



**John S. Hogan**  
Bergen County Clerk

**Bergen County Clerk**  
One Bergen County Plaza  
Hackensack, NJ 07601  
(201) 336-7000  
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**INSTRUMENT # 16-024942**

**V 02225 0014**

**RECORDED DATE: 04/04/2016 09:46:18 AM**

**Document Type:** Deed

**RETURN TO:**

GOLDEN ORCHARDS ASSOCIATES LP  
29 THIRD ST  
NEW CITY NY 10956

**Transaction #:** 7144163  
**Document Page Count:** 36  
**Operator Id:** CLERK

**SUBMITTED BY:**

**PRIMARY NAME**

GOLDEN ORCHARD ASSOCIATES LIMITED  
PARTNERSHIP

**SECONDARY NAME**

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

**ASSOCIATED DOCUMENT(S):**

**MUNICIPALITY:** HILLSDALE  
**LOT:** 1  
**BLOCK:** 506

**FEES / TAXES:**

Recording:	\$433.00
<b>Total:</b>	<b>\$433.00</b>

**INSTRUMENT #: 16-024942**  
**Recorded Date:** 04/04/2016 09:46:18 AM

I hereby CERTIFY that this document is recorded  
in the Clerk's Office in Bergen County, New  
Jersey.



**John S. Hogan**  
Bergen County Clerk

**OFFICIAL RECORDING COVER PAGE**

Page 1 of 37

**PLEASE DO NOT DETACH**

**THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT**

NOTE: If document data differs from cover sheet, document data always supersedes.  
\*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.

4 maps  
2  
36P  
433W

**GOLDEN ORCHARDS ASSOCIATES, LP**  
29 THIRD STREET  
NEW CITY, N.Y. 10956

*JEAC*  
Prepared by Jeff A. Weinberger, Esq.

NJDEP File No.: 0200-03-0003.2, FWW 070002/070003/070004

**GRANT OF CONSERVATION RESTRICTION/EASEMENT**  
(Transition Area Waiver and Adjacent Wetlands)

**THIS GRANT OF CONSERVATION RESTRICTION/EASEMENT** is made this 15 day of March, 2016, by GOLDEN ORCHARD ASSOCIATES, L.P., a New Jersey Limited Partnership with an office located at 26 Ampssler Way, Old Tappan, New Jersey 07675, its heirs, successors and assigns and all legal and equitable owners, and any and all current or successor holders of any interest in and to the property whose address is 3 Pascack Road, Borough of Hillsdale, County of Bergen, New Jersey 07675 State of New Jersey, hereafter referred to as the "Grantor" in favor of and to the New Jersey Department of Environmental Protection, its successors and assigns, hereinafter referred to as the "Grantee".

**WITNESSETH:**

**WHEREAS**, the Grantor is the owner in fee simple of certain real property located both in the Borough of Hillsdale, County of Bergen, State of New Jersey designated as Lot 1, Block 506 upon the official Tax Map of the Borough of Hillsdale and in the Township of Washington, County of Bergen, State of New Jersey designated as Lot (3) Block 2101 and Lot 7, Block 2101 upon the official tax map of the Township of Washington, County Clerk or Recorder's Deed Book Number 8420, Page Number 780, and Book Number 09056, Page Number 159 (hereinafter the "Property"); and

**WHEREAS**, the Grantor has obtained a Freshwater Wetlands General Permit No. 10A and Transition Area Waiver, NJDEP File No. 0200-03-0003.2 FWW 070002/070003/070004 and subsequent modifications dated January 30, 2008, July 22, 2008, February 21, 2014, June 18, 2015, and March 3, 2016 (and March 9, 2016 correction letter) to those permits, pursuant to the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, to modify the transition area, collectively attached hereto as Exhibit A; and

**WHEREAS**, the Transition Area Waiver issued to the Grantor is conditioned upon the Grantor's recording of a Grantee approved Conservation Restriction/Easement, pursuant to N.J.A.C. 7:7A-6.1 for the entire approved transition area and adjacent freshwater wetland (hereinafter the "Restricted Area") as shown on the plans, entitled Proposed Environmental Easement Map, prepared by Lapatka Associates, Inc., dated November 12, 2015 and last revised March 1, 2016, and the approved plans(s), entitled "Golden Orchards an Active Adult Community, Lot 1, Block 506, Borough of Hillsdale, Lot 3 & 7, Block 2101, Township of Washington, Bergen County, New Jersey", prepared by Engineering & Technical Resources, Inc., Utility and Grading Plan Sheet No. 2 of 11, dated August 10, 2007, last revised January 29, 2016; Utility and Grading Plan Sheet 3a of 11, dated August 10, 2007, last revised February 29, 2016 and "Landscape Plan, Golden Orchards, An Active Adult Community, Lot 1, Block 506,

MAP FILED IN REGISTRATION ROOM



16-024942 Deed  
V BK: 02225 Pg: 0014-0050 Rec. Fee \$433.00  
John S. Hogan, Bergen County Clerk  
Recorded 04/04/2016 09:46:18 AM  
Map #: 006731

Borough of Hillsdale (Lot 3 & 7, Block 2101, Township of Washington Not Shown), Bergen County, New Jersey”, Sheet No. 4h of 11, dated August 10, 2007, last revised February 29, 2016, collectively attached hereto as Exhibit B, and more particularly described on a legal description (metes and bounds) of the Transition Area, attached hereto as Exhibit C; and

**WHEREAS**, wetlands play a significant role in the maintenance of environmental quality on a community, regional, and statewide level; and

**WHEREAS**, wetland transition areas are integral portions of a freshwater wetlands ecosystem; and

**WHEREAS**, the Grantee is authorized by N.J.S.A. 13:1D-9 to formulate comprehensive policies for the conservation of the natural resources, to promote environmental protection and prevent pollution of the environment of the State, and is authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions; and

**WHEREAS**, the Grantor, having the authority to do so, intends to enter into this Conservation Restriction/Easement in order to grant to the Grantee a Conservation Restriction/Easement on the Property to restrict subsequent development of the Restricted Area.

**NOW THEREFORE**, in consideration for the issuance of the Transition Area Waiver and for the valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the facts recited above and the terms, conditions and restrictions contained herein, the Grantor hereby agrees that the Property shall be subject in perpetuity to the following conveyances, covenants and restrictions in favor of the Grantee:

1. Grantor hereby conveys, transfers, assigns and grants to the Grantee a Conservation Restriction/Easement with respect to that portions of the Property as designated as the Restricted Area as shown in **Exhibit B** and as described in **Exhibit C** as Environmental Easements #1, #2 and #3.
2. Pursuant to N.J.A.C. 7:7A-2.12(c), unless specifically authorized, the Restricted Area shall be preserved in its natural state and any/all activities that inhibit the natural succession of vegetation are prohibited except for the required maintenance of existing drainage structures, the planting of native trees, the activities authorized within existing sanitary sewer and other easements on the property, and the passive recreational use, and maintenance to clear and prevent vegetative overgrowth, of the existing walking trails, all of which are considered allowed activities. Improvements to the existing walking trails such as adding wood chips or stone dust may require a permit from NJDEP. Specifically, including but not limited to, the following activities shall not occur within the Restricted Area:
  - a. Removal, excavation, or disturbance of the soil;
  - b. Dumping or filling with any materials;

- c. Erection of structures;
  - d. Placement of pavement;
  - e. Destruction of plant life which would inhibit the natural succession of vegetation, including mowing of fields and the development of new gardens, except as approved in the conservation restriction or easement, or in accordance with a non-native/invasive species removal plan approved by the Grantee prior to removal;
  - f. The use of fertilizers, herbicides or pesticides;
  - g. Alteration of the hydrology of the Restricted Area; and
  - h. All other activities, unless explicitly permitted as part of the Conservation Restriction/Easement.
3. The boundaries of the Restricted Area shall be marked by an unobtrusive, semi-permanent visual marker in a manner of the Grantor's choosing, and to the Grantee's satisfaction, no less than 30 days prior to commencement of site preparation. Examples include fence post, pipe in the ground, survey markers, and a shrub or tree line.
4. This Conservation Restriction/Easement shall be a burden upon and shall run with the Property, and shall bind Grantor, its heirs, successors and assigns, in perpetuity. The Grantor shall give notice of this Conservation Restriction/Easement to all holders of any easements in the Restricted Area within 30 days of recording by the County Clerk.
5. It is the purpose of the Conservation Restriction/Easement to assure that the Restricted Area will be maintained as such and to prevent any disturbance or development of that portion of the Property. To carry out this purpose, the following rights are granted to the Grantee by this Conservation Restriction/Easement:
- a. Upon advance notice to enter upon the Property in a reasonable manner and at reasonable times so as to assure compliance with the provisions of this Conservation Restriction/Easement; and
  - b. In addition to the exercise of any other statutory or common law right, to enjoin any activity on, or use of, the Restricted Area that is inconsistent with the purpose of this Conservation Restriction/Easement and to enforce the restoration of such areas or features of the Restricted Area that may be damaged by inconsistent activity or use.

