

PLANNING BOARD MINUTES

REGULAR MEETING

JUNE 20, 2016

1. The Planning Board Regular Meeting of June 20, 2016 was called to order by Chairman Joseph Brower.
2. Sunshine Law Statement that this meeting is being held in accordance with the Open Public Meetings Law, noticed of this meeting was provided in accordance with the requirements of Chapter 231, P.L.
3. Pledge of Allegiance
4. Roll Call by Secretary Mel Levine

NAME	PRESENT	ABSENT
Chairman Joseph Brower	X	
Vice Chairman James Campbell	X	
Mayor Joseph Alessi		X
Councilman Art Rees		X
Member Dr. Carl Spinelli	X	
Member Scott Fishbone	X	
Member Mel Levine	X	
1 <sup>st</sup> Alt. Member Joseph Barba	X	
2 <sup>nd</sup> Alt. Member Sandra Nathans	X	
Borough Engineer Frank Zichelli	X	
Attorney John Dusinger	X	

Mayor Joseph Alessi was recused from the meeting

5. A motion to accept the minutes of the February 29, 2016 Regular meeting

Moved by:	Vice Chairman James Campbell
Seconded by :	Member Sandra Nathans

MEMBER	YES	NO	ABSTAIN	ABSENT
Chairman Joseph Brower	X			
Vice Chairman Campbell	X			
Mayor Joseph Alessi				X
Councilman Art Rees				X
Member Dr. Carl Spinelli	X			
Member Scott Fishbone	X			
Member Mel Levine	X			
1 <sup>st</sup> Alt. Joseph Barba	X			
2 <sup>nd</sup> Alt. Sandra Nathans	X			

6. A motion to accept the minutes of the March 28, 2016 Regular meeting

Moved by:	Member Scott Fishbone
Seconded by :	Vice Chairman Campbell

MEMBER	YES	NO	ABSTAIN	ABSENT
Chairman Joseph Brower	X			
Vice Chairman Campbell	X			
Mayor Joseph Alessi				X
Councilman Art Rees	X			X
Member Dr. Carl Spinelli	X			
Member Scott Fishbone	X			
Member Mel Levine	X			
1 <sup>st</sup> Alt. Joseph Barba	X			
2 <sup>nd</sup> Alt. Sandra Nathans	X			

7. A motion to accept the minutes of the May 23, 2016 Regular meeting

Moved by:	Vice Chairman James Campbell
Seconded by :	Member Scott Fishbone

MEMBER	YES	NO	ABSTAIN	ABSENT
Chairman Joseph Brower	X			
Vice Chairman Campbell	X			
Mayor Joseph Alessi				X
Councilman Art Rees				X
Member Dr. Carl Spinelli	X			
Member Scott Fishbone	X			
Member Mel Levine	X			

1 <sup>st</sup> Alt. Joseph Barba	X			
2 <sup>nd</sup> Alt. Sandra Nathans	X			

- Memorialization of Approval in the matter of K.Hovnanian at North Caldwell IV, LLC Hilltop Parcel 3, Block 101, Lot 3, Preliminary and Final Approval of the Major Subdivision with Variances.

Chairman Brower noted that there were a few housekeeping issues that he wanted Mr. Dusinberre to address.

Mr. Dusinberre noted that the Board had before them a Resolution Memorializing the application of K. Hovnanian at North Caldwell IV, LLC , with a final revision date of 6/20/2016. The Resolution is comprised of (19) nineteen pages and attached to it is a list of variances marked as Exhibit A, and is the same list of variances submitted by Najarian Associates on January 22, 2016. Since this was granted, and the Board was provided with written copies , there have been some minor errors in the drafting. The first is on page 5, paragraph 3, **PREVIOUSLY**, was misspelled, the second is the clarification found on page 7, paragraph 9, refers to the requirement for a tree survey, but the last sentence of that paragraph refers to just a survey of the development be provided, the word **Tree** should be inserted in front of survey. On page 11, paragraph 11, starts off with- subject to the approval of the Hudson, Essex , Passaic Soil Conservation District, it should be amended to - **this approval is subject to the approval of the Hudson, Essex, Passaic Soil Conservation District.** Paragraph 24, sub C, page 14 reads milled and final surface as necessary , should say **constructed as necessary.** Paragraph 25, refers to the cost share agreement between applicant and Four Seasons should include – **and recorded**, will be inserted in that paragraph.

