

information required pursuant to C.1 through C.3 and pursuant to the occupancy selection procedures included in Section 502.A. Households shall be certified for affordable units using the procedures outlined in Section 502.B. The process described in C.1 through C.3 shall be continued until all the low and moderate income units are occupied.

D. Procedures Following Initial Occupancy.

Following the initial sale or rental of affordable units the Administrative Entity shall:

1. Maintain a current pool of at least five (5) income eligible applicants for each low and moderate income unit.
2. Contact each income eligible applicant annually to request updated information regarding income and family size.
3. As units become available, the Administrative Entity shall select eligible applicants for the units as described in C.2 through C.4 above until the units are occupied by low and moderate income households.

E. Responsibilities.

1. The Administrative Entity has the responsibility to income qualify low and moderate income households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with advertising and outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan. The Administrative Entity shall also provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord tenant law.
2. All developers shall submit an affirmative marketing plan for marketing low and moderate income units that conforms to this Section. The affirmative marketing plan shall be subject to review by the Administrative Entity and shall be incorporated as a condition of approval in the development application. The developer shall also be responsible for the following unless such responsibilities are waived by the Administrative Entity:
  - a. Submission of an affordable housing plan to the Administrative Entity for approval and submission of proofs of publication to ensure compliance with said plan.
  - b. The marketing of all low and moderate income units in accordance with the requirements of this Article.
  - c. Submissions of quarterly reports to the Administrative Entity detailing the number of low and moderate income households who have signed leases, as well as the number who have taken occupancy of lower income units, including household size, number of bedrooms in the unit, sales price and monthly carrying costs or, in the case of rental units, the monthly rental charges and utilities included.
3. The developer of affordable housing units shall be responsible for returning all applicant and sales records for affordable units to the Administrative Entity in order to aid in reporting COAH and to aid in the evaluation of the affirmative marketing program.
4. The developer's responsibilities hereunder shall be assumed by the landlord and shall be performed by the landlord so long as such unit is a rental low and moderate income unit and subject to the restrictions of this Article.

**Section 505. Severability.**

If any section, paragraph, subdivision, clause or provision of this Article shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Article shall remain in full force and effect.

**ARTICLE 6**

**ADMINISTRATION, PROCEDURES, AND DEVELOPMENT APPLICATIONS**

**Section 601. Establishment of Planning Board.**

**A. Membership.**

The Planning Board shall have nine (9) members consisting of the following four (4) classes:

- |            |  |
|------------|--|
| Class I.   | The Mayor.   |
| Class II.  | One of the officials of the Municipality other than a member of the Borough Council to be appointed by the Mayor, preferably the Zoning Officer.   |
| Class III. | A member of the Borough Council to be appointed by the Council.  |
| Class IV.  | Six (6) other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:55A-1 shall be a Class IV Planning Board Member. |

**B. Terms.**

The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first. The terms of the Class IV members shall be for four (4) years, except in the case of the Class IV member who is also a member of the Environmental Commission, whose term shall either terminate at the completion of his term as a member of the Environmental Commission or shall be for three (3) years, whichever occurs first. All terms shall run from January 1 of the year in which the appointment is made.

**C. Vacancies and Removals.**

If a vacancy in any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term only. Any member other than a Class I member, after a public hearing if he requests it, may be removed by the Borough Council for cause.

**D. Organization of Board.**

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary who may be either a member of the Planning Board or a municipal employee designated by it.

**E. Alternate Members.**

The Mayor may appoint up to two (2) alternate members of the Planning Board. The alternates shall meet the qualifications for Class IV members. Alternate members shall be designated by the Mayor at the time of their appointment as "Alternate No. 1" and; "Alternate No. 2". The terms of the alternate members shall be for two (2) years each and shall be such that the term of not more

than one (1) alternate member shall expire in any given year provided that no alternate member shall be appointed for a term exceeding two (2) years. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

F. Conflict of Interest.

No regular or alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matters nor participate in any discussion or decision relating thereto.

G. Planning Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney who shall be an attorney other than the Borough attorney.

H. Experts and Staff.

The Planning Board may also employ or contract for the services of experts and such other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.

I. Powers and Duties Generally.

The Planning Board shall annually adopt by-laws governing its procedural operations. It shall also have the following powers and duties:

1. To make and adopt and from time to time amend a Master Plan to guide the use of land within the Borough in accordance with the provisions of N.J.S.A. 40:55D-28.
2. To administer the site plan and subdivision review provisions of this Ordinance in accordance with the provisions of this Ordinance and the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.).
3. To participate in the preparation and review of programs or plans required of the Planning Board by State or Federal law or regulations.
4. To assemble data on a continuing basis as part of a continuous planning process.
5. Upon request, to assist the Borough Council in preparation of a program of municipal capital improvement projects and amendments thereto.
6. To consider and make a report to the Borough Council within thirty-five (35) days after referrals as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26 (a), and also pass upon other matters specifically referred to the Planning Board by the Mayor and Borough Council, pursuant to the provisions of N.J.S.A. 40:55D-26 (b).
7. To review applications for approval of conditional uses.
8. To perform such other advisory duties as are assigned to it by Ordinance or resolution of the Borough Council for the aid and assistance of the Borough Council or other municipal agencies or officers.