6. Grantor shall provide the Grantee telephonic and written notice of any transfer or change in ownership of any portion of the Restricted Area, including but not limited to the name and address of the new owner, and including but not limited to any later-formed condominium association, at least one month prior to the day of the signing of those documents accomplishing the actual transfer or change in ownership.
7. In addition to, and not in limitation of, any other rights of the Grantee hereunder or at law or in equity, if the Grantee determines that a breach, default or violation ("Violation") of this Conservation Restriction/Easement has occurred or that a Violation is threatened, the Grantee shall give written notice to Grantor of such Violation, setting forth the specifics thereof, and demand corrective action sufficient to cure the Violation. If the Grantor fails to cure the Violation after receipt of notice thereof from the Grantee, or under circumstances where the Violation cannot reasonably be cured within a time period dictated by the Grantee, fails to begin curing such Violation within the time period dictated by the Grantee, or fails to continue diligently to cure such Violation until finally cured, the Grantee may bring an action at law or in equity in a court of competent jurisdiction:
  - a. To enjoin and/or cure such Violation;
  - b. To enter upon the Restricted Area and to take action to terminate and/or cure such Violation and or to cause the restoration of that portion of the Restricted Area affected by such Violation to the condition that existed prior thereto; or
  - c. To seek or enforce such other legal and/or equitable relief or remedies as the Grantee deems necessary or desirable to ensure compliance with the terms, conditions, covenants, obligations and purpose of this Conservation Restriction/Easement.
8. If the Grantee, in its discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Restricted Area, the Grantee may pursue its remedies under paragraph 7 above without prior notice to Grantor or without waiting for the period provided for cure to expire. The Grantee's rights under this paragraph shall apply equally in the event of either actual or threatened Violations of the terms of this Conservation Restriction/Easement. Grantor agrees that the Grantee's remedies at law for any Violation of the terms of this Conservation Restriction/Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance. The above language shall in no event be interpreted to derogate or diminish the Grantee's rights and powers under the laws of the State of New Jersey for the protection of public health, safety and welfare.

9. Enforcement of the terms of this Conservation Restriction/Easement shall be at the discretion of the Grantee and any forbearance by the Grantee to exercise its rights under this Conservation Restriction/Easement in the event of any Violation by Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent Violation or of any of the Grantee's rights under this Conservation Restriction/Easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any Violation by Grantor shall impair such right or remedy or be construed as a waiver of such right or remedy.
10. Grantor agrees to reimburse the Grantee for any costs incurred by the Grantee in enforcing the terms of this Conservation Restriction/Easement against Grantor, and including, without limitation, the reasonable costs of suit and attorneys' fees.
11. The Grantee reserves the right to transfer, assign, or otherwise convey the Conservation Restriction/Easement to any other entity or person to facilitate the operation of and/or public use and enjoyment of the Restricted Area Areas provided it is in accordance with N.J.S.A. 13:8B-1 et seq. and N.J.S.A. 13:9B-1 et seq.
12. Any notice, demand, request, consent, approval or communication under this Conservation Restriction/Easement shall be sent by certified mail, return receipt requested or reliable overnight courier, addressed as follows:

To Grantor:

Stuart Weinberger  
Golden Orchard Associates LP  
29 Third Street  
New City, New York 10956

To the Grantee:

State of New Jersey  
Department of Environment Protection  
Division of Land Use Regulation  
501 East State Street  
Mail Code 501-02A  
P.O. Box 420  
Trenton, NJ 08625-0420  
Attention: Director, Division of Land Use Regulation  
(609) 984-3444

In addition, any notice relating to paragraph 6 shall be addressed as follows:

To the Department:

State of New Jersey  
Department of Environmental Protection  
Coastal & Land Use Compliance & Enforcement  
401 East State Street  
Mail Code 401-04C  
P.O. Box 420  
Trenton, NJ 08625-0420  
Attention: Manager, Coastal & Land Use Compliance & Enforcement  
(609) 292-1240

13. A party may change the address or person to whom notices to it are required to be given by notice given in the manner above provided.
14. This instrument conveys no right of access by the general public to any portion of the Property.
15. The Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep and maintenance of the Restricted Area, including any required fencing of the Restricted Area, as stated or shown in **Exhibit A** and/or **Exhibit B**. The Grantor shall be responsible for acts of its own negligence consistent with the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:8-1 et seq.
16. The Grantor agrees that the terms, conditions, restrictions and purposes of this Conservation Restriction/Easement will be inserted in any subsequent deed, subdivision deed, lease, sub-lease or other legal instrument by which the Grantor divests itself of any interest in any portion of the Property. Notwithstanding the failure of the Grantor to include the terms and restrictions of this instrument, this Conservation Restriction shall run with the land and be binding on all heirs, successors and assigns.
17. Reserved.
18. Notwithstanding anything contained herein to the contrary, any modification or termination of this Conservation Restriction/Easement shall require the prior written approval of the Grantee, its successor or assign.
19. This Conservation Restriction/Easement shall survive any merger of the fee and restriction interest in the Restricted Area.

20. In the event of a conflict between this Conservation Restriction/Easement and the approved plan(s), **Exhibit B**, and specifications approved by the Grantee in writing pursuant to the Transition Area Waiver Permit and the subsequent modifications noted herein, **Exhibit A**, the former shall govern.

21. Taxes, Insurance.

- a. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property and Restricted Area. Grantor shall keep the Property and Restricted Area free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.
- b. The Grantor agrees to pay any real estate taxes or other assessments levied on the Property and Restricted Area. If the Grantor becomes delinquent in payment of said taxes or assessments, such that a lien against the land is created, the Grantee, at its option, shall, after written notice to the Grantor, have the right to purchase and acquire the Grantor's interest in said Property and Restricted Area or to take such other actions as may be necessary to protect the Grantee's interest in the Restricted Area and to assure the continued enforceability of this Conservation Restriction/Easement.

22. Miscellaneous.

- a. The laws of the State of New Jersey shall govern the interpretation and performance of this Conservation Restriction/Easement.
- b. If any provision of this Conservation Restriction/Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction/Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- c. This Conservation Restriction/Easement and the Transition Area Waiver along with the approved plans set forth the entire agreement of the parties with respect to the Conservation Restriction/Easement and supersede all prior discussions, negotiations, understandings or agreements relating to the easement, all of which are merged herein. No alteration or variation of this Conservation Restriction/Easement shall be valid or binding unless contained in writing executed and recorded by the parties hereto.
- d. Should there be more than one Grantor, the obligations imposed by this Conservation Restriction/Easement upon each Grantor shall be joint and several.

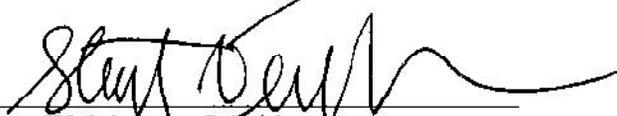
- e. The covenants, terms, conditions and restrictions of this Conservation Restriction/Easement, approved document and approved plans shall be binding upon, and inure to the benefit of, the parties hereto and all parties having or acquiring any right, title or interest in any portion of the Property, including holders of subdivision deeds, and shall continue as a servitude running in perpetuity with the Property.
  - f. The captions in this Conservation Restriction/Easement have been inserted solely for convenience of reference and are not a part of this Conservation Restriction/Easement and shall have no effect upon construction or interpretation.
  - g. Execution of this Conservation Restriction/Easement does not constitute a waiver of the rights or ownership interest of the State of New Jersey in public trust property.
  - h. This Conservation Restriction/Easement shall be construed as if it were drafted by both parties. Both parties waive all statutory and common law presumptions which might otherwise serve to have the instrument construed in favor of, or against, either party as the drafter hereof.
  - i. This Conservation Restriction/Easement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument.
23. The Grantor reserves unto itself the right to undertake de minimis modifications of the Restricted Area that are approved in advance and in writing by the Grantee. The Grantee may approve the modification under the following conditions and with the following documentation:
- a. The modification results in an increased level of protection of the regulated resource; or
  - b. The modification results in equivalent areas of resources protected; and
  - c. The modification does not compromise the original protected resource.
24. If the Grantee approves the Grantor's modification, the Grantor shall amend this instrument by preparing and submitting to the Grantee for prior review and approval:
- a. A revised plan and metes and bounds description for the area to be preserved under the modified Conservation Restriction/Easement (hereinafter the "Modification Documents"); and