Mr. Dusinberre asked for someone to move the Resolution as amended tonight on the record.

Chairman Brower recognized Mr. Gaccione, Esq., Mr. Ramsey, Esq. and Mr. Caniglia, Esq. and asked if they had any questions or comments regarding corrected errors. They had no comments.

Chairman Brower asked the Board if they had any questions or comments on the Memorialization, there were none.

Chairman Brower asked for a motion to approve the Memorialization.

Moved by:	Member Dr. Carl Spinelli
Seconded by :	Member Joseph Barba

MEMBER	YES	NO	ABSTAIN	ABSENT
Chairman Joseph Brower	X			
Vice Chairman Campbell			Ineligible	
Mayor Joseph Alessi			Recused	X
Councilman Art Rees			Ineligible	X
Member Dr. Carl Spinelli	X			
Member Scott Fishbone	X			
Member Mel Levine	X			
1 <sup>st</sup> Alt. Joseph Barba	X			
2 <sup>nd</sup> Alt. Sandra Nathans			Ineligible	

9. Chairman Brower opened the meeting up to the citizens for any comments outside of the items we dealt with this evening. There were no comments.

10. Chairman Brower asked for a motion to adjourn.

Moved by:	Member Scott Fishbone
Seconded by :	Member Sandra Nathans

MEMBER	YES	NO	ABSTAIN	ABSENT
Chairman Joseph Brower	X			
Vice Chairman Campbell	X			
Mayor Joseph Alessi				X
Councilman Art Rees				X
Member Dr. Carl Spinelli	X			
Member Scott Fishbone	X			
Member Mel Levine	X			
1 <sup>st</sup> Alt. Joseph Barba	X			
2 <sup>nd</sup> Alt. Sandra Nathans	X			

Respectfully submitted,

Mel Levine  
 Planning Board Secretary

**BOROUGH OF NORTH CALDWELL PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

Approved: March 28, 2016  
Memorialized: June 20, 2016

**IN THE MATTER OF K. HOVNIANIAN AT NORTH CALDWELL IV, LLC; PRELIMINARY AND FINAL MAJOR SUBDIVISION, BLOCK 101, LOT 3, HILLTOP AT ESSEX COUNTY NJ PARCEL 3 WITH VARIANCES AND WAIVERS**

**WHEREAS**, K. Hovnanian at North Caldwell IV, LLC, A New Jersey Limited Liability Company, (hereinafter known as "Applicant"); has submitted a request for a preliminary and final major subdivision, variances and waivers with the Borough of North Caldwell Planning Board (hereinafter known as the "Planning Board"); and,

**WHEREAS**, the land that is the subject matter of the application is known as Block 101, Lot 3 on the Official Tax Map of the Borough of North Caldwell, and fronting on and having access from Hilltop Drive, North Caldwell, New Jersey (the "Development"); and,

**WHEREAS**, it has been determined that the Applicant, has complied with all of the procedural rules, regulations and requirements of the Planning Board and that all of the required provisions of procedural compliance have been filed with the Planning Board; and,

**WHEREAS**, the Applicant was represented by Robert A. Gaccione, Esq, and Michael Piromalli, Esq., and the Planning Board has heard the testimony of the Applicant's representatives and professionals (a) Peter A. Ciliberto, Jr., Professional Engineer of Najarian Associates.; (b) Michael J. Tobia, Professional Planner; (c) Joseph Lipanovski, Architect; (d) Richard Pfluger, insurance agent; (e) Blanche Brailard, Landscape Architect; (f) John Crane, the Applicant's Land Development Manager; and, (g) John Caniglia, Esq., a representative of the Applicant; and,

**WHEREAS**, the Four Seasons at North Caldwell Condominium Association, Inc. (the "Four Seasons") was represented by J. David Ramsey, Esq. and Martin C. Cabalar, Esq., and the Planning Board has heard the testimony of the Four Seasons President, Bernard Albanese, and its professional Erin Albine, E.I.T. from Suburban Consulting Engineers; and,

**WHEREAS**, the Planning Board, for stormwater management review, retained the services of Kevin K. Nollstadt of Hatch Mott McDonald, Consulting Engineer, and the Borough Engineer, Frank Zichelli was present at hearings and performed the engineering review of the Development; and,

