96-71D Height	35 feet max	NA	Complies	Complies	?	Complies	Complies
96-80 Accessory setbacks	20 feet for structures 200 sf or less, zone setbacks for larger		Shed 24 feet from front			Garage 29 feet from rear	
96-47.1 Agricultural Buffer	100 feet plus setbacks	NA	98' provided to lot 3*	Complies except for existing road	150 feet req, 63 feet provided	150 feet req, 139 feet provided	NA

\*Section 96-47.1B(2)(a)1(c) provides that the buffer is not required when the adjacent land is a woodland or wetlands incidental to the farming operation. The portion of lot 3 (which is farm assessed) adjacent to the subject lot is a wooded wetland area.

The following comments are provided for the Board's consideration:

1. **Variations.** All of the proposed variations result from the drawing of lot lines around existing residential dwelling units and accessory structures. Though the dwelling units exist, several of them have not been occupied for many years. The subdivision and arrival of new owners/residents may necessitate measures, such as driveway maintenance agreements and landscaping to mitigate the variance conditions.
2. **Plan details.** On the east side of proposed lot 1.01 on the Improvements Plan, there is a label "Qualified Farmland". This should be removed as the Weona Pond lots are not presently farmed or farm assessed.
3. **Access and Frontage.** The applicant has requested variance from the lot frontage requirements, since 5 of the 6 proposed lots will not have frontage on a public street. N.J.S.A. 40:55D-35 provides that no permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to the proposed building or structure; also the street must be suitably improved in accordance with Township standards. While the five houses already exist, the principle of providing adequate access to protect the public health, safety and general welfare applies. N.J.S.A. 40:55D-36 provides that where the enforcement of N.J.S.A. 40:55D-35 would present practical difficulties, or unnecessary hardship, or where the circumstances of the case do not require the structure to be related to a street, the Planning Board may vary the requirement of N.J.S.A. 40:55D-35 and allow the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety.
  - a. The applicant has provided an "RSIS Evaluation" documenting the existing and proposed conditions, and should be prepared to provide testimony at the hearing about the condition of the existing access road and any proposed improvements to the driveways. The improvements plan indicates that portions of Hughes Lane will be relocated to eliminate encroachments onto adjacent properties, that the driveways will be constructed of stone and will be a minimum of 10 feet in width. The applicant should indicate the type of stone that will be used. It is recommended that the Fire Marshall review the application and confirm that the access will be sufficient for emergency vehicles.
  - b. When we visited the site we observed water ponding within the access road, indicating that some grading may be needed. The applicant indicates that the proposal will not require grading. We defer to the Board's engineer to review grading.
  - c. Though the site functioned in the past with 7 houses on one lot sharing access; maintenance was the ultimate responsibility of one property owner. With 5 separate property owners, responsibility and expectations will need to be clearly defined. Today's homeowner/taxpayer generally has service expectations beyond what may have been expected from a rural municipality when the houses were initially constructed. The potential for service delivery to the proposed lots relates to the public good. Since the proposed access driveways will not be owned or maintained by the Township, the applicant should address service delivery - specifically, trash pick up, snow removal, mail, and school buses.

Municipal services would not typically enter upon an unimproved private driveway. It is recommended that the Director of Public Works provide comment related to trash and recycling collection. It is recommended that a bus shelter be provided at a location near Buck Road agreed upon with the school district, for children from the development.

***The applicant has noted that currently trash pick up, mail delivery and emergency vehicle access is on-site and will continue to be. Specific easements for access will be established as a condition of approval. In addition, the applicant has satisfactorily explained why a bus shelter is not practical.***

- d. The application indicates that Hughes Lane is currently blocked for vehicular access. The applicant should indicate how the road is currently blocked, and confirm that the access will be reopened for use by the future owners of lots 1.02 and 1.05.
  - e. The "RSIS Evaluation" provides that both Vivian Lane and Hughes Lane should be considered as driveways, and indicates that RSIS standards do not apply to driveways, when a shared driveway is established by easement to serve more than one but not more than four dwelling units on private property. We defer to the Board's engineer to evaluate the RSIS evaluation.
  - f. Proposed lot 1 is a common open space area to be owned by a Homeowners Association. The HOA should be named in the Hughes Lane easement to ensure access to maintain the open space and pond.
  - g. The applicant should indicate how the driveways are proposed to be maintained in common by the homeowners benefitting from the driveways (lots 1.01, 1.03, 1.04 to Vivian Lane and lots 1.05, 1, and 1.02, to Hughes Lane).
4. **Wetlands.** The applicant has shown the wetlands areas on the property and the 50 foot wetlands buffer area and has provided the Letter of Interpretation issued by the NJDEP. Since the houses and access drives already exist, the subdivision itself does not require permits from the NJDEP, but 4 of the 5 houses are partly within the wetlands transition buffer area. It may be difficult for new property owners to identify the buffer and wetland areas. Typically, when new homes are constructed adjacent to wetlands buffer areas, restrictions are placed on the property to ensure that the homeowner is aware of the limitations on disturbance and placing structures within the buffer area. The applicant should consider how this may be reasonably accomplished in this case and propose a solution for consideration and incorporation into any approval.
- a. It is recommended that a conservation easement be placed upon the wetlands areas, that markers be placed at intervals of 100 feet to identify the wetlands boundary, and that a wetlands map be provided to purchasers of the properties.