- b. An Amended Conservation Restriction/Easement that reflects the modifications to the original Conservation Restriction/Easement, the justification for the modification, and that also includes the deed book and page of the title deed for the property or properties subject to the modified Conservation Restriction/Easement set forth in the Modification Documents.
25. The Grantor shall record the documents listed in paragraph 24, above, in the same manner and place as this original Conservation Restriction/Easement was recorded.
26. This Grant of Conservation Restriction/Easement may be removed pursuant to N.J.S.A. 13:8B-1 et seq.
27. The Grantor reserves unto itself the right to abandon the project approved by the freshwater wetlands permit and transition area waiver entitled Freshwater Wetlands General Permit No. 10A and Transition Area Waiver, NJDEP File No. 0200-03-0003.2 FWW 070002/070003/070004 and the subsequent modifications noted herein (the "Project" as depicted and described on Exhibits B and C respectively), whereupon the Grantee shall execute an appropriate release of this Conservation Restriction/Easement without the need for a public hearing that might otherwise be required under N.J.S.A. 13:8B-1 et seq. Abandonment of the approved Project shall include a relinquishment of the Project's associated wetlands permit and/or transition area waiver and any and all rights thereto. The right to this release of the Conservation Restriction/Easement may only be undertaken prior to any site disturbance, pre-construction earth movement or construction within any regulated land and water areas governed by this instrument. Any such release shall be effectuated by the recordation of a Release of Conservation Restriction/Easement which has been duly executed by Grantor and Grantee.

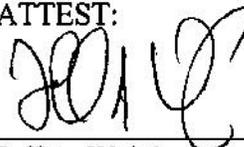
**TO HAVE AND TO HOLD** unto the State of New Jersey, Department of Environmental Protection, its successors and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Restriction/Easement shall not only be binding upon the Grantor but also upon its agents, personal representatives, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, the Grantor has set its hand and seal on the day and year first above written, and directs that this instrument be recorded in the office of the Bergen County Clerk.

GOLDEN ORCHARD ASSOCIATES, LP  
By: General Orchard Corp., General Partner

  
Stuart Weinberger, President

ATTEST:

  
Jeff A. Weinberger, Secretary

STATE OF NEW JERSEY  
COUNTY OF BERGEN

Be it remembered that on this 15<sup>th</sup> <sup>March</sup> day of February, 2016 before me, the subscriber, a Notary Public of New Jersey, personally appeared:

~~CORP., GENERAL PARTNER GOLDEN ORCHARD ASSOCIATES LP~~ **STUART WEINBERGER, PRESIDENT GENERAL ORCHARD** 

and he thereupon acknowledged that he signed the foregoing instrument in such capacity, and that said instrument is the voluntary act of deed of said corporation, made by virtue of authority from its Board of Directors.

  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

A Notary Public of New Jersey

My Commission Expires: 9/30/18

**PATRICIA MACNAUGHTON**  
A Notary Public of New Jersey  
ID# 2439065  
My Commission Expires: September 30, 2018

Attachments required:

Exhibit A NJDEP Approved Transition Area Waiver and 1/30/2008., 7/ 22/ 2008, 2/21/2014, 6/18/2015, and 3/ 3 /2016 modifications, and 3/9/2016 correction letter

Exhibit B NJDEP Approved Plans

Exhibit C Legal Description of the Restricted Area (metes and bounds)

NOT A CERTIFIED COPY



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation  
P.O. Box 439, Trenton, NJ 08625-0439  
Fax # (609) 292-8115  
www.state.nj.us/dep/landuse

JON S. CORZINE  
Governor

LISA P. JACKSON  
Commissioner

JUN 09 2008

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, NY 10956

RE: Freshwater Wetlands Transition Area Waiver Averaging Plan and Transition Area Waiver for Redevelopment

DLUR File No.: 0200-03-0003.2, FWW070003 (TAW-avg.)  
FWW070004 (TAWRE)

Applicant Name: Caliber Builders, Inc.

Block(s): 2101 Lot(s): 3 & 7

Township of Washington, Bergen County

Block(s): 506 Lot(s): 1 & portion of Ell Road R.O.W. adjacent to Lots 1 & 2

Borough of Hillsdale, Bergen County

Dear Mr. Weinberger:

The Division of Land Use Regulation has reviewed the referenced applications pursuant to the requirements of the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A. The proposal to modify the standard 50-foot freshwater wetlands transition area on-site for the construction of 38 single family houses, is authorized by a Transition Area Waiver - Averaging Plan. The proposal to construct a storm sewer line within previously disturbed freshwater wetlands transition areas on-site is authorized by a Transition Area Waiver for Redevelopment.

Limit of Authorized Disturbance

Based on the approved plans entitled "UTILITY & GRADING PLAN, GOLDEN ORCHARDS AN ACTIVE ADULT COMMUNITY, LOT 1 BLOCK 506 BOROUGH OF HILLSDALE, LOT 3&7 BLOCK 2101 TOWNSHIP OF WASHINGTON, BERGEN COUNTY, NEW JERSEY, Dwg. 2 of 11 and 3a of 11," dated August 10, 2007, last revised on April 9, 2008, and prepared by ENTEC, the authorized area of disturbance is 8,866 s.f. (0.204 acres) of freshwater wetlands transition areas via a Transition Area Waiver Averaging Plan, and 792 s.f. (0.018 acres) of previously disturbed freshwater wetlands transition areas via a Transition Area Waiver for Redevelopment. These plans supersede plans of the same name that were approved under the December 27, 2007 stream encroachment permit for the site (0200-03-0003.2, FHA070001).

### Permit Conditions

In addition to the standard conditions noted at N.J.A.C. 7:7A-6, the following special conditions must be met for the activity authorized under the transition area waivers. Failure to comply with these conditions shall constitute a violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.).

1. In a letter dated November 19, 2007, the NJDEP Bureau of Dam Safety & Flood Control commented that the bioretention basin proposed as part of the project on this site would be considered a dam in accordance with Dam Safety Standards at N.J.A.C. 7:20. Prior to construction, the permittee shall submit to Dam Safety the final detailed plans for the structure in order to obtain a jurisdictional determination. Dam Safety can be contacted at 609-984-0859.
2. On October 11, 2006, the Department issued Stream Encroachment Permit 0200-06-0008.1 FHA060001 for the construction of a 16-lot residential subdivision on the subject site. On December 27, 2007, the Department issued Stream Encroachment Permit 0200-03-0003.2 FHA070001, for the construction of (37) thirty-seven age-restricted dwellings, with an associated access road and stormwater management facilities. It is the Department's understanding that the applicant intends to undertake one of these two authorized projects. As such, the applicant shall inform the Department in writing which of these two projects it intends to undertake, within ten (10) days from the date that the applicant receives (a) final and unappealable site plan approval from the Borough of Hillsdale and the Township of Washington and (b) the date any litigation concerning the 16-lot project or the Senior Project has been resolved or determined by court, and all rights to appeal such decision has expired. Upon such notification, the Department will revoke in writing the stream encroachment permit for whichever project the applicant elects to not pursue.

No construction shall be undertaken onsite, within any area regulated by the Department under the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A or the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, until the Department receives the written notification from the applicant as described above and issues its letter revoking the stream encroachment permit for the project the applicant elects to not pursue. However, work onsite that lies outside the jurisdiction of these rules, and therefore does not require prior Department approval, may proceed at anytime, provided the applicant obtains all necessary Federal, State and local approvals, and provided the work does not conflict with condition 3 below regarding the protection of Indiana bat habitat on site.

In addition, if the permittee opts to pursue the 16-lot residential subdivision that was approved on October 11, 2006 under Stream Encroachment Permit 0200-06-0008.1, FHA060001, the permittee shall apply for either a modification to the valid freshwater wetlands permits, or for new freshwater wetlands permits, as required at N.J.A.C. 7:7A-14.

3. The following conditions shall apply in order to protect on-site habitat for the federally endangered Indiana bat:
  - a. A tree clearing restriction shall apply from **April 1 to September 30** of each year to the portion of the site west of the line labeled "Apparent Limits of Old Farming

Grading" as shown on the approved plans and agreed upon by the U.S. Fish and Wildlife Service, to protect Indiana bat habitat on-site, pursuant to the procedures outlined in the December 22, 1993, Memorandum of Agreement among the U.S. Fish & Wildlife Service, EPA, and NJDEP.