**WHEREAS**, the Planning Board heard from members of the public throughout the hearings, permitted questions of witnesses, and opened the meeting for public comment and presentation at the conclusion of the Applicant's case; and,

**WHEREAS**, the Applicant has submitted, and the Planning Board has reviewed, the following documents:

Subdivision plans entitled "Preliminary/Final Major Subdivision Plan, for Hilltop at Essex County, NJ Parcel 3, Block 101, Lot 3, Tax Map Sheets 2 & 3, Borough of North Caldwell, Essex County, New Jersey" as prepared by Najarian Associates, dated 11-26-14 and revised through 1-22-16.

Stormwater Management Report entitled "Stormwater Management Report, Hilltop at Essex County, Block 101, Lot 3, Borough of North Caldwell, Essex County, New Jersey," as prepared by Najarian Associates, dated November, 2014 and revised through January 2016.

Site plans entitled "Preliminary and Final Site Plan, for Hilltop at Essex County, Parcel 4, Borough of North Caldwell- Block 2, Lot 17.02, Block 1, Lot 22, Tax Map Sheets 3 & 4, Borough of Caldwell -Block 7, Lot 5.01, Tax Map Sheet 1, Township of Verona-Block 129, Lots 1, 10 & 11, Block 128, Lot 21.03, Tax Map Sheet 23, Borough of North Caldwell, Caldwell and Township of Verona, Essex County, New Jersey," as prepared by Schoor Depalma, dated 11/17/05 and revised through May 11, 2007.

Stormwater Management Report entitled "Stormwater Management Report, prepared for K. Hovnanian Companies Northeast, Inc., for the site known as Hilltop Property

— Parcel 4 – Block 2, Lots 17.02, 17.05, and 17.06; Block 1, Lots 22, 23, and 24 - in the Borough of North Caldwell; Block 7, Lot 5.01 in the Borough of Caldwell; Block 129, Lots 1, 10, and 11, Block 128, Lot 21.03 in the Township of Verona – County of Essex, New Jersey," prepared by Schoor DePalma, dated November 7, 2005, last revised August 2, 2006.

Environmental Impact Statement, Hilltop at North Caldwell, Block 101, Lot 3, Borough of North Caldwell, Essex County, New Jersey, prepared by Najarian Associates, Eatontown, NJ dated November 2014.

**WHEREAS**, during the course of the public hearings the following exhibits became part of the record for this application:

<b>Exhibit #</b>	<b>Applicant Exhibits</b>	<b>Date Entered</b>
A-1	Aerial Photo of the Site	8/17/2015
A-2	Mounted Exhibit of Retaining Walls	8/17/2015
A-3	Mounted Map of the 62 lots and 3 basins	8/17/2015
A-4	List of Variances Required	8/17/2015
A-5	Aerial Rendering with Lots, Roads and Basins dated 9/22/15	9/28/2015
A-6	Stormwater Management Report revised through 9/18/2015 w Figure 3.2	9/28/2015
A-7	Najarian Plans revised through 9/18/2015 consisting of 24 sheets	9/28/2015
A-8	Najarian Response Letter dated 9/18/2015	9/28/2015
A-9	Mounted Board Basin Cross Sections 9/18/2015	9/28/2015
A-10	Cross Sections of Berms and Swales dated 9/18/2015	9/28/2015
A-11	Mounted Sheet - Retaining Walls 9/23/2015	9/28/2015
A-12	Revised List of Variances Requested dated 9/18, 2015	9/28/2015
A-13	Mounted Floor Plans – Dover Unit	10/19/2015
A-14	Booklet Compilation of Unit Floor Plans & Elevations	10/19/2015
A-15	Mounted Elevation – Dover Unit	10/19/2015
A-16	Mounted 1 <sup>st</sup> Floor Plans – Maine Unit	10/19/2015
A-17	Mounted 2nd Floor Plans – Maine Unit	10/19/2015
A-18	Mounted Elevation – Maine Unit	10/19/2015
A-19	Mounted 1 <sup>st</sup> Floor Plans – Memphis Unit	10/19/2015
A-20	Mounted Elevation – Memphis Unit	10/19/2015
A-21	Mounted 1 <sup>st</sup> Floor Plan – Weston Unit	10/19/2015
A-22	Mounted 2 <sup>nd</sup> Floor Plan – Weston Unit	10/19/2015
A-23	Mounted Alt. 2 <sup>nd</sup> Floor Plan – Weston Unit	10/19/2015
A-24	Mounted 1 <sup>st</sup> Floor Plans – Weston Unit	10/19/2015
A-25	Najarian Associates Report & Cover Letter dated January 25, 2016	2/8/2016
A-26	Revised Engineering Plans by Najarian Associates dated November 26, 2014, and revised through January 22, 2016, consisting of 24 sheets	2/8/2016
A-27	Final Plat – Major Subdivision prepared by Najarian Associates dated March 3, 2015, and revised through January 22, 2016 consisting of 3 pages	2/8/2016
A-28	Conservation Easement – Section 1 for Hilltop at Essex County dated	2/8/2016

