

RESOLUTION NO. _____
GRANTING FINAL SITE PLAN APPROVAL
TO CALIBER BUILDERS, INC.

PLANNING BOARD OF THE BOROUGH OF HILLSDALE
COUNTY OF BERGEN, STATE OF NEW JERSEY

WHEREAS, by Resolution adopted January 29, 2008, Caliber Builders, Inc. (hereinafter the "Applicant") applied for and received preliminary site plan approval and conditional use approval from the Planning Board of the Borough of Hillsdale ("Planning Board" or "Board"), a joint Land Use Board, pertaining to property known as Block 506, Lot 1 on the current tax assessment map of the Borough of Hillsdale and Block 2101, Lots 3 and 7, on the current tax assessment map of the Township of Washington (the "Property"), which Property is located at the corner of Ell Road and Pascack Road; and

WHEREAS, in or about July 2015, the Applicant filed an application for final site plan approval; and

WHEREAS, Caliber Builders' application for final site plan approval involves a 37 unit active adult community, with 31 of the units proposed wholly within the Borough of Hillsdale and the remaining 6 units located in both the Borough of Hillsdale and Washington Township, as described in the Planning Board's Resolution PZ-17-07, adopted on January 29, 2008 (the "Resolution") and herein and as otherwise depicted in the Site Plan submitted by the Applicant in support of its application (the "Application"); and

WHEREAS, the Application included two sets of plans prepared by Entec Engineering and Technical Resources, each containing 11 sheets. One set of plans was entitled "Minor Subdivision and Site Plans for Golden Orchards...", dated August 10, 2007; and the second set of plans was entitled "Site Plans - Phase 1 for Golden Orchards...", dated December 31, 2014. These plans were revised a number of times during the course of the hearings, with the final revision date at the time of the decision being January 29, 2016; and

WHEREAS, the Applicant proposes to develop the Property in two phases, with Phase 1 involving the construction of 31 dwellings/units wholly within the Borough of Hillsdale and Phase 2 involving the construction of 6 age restricted dwellings/units straddling the Borough of Hillsdale and the Township of Washington; and

WHEREAS, the portion of the property that is within the Borough of Hillsdale is identified as Block 506, Lot 1 as shown on the Tax Assessment Map of the Borough of Hillsdale, and the portion of the property that is within the Township of Washington is identified as Block 2101, Lots 3 and 7 on the current Tax Assessment Map of the Township of Washington; and

WHEREAS, the 6 units which straddle or are fully within Washington Township

will require the Applicant to apply for approval and relief from the appropriate land use board of Washington Township; and

WHEREAS, the Planning Board of the Borough of Hillsdale determined that the Application is complete and that a public hearing be conducted by the Planning Board; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject premises of the subject Application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of Hillsdale and provided proof of service of such notice in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Applicant has submitted proof that a copy of said notifications have been published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of Hillsdale in accordance with the Land Use Ordinance of the Borough of Hillsdale as amended and supplemented and N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject premises of the subject Application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Township of Washington and provided proof of service of such notice in accordance with the Zoning Ordinance of the Township of Washington, as amended and supplemented, and N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Applicant has submitted proof that a copy of said notifications have been published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Township of Washington in accordance with the Zoning Ordinance of the Township of Washington as amended and supplemented and N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Board determined it had jurisdiction and public hearings were conducted on August 25, 2015, March 10, 2016, March 28, 2016 and May 9, 2016; and

WHEREAS, the Applicant was represented by Siobhan Spillane Bailey, Esq., of Huntington Bailey, LLP, 373 Kinderkamack Road, Westwood, New Jersey 07675; and

WHEREAS, the objector, Northgate Condominium Association, Inc. ("Northgate") was represented by John J. Lamb, Esq., of Beattie Padovano located at 50 Chestnut Ridge Road, Suite 208, Montvale, New Jersey 07645-0244; and

WHEREAS, the objectors, Kim and Janice Hogrefe, were represented by Nancy E.

Saccente, Esq., having an address at 442 Broadway, Hillsdale, New Jersey 07642; and

WHEREAS, expert testimony was presented by Alex J. Zepponi, P.E., of Entec Engineering and Technical Resources, Inc., located at 535 High Mountain Road, North Haledon, New Jersey 07508; and

WHEREAS, expert testimony was provided by Ronald D. Boyer, P.E. of Langan Engineering, having an address of 300 Kimball Drive, Parsippany-Troy Hills, New Jersey 07054; and

WHEREAS, the Board Engineer, Eric L. Keller, PE, PP, of Bowman Consulting Group, Ltd., having an address of 54 Horsehill Road, Cedar Knolls, New Jersey 07927, provided testimony on behalf of the Planning Board and issued the following Memorandums, which are incorporated herein and made a part hereof by reference:

1. Memorandum dated August 24, 2015;
2. Memorandum dated October 1, 2015;
3. Memorandum dated February 29, 2016; and
4. Memorandum dated May 6, 2016; and

WHEREAS, certain municipal departments and/or agencies have reviewed the subject Application. The reports from said departments and/or agencies are incorporated herein and made a part hereof by reference.

1. Environmental Commission report dated November 20, 2015 and marked as Exhibit A-20.

NOW THEREFORE, the Board makes the following findings of fact based on evidence presented at the public hearings.

1. The Applicant received preliminary site plan approval from the Board by Resolution adopted on January 29, 2008. The Applicant initially filed an application with the Planning Board in or about 2013 for final site plan approval, which application was withdrawn by the Applicant in or about June 2015 and the Board never took action on same.

2. A new application for final site plan approval was filed by the Applicant with the Board on or about July 28, 2015, which was marked as Exhibit O-2 at the August 25, 2015 hearing of the Board (hereinafter referred to as the "Application"). In support of the Application, the Applicant submitted the following:

- (a) Application for Final Site Plan Approval dated July 27, 2015.
- (b) Approved Preliminary Site Plan/ Golden Orchards, etc., dated August 10, 2007.

- (c) Minor Subdivision and Site Plan prepared by Entec Engineering for Golden Orchards dated August 10, 2007, revised through December 31, 2014.
- (d) Site Plan for Phase 1 of Golden Orchards, etc. prepared by Entec Engineering and dated December 31, 2014.
- (e) Minor Subdivision and Site Plan for Golden Orchards prepared by Entec Engineering and dated August 10, 2007, revised through January 29, 2016.
- (f) Site Plan for Phase 1 of Golden Orchards, etc. prepared by Entec Engineering and dated December 31, 2014, revised through January 29, 2016.

3. Eric L. Keller, PE, PP, LEED AP of Bowman Consulting Group Ltd. served as the Engineer for the Board, given that the Board's appointed Engineer, Christopher P. Statile, PE, recused himself in light of his appointment as the Engineer for Washington Township, an objector and/or interested party in the subject Application. Such recusal was for the purpose of avoiding a conflict of interest. The term "Board Engineer", as used in this Resolution, shall mean Eric L. Keller, P.E.