- b. No trees shall be removed from wetlands or transition areas on-site outside of the limit of disturbance, as shown on the approved plans. In addition, no trees shall be removed within 150 feet to the east of the wetland boundary line on Block 2101 Lot 7, as indicated on the approved plans, in order to protect habitat for the federally endangered Indiana bat.
  - c. The U.S. Fish and Wildlife Service requires that the permittee provide tree plantings as part of the proposed project. The issuance of this permit includes approval of the planting plan entitled, "LANDSCAPE PLAN, GOLDEN ORCHARDS AN ACTIVE ADULT COMMUNITY, LOT 1 BLOCK 506 BOROUGH OF HILLSDALE, LOT 3&7 BLOCK 2101 TOWNSHIP OF WASHINGTON, BERGEN COUNTY, NEW JERSEY, Dwg. 4 of 11" dated August 10, 2007, last revised on March 28, 2008, and prepared by ENTEC.
4. In order to protect the *general game fishery resource* within the Musquapsink Brook, any proposed grading or construction activities within the banks of this or any other stream on site are prohibited between **May 1 and June 30** of each year. In addition, any activity within the 100-year flood plain or flood hazard area of this watercourse which could introduce sediment into said stream or which could cause an increase in the natural level of turbidity is also prohibited during this period. The Department reserves the right to suspend all regulated activities on site should it be determined that the applicant has not taken proper precautions to ensure continuous compliance with this condition.
  5. *Prior to the commencement of site clearing*, grading or construction, the permittee shall erect a silt fence and a construction debris fence, such as an orange snow fence, at the limits of the existing transition area disturbance. These fences shall serve as siltation and debris barriers as well as physical barriers protecting the undisturbed transition area and wetlands from encroachment by construction vehicles or activities. These fences shall remain in place and be maintained throughout the duration of construction, and until such time as the site is stabilized. No regulated activities, including clearing or grading, may occur in the transition area on site without the prior approval of the department.
  6. **FRESHWATER WETLANDS TRANSITION AREA AVERAGING PLAN**  
This portion of the permit authorizes the disturbance of **8,866 s.f. (0.204 acres)** of freshwater wetlands transition area on-site, for the construction of 38 single family houses, under a Freshwater Wetlands Transition Area Averaging Plan, as depicted on the approved plans. The disturbed area will be compensated for by the expansion of **9,083 sq. ft. (0.209 acres)** of freshwater wetlands transition area.
  7. The permittee shall sign a Division approved conservation restriction for the entire wetlands and transition areas on the subject parcels in accordance with N.J.A.C. 7:7A-

6.1(h). **The restriction shall include a 150-foot buffer to the east of the freshwater wetlands on Block 2101, Lot 7.** The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the lands included in the permit are located. The restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved boundaries of the restricted area. **Any regulated activities undertaken on the site before a copy of the recorded restriction is submitted to the Division will be considered in violation of this permit.** Please submit a copy of the draft restriction to Becky Ehrenfeld of the Division for review and written approval prior to filing. Once the Division approved restriction is recorded, send a copy of the recorded conservation restriction before beginning regulated activities.

8. **FRESHWATER WETLANDS TRANSITION AREA REDEVELOPMENT WAIVER**  
This portion of the permit authorizes the disturbance of **792 sq. ft. (0.018 acres)** of previously disturbed freshwater wetlands transition areas, for the construction of a storm sewer line, under a Freshwater Wetlands Transition Area Redevelopment Waiver, as shown on the approved plans.
9. This authorization is valid for five (5) years from the date of this letter unless more stringent standards are adopted by rule prior to this date. The permittee shall allow an authorized Division representative the right to inspect the construction site.
10. All fill and other earth work on the lands encompassed within this permit authorization shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey" to prevent eroded soil from entering adjacent waterways or wetlands at any time during and subsequent to construction.
11. This permit is revocable in accordance with the NJDEP regulations and State law.
12. The issuance of **this** permit shall not be deemed to affect in any way other actions by the Division on any future application.
13. The activities shown on the approved plans shall be constructed and/or executed in conformity with any notes and details on said plans and any conditions stipulated herein.
14. No change in plans or specifications shall be made except with the prior written permission of the Division.
15. The granting of this authorization shall not be construed to in any way affect the title or ownership of the property, and shall not make the Division or the State a party in any suit or question of ownership of the property.
16. This permit is not valid and no work shall be undertaken pursuant to this authorization until all other required federal, state, and local approvals, licenses and permits necessary for commencement of work on site have been obtained.

17. A complete, legible copy of this permit shall be kept at the work site and shall be exhibited upon request of any person.

Appeal of Decision

In accordance with N.J.A.C. 7:7A-1.7, any person who is aggrieved by this decision may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, 401 East State Street, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist. If a person submits the hearing request after this time, the Department shall deny the request. The DEP bulletin is available through the Department's website at [www.state.nj.us/dep](http://www.state.nj.us/dep).

Please contact Becky Ehrenfeld of our staff at 609-777-0454, or by email at [Becky.Ehrenfeld@dep.state.nj.us](mailto:Becky.Ehrenfeld@dep.state.nj.us), should you have any questions regarding this letter. Be sure to indicate the Division's file number in all communication.

Sincerely,



Andrew Clark, Supervisor  
Bureau of Inland Regulation

cc. Township of Washington Construction Official  
Borough of Hillsdale Construction Official

EXHIBIT A



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE  
Governor

Division of Land Use Regulation  
P.O. Box 439, Trenton, NJ 08625-0439  
Fax # (609) 292-8115  
www.state.nj.us/dep/landuse

LISA P. JACKSON  
Commissioner

JAN 30 2008

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, NY 10956

RE: **Stream Encroachment and Wetlands Permit Condition Modification**  
DLUR Permit No.: 0200-03-0003.2; FHA070001 (stream encroachment),  
FWW070002 (GP-10A)

Applicant: Caliber Builders, Inc.  
Block(s): 2101 (Washington), Lot(s): 3 & 7  
506 (Hillsdale), Lot(s): 1 & portion of Ell Road R.O.W. adjacent to Lots 1 & 2  
Washington Township/Hillsdale Borough, Bergen County

Dear Mr. Weinberger:

The Division of Land Use Regulation is in receipt of the January 4, 2008 letter from Tyler & Carmeli, P.C. requesting a modification to condition #9 of the above referenced Stream Encroachment and Wetlands Permit issued on December 27, 2007.

Condition #9 of the above-referenced permit states, *A tree clearing restriction shall apply from April 1 to September 30 of each year to protect Indiana bat habitat on-site, pursuant to the procedures outlined in the December 22, 1993, Memorandum of Agreement among the U.S. Fish & Wildlife Service, EPA, and NJDEP.*

The applicant is proposing that condition #9 be revised to apply only to the western portion of the site containing larger, old-growth trees. Since condition #9 originated with the U.S. Fish and Wildlife Service (USFWS), the applicant petitioned the USFWS to grant this modification in a letter dated December 20, 2007. The letter included a site plan depicting the proposed area of the site that would be affected by the condition. The Division received an email from Carlo Popolizio of the USFWS dated December 28, 2007, which granted USFWS consent to revise condition #9 per the applicant's request.

Therefore, this letter hereby modifies condition #9 to read, *"A tree clearing restriction shall apply from April 1 to September 30 of each year to the portion of the site west of the line labeled "Apparent Limits of Old Farming Grading" as shown on the approved plans and agreed upon by the U.S. Fish and Wildlife Service, to protect Indiana bat habitat on-site, pursuant to the*

BK 09500 PG 012

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procedures outlined in the December 22, 1993, Memorandum of Agreement among the U.S. Fish & Wildlife Service, EPA, and NJDEP," and approves revised sheet 3a of 11 prepared by Engineering & Technical Resources, Inc., dated August 10, 2007, last revised on December 19, 2007, and entitled:

"UTILITY & GRADING PLAN, GOLDEN ORCHARDS AN ACTIVE ADULT COMMUNITY, LOT 1, BLOCK 506, BOROUGH OF HILLSDALE, LOTS 3 & 7, BLOCK 2101, TOWNSHIP OF WASHINGTON, BERGEN COUNTY, NEW JERSEY."

Additionally, the following condition is required per the USFWS: *Within 30 days of the date of issuance of this letter, a tree planting plan shall be submitted to the Division of Land Use Regulation and the U.S. Fish and Wildlife Service for final approval.*

If you should have any questions on this decision or letter, please contact Becky Ehrenfeld at [Becky.Ehrenfeld@dep.state.nj.us](mailto:Becky.Ehrenfeld@dep.state.nj.us), or by calling 609-777-0454.

Sincerely,



Andrew Clark, Supervisor  
Bureau of Inland Regulation

cc: Hillsdale Borough Construction Official  
Washington Township Construction Official

BK 0950.0 PG 073

END OF DOCUMENT



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation  
P.O. Box 439, Trenton, NJ 08625-0439  
Fax # (609) 292-8115  
www.state.nj.us/dep/landuse

JON S. CORZINE  
Governor

LISA P. JACKSON  
Commissioner

July 22, 2008

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, NY 10956

RE: Freshwater Wetlands Transition Area Waiver Averaging Plan and Transition Area Waiver for Redevelopment – Permit Modification

DLUR File No.: 0200-03-0003.2, FWW070003 (TAW-avg.)  
FWW070004 (TAWRE)

Applicant Name: Caliber Builders, Inc.