	January 22, 2016	
A-29	Revised List of Variances Requested dated January 22, 2016	2/8/2016
A-30	Watershed Study Prepared by Najarian Associates dated January 2016	2/8/2016
A-31	Soil Logs & Permeability Tests Prepared by Melick-Tully and Associates, PC dated January 21, 2016	2/8/2016
A-32	Stormwater Management Report Prepared by Najarian Associates dated November 2014, and revised through January 2016	2/8/2016
A-33	2 Photos of Ferndale Berm taken January 14, 2016	2/8/2016
A-34	Poster board with cross-section of gas main for PSEG	2/8/2016
A-35	16" gas main relocation poster board.	2/8/2016
A-36	Detention Basin 2 Wall poster board	2/8/2016
A-37	Four Seasons Storm By-pass poster board	2/8/2016
<b>Board Exhibits</b>		
B-1	Zichelli Engineering Review Memo dated July 2, 2015	8/17/2015
B-2	Fire Department Review Letter dated 8/18/2015	9/28/2015
B-3	Hatch Mott McDonald Report dated September 1, 2015	9/28/2015
B-4	Zichelli Engineering Review Memo dated October 15, 2015	2/8/2016
B-5	Zichelli Engineering Review Memo dated February 8, 2016	2/8/2016
B-6	Hatch Mott McDonald Report dated November 3, 2015	2/8/2016
B-7	Hatch Mott McDonald Report dated February 4, 2016	2/8/2016
B-8	North Caldwell Fire Department Report dated August 18, 2015	2/8/2016
B-9	North Caldwell Fire Department Hydrant Plan dated August 17, 2015	2/8/2016
<b>Four Seasons Objectors Exhibits</b>		
FS-1	Suburban Consulting Engineer Report September 23, 2015	2/8/2016
FS-2	Suburban Consulting Engineer Report February 5, 2016	2/8/2016
<b>Resident Objector Exhibits</b>		
O-1	4 Photos from Daniel Gallagher on 2 sheets	2/29/2016

**WHEREAS**, the Planning Board reviewed the documentary evidence submitted by the Applicant and its experts; and has made the following findings of fact and conclusions of law:

1. The Property consists of approximately 36.03 acres of open space, lying in the Hilltop Redevelopment R-8 Zone that, among other bulk requirements, establishes minimum lot sizes of 8,460 square feet.

2. The Applicant proposes to sub-divide the Property into sixty-two (62) single-family residential building lots on public roads to be constructed; three (3) detention basins; and one



(1) lot (proposed Block 101, Lot 66) of five and two one-hundredths (5.02) acres to be dedicated to the Borough of North Caldwell for the construction of affordable housing (the "Affordable Housing Site"). The residential units are age targeted with fifty (50%) of the models offered for sale by the Applicant having master bedrooms on the first floor.

3. The Applicant proposes to continue Hilltop Drive from its intersection with White Rock Road in the Township of Verona, through the property under development to a stub connector previously constructed with the development of what is commonly referred to as Parcel 2 of the Hilltop Redevelopment in the Borough of North Caldwell. This is the final connection for the North Caldwell Hilltop Redevelopment. There will be two (2) smaller roads constructed in the Development off Hilltop Drive.

4. All of the lots to be created conform to the zoning standards of the Borough of North Caldwell, except as otherwise provided herein for the granting of variances and waivers.