4. Northgate Condominium Association, Inc. ("Northgate") and Kim and Janice Hogrefe, each of which were represented by separate counsel, appeared at the initial hearings to principally object to the grant of final site plan approval to Caliber Builders over the issue of stormwater management. Northgate entered into a settlement agreement dated March 2, 2016 with Caliber Builders, Inc., which settlement agreement was marked as Exhibit A-28 at the hearing of May 9, 2016. In addition thereto, the Hogrefes, as represented to the Board by counsel for the Hogrefes, entered into a settlement with Caliber Builders, though no written settlement agreement was presented to, nor marked as an exhibit by the Board.

5. Mr. Keller reviewed the Site Plan for Phase 1 plans and the minor subdivision and site plans (Phases 1 and 2) against §310-92 of the Borough's Land Use Ordinance, as detailed in Mr. Keller's report of August 24, 2015 to the Board. In that report, Mr. Keller recommended the Application be deemed complete pending receipt of the property owners list.

6. The Board held public hearings on August 25, 2015, March 10, 2016, March 28, 2016 and May 9, 2016 and testimony was provided in support of the Application by the following professionals engaged by the Applicant:

August 25, 2015: Alex J. Zepponi, PE
 March 10, 2016: Alex J. Zepponi, PE
 March 16, 2016: Alex J. Zepponi, PE; Ronald D. Boyer, PE
 March 28, 2016: Alex J. Zepponi, PE
 May 9, 2016: Alex J. Zepponi, PE; Eric L. Keller, PP, PE

7. The Board evaluated the Application, the testimony and all documents submitted in support of or against the request for final site plan approval. The Board determined that: (1) there were no substantial changes to the Entec Site Plan between preliminary and final site plan approval and; (2) the Applicant satisfied all conditions of preliminary approval, subject to the conditions that were carried forward from preliminary approval and as set forth in this Resolution. The Board also relied on the opinion of the Board Engineer that the site plan changes between preliminary and final site plan approval were not substantial and that the Applicant satisfied the conditions of preliminary approval, except as may be otherwise provided in this Resolution. The Board voted in favor of granting final site plan approval to the Applicant at its meeting of May 9, 2016. The Board based its findings on the following testimony.

8. The Applicant's engineer, Alex J. Zepponi, PE, testified that certain administrative changes were made between preliminary and final site plan approval, which he categorized and described at the August 25, 2015 and March 10, 2016 hearings as follows:

- Net Change Zero: Revisions made initially in response to agency comment, then reverted to original depiction in a later revision note: 2b, 16, 17, 22, 23, 26(b), 28(e) as enumerated in the "Summary of Application for Final Site Plan Approval of Caliber Builders, Inc.", Exhibit "G", which was marked as Exhibit A-6 at the August 25, 2015 hearing of the Board.
- Plan Enhancements: Additions to the plan itself that do not result in any physical change to any improvements or layout but are intended to clarify and/or provide greater detail: 1, 2a, 4,5,6,11,14,15,18, 19, 24, 26a and c, 27, 28d, as shown in Exhibit A-6.
- Revisions Made In Compliance with Resolution of Preliminary Approval: 7, 8, 10, 12, 20 and 21.
- Remainder of Revisions (physical changes made at the direction of reviewing agencies, decision of Caliber, or in compliance with the Northgate Settlement, found by DEP and Hillsdale Planning Board not to constitute a substantial change to the design of the stormwater management system and Approved Plan): 2c, 3, 9, 13, 25, 26d, 28 a, b, c, f, 29.

9. Mr. Zepponi characterized the Net Change Zero category as one in which the Applicant was asked to make a change by certain agencies having jurisdiction over the project, including the NJDEP, and then the Applicant was asked to revert back to the original design that was approved by the Board under preliminary approval in or about 2008. One example given related to the riprap for the discharge from the bio-retention basin. Mr. Zepponi testified that with respect to the bio-pond in the back, the NJDEP didn't want the riprap so the Applicant took it out. Soil Erosion required the Applicant to

put the riprap back in. Mr. Zepponi testified that revisions 2b, 16, 17, 22, 23, 26b and 28e fall into the category of Net Change Zero, as identified in Exhibit A-6.

Revision 2b related to the Scour Hole that was moved from where it was originally located when the Applicant submitted its plans based on a comment that the Applicant received from Fish and Wildlife, as testified to by Mr. Zepponi. As a result of the phasing of the project, the Applicant proposed to move the Scour Hole out of the jurisdiction of the Township of Washington. Revision 16 related to the location of the test pits and associated information from the Darmofalski report as it was not used in design. Revision 17 related to the riprap in connection with the bio-retention pond. Revision 17 added the riprap and revision 22 removed the riprap in accordance with the directive of the Bergen County Soil Conservation District. Revision 23 modified the bio-retention basin detail. Revision 26b related to the retention system. Revision 28e related to the test pit locations that were removed from Table 3a of the site plan submitted by the Applicant.

10. The second category of changes described by Mr. Zepponi were referred to as "Plan Enhancements". Mr. Zepponi described this category as items which are shown on the plan and which various agencies requested be clarified or greater detail added. Mr. Zepponi testified that, with regard to the second category, certain administrative agencies asked for, for example, greater clarity or an extra cross-section or labeling in connection with specific items that were depicted or described in the site plan. Plan revisions 1, 2a, 4, 5, 6, 11, 14, 15, 18, 19, 24, 26a, 26c, 27 and 28d fall under this category as described by Mr. Zepponi. One example for this category as given by Mr. Zepponi related to the Scour Hole at the Ell Road culvert. He testified that the administrative agency that had jurisdiction of this item requested that it be shown "larger" on the plans so that the dimensions could be more easily read.

11. The third category described by Mr. Zepponi related to revisions that were made in order to comply with the 2008 Resolution of Approval. Mr. Zepponi testified that this category related to the Applicant addressing comments by the Borough of Hillsdale and related entities. The plan revisions relating to this third category are 7, 8, 10, 12, 20 and 21. The example given of this category included a notation as to the fencing to be made of durable materials. Revision 7 related to condition K as contained in the 2008 Resolution of Approval. Condition K related to the requirements and recommendations of the Board Engineer's review report of September 7, 2007 being incorporated into the site plan. Another example given related to Revision 7b to show the addition of paver details.

12. The Applicant's Geotechnical Engineer, Ronald D. Boyer, P.E. of Langan Engineering & Environmental Services provided testimony in support of the Application and also issued a Soil Test Investigation Report dated May 22, 2014 (Exhibit A-23) and letter dated February 18, 2016 (Exhibit A-25). Mr. Boyer testified that there were no substantial changes to the stormwater management plan between preliminary and final site plan approval. Mr. Boyer further testified that the Applicant has not exceeded or changed the allowable stormwater discharge, as supported by the drainage calculations submitted

to and approved by the Board Engineer. The testimony elicited during the hearings was that the soils are of a consistent character and the primary constituent is sand, which means that the stormwater percolates into the ground faster. According to Mr. Boyer, the Applicant has applied for and obtained approvals from all other County and State agencies having jurisdiction over stormwater management as it relates to the subject project.