Block(s): 2101 Lot(s): 3 & 7

Township of Washington, Bergen County

Block(s): 506 Lot(s): 1 & portion of Ell Road R.O.W. adjacent to Lots 1 & 2

Borough of Hillsdale, Bergen County

Dear Mr. Weinberger:

The Division of Land Use Regulation is in receipt of the July 22, 2008 letter from Tyler & Carmeli, P.C. requesting a modification to condition #2 of the above referenced Freshwater Wetlands Permits issued on June 9, 2008.

Condition #2 of the above-referenced permit states, *On October 11, 2006, the Department issued Stream Encroachment Permit 0200-06-0008.1 FHA060001 for the construction of a 16-lot residential subdivision on the subject site. On December 27, 2007, the Department issued Stream Encroachment Permit 0200-03-0003.2 FHA070001, for the construction of (37) thirty-seven age-restricted dwellings, with an associated access road and stormwater management facilities. It is the Department's understanding that the applicant intends to undertake one of these two authorized projects. As such, the applicant shall inform the Department in writing which of these two projects it intends to undertake, within ten (10) days from the date that the applicant receives (a) final and unappealable site plan approval from the Borough of Hillsdale and the Township of Washington and (b) the date any litigation concerning the 16-lot project or the Senior Project has been resolved or determined by court, and all rights to appeal such decision has expired. Upon such notification, the Department will revoke in writing the stream encroachment permit for whichever project the applicant elects to not pursue.*

*No construction shall be undertaken onsite, within any area regulated by the Department under the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A or the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, until the Department receives the written notification from*

*the applicant as described above and issues its letter revoking the stream encroachment permit for the project the applicant elects to not pursue. However, work onsite that lies outside the jurisdiction of these rules, and therefore does not require prior Department approval, may proceed at anytime, provided the applicant obtains all necessary Federal, State and local approvals, and provided the work does not conflict with condition 3 below regarding the protection of Indiana bat habitat on site.*

*In addition, if the permittee opts to pursue the 16-lot residential subdivision that was approved on October 11, 2006 under Stream Encroachment Permit 0200-06-0008.1, FHA060001, the permittee shall apply for either a modification to the valid freshwater wetlands permits, or for new freshwater wetlands permits, as required at N.J.A.C. 7:7A-14.*

The applicant is requesting that condition #2 be revised to reflect the fact that the 16-lot residential subdivision that was approved on October 11, 2006 under Stream Encroachment Permit 0200-06-0008.1, FHA060001, was previously issued the following freshwater wetlands permits on October 14, 2005, under permit number 0200-03-0003.1; a GP-11 (FWW030002), a Transition Area Waiver Averaging Plan (FWW030003), and a GP-10A (FWW050001).

Therefore, this letter hereby modifies condition #2 to read, *On October 14, 2005, the Department issued Freshwater Wetlands Permits 0200-03-0003.1, GP-11 (FWW030002), Transition Area Waiver Averaging Plan (FWW030003), and GP-10A (FWW050001), and on October 11, 2006, the Department issued Stream Encroachment Permit 0200-06-0008.1 FHA060001, all for the construction of a 16-lot residential subdivision on the subject site. On December 27, 2007, the Department issued Stream Encroachment Permit 0200-03-0003.2 FHA070001 and freshwater wetlands GP-10A (FWW070002), and on June 9, 2008, the Department issued Freshwater Wetlands Permits 0200-03-0003.2, Transition Area Waiver Averaging Plan (FWW070003) and Special Activity Waiver for Redevelopment (FWW070004), all for the construction of (37) thirty-seven age-restricted dwellings, with an associated access road and stormwater management facilities. It is the Department's understanding that the applicant intends to undertake one of these two authorized projects. As such, the applicant shall inform the Department in writing which of these two projects it intends to undertake, within ten (10) days from the date that the applicant receives (a) final and unappealable site plan approval from the Borough of Hillsdale and the Township of Washington and (b) the date any litigation concerning the 16-lot project or the Senior Project has been resolved or determined by court, and all rights to appeal such decision has expired. Upon such notification, the Department will revoke in writing the stream encroachment and freshwater wetlands permits for whichever project the applicant elects to not pursue.*

*No construction shall be undertaken onsite, within any area regulated by the Department under the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A or the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, until the Department receives the written notification from the applicant as described above and issues its letter revoking the above-referenced stream encroachment and freshwater wetlands approvals for the project the applicant elects to not pursue. However, work onsite that lies outside the jurisdiction of these rules, and therefore does not require prior Department approval, may proceed at anytime, provided the applicant obtains all necessary Federal, State and local approvals, and provided the work does not conflict with condition 3 below regarding the protection of Indiana bat habitat on site.*

Please contact Becky Ehrenfeld of our staff at 609-777-0454, or by email at [Becky.Ehrenfeld@dep.state.nj.us](mailto:Becky.Ehrenfeld@dep.state.nj.us), should you have any questions regarding this letter. Be sure to indicate the Division's file number in all communication.

Sincerely,



Vincent J. Mazzei, Jr., J.E., Acting Supervisor  
Bureau of Inland Regulation

cc: Hillsdale Borough Construction Official  
Washington Township Construction Official

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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation

Mail Code 501-02A

P.O. Box 420

Trenton, New Jersey 08625-0420

www.state.nj.us/dep/landuse

CHRIS CHRISTIE

Governor

KIM GUADAGNO

Lt. Governor

BOB MARTIN

Commissioner

FEB 21 2014

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, N.Y. 10954

Re: Modification to a Freshwater Wetlands Statewide General Permit No. 10A and Stream Encroachment Permit

File No: 0200-03-0003.2 (FWW 130001 – GP10A Mod.; FHA 130001 – SE mod.)

Original File No: 0200-03-0003.2 (FWW 070002 – GP10A; FHA 070001 - SE)

Applicant: Caliber Builders

Block: 506; Lot: 1

Hillsdale Borough, Bergen County

Block: 2101; Lots: 3 and 7

Washington Township, Bergen County

Dear Mr. Weinberger:

This letter is in response to your November 19, 2013 request for a Modification to the Freshwater Wetlands Statewide General Permit (GP) No. 10A and Stream Encroachment Permit (SEP) originally issued by the Division of Land Use Regulation (Division) on December 27, 2007 (file numbers noted above). The GP No. 10A has been extended until December 26, 2017, per the Division's April 1, 2013 extension-authorization letter. In addition, per the Division's December 17, 2012 electronic mail message, the SEP has been extended until June 30, 2015 under the Permit Extension Act of 2012.

This Modification is to address the following project design changes:

- a) Based on the requirements of the Bergen County Soil Conservation District, a rip-rap apron is proposed to be added at the downstream end of the existing culvert at Hill Road. The freshwater wetland and State open water disturbance associated with this additional activity is 285 square feet (0.0065 of an acre).
- b) In order to streamline the municipal approval process, the stormwater outfall previously proposed on the Washington Township portion of the property is proposed to be relocated onto the Hillsdale Borough portion of the property. The new outfall location is outside of any areas regulated under the Freshwater Wetlands Protection Act rules, and the Flood Hazard Area Control Act rules effective prior to November 5, 2007.

The Division has determined that the addition of the above noted rip-rap apron will not result in a significant change to the scale, use, or environmental impact of the project, and therefore qualifies for a General Permit Modification in accordance with the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-14.3(e). In addition, the proposed changes qualify as a Modification-In-Detail to the original SHP as allowed under section N.J.A.C. 7:13-4.9 of the Flood Hazard Area Control Act rules in effect prior to November 5, 2007. In addition, in accordance with N.J.A.C. 7:7A-14.3(h) and 7:13-4.9, the subject modification application does not require public notice. **The Division hereby approves of the modification to the GP No. 10A and SEP subject to the following conditions:**

1. **Original Conditions:** With the exception of Condition Number 11 addressed below, no changes to the conditions contained in the original GP No. 10A and SEP, as modified on January 30, 2008 for condition number 9, are required and those conditions **remain valid**.

2. **Condition Number 11:** Condition Number 11 is hereby **modified** to read the following:

“Conditions of the Freshwater Wetlands Statewide General Permit No. 10A: This portion of the permit authorizes the disturbance of 0.0077 of an acre of State open waters and freshwater wetlands for the construction of a road crossing and the placement of a rip-rap apron under a Freshwater Wetlands Statewide General Permit No. 10A, as depicted on the approved plans. The authorization of activities under this General Permit also includes the Division’s approval of a Water Quality Certificate for these activities.”