5. The Four Seasons at North Caldwell Condominium Association, Inc. (the "Four Seasons") is the entity charged with the responsibility of governing and operating the one hundred eight (108) residential unit condominium community on Block 101, Lot 2, adjacent to the Applicant's southerly property line.

6. The stormwater management plan for the development of the Four Seasons community contemplated stormwater run-off from a portion of the area presently being developed (proposed Block 101, Lot 65). However, the design approved for Parcel 4, otherwise known as the Four Seasons community, is not able to convey all of the stormwater volume and rates proposed to be generated by the present Development. The Stormwater Management

Plan submitted by the Applicant requires improvements to the Four Seasons stormwater system, which improvements require the consent of Four Seasons previously given in concept on the record by the representatives of Four Seasons.

7. The stormwater management plan, as amended, has been thoroughly reviewed by the Applicant's engineer, the Four Season's engineer, the Borough's consulting engineer and the Borough Engineer, all of whom have agreed that the stormwater management plans conform to the New Jersey Department of Environmental Protection ("NJDEP") requirements for stormwater management, and that the run-off from the Development post-construction will be reduced from pre-construction conditions in accordance with the applicable NJDEP regulations.

8. The subject property contains areas with steep slopes that necessitate significant site clearing and the construction of retaining walls in order to create lots suitable for the building of residential dwellings. The Board, based on the foregoing findings, concluded that the Applicant has proven peculiar and exceptional practical difficulties and exceptional and undue hardship and has proven that the variances set forth on Exhibit A to this Resolution may be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Redevelopment Plan and Zoning Ordinance pursuant to N.J.S.A. 40:55D-70c(1). The Board, based on the aforementioned findings, concluded that the Applicant has proven that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, and that the benefits of the deviation would substantially outweigh any detriment and that the variances could be granted without substantial detriment to the public good and would not substantially impair the intent and

purpose of the Zone Plan and Zoning Ordinance pursuant to the requirements of N.J.S.A. 40:55D-70c(2).

9. The development of the site will be predominantly in areas substantially void of trees and vegetation, or in areas requiring clear cutting and re-grading due to steep slopes. Existing wooded areas to a great extent will remain as untouched buffers or conservation areas. The submission waiver requested in connection with the mapping of trees in excess of six (6") inches in diameter may be granted as it serves little or no purpose as a pre-approval requirement, and would not advance the purposes of the Ordinance in identifying and saving trees where possible. The requirement that a tree survey of the Development be provided is unnecessary.

10. The Development is consistent with the concept plan set forth in the Settlement Agreement of Litigation dated June 25, 2013, In the Matter of the Application of the Borough of North Caldwell, Docket No. L-7620-06 (Mount Laurel II) by and between the K. Hovnanian at North Caldwell IV, LLC and the Borough of North Caldwell, as amended (the "Settlement Agreement").

11. To the extent provided in the Settlement Agreement, the Development is exempt from the payment of the Borough's Affordable Housing fees and payments.

12. The development of the site and the approvals granted by the Planning Board are subject to the terms, conditions, provisions and requirements of both the Settlement Agreement and the Borough of North Caldwell Hilltop Redevelopment Plan, as amended.

13. The Applicant's plans, sheet 4 of 24, show that the development will be constructed in two (2) phases designated as Phase I and Phase 2.

14. The Settlement Agreement provides that the Applicant shall subdivide the Affordable Housing Site and convey it to the Borough of North Caldwell in a time period that requires the Applicant to sectionalize the filing of the final subdivision plats with Section 1 being the Affordable Housing Site and Section 2 the remainder of the Development.

15. The existing infrastructure, and those improvements to be constructed as provided herein for the Development, have sufficient capability to deliver water as necessary to support the construction and development of both the sixty-two (62) single family residential dwellings and the fifty (50) units of affordable housing. *However, as a result of the failure to close certain valves on water mains in the Borough of North Caldwell water distribution system a deficit in supply and firm capacity of water was identified. Both deficiencies shall be corrected so that the New Jersey Department of Environmental Protection ("NJDEP") will issue the necessary permits for construction of the required water system.*

**NOW, THEREFORE BE IT RESOLVED** that the Planning Board of the Borough of North Caldwell does hereby approve the variances (wall heights) and submission waivers (survey and tree removal & planting) requested by the Applicant as more particularly described in Exhibit A attached, subject to the conditions as hereinafter set forth; and,