13. The changes which occurred between preliminary and final site plan approval and described above, are fully reflected on the following chart:

REVISION 1

09/24/07 – Revision As Per NJDEP Request

(a)	Create Drawing 3a submitted to DEP while Municipal approval process is underway. (Dr 3a)
(b)	Submission to NJDEP for GP10A. New location of roadway (Dr 2) crossing middle stream from previous project (16 lots) and Transition Area Waiver (Dr 3) for existing Lot 7 newly added Block 2101 in Washington Township (not obtained under previous project – 16 lots). (Dr 2, 3a)
(c)	Add State Open Water Disturbance Area under GP-10 note. (Dr 2) Caliber had purchased more land and correspondingly expanded wetland line and buffer.

REVISION 2

10/22/07 – Revision As Per NJDEP Request/United States Fish and Wildlife Services (USFWS)

(a)	Added 150' buffer for Lot 7. (Beyond previous 50' wetland buffer per USFWS.) (Dr 3a)
(b)	Scour hole moved to beyond 150' wetland buffer line, pipe length and invert elevations adjusted. (Removed after scour hole relocation) (Dr 3a)

(c)	Pull back stairs from Washington into Hillsdale, revise grading and drainage in vicinity. (USFWS) (gone after final scour hole relocation) (Dr 3a)
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REVISION 3

11/05/07 – Revision As Per Bergen County Letter Of 10/30/07

(a)	Provide on-site turn-around to driveway for 38-D. (Dr 2)
(b)	Move infiltrator bed on 38-D from front to rear of building. (Dr 2)
(c)	Incorporate detectable warning surface to Ell Road ramp and add detail to Detail Drawing. (Dr 2)

REVISION 4

12/10/07 – Revision As Per USFWS (Bats)

(a)	Add limit of restricted tree removal line. (Removal dates.) (Dr 3a)
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REVISION 5

12/12/07 – Minor Revisions Per NJDEP Request **(Dr 2)**

(a)	Change disturbance in buffer areas to incorporate area of Ell Road to be disturbed to construct stormwater pipe and manhole over existing pipe (GP-10A very minor road crossing). (Road for 38 lots.)
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REVISION 6

12/17/07 – Minor Revisions Per NJDEP Request **(Dr 6)**

(a)	Add Sections A-A and B-B in bio retention pond. (Dr 6)
(b)	Add sections to Drawing 6 of 11. (Dr 6)

(c)	Revise detail Drawing 11 of 11 (Section for F1 D2b). (Outlet of bio retention pond.) (Dr 11)
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REVISION 7: 1/16/08: Revised in compliance with Condition K of Resolution (incorporation of September 10, 2007 letter of Board Engineer and BCSCD comments)

(a)	Walkways for individual units are added. (Dr 2-3) (#1, p. 5 of 9/6/07 Statile letter).
(b)	Added paver details on Drawing 11 of 11. (Dr 11) (#5, p. 6 of 9/6/07 Statile letter)
(c)	Temporary construction fencing along wetland buffers added to SCS drawings.] (Dr 8) (#6, p. 6 of 9/10/07 Statile letter).
(d)	"No Parking" signs added along road every 250'. (Dr 2-3) (#9, p. 6 of 9/6/07 Statile letter).
(e)	Proposed manhole over existing Ell Road culvert revised to 6'Ø . (Dr 2) (#10, p. 6 of 9/10/07 Statile letter).
(f)	Crosswalk moved to beyond stop line at Arden Place entrance. (Dr 2) (#11, p. 6 of 9/10/07 Statile letter).
(g)	Provide PVC under drains in bio-retention pond. (Dr 3a) (#2, p. 8 of 9/10/07 Statile letter).
(h)	Details for Culvert "C" provide (as per Statile's letter and Soil Conservation District). (See Dr 11) (#6, p. 8 of 9/10/07 Statile letter)
(I)	2 nd Manhole added to DS-D for maintenance. (Dr 10) (#8, p. 8 of 9/10/07 Statile letter).

REVISION 8

01/28/08 – Revised For Submission To Municipal Environmental Committee:
Made in compliance with conditions K and H of Resolution (#17, p. 7 of 9/10/07 Statile
letter and Condition H)

	Landscape plan revised to incorporate additional evergreen and deciduous trees and shrubs along northerly property line. (Dr 4)
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REVISION 9

02/18/08 - Trees Added As Per US Fish And Wildlife Requirements

	Additional trees within westerly wetland areas (Indiana Bat friendly species included). (Dr 4)
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REVISION 10

02/18/08 – Revised in Compliance with Condition K of Resolution (Environmental
Commission comments)

	Revise tree species as per Environmental Commission request (Landscape Plan – plant list). (Dr 4)
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REVISION 11

03/19/08 – Revised As Per NJDEP Request **(Dr 3a)**

	Application for permit modification. Replace limit of restricted tree removal line (revision 4) with apparent limits of old farming line.
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REVISION 12: Made in compliance with Condition H of Resolution/Environmental
Commission comments

(a)	Remove fence along northerly property line. (1 st Condition H)- (Dr 3a-4)
(b)	Split the 115 Grey Birch to 50% Hackberry and 50% Grey Birch. (2 nd Condition H)- (Dr 4)
(c)	Mix the shade trees along the street line to avoid a monoculture. (2 nd Condition H) - (Dr 4)

REVISION 13

04/09/08 – Revised As Per NJDEP Request Of 04/09/08

	Replace wetland line at Westerly side of property with flag locations and line in between the flags, adjust buffer line, recalculate transition areas dedication and reduction numbers, remove walking trails behind retaining wall. (Dr 3a)
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REVISION 14

05/15/08 – Revised As Per BCSCD Comments

(a)	Add hydraulic calculations to Soil Conservation District (Dr 7 and 8.)
(b)	Add rip rap and calculations to System “C” and Ell Road culvert. – (Dr 7)

REVISION 15 (Dr 5)

06/26/08 – Revised General Notes As Per Clients Request

(a)	Drawing 5 of 11, general note 28 revised (now 27). Maximum coverage 28%. (Dr 5)
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REVISION 16

08/11/08 – Miscellaneous Revisions Preparing For Final Submission **(Dr 2)**

(a)	Revision details and profile to incorporate additional data from additional testing from (Darmofalski's) report. (Dr 2) (later removed)
(b)	Provide test pit locations on the plans. (Dr 2) (later removed)

REVISION 17

01/05/09 – Revised As Per BCSCD Request

	Add rip-rap to bio-retention pond discharge point . (Dr 3a)
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REVISION 18

03/17/09 – Revised As Per BCSCD Request

(a)	Add note to Ell Road culvert detail. (Dr 11)
(b)	Add outflow path line onto scour hole discharge. Shows where water going → gone! ? old path under prior path (Dr 8)

REVISION 19

10/21/09 – Revised As Per BCSCD Request

	Add bio-retention pond details (Dr 6) .
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REVISION 20: Made in compliance with Conditions G, I and K of Resolution

(a)	Revise Arden Place entrance width to 22'. (Condition I (Dr 2))
(b)	Added fence around bio-retention pond. (Condition G) (Dr 2)
(c)	"Common open space" marked on plans. (Condition K) (Dr 3a) (#1, p. 5 of 9/10/07 Statile letter)

REVISION 21: Made in compliance with Conditions K and M of Resolution and Board Engineer's letter dated 1/14/11