J. Additional Powers.

The Planning Board, without the participation of the Class I and Class III members, shall constitute the Zoning Board of Adjustment and be subject to the same restrictions and statutory powers of same. These statutory powers include the powers to:

1. Direct, pursuant to N.J.S.A. 40:55D-34, the issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
2. Direct, pursuant to N.J.S.A. 40:55D-36, the issuance of a permit for a building or structure not related to a street meeting the requirements of N.J.S.A. 40:55D-35.
3. Hear and decide appeals where it is alleged by the appellant that there is error in any order, required decision or refusal made by a Borough officer or agency based on or made in the enforcement of this Ordinance. The Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the Borough officer from whom the appeal is taken.
4. Hear and decide requests for interpretation of the Zoning Map or of this Ordinance or for decisions upon other special questions upon which the Board is authorized to pass.
5. When the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, the Board may grant a variance from such strict application of such regulation so as to relieve such difficulties or hardship when one of the following reasons exists:
  - a. Exceptional narrowness, shallowness, or shape of a specific piece of property; or
  - b. Exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or
  - c. An extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon; or
  - d. The purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-2) would be advanced by a deviation from the zoning requirements and the benefits of the deviation would substantially outweigh any detriment, provided, however, that no variance from those departures enumerated in Section 601.J.6 herein below shall be granted under this subsection. Economic reasons can not be considered for the purpose of granting a variance.
6. In particular cases and for special reasons, grant a variance to allow departure from the zoning regulations to permit:
  - a. A use or principal structure in a district restricted against such use or principal structure.
  - b. An expansion of a nonconforming use.
  - c. Deviation from a specification or standard pertaining solely to a conditional use.
  - d. An increase in the permitted floor area ratio.
  - e. An increase in the permitted density except as applied to the required lot area for a lot(s) for detached one (1) or two (2) dwelling unit buildings which lot(s) is either an isolated, undersized lot(s) or a lot(s) resulting from a minor subdivision.
  - f. A height of a principal structure that exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure.

A variance under this subsection shall be granted only by affirmative vote of at least five (5) members. No variance or other relief may be granted under the terms of this Section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Map and the Land Use and Development Ordinance.

7. If an application for development requests one or more variances, but not a variance for a purpose enumerated in Section 601.J.6. herein, the decision on the requested variance or variances shall be rendered under Section 601.J.5. of this Ordinance.

An application under this Section may be referred to any appropriate person or agency for its report provided that such reference shall not extend the period of time within which the Board shall act.

Whenever relief is requested pursuant to this Section, notice of a hearing on the application for development shall include reference to the request for the variance or direction for the issuance of a permit, as the case may be.

The developer may elect to submit a separate application requesting approval of the variance or direction for the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction for the issuance of a permit shall be conditioned upon the granting of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zoning Map and Land Use and Development Ordinance. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided by law for the approval in question and the special vote required for a variance pursuant to N.J.S.A. 40:55D-70d (Section 601.J.6. herein) shall not be required.

#### **Section 602. Procedures.**

##### **A. Meetings.**

1. Meetings of the Planning Board shall be scheduled no less than once a month and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
2. Special meetings may be provided for at the call of the Chairman or on the request of any two (2) Board members, which meetings shall be held on notice to the members and the public in accordance with all applicable legal requirements.
3. No action shall be taken at any meeting without a quorum being present, said quorum to be the majority of the full authorized membership of the Board. All actions shall be by majority vote of the members of the municipal agency present at the meeting except as otherwise required in N.J.S.A. 40:55D-17, 26, 32, 34, 62, 63 and 70.
4. All actions shall be taken by majority vote of the members of the Board present at the meeting except as otherwise required by this Ordinance or by a provision of N.J.S.A. 40:55D-1 et seq. A member of the Board who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted, notwithstanding his absence therefrom, provided that such Board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the Board that he has read such transcript or listened to such recording.
5. All regular meetings and all special meetings shall be open to the public, except as provided in the Open Public Meeting Law C.231, Laws of New Jersey, 1975. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Law C.231, Laws of New Jersey, 1975.
6. For the purposes of this Article, the Administrative Officer designated herein shall be the Secretary of the Planning Board.