**NOW, BE IT FURTHER RESOLVED** that the Planning Board of the Borough of North Caldwell does hereby approve the preliminary and final major subdivision requested by the Applicant as more particularly described and shown on a map entitled "Preliminary/Final Major

Subdivision Plan for Hilltop at Essex County, NJ, Parcel 3, Block 101, Lot 3, Tax Maps Sheets 2 & 3, November 2014, Borough of North Caldwell, Essex County, New Jersey” prepared by Najarian Associates, One Industrial Way West, Eatontown, New Jersey 07724, dated November 26, 2014, and revised through January 22, 2016, consisting of 24 sheets, subject to the following terms and conditions:

1. The Applicant shall revise the plans and drawings as required to comply with the testimony given by the applicant’s professionals. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

2. The Applicant shall comply with all of the requirements set forth in the Borough Engineer’s Memorandums. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

3. The Applicant shall complete the dam registration and classification process with the NJDEP. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

4. The Applicant shall comply with all of the Stormwater Management Plan requirements as to completion and maintenance of the improvements related thereto; including the off-site improvements in the Four Seasons Community, to the satisfaction of the Borough Engineer and the Borough’s consultant, Hatch Mott MacDonald. This condition shall be deemed to be fulfilled as to the issuance of any building permit for a dwelling to be served by the stormwater infrastructure supporting it. It is the intent of this condition that the Applicant shall not be required to construct stormwater improvements in Section 2 until they are necessary to serve dwellings to be constructed and protect adjacent property owners.

5. The Applicant shall comply with the requirements of PSEG regarding the improvements to the gas line in the existing easement. This condition shall be fulfilled prior to the issuance of any certificate of occupancy for a dwelling in Phase 2 of Section 2 of the Project.

6. The Applicant shall demonstrate that all approvals for sanitary sewer have been obtained to the satisfaction of the Borough Engineer. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

7. The Applicant shall enter into a Developer's Agreement with the Borough of North Caldwell. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

8. The "saved trees" area on the plans shall be subject to a conservation easement approved by the Planning Board attorney and the Borough Engineer. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

9. There shall be "no parking" signs on one side of every road. This condition shall be fulfilled prior to the issuance of any building permit for any dwelling in Section 2 of the Project.

10. The fencing along the rear of the Ferndale Road properties shall be removed in accordance with the testimony. This condition shall be fulfilled prior to the issuance of any building permit for a dwelling in Section 2 of the Project.

11. This approval is subject to the approval of the Hudson Essex Passaic Soil Conservation District. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

12. The Applicant shall construct approximately twenty (20) infiltration trenches on any of the twenty-eight (28) lots along the westerly side of Hilltop Drive, as described in the testimony, in order to comply with the Stormwater Management Plan requirements. Notes shall be placed on the deeds of conveyance on those lots with infiltration trenches and on individual lot surveys identifying the location of the infiltration trenches and confirming the individual lot owners' obligation to maintain them, subject to the homeowner's association right and obligation to maintain the stormwater management system in the event an individual homeowner fails to do so. This requirement shall be a condition of the issuance of each certificate of occupancy for those lots so burdened, and the Stormwater Management System shall not be deemed incomplete elsewhere herein because they have not yet been constructed.

13. The Applicant shall demonstrate sufficient water availability and volumes to serve the sixty-two (62) residential dwellings in the subdivision and the fifty (50) residential apartments to be constructed on the affordable housing lot, proposed lot Block 101, Lot 66 (the "Affordable Housing Site"). "Water availability" shall include NJDEP approvals, adequate pumping equipment and/or treatment capacity to meet peak daily demand. The Applicant shall demonstrate that the water system is fully approved, excluding the final Affordable Housing Site water system, and water is available to the entire Project to the satisfaction of the

Borough Engineer. This condition shall be fulfilled prior to the issuance of any certificate of occupancy for Section 2 of the Project.

14. The Applicant shall complete the Hilltop Drive and White Rock Drive intersection as approved for the Parcel 4 (the Four Seasons community) development. The costs associated with that work shall be included in the Parcel 3 Developer's Agreement and the Development Performance Guaranty, and the work shall be performed after the roadway and utility work for Parcel 4 have been constructed. This condition shall be fulfilled prior to the construction of the final road pavement for Section 2 of the Project.