(a)	Fence notes to include durable materials. (Condition M) (General Notes Dr 5)
(b)	Added shading and note for Milling of Ell Road. (Condition K) (Dr 2) (#7, p. 6 of 9/10/07 Statile letter)

REVISION 22

03/28/13

(a)	Removed rip-rap at bio retention pipe discharge point and at HWC2 midpoint per BCSCD. (Dr 3a)
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REVISION 23

05/28/13 – Revisions Per BCSCD

(a)	Revise bio-retention pond detail on Drawing 6 (remove rip-rap). (Dr 6)
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REVISION 24

06/17/13 – “Not For Construction” Note Removed On Drawing 6 As Per BCSCD Request **(Dr 6)**

REVISION 25

10/21/13 – Amended Location Of Scour Hole **(3a)**

(a)	Scour hole and retention wall locations revised (moved from Washington Township to Hillsdale), scour hole details revised for re-submission to NJDEP.
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REVISION 26

01/26/14 – Revised For General Permit Modification Application To NJDEP And Additional Minor Revisions

(a)	Change arch culvert to concrete elliptical pipe under Ell Road as per Town Engineer’s information. (Dr 2)
(b)	Detention System revised to be as approved under preliminary. (Details Drawing 10) (all)
(c)	Remove details pertaining to arch culvert under Ell Road. (Dr 11)
(d)	Move dog waste station and bench from Washington Township to Hillsdale. (Dr 3a)

Revision 27:

09/01/14:

(a)	Revise area around Ell Road elliptical pipe crossing to include enhanced information on existing Inflow and outflow culverts, existing catch basins, existing headwalls, and existing pipe under Ell Road. (Dr 2 & 7)
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(b)	Add Revision date (part of resubmission to BCSCD) (Dr 3a, 8 & 11)
(c)	Enlarged scour hole detail for easier read of dimensions per BCSCD request. (Dr 10)

Revision 28:

12/31/14:

(a)	Grading revisions for Units 38, 37, 34 and along municipal line to clarify independent grading within each municipality. (Dr 2, 7)
(b)	Shorten retaining wall behind #34 as per revised grading to clarify independent grading within each municipality. (Dr 2, 7)
(c)	(Dr 3a, 8) <ul style="list-style-type: none"> – Remove proposed grading within Lot 7 in Washington Township and along municipal line on Hillsdale side, behind Units 21-26. – Remove depiction of access to walking trail connection in Washington Township from stair behind 19. (access remains as in existing condition) – Eliminate improved walking trail within Washington Township terminating it at municipal line on Hillsdale side. (trails remain as in existing condition)
(d)	Fix typo on lighting detail. (Dr 5)
(e)	Darmolfalski test pit location notations removed (Dr2, 3a, 7, 8)
(f)	infiltration beds adjusted to be responsive to area needed on Hillsdale units only((between Units 20 and 21 (Dr 3a) and between Units 33 and 34 (Dr 2)).

Revision 29

1/29/16

(a)	Revisions to Infiltrator Beds at Units 1 through 12, 24, 25, 26, 27, 28, and 34
(b)	Reduction of infiltration

14. Mr. Zepponi testified that the Applicant applied for and received approvals from all governmental agencies having jurisdiction over the Application, to wit:

- Stream Encroachment Permit 0200-03-0003.2 FHA070001 dated December 27, 2007 (the Permit Extension Act has extended this approval to June 30, 2016). Modifications to the Stream Encroachment Permit are dated as follows: January 30, 2008 February 21, 2014 Modification; June 18, 2015 Modification; and March 3, 2016 Modification.
- Freshwater Wetlands Statewide General Permit No. 10A dated December 27, 2007. (By letter from DEP dated April 1, 2013, the GP10A was extended to December 26, 2017). Modified by DEP letter dated February 21, 2014 and March 3, 2016.
- Letter of Interpretation – Line Verification, File/Permit No. 0200-03-0003.3, FWW070001 dated June 9, 2008 (Permit Extension Act extends to June 30, 2016). [This is for Lot 7, Block 2101 in the Township of Washington] Letter of Interpretation - Line Verification/Re-Issuance, File/Permit No. 0200-06-0008.1, FWW070001, Block 2101, Lot 3Q, Township of Washington, Block 506, Lot 1 Borough of Hillsdale, dated June 9, 2008 (Permit Extension Act extends to June 30, 2016).
- Freshwater Wetlands Transition Area Waiver Averaging Plan and Transition Area Waiver for Redevelopment, File No. 0200-03-0003.2, FWW070003 and FWW070004. (modified by DEP by letter dated July 22, 2008, on extension by virtue of PEA, and modified March 3, 2016).
- Bergen County Planning: March 9, 2016 conditional approval of Phase 1 Plan by the County of Bergen, Department of Planning and Engineering. Phase 2 to be applied for at the time of application to

Washington Township.

- Sewer Extension Permit: By resolution certified as of September 3, 2008, the Council of the Borough of Hillsdale authorized execution of the Sewer Extension Permit to Caliber Builders. Copy of application to BCUA to be provided to Board Engineer upon submission by Caliber.
- The Bergen County Soil Conservation District, on March 28, 2016, approved the following plans, last revised January 29, 2016, in connection with the phasing of the subject project:
 - (i) Utility and Grading Plan (Phase 1), Sheet PH1-2
 - (ii) Utility and Grading Plan (Phase 1), Sheet PH1-3a
 - (iii) Details (Phase 1), Sheet PH1-11
 - (iv) Utility and Grading Plan, Sheet 2
 - (v) Utility and Grading Plan, Sheet 3a
 - (vi) Details, Sheet 11

The Applicant's Engineer provided a copy of an e-mail from the Bergen County Soil Conservation District dated April 17, 2015, which e-mail indicated that the Bergen County Soil Conservation District Board of Supervisors voted to affirm the recertification at the March 9, 2015 meeting; with approval of the affirmation occurring at the April 13, 2015 meeting.

15. There are six proposed dwellings that either are partially or fully within the Township of Washington, which dwellings are designated as Units 20, 29, 30, 31, 32 and 33 . Any work to be done in these units in terms of construction require approval from the appropriate land use board of the Township of Washington. In order for those dwellings to be constructed, the Applicant is required to obtain approval from the appropriate land use board of the Township of Washington. With respect to Unit 19 (in Hillsdale), the Applicant, to the extent required, may be required to return to the Hillsdale Planning Board for approval with respect to the height of the building if it is unable to grade within Washington Township.