3. **Additional Condition:** The following **additional condition** applies to the modified project:

“So as not to impair fish passage during low flow periods, the rip-rap apron to be placed at the downstream end of the Ell Road culvert shall be embedded into the existing substrate and existing gradient and bottom contours of the water body shall be maintained.”

The hereby approved modified plans are prepared by Entec, dated August 10, 2007, last revised as noted below, and entitled:

“Golden Orchards An Active Adult Community, Lot 1, Block 506, Borough of Hillsdale, Lot 3 & 7, Block 2101, Township of Washington, Bergen County, New Jersey”

“Utility & Grading Plan”, Drawing No. 2 of 11, last revised November 13, 2013;

“Utility & Grading Plan”, Drawing No. 3a of 11, last revised January 8, 2014;

“Details”, Drawing No. 9 of 11, last revised December 12, 2007;

“Details”, Drawing No. 10 of 11, last revised November 13, 2013;

“Details”, Drawing No. 11 of 11, last revised January 8, 2014.

The above-referenced plans update and supersede the originally approved plans.

If you have any questions regarding this letter, please contact Susan Michniewski at (609) 777-0454 or [susan.michniewski@dep.state.nj.us](mailto:susan.michniewski@dep.state.nj.us).

Sincerely,



Andrew Clark, Supervisor  
Bureau of Inland Regulation

- C: Alex Zeponi, Entec (886 Belmont Ave., Suite 2, North Haledon, N.J. 07508)  
Hillsdale Borough Construction Official  
Hillsdale Borough Clerk  
Washington Township Construction Official  
Washington Township Clerk

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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation  
Mail Code 501-02A  
P.O. Box 420  
Trenton, New Jersey 08625-0420  
www.state.nj.us/dep/landuse

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

BOB MARTIN  
Commissioner

JUN 18 2015

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, N.Y. 10954

Rc: Modification to a Stream Encroachment Permit  
File No: 0200-03-0003.2, FHA 150001  
(Original SEP File No.: 0200-03-0003.2, FHA 070001)  
Modification and Update to a Freshwater Wetlands General Permit No. 10A, Transition Area Waiver Averaging Plan, and Special Activity Transition Area Waiver for Redevelopment  
(Original File Nos.: 0200-03-0003.2, FWW 070002/070003/070004)  
Applicant: Caliber Builders  
Block: 506; Lot: 1  
Hillsdale Borough, Bergen County  
Block: 2101; Lots: 3 and 7  
Washington Township, Bergen County

Dear Mr. Weinberger:

This letter is in regard to your March 4, 2015 request to the Division of Land Use Regulation (Division) for a modification to the Stream Encroachment Permit (SEP) originally issued on December 27, 2007 (file number noted above), and modified on January 30, 2008 (for condition number 9), and February 21, 2014 (for a rip-rap apron at the Ell Road culvert, and relocation of a stormwater outfall). The SEP as modified on January 30, 2008 and February 21, 2014 is extended until June 30, 2016 under the Permit Extension Act.

This modification provides the following changes:

a) No changes are proposed to the number or locations of proposed single-family residential units. However, the project as approved on December 27, 2007 has been divided into two phases. Phase I encompasses 31 age restricted units, an access road, stormwater management facilities, and supporting utilities within the Hillsdale Borough portion of the property. Phase II encompasses the remaining 6 age restricted units and the 1 non-age restricted unit located wholly or partially in Washington Township. The phased development is shown on the new and modified plans specifically referenced below.

b) Minor grading changes are needed due to the phased approach, and are proposed in the areas of dwellings 21 through 26 (located in Phase I), and 33 through 38 (located in Phases I and II).

The proposed modification does not constitute a substantial redesign of the previously approved project or proposed stormwater management system, increase the amount of

disturbance within the Division's regulated areas, increase the environmental impact of the proposed project, or affect the hydraulic capacity of the on-site and adjacent watercourses. Therefore, the Division has determined that the proposed changes qualify as a Modification to the SEP, as allowed under section N.J.A.C. 7:13-4.9 of the Flood Hazard Area Control Act rules in effect prior to November 5, 2007, and the Division hereby approves the modification to the SEP. In addition to modifying the SEP, this approval also updates the combined Transition Area Waiver (TAW) Averaging Plan and TAW for Redevelopment issued on June 9, 2008 (File Nos. 0200-03-0003.2, FWW 070003/070004), and the General Permit No. 10A issued with the original Stream Encroachment Permit on December 27, 2007 and extended on April 1, 2013 (File Nos. 0200-03-0003.2, FWW 070002/120001), to include the new and modified plans referenced below.

In addition, the Division has determined that, in accordance with N.J.A.C. 7:7A-14.3(f), a modification to condition number 16 of the original combined Stream Encroachment Permit/General Permit No. 10A, and condition number 2 of the combined TAW Averaging Plan/TAW for Redevelopment (as modified on July 22, 2008), is needed. A modification is needed to clarify that the Permittee can, at any time, inform the Division of which of the two permitted projects it intends to pursue. The Permittee does not need to wait until after site plan approval is obtained and all litigation is concluded, as currently specified in parts (a) and (b) of the condition. Therefore, parts (a) and (b) have been removed and the Division hereby modifies this condition to read as follows:

*"On October 14, 2005, the Department issued Freshwater Wetlands Permits 0200-03-0003.1, General Permit No. 11 (FWW 030002), Transition Area Waiver Averaging Plan (FWW 030003), and General Permit No. 10A (FWW 050001), and on October 11, 2006, the Department issued Stream Encroachment Permit 0200-06-0008.1 (FHA 060001) for the construction of a 16-lot residential subdivision on the subject site. On December 27, 2007, the Department issued Stream Encroachment Permit 0200-03-0003.2 (FHA 070001) and Freshwater Wetlands General Permit No. 10A (FWW 070002), and on June 9, 2008, the Department issued Freshwater Wetlands Permits 0200-03-0003.2, Transition Area Waiver Averaging Plan (FWW 070003) and Special Activity Transition Area Waiver for Redevelopment (FWW 070004), all for the construction of (37) thirty-seven age-restricted dwellings and one non-age restricted dwelling (the "Senior Project"), with an associated access road and stormwater management facilities. It is the Department's understanding that the applicant intends to undertake one of these two authorized projects. As such, the applicant shall inform the Department in writing which of these two projects it intends to undertake. Upon such notification, the Department will revoke in writing the stream encroachment and freshwater wetlands permits for whichever project the applicant elects to not pursue.*

*No construction shall be undertaken onsite, within any area regulated by the Department under the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A or the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, until the Department receives the written notification from the applicant as described above and issues its letter revoking the stream encroachment and freshwater wetlands approvals for the project the applicant elects to not pursue, and until the applicant records the required conservation restriction. However, work onsite that lies outside the jurisdiction of these rules, and therefore does not require prior Department approval, may proceed at any time, provided the applicant obtains all*

*necessary Federal, State and local approvals required for the project, and provided the work does not conflict with the permit condition regarding the protection of Indiana bat habitat on site."*

The hereby approved modified plans are entitled: **"Utility & Grading Plan, Golden Orchards, An Active Adult Community, Lot 1, Block 506, Borough of Hillsdale, Lot 3 & 7, Block 2101, Township of Washington, Bergen County, New Jersey", Drawings 2 and 3a of 11, dated August 10, 2007, last revised December 31, 2014, prepared by Entec Engineering & Technical Resources, Inc.** In addition, the new plans that are approved with this modification are entitled: **"Utility & Grading Plan, Phase I, Borough of Hillsdale, Golden Orchards, An Active Adult Community, Lot 1, Block 506, Borough of Hillsdale, Lot 3 & 7 Block 2101, Township of Washington, Bergen County, New Jersey", Drawings PHI-2 of 11 and PHI-3a of 11, dated December 31, 2014, unrevised, and prepared by Entec Engineering & Technical Resources, Inc.**

The above-referenced plans update and supersede Drawings 2 and 3a of 11 approved by the February 21, 2014 modification. Drawings 9 through 11 of 11, as approved by the February 21, 2014 modification, remain valid.

Please note that a draft conservation restriction, required per condition number 7 of the TAW Averaging Plan, has not yet been submitted for Division review. As specified in the condition, a final conservation restriction must be recorded with the County Clerk's Office before beginning regulated activities. Therefore, please submit a draft restriction, using the model conservation restriction language provided on the Division's website at [www.state.nj.us/dep/landuse](http://www.state.nj.us/dep/landuse), along with draft mapping depicting the metes and bounds of the proposed restricted area, to Susan Michniewski of the Division. A metes and bounds description will also need to be submitted once the proposed restricted area is approved. Note that the Division has reviewed but is not approving the draft Landscape Plan, Drawing 4h of 11, last revised October 21, 2013, sent with the application. For your information, the proposed "wetland & buffer easement line (typ.)" shown on that plan is not consistent with the modified transition area boundaries approved by the TAW Averaging Plan. Therefore, please use the herein approved Drawings 2 and 3a of 11 for the preparation of the draft conservation restriction documents.