***The applicant would like to have conservation easements be a condition of final approval in order to finalize septic system/well improvements.***

- b. The applicant should be aware that no additional disturbance may take place within the wetlands buffer areas without express permission from the NJDEP. For example the applicant or future homeowners will not be permitted to construct, decks, pools, or other accessory uses or structures within the wetland buffer areas.

***The applicant will provide point-of-sale notifications as part of the deeds to clarify and define the wetlands related restrictions.***

- c. It is recommended that native vegetation tolerant of wetland conditions be planted around the east and north sides of the pond in order to mitigate runoff and improve water quality.

***The applicant has agreed to assess these areas for existing vegetation and provide additional plantings if needed.***

5. **Agricultural Buffer.** Section 96-47.1 of the Unified Development Code requires agricultural buffers, in addition to required setbacks, for site plan and subdivision applications. The farmland buffer requirement is intended to ensure that farms and other development may coexist harmoniously, without undue impacts to the farm or the adjacent development. As a major subdivision, the agricultural buffer requirements apply to this application, but one of the existing houses is already within the buffer and two are within the setback from the buffer. The applicant should consider the intent of the agricultural buffer ordinance, and how the intent may be met. It is recommended that the subdivision be conditioned upon the applicant agreeing to a deed notice about the surrounding farm use, to ensure that the future owners of proposed lots 1.01, 1.02, 1.03, and 1.04 acknowledge and understand the potential impacts of the adjacent farm. It is also recommended that an evergreen buffer be installed along the south side of the access road on lots 1.03 and 1.04, within the agricultural buffer area.
6. **Expansion of Existing Structures.** As permitted non-conforming uses, the five existing houses may be restored and repaired (N.J.S.A. 40:55D-68). The applicant should consider, from a practical standpoint whether additions to the existing footprints may be required, which may impact the setback variances requested and wetlands permitting. Any additions or accessory structures within the wetlands transition buffers would require permits or buffer averaging plans from the NJDEP. ***The applicant understands the requirements and at this time no improvements are proposed. We recommend a point-of-sale disclosure for building addition restrictions as well as wetlands restrictions discussed above in comment 4.b.***
7. **Accessory Structures.** It is recommended that parameters for accessory structures be established for the five residential lots as part of the subdivision approval, so that individual lot owners and the Township zoning officer have guidance in considering accessory structures on these lots in the future. The applicant should review the accessory structure requirements at section 96-80 to determine whether additional variances beyond those listed may be needed to accommodate accessory sheds, fences, decks, etc. while not encroaching within the front yard areas, agricultural buffer areas, and the wetland/buffer areas. It is preferred that this be addressed along with the major subdivision, where the desire for typical accessory structures can be anticipated,



rather than have individual home owners apply for variances in the future. ***The applicant would prefer not to guess as to the location of future accessory structures may be.***

8. **Encroachments.** There are existing fence and accessory structure encroachments on the Hughes Lane portion of proposed lot 1.05. The applicant should indicate whether the encroachments will be removed or an easement provided. ***The applicant will have these encroachments removed.***
9. **Tree protection.** It is recommended that tree protection fencing be installed to delineate the limits of clearing in the areas where clearing will be required for the proposed septic fields. ***The applicant will add a note regarding tree protective fencing to the plans.***
10. **Buck Road.** The applicant should indicate whether any feedback has been received from Gloucester County related to the access from Buck Road. Review of the sight triangles and access is deferred to the County. It is recommended that the applicant consider concrete driveway aprons in order to keep stone out of the county right-of-way. ***The application is currently being processed. The applicant should forward the information once it is received from the County as a condition of final approval.***

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

Very truly yours,  
BACH Associates, PC



Candace Kanaplue, PP, AICP

cc: Joan Adams, Esq.  
Carl Gaskill, P.E.  
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