16. In further support of the application, the Applicant had marked into evidence exhibits as follows:

Exhibit	Description	Marked/Moved into Evidence
A-1	Resolution of Preliminary Approval dated 1/29/08	8/25/15

A-2	Drawing 5 of 11 of Preliminary Approved Plan of 8/10/07 Site Plan	8/25/15
A-3	Approved Preliminary Plan dated 8/10/07 containing 11 sheets	8/25/15
A-4	Minor Subdivision and Site Plan for Golden Orchards, Revised Through 12/31/14 and containing 11 sheets	8/25/15
A-5	ENTEC Exhibit Board: U&G Drawings of the Phase 1 and 2 Plan (Sheets 2 and 3a) with 28 revisions through 12/31/14	8/25/15
A-6	Description of Plan Revisions	8/25/15
A-7	Statile (Board Engineer) Letter dated 9/10/07	8/25/15
A-8	ENTEC Board: Colored Rendering of Landscape Plan Drawing 4h of FSP, last revised to 10/21/13	8/25/15
A-9	NJDEP 6/9/08 Freshwater Wetlands Transition Area Averaging Plan and Transition Area Waiver for Redevelopment	8/25/15
A-10	NJDEP Modification Letter Dated 6/18/15	8/25/15
A-11	Minor Subdivision and Site Plan Phase 1 and 2 Combined Plan, last revised 1/29/16, containing 11 sheets	3/10/16

A-12	Site Plans - Phase 1 dated 12/31/14, last revised 1/29/16, containing 11 sheets	3/10/16
A-13	ENTEC Exhibit Board: Colored Rendering of U&G Drawing Sheets 2 and 3a of Phase 1 and 2 Combined Plan, last revised 1/29/16	3/10/16
A-14	ENTEC Exhibit Board: Landscape Plan Drawing Sheet 4h of Phase 1 and 2 Plan, last revised 2/29/16	3/10/16
A-15	ENTEC Exhibit Board: U&G Drawing Sheets 2 and 3a of Phase 1 Plan, last revised 1/29/16	3/10/16
A-16	ENTEC Exhibit Board: Landscape Drawing Sheet 4h of Phase 1 Plan, last revised 1/29/16	3/10/16
A-17	ENTEC Exhibit Board: U&G Drawing Sheets 2 and 3 of the Approved Preliminary Plan, dated 8/10/07, unrevised	3/10/16
A-18	ENTEC Exhibit Board: Landscape Plan, Sheet 4 of the Approved Preliminary Plan, dated 8/10/07, unrevised	3/10/16
A-19	Bowman Consulting Technical Review #2 Memorandum Letter dated 2/29/16	3/10/16

A-20	Environmental Commission Report dated 11/10/15	3/10/16
A-21	Huntington Bailey, LLP letter dated 2/18/16	3/10/16
A-22	Boyer (Langan Engineering - Geo-Technical) Resume	3/28/16
A-23	Langan Soil Test Pit Investigation Report, 5/22/14	3/28/16
A-24	Bowman Consulting Technical Review #1 Memorandum dated 10/1/15	3/28/16
A-25	Langan Response dated 2/18/16 to Bowman Consulting Technical Review #1 Memorandum	3/28/16
A-26	Test Pit Location Plan (enlarged on foam board), Figure 1 of Langan Report dated 5/22/14	3/28/16
A-27	Bowman Consulting Technical Review #3 Memorandum dated 5/6/16 Letter	5/9/16
A-28	Signed Settlement Agreement between Caliber and Northgate John J. Lamb letter of May 6, 2016, unmarked	5/9/16 5/9/16

17. The project is proposed to be constructed in two phases. Phase 1 will include 31 age restricted dwellings and roadway entirely located within the Borough of Hillsdale, including Unit 19 if a variance is not required in order to construct said dwelling. If a variance is required in connection with the construction of Unit 19, the Applicant will apply for all necessary relief from the appropriate land use board. Phase 2 will include six age

restricted units and a minor subdivision to construct a non-age restricted single family house, all of which are partially or entirely located in the Township of Washington. Each phase will be constructed upon obtaining the municipal approval of Hillsdale (Phase 1) and Hillsdale/Washington Township (Phase 2).

18. During the public hearing, certain members of the public expressed concerns over stormwater management. The concerns expressed by residents within the Borough of Hillsdale and the Township of Washington were addressed by either the Board's Engineer, Eric Keller, or the Applicant's Engineer, Alex Zepponi. The residents were advised that the Applicant received NJDEP approval in relation to its stormwater management plan.

19. In his report of May 6, 2016, Mr. Keller responded to an issue raised by one of the Planning Board members as to the appropriateness of the dates on which the test pits were dug by the Applicant. Mr. Keller performed research which revealed that the mean monthly rainfall amounts range from a low 3.06 inches in February to 4.65 inches in July. March and April have mean rainfall amounts of 3.93 inches per month, while June and September have means of 4.1 inches. While the months of June to September have the four highest rainfall amounts, they also are the periods when mean temperatures are the highest, resulting in increased evapotranspiration. That report went on to state that while the State stormwater regulations and guidance documents do not address when seasonable high water tables should be examined or how they should be examined, this information is contained in the "Standards for Individual Subsurface Sewage Disposal Systems", at N.J.A.C. 7:9A-5.8. These rules indicate that "during the months of January through April inclusive, water levels may be measured directly with soil profile pits or borings". This issue was addressed by Applicant's counsel in her letter of May 2, 2016, which provided background information as to some of the history of this issue. The Board Engineer was satisfied that the additional soil testings performed by Langan was done in accordance with condition D of the preliminary site plan approval granted by the Planning Board.

20. The Board Engineer confirmed that the following conditions of approval were satisfied by the Applicant, to wit:

- (A) This condition has been satisfied by the Applicant with the filing of the within application.
- (B) The various outside agency approvals have been provided, except for the Treatment Works Approval ("TWA"), which should be provided when obtained. The Applicant should provide the Board and the Board Engineer with copies of same, as well as the Board Secretary, when such application is filed with the Bergen County Utilities Authority ("BCUA") and the NJDEP.
- (C) The Phase 1 application does not propose any buildings within Washington Township. This condition is being carried forward by the

Planning Board.

- (D) This condition relating to soil testing has been addressed to the satisfaction of the Board Engineer, subject to the need for the developer to submit further revisions to the infiltration systems.
- (E) This condition regarding basements in areas of seasonal high water table are being continued and will be continued by the Planning Board in connection with the final site plan approval.
- (F) This condition regarding sprinkler systems is being continued through in the final site plan approval resolution.
- (G) Condition G has been addressed to the satisfaction of the Board Engineer. With respect to Condition G, which requires fencing around the on-site bio-retention basin, a four foot (4') high "paddock" fence of a PVC material and associated detail is depicted on the plans, satisfying this condition of approval in the opinion of the Board Engineer.
- (H) This condition regarding fencing along the northern property line is being continued in connection with final site plan approval. With respect to Condition H of the Resolution prohibiting the installation of fencing along the northerly boundary of the property to allow for the free passage of wildlife, the plan, aside from the fencing required to satisfy Condition G above, as well as safety fencing along the retaining wall behind Unit 17-B in the same general area, complies with this directive, in the opinion of the Board Engineer.
- (I) Condition I placed certain requirements on the improvements to Arden Place (22 foot pavement width) and Ell Road (milling and resurfacing) which are reflected on the site plan to the satisfaction of the Board Engineer.
- (H) Condition H (the second Condition H) required the recommendations of the Hillsdale Environmental Commission regarding the reforestation and landscaping to be incorporated in the plans. The Board Engineer opined that Revision 12 dated March 28, 2008 responded to the recommendations in satisfaction of this condition of approval. The Applicant agreed to comply with all comments from the Environmental Commission in their memorandum dated 11/10/15. Under the Approved Plan, the Applicant is removing 598 trees, resulting in an obligation to replant 1,196 trees in accordance with §310-133 et. seq. of the Borough's Land Use Ordinance. The Applicant is replanting 711 trees, resulting in a deficiency of 485 trees. The

Applicant agrees that there shall be a payment made to the Borough's tree fund in lieu of reforestation/replanting, which payment amount shall be determined by the Board Engineer, who shall determine what credit, if any, shall be given to Caliber for any trees not removed as permitted under the Approved Plan. The Borough Administrator shall receive a copy of this Resolution and shall be notified by the Board Engineer as to the amount to be remitted by the Applicant to the Borough tree fund.