15. The stormwater system improvements are to be completed prior to the request for any building permits for residential dwellings to be served by those stormwater improvements necessary for the dwelling for which the building permit is being requested.

16. The most westerly walls at Detention Basin 2, shown on the plans as concrete walls, shall be faced with cultured stone, subject to the review and approval of the Borough Engineer. This condition shall be fulfilled prior to the issuance of any certificate of occupancy for a dwelling located in Phase 2 of Section 2 of the Project.

17. Existing chain link and wood fences associated with the former jail shall be completely removed. This condition shall be fulfilled prior to the issuance of any building permits in Section 2 of the Project.

18. The Applicant shall comply with the recommendations made in the February 4, 2016 correspondence from Kevin K. Nollstadt, P.E. of Hatch Mott MacDonald to Frank A. Zichelli, Jr., Borough Engineer. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.



19. The Applicant shall conduct a video inspection of the existing sanitary sewer main in Glenview Road, and undertake spot repairs as required. This condition shall be fulfilled prior to the issuance of any building permit for a dwelling in Section 2 of the Project.

20. The existing building foundation behind 32 Ferndale Road is to be cleaned and the area cleared and landscaped. To the extent that any foundation is a retaining wall it may be cleaned and remain. This condition shall be fulfilled prior to the issuance of any building permits in Section 2 of the Project.

21. Any and all conditions or requirements as shall have been set forth on the record during the public hearings.

22. All rules and regulations of any other governmental agency having jurisdiction over the subdivision shall be complied with, including but not limited to the payment of all taxes, water and sewer charges and applications fees and/or charges.

23. The Applicant shall provide a tree removal plan on an individual lot-by-lot basis in accordance with Section 96-5 of the Zoning Ordinance when building permits are requested and shall provide for the preservation of existing trees where practical in the judgment of the Borough Engineer.

**Conditions Relating to the Four Seasons at North Caldwell Community**

24. The Applicant shall comply with the condition of approval requests of the Four Seasons engineering consultants, Suburban Consulting Engineers, Inc., letter dated February 5, 2016, to which the Applicant has agreed and the Four Seasons Association has agreed to provide access and grant the required easement(s) for stormwater as follows:

(a) All stormwater infrastructure within the tributary drainage areas of the Four Seasons site, including but not limited to swale improvements downstream of Detention Basin 3, shall be constructed and approved by the Borough Engineer. This condition shall be fulfilled prior to the issuance of any building permit for a dwelling in Section 2 of the Project.

(b) The Stormwater Operation and Maintenance Manual for the Development shall include, Detention Basin 3 and the Four Seasons Bypass System. This condition shall be fulfilled upon the completion of the stormwater management improvements and shall not delay the execution of the final subdivision plats for the Project.

(c) Hilltop Drive in front of the entrance to the Four Seasons at North Caldwell community shall be regraded, milled and final surface course constructed as necessary, in the same manner as improvements in the Development, so as to provide consistent gutter-line flow down Hilltop Drive, along the west curb line, to deter water from entering the Four Seasons site. This condition shall be fulfilled prior to the issuance of a certificate of occupancy for any dwelling in Phase 1 of Section 2 of the Project or as may be required by the Borough Engineer.

(d) As-built conditions of all stormwater management infrastructure and stormwater management systems, of which Parcel 3 is contributory, to be performed and certified by the design engineer to be consistent with the approved stormwater management calculations and Design. This condition shall be fulfilled upon the completion of the stormwater management improvements and shall not delay the execution of the final subdivision plats for the Project.

25. The Applicant and Four Seasons shall enter into a cost sharing agreement, in recordable form, setting forth the terms and conditions whereby the Development, through the HOA shall be responsible for a fair share of the expenses incurred as a result of the

stormwater management system serving the Development to the extent that it will require the use of the stormwater management system on the Four Seasons property to operate properly. This condition shall be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project, and prior to the start of any site development.

#### **Conditions Relating to the Hilltop Redevelopment Plan**

26. Existing berms and required extensions located near the rear of the Ferndale Road properties shall be retained and preserved, except as otherwise shown on the Plans, through both the conservation easement and in the Declaration of Protective and Restrictive Covenants governing the homeowners' association as set forth herein. It is not required that this condition be fulfilled prior to the signing of the final subdivision plat by the Planning Board for Section 2 of the Project.