In addition, please note that the draft Landscape Plan submitted with the modification application contains three species of shrubs that have been identified as invasive and potentially harmful to natural communities. Specifically, *Rhamus frangula* (also known as *Frangula alnus/glossy buckthorn*) has been identified as an emerging invasive shrub by the New Jersey Invasive Species Strike Team (see [info@njisst.org](mailto:info@njisst.org)) and should not be planted. In addition, *Spiraea bumalda* (also known as *Spiraea japonica/Japanese spiraea*) and *Pyracantha coccinea* (scarlet firethorn) have been identified as having invasive qualities per the Invasive Plant Atlas of the US (see [www.invasiveplantatlas.org](http://www.invasiveplantatlas.org)). The Division therefore requests that these three species be deleted from the proposed landscape plan and replaced with either native species or non-native species that are not invasive. While a permit modification is not required for these changes, an updated Landscape Plan must be submitted for the Division's files.

Please contact Susan Michniewski of our staff by telephone at (609) 633-6563 or by email at Susan.Michniewski@dcp.nj.gov if you have any questions regarding this letter.

Sincerely,

  
Andrew Clark, Supervisor  
Bureau of Inland Regulation

- c: Agent (with original)  
Hillsdale Borough Construction Official  
Hillsdale Borough Clerk  
Washington Township Construction Official  
Washington Township Clerk  
John Lamb, Beattie Padovano (50 Chestnut Ridge Road, Suite 208, P.O. Box 244,  
Montvale, N.J. 07645-0244)

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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation  
Mail Code 501-02A  
P.O. Box 420  
Trenton, New Jersey 08625-0420  
www.state.nj.us/dep/landuse

CHRIS CHRISTIE  
Governor

BOB MARTIN  
Commissioner

KIM GUADAGNO  
Lt. Governor

MAR 03 2016

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, N.Y. 10954

Re: Modification to a Stream Encroachment Permit  
File No: 0200-03-0003.2, FHA 160001  
(Original SEP File No.: 0200-03-0003.2, FHA 070001)  
Modification and Update to a Freshwater Wetlands General Permit No. 10A, Transition Area Waiver Averaging Plan, and Special Activity Transition Area Waiver for Redevelopment  
(Original File Nos.: 0200-03-0003.2, FWW 070002/070003/070004)  
Applicant: Caliber Builders  
Block: 506; Lot: 1  
Hillsdale Borough, Bergen County  
Block: 2101; Lots: 3 and 7  
Washington Township, Bergen County

Dear Mr. Weinberger:

This letter is in regard to your February 17, 2016 request to the Division of Land Use Regulation (Division) for a modification to the Stream Encroachment Permit (SEP) originally issued on December 27, 2007, and modified on January 30, 2008 (for condition 9), February 21, 2014 (for a rip-rap apron at the Ell Road culvert, and relocation of a stormwater outfall), and June 18, 2015 (for phasing of the development). The application also includes a modification to the Freshwater Wetlands Transition Area Waiver (TAW) Averaging Plan and Special Activity TAW for Redevelopment originally issued on June 9, 2008 and modified on July 22, 2008 (for condition 2) and June 18, 2015 (phasing), and an update to the Freshwater Wetlands General Permit No. 10A issued with the original SEP. The SEP and TAWs as modified are extended until June 30, 2016 under the Permit Extension Act. The General Permit No. 10A has been extended to December 26, 2017.

This modification provides the following changes:

- a) Minor changes to the drainage system will be made in the areas of proposed units 1 through 12 and 24 through 34. Specifically, the infiltrator beds provided for each of these units will now be connected by piping to the proposed stormwater management system so that overflow from these units discharges into the outlet structures of underground detention systems "B" and "C".
- b) The Landscape Plan has been revised to remove and replace certain previously proposed invasive species, and to update notes 3 and 4 regarding the quantity of proposed tree removal and the restrictions on tree clearing.

This proposed modification does not constitute a substantial redesign of the previously approved project or proposed stormwater management system, increase the amount of disturbance within the Division's regulated areas, increase the environmental impact of the proposed project, or affect the hydraulic capacity of the on-site and adjacent watercourses. Therefore, the Division has determined that the proposed changes qualify as a modification to the SEP, as allowed under section N.J.A.C. 7:13-4.9 of the Flood Hazard Area Control Act rules in effect prior to November 5, 2007, and the Division **hereby approves** the modification to the SEP. In addition, this approval also modifies the combined TAW Averaging Plan and TAW for Redevelopment for the revised Landscape Plan, and updates those approvals and the General Permit No. 10A to replace the previously approved plans with those referenced below.

The hereby approved plans are prepared by Engineering & Technical Resources, Inc., entitled:

**"Golden Orchards, An Active Adult Community, Lot 1, Block 506, Borough of Hillsdale, Lot 3 & 7, Block 2101, Township of Washington, Bergen County, New Jersey"**

**"Utility & Grading Plan", Sheet No. 2 of 11, dated August 10, 2007, last revised January 29, 2016;**

**"Utility & Grading Plan", Sheet No. 3a of 11, dated August 10, 2007, last revised February 29, 2016;**

**"Utility & Grading Plan, Phase I, Borough of Hillsdale", Sheet Nos. PHI-2 and PHI-3a of 11, dated December 31, 2014, last revised January 29, 2016;**

**"Details", Sheet No. 9 of 11, dated August 10, 2007, last revised December 12, 2007;**

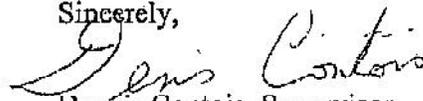
**"Details", Sheet Nos. 10 and 11 of 11, dated August 10, 2007, last revised January 29, 2016;**

**"Landscape Plan, Golden Orchards, An Active Adult Community, Lot 1, Block 506, Borough of Hillsdale (Lot 3 & 7, Block 2101, Township of Washington Not Shown), Bergen County, New Jersey", Sheet No. 4h of 11, dated August 10, 2007, last revised February 29, 2016.**

The above-referenced plans update and supersede the previously approved plans.

Please contact Susan Michniewski of our staff by telephone at (609) 633-6563 or by email at [Susan.Michniewski@dep.nj.gov](mailto:Susan.Michniewski@dep.nj.gov) if you have any questions regarding this letter.

Sincerely,

  
Dennis Contois, Supervisor  
Bureau of Inland Regulation

Attachment (plans)

- c: Agent (with original & plans)
- Hillsdale Borough Construction Official (with plans)
- Hillsdale Borough Clerk (with plans)
- Washington Township Construction Official (with plans)
- Washington Township Clerk

# EXHIBIT A



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation

Mail Code 501-02A

P.O. Box 420

Trenton, New Jersey 08625-0420

[www.state.nj.us/dep/landuse](http://www.state.nj.us/dep/landuse)

CHRIS CHRISTIE  
*Governor*

BOB MARTIN  
*Commissioner*

KIM GUADAGNO  
*Lt. Governor*

MAR 09 2016

Mr. Stuart Weinberger  
Caliber Builders  
29 Third Street  
New City, N.Y. 10954

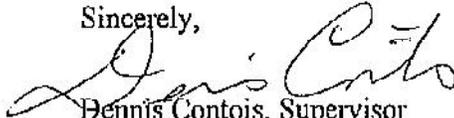
Re: Correction Letter Regarding a Modification to a Stream Encroachment and Freshwater Wetlands Permits  
File No: 0200-03-0003.2, FHA 160001  
Applicant: Caliber Builders

Dear Mr. Weinberger:

This letter is with regard to the Stream Encroachment and Freshwater Wetlands Permit Modification recently approved by the Division of Land Use Regulation. The approval letter was recently issued with an incorrect date. A corrected letter, with an approval date of March 3, 2016, is enclosed. No other revisions to the approval have been made. The attached approval letter supersedes the previous letter dated February 26, 2016.

Please contact Susan Michniewski of our staff by telephone at (609) 633-6563 or by email at [Susan.Michniewski@dep.nj.gov](mailto:Susan.Michniewski@dep.nj.gov) if you have any questions regarding this letter.