- (I) (2nd Paragraph I in Resolution) Condition I regards a finding by the Planning Board of substantial changes to the Preliminary Site Plan approval. Based on the extensive review by the Board Engineer and testimony elicited during the course of the hearings from the Applicant's Engineer, the Board Engineer opined that there have not been substantial changes to the site plan and that, therefore, amended preliminary approval is not required. The Board agreed with the recommendations of the Board Engineer.
- (J) The condition regarding organic fertilizers shall be continued in connection with final site plan approval.
- (K) Condition K required the comments contained in the Board Engineer's review dated September 10, 2007 be incorporated into the site plan. The Board Engineer stated that Revision No. 7 dated January 6, 2008 responded to those comments, with which the Board Engineer concurred, thereby satisfying this condition of approval. Condition K was addressed to the satisfaction of the Board Engineer.
- (L) The deed restriction for the wetlands and associated modified transition areas has been filed and recorded with the Bergen County Clerk.
- (M) Condition M requires durable fencing to be provided along the tops of all retaining walls. The retaining walls on-site all depict "paddock" fencing "of wood or plastic" construction, which the Board Engineer opined to be satisfactory in order to satisfy this condition of approval. The Board Engineer recommended and the Board accepted that recommendation, as did the Applicant, that PVC shall be the material utilized by the Applicant. The condition regarding fencing at the top of retaining walls has been addressed by the Applicant, indicating PVC fence to be installed, which the Planning Board affirmed is acceptable and is a condition of final site plan approval.
- (N) The Resolution, at Condition N, required the Applicant to make a contribution toward the Borough of Hillsdale's Affordable Housing

Trust Fund in accordance with Borough Ordinance §310-67I requiring a payment in lieu of construction of affordable housing units at a cost of \$34,117.00 per unit. Such condition regarding affordable housing fees was continued as a result of the final site plan approval. The Applicant specifically agreed that notwithstanding the uncertainty of affordable housing in the State of New Jersey, that at the time of the approval in 2008, the aforesaid Condition was required by the Board and the Borough's Ordinance and agreed to by the Applicant. The Applicant agreed that Condition N is continued as a condition of final site plan approval and it will fully abide by such Condition, as more fully set forth herein. Despite the uncertainty of affordable housing, the Borough of Hillsdale has an ongoing constitutional obligation to provide affordable housing. The subject project has been a mechanism in the Borough's compliance strategy since the preliminary approval in 2008 and it will provide necessary funding to produce and administer affordable housing. The Applicant specifically agreed that it will abide by the Borough Ordinance, which requires contributions of \$34,117.00 for each age-restricted unit constructed by the Applicant within the Borough of Hillsdale. There are 31 age-restricted units proposed within the Borough of Hillsdale and 6 units which straddle the Borough of Hillsdale and the Township of Washington. As to the dwellings/units constructed within the Borough of Hillsdale, the Applicant agreed, to pay \$34,117.00 to the Borough of Hillsdale per dwelling/unit as a condition of final approval as follows: (1) The Applicant shall remit 50% of \$34,117.00 for each dwelling/unit which is the subject of a building permit issued by the Hillsdale Building Department, which amount is payable by the Applicant prior to the permit being issued and; (2) the remaining 50% of \$34,117.00 shall be remitted by the Applicant prior to the issuance of a Certificate of Occupancy for each dwelling/unit which is the subject of such Certificate of Occupancy issued by the Building Department of the Borough of Hillsdale. Such contributions will be remitted to the Borough's Affordable Housing Trust Fund.

- (O) With regard to Condition O, which requires the Applicant to recalculate and confirm the proposed impervious coverage when submitting for final approval, the site plan, on Sheet 2, published an impervious coverage calculation, to the satisfaction and approval of the Board Engineer. This condition regarding impervious coverage calculations is being continued in connection with the final site plan approval.
- (P) Condition P relating to soil testing was addressed to the satisfaction of the Board Engineer, subject to the additional testing that may be necessary on the infiltration systems and individual plot plans.

- (Q) Condition Q of the Resolution requires that a jurisdictional determination be submitted to the NJDEP, Bureau of Dam Safety, as to whether the proposed bio-retention basin should be classified as a dam and, if so, what its classification would be. The Board Engineer was provided with a copy of a July 15, 2008 letter from the Bureau of Dam Safety and Flood Control confirming that the bio-retention basin is not a dam, in satisfaction of this condition. Condition Q has been satisfied, as the NJDEP has determined that the bio-retention basin is not a dam.
- (R) Condition R regarding all improvements in the area of Arden Place are to be within the right-of-way is being continued in connection with the final site plan approval.
- (S) Condition S regarding a developer's agreement is being continued in connection with the final site plan approval.
- (T) Condition T regarding a maintenance guarantee is being continued in connection with the final site plan approval.
- (U) Condition U regarding subject deeds is being continued in connection with the final site plan approval.
- (V) Condition V regarding the creation of a homeowners association is being continued in connection with the final site plan approval.
- (W) Condition W regarding the replacement of existing curbing and sidewalks around the site is being continued in connection with the final site plan approval.
- ~~(X)~~ Condition X regarding compliance with directions from the Construction Code Official and the Board Engineer is being continued in connection with the final site plan approval.
- (Y) Condition Y regarding the preparation of an as built survey is being continued in connection with the final site plan approval, in addition to the individual plot plans.
- (Z) Condition Z regarding the posting of sufficient escrows is being continued in connection with the final site plan approval.
- (AA) Condition AA regarding compliance with building codes and ordinances of the Borough is being continued in connection with the final site plan approval.

- (BB) Condition BB regarding construction activities is being continued in connection with the final site plan approval.
- (CC) Condition CC regarding posting of a performance bond is being continued in connection with the final site plan approval.
- (DD) Condition DD regarding obtaining all necessary governmental and approvals is being continued in connection with the final site plan approval.
- (EE) Condition EE is duplicative with Condition AA and is being incorporated into a single condition.
- (FF) Condition FF regarding to submit revised plans has been addressed, per the Board Engineer, by other conditions that the Board Engineer suggested above. The Applicant agreed to submit revised plans to the Board in advance of the adoption of the appropriate resolution.

21. The Board Engineer, in his report of February 29, 2016, confirmed that of the 32 conditions of preliminary approval, only ten of those conditions required revisions to the site plans. There are many conditions, in the opinion of the Board Engineer, that are considered either administrative (providing copies of all outside agency approvals, filing of deeds, posting of fees, etc.) or procedural (entering into a developer's agreement, filing for final site plan approval, filing of an as built survey, etc.). In his February 29, 2016 report, the Board Engineer confirmed that the redesign of the infiltrator beds for Units 1-12, 24-28 and 34-37 address a number of concerns with respect to the soil logs that were performed by Langan associated with such units. The Langan Memorandum dated February 18, 2016 indicated that various infiltrator units should be raised so that the soil test data would provide sufficient depth to address required design parameters. The Board Engineer deemed same to be acceptable pending additional notes and information on the plans to indicate the inverts of the individual infiltrator units to eliminate uncertainty as to the proposed design.