27. Principal buildings in proximity to each other on the same street shall not look alike. Each principal building shall be compared to the buildings on the lots on either side and to the building on the facing lot across the street, and the two lots on either side of the facing lot. Buildings shall differ from one another in two of the following ways:

- i. Exterior wall treatment, meaning color or type of cladding (for example, brick, stone, siding)
- ii. Architectural style
- iii. Major features such as porches or turrets
- iv. Organization and number of garage bays
- v. Wing configuration
- vi. Roof shape

This condition shall be satisfied on a building by building basis as dwellings are constructed.

28. The unique circumstances of the Single-Family R-8 Residential District as set forth in the Hilltop Redevelopment Plan have required the Planning Board to incorporate comprehensive landscaping and tree planting plans in conjunction with this subdivision approval for the subject premises. This requirement shall apply to the landscaping and tree planting requirements for individual lots when building permits are requested as individual dwellings are constructed.

29. The Applicant shall provide satisfactory evidence that the homeowner's association (the "HOA") has been created and shall record a Declaration of Protective and Restrictive Covenants binding upon the sixty-two (62) residential homes that includes, but is not limited to, the following requirements:

(a) The HOA shall maintain all improvements and landscaping in the common areas, including the detention basins, existing and extended berms as shown on the plans, buffers and conservation easement(s);

(b) The HOA shall be responsible for the maintenance and repair of the retaining walls, and the fences on top of them, that are proposed in the rear yards of Lots 26 through 40, and Lots 42 through 45, and any other wall that is located on more than one (1) lot;

(c) The HOA shall comply with all maintenance and reporting requirements to the DEP regarding any Detention Basin that has been or will be classified as a dam;

(d) The HOA shall maintain architectural controls on structures;

(e) The HOA shall maintain controls and standards on front-yard landscaping;

(f) The HOA shall maintain the fencing along the common boundary line with the Four Seasons Community to the south, together with the conservation easement plantings along said fencing.

(g) The HOA shall maintain retaining walls, fences on the walls and buffers;

(h) The HOA shall include in its annual budget the requirement that the HOA shall contribute to the stormwater management expenses of the Four Seasons community in accordance with the recorded cost sharing agreement to be entered into between the Four Seasons and the Developer, which shall be binding upon the HOA after transition to homeowner control;

(i) The HOA shall be responsible for the maintenance of the infiltration trenches on each of the twenty (20) lots meeting the requirements of the stormwater management plan in the event that individual homeowners fail to maintain those facilities. (see condition #12 hereof.);

(j) The HOA shall provide maintenance manuals for all of the stormwater management facilities; and,

(k) The HOA documents shall be subject to the reasonable review of the Planning Board Attorney and the Borough Engineer.

This condition shall be fulfilled upon the review and approval of the Planning Board Attorney and the Borough Engineer of the Declaration, which shall be submitted prior to the issuance of any building permit in Section 2 of the Project.

33. Nothing herein contained shall limit or prevent the Applicant from receiving building permits for no more than two (2) model homes, providing, however, that the Borough Engineer is satisfied that there will be no adverse impact on adjacent property owners resulting therefrom. The Applicant shall receive such certificates of occupancy as shall be required for the limited purpose of use as a model home, and not for sale or transfer to third parties until all conditions relating to general certificates of occupancy for Section 2 have been fulfilled.

<b>Member:</b>	<b>On the Motion</b>				<b>On the Memorialization</b>			
	Yes	No	Abstain	Absent	Yes	No	Abstain	Absent
	Moved by: Member Dr. Spinelli Second by: Member Fishbone				Moved by: Member Dr. Spinelli Second by: Member Barba			
Joseph Brower, Chairman	X				X			
Mayor Joseph Alessi				Recused				Recused
James Campbell		X			-	-	-	Ineligible
Arthur Rees		X			-	-	-	Ineligible
Scott Fishbone	X				X			
Dr. Carl Spinelli	X				X			
Mel Levine	X				X			
Joseph Barba, 1 <sup>st</sup> Alternate	X				X			
Sandra Nathans, 2 <sup>nd</sup> Alt.	*							*

\*2<sup>nd</sup> Alternate vote not required.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting on June 20, 2016.

  


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**MEL LEVINE, Planning Board Secretary**