Sincerely,

  
Dennis Contois, Supervisor  
Bureau of Inland Regulation

c: Agent (with original)  
Hillsdale Borough Construction Official  
Hillsdale Borough Clerk  
Washington Township Construction Official  
Washington Township Clerk

## EXHIBIT C

### LAPATKA ASSOCIATES, INC.

12 Route 17 North, Suite 230  
Paramus, NJ 07652  
TEL: (201) 587-1600  
FAX: (201) 587-0063

January 25, 2016  
Project # 01-155  
Page 1 of 2

DESCRIPTION OF ENVIRONMENTAL EASEMENT #1 ON LOT 3 IN BLOCK 2101, SITUATED IN THE TOWNSHIP OF WASHINGTON AND ON LOT 1 IN BLOCK 506, SITUATED IN THE BOROUGH OF HILLSDALE, BERGEN COUNTY, NEW JERSEY.

#### DEED DESCRIPTION

Beginning at a point on the southerly line of Lot 3 in Block 2101, in the Township of Washington, said point being North 57 degrees and 29 minutes and 00 seconds west, for a distance of 328.91 feet from a point formed by the intersection of said southerly line of Lot 3 in Block 2101 in the Township of Washington with the westerly sideline of Pascack Road, (width varies), and from said point proceeding, thence;

- 1). North 32 degrees and 31 minutes and 00 seconds east, for a distance of 40.00 feet to a point, thence;
- 2). North 18 degrees and 24 minutes and 18 seconds east, for a distance of 10.46 feet to a point, thence;
- 3). North 77 degrees and 18 degrees and 22 minutes east, for a distance of 29.53 feet to a point, thence;
- 4). North 81 degrees and 59 minutes and 07 seconds east, for a distance of 8.08 feet to a point, thence;
- 5). North 87 degrees and 04 minutes and 20 seconds east, for a distance of 22.00 feet to a point, thence;
- 6). North 31 degrees and 43 minutes and 25 seconds west, for a distance of 25.00 feet to a point, thence;
- 7). North 33 degrees and 05 minutes and 02 seconds east, for a distance of 121.59 feet to a point, thence;
- 8). North 56 degrees and 55 minutes and 30 seconds west, for a distance of 221.78 feet to a point, thence;
- 9). South 67 degrees and 44 minutes and 36 seconds west, for a distance of 7.85 feet to a point, thence;

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Consulting Engineering — Landscape Architecture — Land Surveying

**EXHIBIT C**

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Paramus, NJ 07652  
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January 25, 2016  
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- 10). South 33 degrees and 04 minutes and 30 seconds west, for a distance of 39.20 feet to a point, thence;
- 11). South 02 degrees and 37 minutes and 20 seconds west, for a distance of 74.46 feet to a point, thence;
- 12). South 53 degrees and 30 minutes and 24 seconds west, for a distance of 80.11 feet to a point, thence;
- 13). South 04 degrees and 34 minutes and 05 seconds west, for a distance of 43.88 feet to a point, thence;
- 14). South 57 degrees and 29 minutes and 00 seconds east, for a distance of 176.69 feet to a point, said point also being the Point and Place of Beginning.

Subject to easements and restrictions of record.



**Jeffrey H. Kleine, PLS**  
Professional Land Surveyor  
N.J. Lic. # 35848

**EXHIBIT C**

**LAPATKA ASSOCIATES, INC.**

12 Route 17 North, Suite 230  
Paramus, NJ 07652  
TEL: (201) 587-1600  
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January 25, 2016  
Project # 01-155  
Page 1 of 1

**DESCRIPTION OF ENVIRONMENTAL EASEMENT #2 ON LOT 3 IN BLOCK 2101, SITUATED IN THE TOWNSHIP OF WASHINGTON AND ON LOT 1 IN BLOCK 506, SITUATED IN THE BOROUGH OF HILLSDALE, BERGEN COUNTY, NEW JERSEY.**

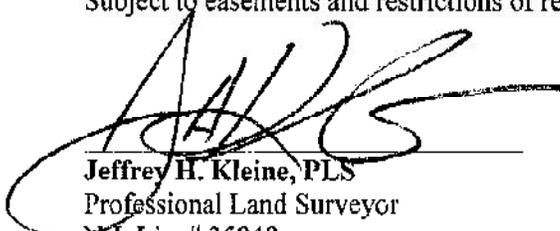
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**DEED DESCRIPTION**

Beginning at a point on the southerly line of Lot 3 in Block 2101, in the Township of Washington, said point being North 57 degrees and 29 minutes and 00 seconds west, for a distance of 962.63 feet from a point formed by the intersection of said southerly line of Lot 3 in Block 2101 in the Township of Washington with the westerly sideline of Pascack Road, (width varies), and from said point proceeding, thence;

- 1). North 07 degrees and 22 minutes and 30 seconds east, for a distance of 34.45 feet to a point, thence;
- 2). North 27 degrees and 37 minutes and 06 seconds east, for a distance of 62.44 feet to a point, thence;
- 3). North 56 degrees and 55 minutes and 30 seconds west, for a distance of 134.78 feet to a point, thence;
- 4). South 32 degrees and 31 minutes and 32 seconds west, for a distance of 10.00 feet to a point, thence;
- 5). South 70 degrees and 53 minutes and 57 seconds west, for a distance of 60.00 feet to a point, thence;
- 6). South 32 degrees and 31 minutes and 32 seconds west, for a distance of 37.65 feet to a point, thence;
- 7). South 57 degrees and 29 minutes and 00 seconds east, for a distance of 192.00 feet to a point, said point also being the Point and Place of Beginning.

Subject to easements and restrictions of record.



Jeffrey H. Kleine, PLS  
Professional Land Surveyor  
N.J. Lic. # 35848

01-155, 2016-01-25 ENV EASE 2.docx

Consulting Engineering — Landscape Architecture — Land Surveying

## EXHIBIT C

### LAPATKA ASSOCIATES, INC.

12 Route 17 North, Suite 230  
Paramus, NJ 07652  
TEL: (201) 587-1600  
FAX: (201) 587-0063

March 1, 2016 - rev  
January 25, 2016  
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DESCRIPTION OF ENVIRONMENTAL EASEMENT #3 ON LOT 7 IN BLOCK 2101, SITUATED IN THE TOWNSHIP OF WASHINGTON AND ON LOT 1 IN BLOCK 506, SITUATED IN THE BOROUGH OF HILLSDALE, BERGEN COUNTY, NEW JERSEY.

#### DEED DESCRIPTION

Beginning at a point on the southerly line of Lot 1 in Block 506, in the Borough of Hillsdale, said point being the following courses and distances from a point formed by the intersection of the southerly line of Lot 3 in Block 2101 in the Township of Washington with the westerly sideline of Pascack Road, (width varies), and from said point proceeding, thence;

- a). North 57 degrees and 29 minutes and 00 seconds west, for a distance of 1858.43 feet, to a point, thence;
- b). South 38 degrees and 45 minutes and 00 seconds west, for a distance of 18.11 feet to a point, said point also being the Point or Place of beginning, and from said point proceeding thence;
  - 1). South 38 degrees and 45 minutes and 00 seconds west, for a distance of 9.52 feet to a point, thence;
  - 2). South 76 degrees and 30 minutes and 12 seconds west, for a distance of 27.24 feet to a point, thence;
  - 3). South 13 degrees and 20 minutes and 33 seconds east, for a distance of 23.31 feet to a point, thence;
  - 4). North 64 degrees and 23 minutes and 07 seconds west, for a distance of 462 feet more or less to a point on the easterly side of the Masquapsink Brook, thence;
  - 5). Northerly along said easterly side of the Masquapsink Brook, for a distance of 482 feet more or less to a point, thence;
  - 6). South 56 degrees and 55 minutes and 30 seconds east, for a distance of 417 feet more or less to a point, thence;
  - 7). South 26 degrees and 29 minutes and 46 seconds west, for a distance of 90.39 feet to a point, thence;
  - 8). South 34 degrees and 06 minutes and 10 seconds west, for a distance of 49.13 feet to a point, thence;

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**EXHIBIT C**

**LAPATKA ASSOCIATES, INC.**

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March 1, 2016 – rev.

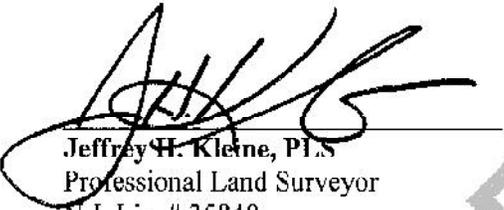
January 25, 2016

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- 9). South 50 degrees and 20 minutes and 46 seconds west, for a distance of 103.35 feet to a point, thence;
- 10). South 25 degrees and 43 minutes and 49 seconds west, for a distance of 18.13 feet to a point, thence;
- 11). South 57 degrees and 29 minutes and 00 seconds east, for a distance of 92.88 feet to a point, said point also being the Point and Place of Beginning.

Subject to easements and restrictions of record.



Jeffrey H. Kleine, P.L.S.  
Professional Land Surveyor  
N.J. Lic. # 35848