22. With respect to Units 1-12, 24-28 and 34, the infiltrator units have been raised in order to address the concerns of the Board Engineer, including, but not limited to as set forth in his review letters. The infiltrator units are also provided with an overflow pipe, such that when the infiltrator fills, additional roof runoff is directed into the stormwater collection system downstream of the detention basin serving that portion of the development.

23. The testimony was that 598 trees will be removed by the Applicant and the site will be cleared accordingly. Borough Ordinance requires a two-to-one replacement, which translates into 1,196 trees. Same is carried forward and represents the required tree replacement by the Applicant. The Applicant agreed, as a condition of approval, to comply with the Environmental Commission's recommendations as contained in its November

2015 report, as well as the Borough's Ordinance respecting the replacement of trees.

24. Counsel for Northgate issued a letter to the Board dated May 6, 2016, which was circulated to the Board in advance of and referred to at the May 9, 2016 hearing. Said letter was unmarked at the May 9, 2016 hearing and is incorporated herein by reference. In relevant part, in that letter, counsel for Northgate requested the following, which were agreed to by the Applicant:

- (a) Additional soil tests will be performed if required by the Board Engineer, Eric Keller. Northgate is to be kept apprised of any changes by Applicant and Mr. Keller at no cost to Northgate to the plans in order for Northgate to monitor and ensure that there are no substantial changes to this revised stormwater management system and that such revisions are in accordance with the Settlement Agreement entered into between Northgate and the Applicant.
- (b) Northgate, in its attorney's letter of May 6, 2016, confirmed that settlement is in part predicated upon Eric Keller making field inspections and municipal inspections post-approval.
- (c) To the extent of any relocation of the proposed infiltration systems located in the Borough of Hillsdale, as reflected on the approved Final Site Plan for Phase 1, and as reflected on the Approved Final Site Plan for Phase 1 and 2, Eric Keller shall determine if any additional soil test pits are necessary to ensure that the systems are placed above the seasonal high water table, and shall approve the depths of any such required test pits.
- (d) Caliber shall notify Northgate of any determination by the Board's/Borough's Engineer that there has been a substantial or material modification to the location of the proposed infiltration systems from their approved locations and depths.
- (e) To the extent there are any changes to the proposed infiltration systems located in the Borough of Hillsdale, as reflected on the approved Final Site Plan for Phase 1, and as reflected on the Approved Final Site Plan for Phase 1 and 2, Caliber shall: (1) provide Northgate's counsel with a copy of any revisions at the time of submission to the Board and its professionals, and Mr. Keller shall notify Northgate whether or not there are changes he deems substantial; and (2) provide an As-Built survey to Counsel for Northgate which shall include a depiction of any such changes.

- (f) Christopher Statile, P.E. is the appointed Engineer to the Board. Mr. Statile also serves as the Township Engineer in Washington Township. Washington Township owns property within 200 feet of the property which is the subject of the Application, as a result of which a conflict of interest exists. At the June 23, 2015 meeting of the Board, Mr. Statile voluntarily recused himself from providing engineering services to the Board on the Application given the existence of a potential conflict of interest, as reflected in Resolution No. 2015-20 adopted by the Board on or about July 28, 2015. The Board appointed Eric L. Keller, PE, PP to serve as the engineer and to provide engineering services to the Board on the Application. Given Mr. Statile's continued position as the Engineer in Washington Township, coupled with the fact that certain approved units straddle Hillsdale and Washington Township, the conflict remains and Mr. Statile is unable to provide engineering services on the Application, post approval, to the Borough of Hillsdale. As a result of the foregoing, as well as the request made by Northgate in correspondence dated May 6, 2016 and presented to the Board, the Board determined that Mr. Keller should continue to act as Engineer on behalf of the Board as to any matter remaining in the jurisdiction of the Board on the Application and the Board also recommended that post-approval engineering services be handled by Mr. Keller, as may be memorialized in a Developer's Agreement to be executed between the Applicant and the Borough of Hillsdale.

NOW THEREFORE, the Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

1. The Application before the Board is a request for final site plan approval pursuant to N.J.S.A. 40:55D-50.
2. The Applicant has demonstrated, to the satisfaction of the Board and based on the testimony and documentary evidence provided by the Applicant, that there are no substantial changes between preliminary and final site plan approval and the Applicant has satisfied the conditions of preliminary approval. Therefore, the Applicant is entitled to final site plan approval, subject to the conditions.

NOW THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Hillsdale that the application of Caliber Builders, Inc., for Block 506, Lot 1 as shown on the Tax Map of the Borough of Hillsdale is granted final site plan approval to permit the construction of age restricted single family dwellings in two phases, subject to the following terms and conditions:

1. Compliance with testimony presented at the August 25, 2015, March 10, 2016, March 28, 2016, and May 9, 2016 public hearings, as well as all recommendations

of the Board and Board's engineer, as may be contained in the reports issued by the Board Engineer, Eric Keller, PE.

2. Revised plans, storm water management reports and or such other documents required by the Board or Board Engineer and submitted for review for conformance with this Resolution shall:

- (a) Be submitted in complete sets (no partial sets of plans and documents shall be accepted; and
 - ~~(b)~~ Be accompanied by a cover letter that lists every change and/or revision pursuant to this resolution. In addition, all plan revisions shall be clearly identified ("clouded" or similar treatment, and numbered). Revised plans and/or other reports that are not accompanied by such a cover letter shall be returned without further review or comment.
 - (c) All conditions of approval shall be specifically identified on the Plans.
3. The Applicant shall comply with all applicable ordinances of the Borough of Hillsdale and all applicable Federal, State and County requirements.
 4. The Applicant shall comply with the Environmental Commission's comments as contained in its November 10, 2015 report.
 5. The Applicant shall comply with the Borough's Ordinance respecting the replacement of trees and/or Tree bank contribution.
 6. The Applicant will file all appropriate deed restrictions for all wetland/transition areas on site.
 7. The Resolution, at Condition N, required the Applicant to make a contribution toward the Borough of Hillsdale's Affordable Housing Trust Fund in accordance with Borough Ordinance §310-67I requiring a payment in lieu of construction of affordable housing units at a cost of \$34,117.00 per unit. Such condition regarding affordable housing fees was continued as a result of the final site plan approval. The Applicant specifically agreed that notwithstanding the uncertainty of affordable housing in the State of New Jersey, that at the time of the approval in 2008, the aforesaid Condition was required by the Board and the Borough's Ordinance and agreed to by the Applicant. The Applicant agreed that Condition N is continued as a condition of final site plan approval and it will fully abide by such Condition, as more fully set forth herein. Despite the uncertainty of affordable housing,

the Borough of Hillsdale has an ongoing constitutional obligation to provide affordable housing. The subject project has been a mechanism in the Borough's compliance strategy since the preliminary approval in 2008 and it will provide necessary funding to produce and administer affordable housing. The Applicant specifically agreed that it will abide by the Borough Ordinance, which requires contributions of \$34,117.00 for each age-restricted unit constructed by the Applicant within the Borough of Hillsdale. There are 31 age-restricted units proposed within the Borough of Hillsdale and 6 units which straddle the Borough of Hillsdale and the Township of Washington. As to the dwellings/units constructed within the Borough of Hillsdale, the Applicant agreed, to pay \$34,117.00 to the Borough of Hillsdale per dwelling/unit as a condition of final approval as follows: (1) The Applicant shall remit 50% of \$34,117.00 for each dwelling/unit which is the subject of a building permit issued by the Hillsdale Building Department, which amount is payable by the Applicant prior to the permit being issued and; (2) the remaining 50% of \$34,117.00 shall be remitted by the Applicant prior to the issuance of a Certificate of Occupancy for each dwelling/unit which is the subject of such Certificate of Occupancy issued by the Building Department of the Borough of Hillsdale . Such contributions will be remitted to the Borough's Affordable Housing Trust Fund.

8. With respect to the ADA ramps to be installed, same will be handled by Bowman Consulting as set forth in the Bergen County Planning Board approval.
9. A homeowners' association shall be created by the Applicant in order to maintain the stormwater management system, infiltration systems, landscaping , other improvements and the private roadway and all other common areas of the association. A copy of the Declaration of Covenants and/or Restrictions or governing documents for the association shall be provided to counsel for the Board for review and approval in advance of recordation with the Register of the County of Bergen. The governing documents shall have an operations and maintenance manual for the stormwater facilities attached to same. The governing documents shall specifically provide that if the homeowners' association fails to maintain the storm water management system, then the Borough of Hillsdale may, without any obligation and its' sole election, maintain the storm water management system at the sole cost of the association to be formed to manage same.
10. An as-built survey shall be prepared for each home within Hillsdale to be constructed by the Applicant, which shall include impervious

coverage calculations.

11. The Board conditions the grant of final approval on compliance by the Applicant of the terms and conditions of the Settlement Agreement entered into between Northgate Condominium Association, Inc. and Caliber Builders, Inc. dated March 2, 2016 (Exhibit A-28). A copy of same is on file with the Borough offices and with the Board Attorney. Such Agreement is incorporated herein by reference.
12. If the Applicant changes the site plan approved by the Planning Board, NorthGate Condominium Association, Inc. must be kept informed of all such changes. Eric Keller of Bowman will conduct all necessary inspections. The Applicant shall keep the attorney for Northgate Condominium Association informed as this matter moves forward.
13. The Applicant agrees to all conditions as identified in the letter of May 6, 2016 prepared by John J. Lamb, Esq. and the reports prepared by Eric Keller on behalf of the Board.
14. The Applicant shall enter into a developer's agreement with the Borough of Hillsdale and the Planning Board.
15. The Applicant shall incorporate all data regarding the test pits and redesign and infiltrators, and submit revised plans to Eric Keller in advance of the Board's adoption of the appropriate resolution.
16. With respect to condition M as contained in the 2008 resolution, the Applicant agrees to install PVC fencing.
17. The Applicant will work with the Environmental Commission in terms of the deficiency in the trees to be planted on the site or contribution toward the Borough of Hillsdale's tree bank. The Applicant will specifically work with the Environmental Commission regarding the types and species of trees to be replanted.
18. All conditions of approval shall be identified on the site plan by the Applicant's Engineer, which plans are to be approved by Eric Keller on behalf of the Planning Board.
19. Plot plans are to be submitted to the Board Engineer for review and approval for each home site prior to construction. These plot plans are to address the specific home design and its layout, grading, infiltrator design, impervious coverage (both individual and cumulative) and landscaping. Additional soil logs in the specific location of the infiltrator are to be performed if required by the Board Engineer.

20. Prior to construction, the municipal boundary line is to be staked. A construction fence should be installed along the boundary line.
21. The site plans are to be revised to include a table of the infiltrator elevations and dimensions (per memorandum of March 25, 2016). A note is to be included that cleanouts are to be provided at 75 foot intervals along the leader pipes.
22. A copy of final County approval and TWA approval are to be provided to the Board when obtained.
23. The Applicant shall secure a construction permit from United (Suez) Water for the water main construction. United (Suez) has a Master Permit and NJDEP approval is not required.
24. The construction of Building 19 may trigger a return to the Planning Board for a height variance if fill cannot be placed in Washington Township to reduce/eliminate the proposed retaining wall at the foundation of this home.
25. Street trees are to be relocated to avoid conflicts with the storm header pipes and other underground utilities.
26. The Applicant shall stake all limits of clearing and grading before tree clearing occurs; identify trees that can be saved and install tree protection fencing.
27. No tree clearing can take place on the western portion of the site (beyond the "Apparent Limits of Old Farming Grading") between April 1 and September 30.
28. An engineer's estimate is to be prepared that identifies all work to be performed onsite and off-site (outside the County right-of-way) for the purposes of determining the performance bond requirements and engineering inspection escrow. Engineering escrow may be submitted in 25 percent increments in accordance with the Municipal Land Use Law requirements.
29. If tree clearing is to proceed prior to all outside agency approval obtained (if permitted by the Borough), a restoration bond is to be calculated and posted with the Borough to permit respreading of topsoil and planting of trees.
30. Retaining walls four feet and greater (4' >) require a building permit, are to be designed by a NJ professional engineer and are to be certified

by a NJ professional engineer as being constructed in accordance with the approved plans.

- 31. All buildings are to be 6 inch commercial gutters installed.
- 32. Developers Agreement is to be prepared by the Board Attorney and approved by the Borough Council.
- 33. An Operations and Maintenance Manual is to be prepared addressing all of the stormwater management facilities on site. Annual reports are to be filed with the Municipal Engineer.

BE IT FURTHER RESOLVED that the Chairman, Vice Chairman and Secretary of the Planning Board are hereby authorized to affix their signatures to this Resolution granting final site plan approval to the Applicant, Caliber Builders, Inc., and the Board Secretary is authorized to advertise the action taken by way of this Resolution in a local newspaper; and, further, the Secretary of the Board is authorized to send copies of this Resolution to the Construction Code Official and to the Applicant, through Applicant's Attorney, Siobhan Spillane Bailey, Esq. of Huntington Bailey.

MOVED BY: Zołtan Horvath

SECONDED BY: Fred Franco

VOTE: FOR 5 AGAINST 2 ABSTAIN 1

MEMORIALIZATION VOTE:

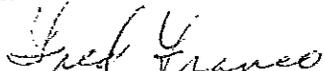
MOVED BY: Zołtan Horvath

SECONDED BY: Fred Franco

VOTE: FOR 5 AGAINST 0 ABSTAIN 0

APPROVED

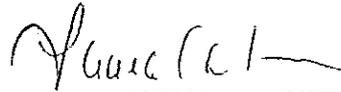
Attest:



Fred Franco, Secretary



Michael Giancarlo, Chair



Laura Calabria, Vice-Chair

I certify that the foregoing is a true copy of the Resolution adopted on



Fred Franco, Secretary

Dated: June 9, 2016