B. Public Hearings.

1. The Planning Board shall hold a hearing on each application for development. The Board shall make rules governing such hearings.
2. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the office of the Administrative Officer. The applicant may produce any documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
3. The officer presiding at the hearing, or such person as he may designate, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law", P.L. 1953, C.38 (C.2A:67A-1 et seq.) shall apply.
4. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, or such other person as he may designate, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and reasonable limitations as to time and number of witnesses.
5. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

C. Public Notice of a Hearing.

1. Public notice of a hearing shall be given for the following applications for development:
  - a. Any request for a variance.
  - b. Any request for conditional use approval.
  - c. Any request for issuance of a permit to build within the bed of a mapped street or public drainageway or on a lot not abutting a street.
  - d. Any request for site plan and/or subdivision approval involving one (1) or more of the aforesaid elements.
  - e. Any request for preliminary approval of a major subdivision and/or major site plan.
  - f. Any request for approval of a planned development.
  - g. Any requests of a Certificate of Nonconformity or appeal of same from the Zoning Officer.
2. The Administrative Officer shall notify the applicant at least two (2) weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the applicant at least ten (10) days prior to the date of the hearing in the following manner:
  - a. By publication in the official newspaper of the Borough.
  - b. By notification by personal service or certified mail to the entities listed below. The applicant shall file an affidavit of proof that the required notification was given, with the municipal agency at, or prior to, the hearing. It is not required that a return receipt is obtained. Notice shall be deemed complete upon mailing to (N.J.S.A. 40:55D-14):
    - (1) All owners of real property as shown on the current tax duplicate, located in the State and within two-hundred (200) feet in all directions of the property which is the subject of the hearing; provided that this requirement shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it; or the horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it.

- (a) Notice to a partnership owner may be made by service upon any partner.
  - (b) Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
  - (c) Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within two-hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common element or areas.
- (2) The Clerk of any adjoining municipality or municipalities when the property involved is within two hundred (200) feet of said adjoining municipality or municipalities.
  - (3) The Hunterdon County Planning Board when the application for development involves property adjacent to an existing County road proposed road as shown on the County Official Map or County Master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary.
  - (4) The Commissioner of Transportation of the State of New Jersey when the property abuts a State highway.
  - (5) The State Planning Commission when the hearing involves an application for the development of property which exceeds one-hundred and fifty (150) acres or five hundred (500) dwelling units, in which case the notice shall include a copy of any maps or documents required to be filed with the Borough.
  - (6) Any public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality pursuant to N.J.S.A. 40:55D-12.1, by service upon the person named on the registration form at the address shown on the registration form.
- 3. Upon the written request of an applicant, the Borough Tax Assessor shall, within seven (7) days, make and certify a list from current tax duplicates of names and addresses of owners and registered public utilities and cable television companies within the Borough to whom the applicant is required to give notice. The applicant shall be charged twenty-five cents (\$0.25) per name or ten dollars (\$10.00), whichever is greater, for said list and shall be entitled to rely upon the information contained in such list, and failure to give notice to any lot owner or public utility or cable television company not on the list shall not invalidate any hearing or proceeding. Additionally, the applicant shall be responsible for giving proper notice to all property owners within two hundred (200) feet of the property, which is the subject of the hearing, who do not reside within the Borough.
  - 4. The notice shall state the date, time and place of the hearings and the nature of the matters to be discussed, and an identification of the property proposed for development by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the Borough Tax Assessor's office, and the location and times at which any maps or documents for which approval is sought are available for inspection.

D. Records.

- 1. Minutes of every regular or special meeting shall be kept and shall include the names and addresses of the persons appearing and addressing the Board and any persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available, after approval by the Board, for public inspection during the normal business hours at the office of the Administrative

Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes as specified by Ordinance or Statute.

2. A verbatim recording shall be made of every hearing. The recording of the proceedings shall be made either by stenographer, mechanical or electrical means. The municipality shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at their expense, provided that the charge for a transcript shall not exceed the maximum amount permitted in N.J.S.A. 2A:11-15 and as specified by Ordinance. Each transcript shall be certified in writing by the transcriber to be accurate.

E. Decisions.

1. Each decision on any application for development shall be reduced to writing by the Board and shall include findings of facts and conclusions based thereon.
2. The Board shall provide the findings and conclusions through:
  - a. A resolution adopted at a meeting held within the time period provided in this Ordinance for action by the Board on the application for development (see Sections 603.C, 605.C, 606.C, or 607.B); or
  - b. A memorializing resolution adopted at a meeting held no later than forty-five (45) days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9 (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.
3. The vote on any memorializing resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the required mailings, filings and publications.
4. If the Board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the Board to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorney fees, shall be assessed against the municipality.

F. Notice of Decisions.

Any decision of the Board when acting upon an application for development shall be given notice in the following manner:

1. A copy of the decision shall be mailed by the appropriate Borough authority within ten (10) days of the date of decision to the applicant or appellant, or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed within ten (10) days to any interested party who has requested it and who has paid the fee prescribed by the Borough for such service.
2. The Administrative Officer shall cause a brief notice of every decision of the Board to be published in the official newspaper of High Bridge Borough, the cost of such publication to be charged to the applicant's escrow account. Such notice shall be sent to the official newspaper within ten (10) days of the date of the decision.

3. A copy of the decision shall be filed in the office of the Administrative Officer, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as that established for copies of other public documents in the Borough.

G. Appeals.

1. Appeals to the Board pursuant to N.J.S.A. 40:55D-70a. (Section 601.J.3. of this Ordinance) may be taken by any interested party affected by any decision of a Borough officer based on or made in the enforcement of this Ordinance or the Official Map, if there is one. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed was taken.
2. A developer may file an application for development with the Board for action under any of its powers without prior application to a Borough officer.
3. An appeal to the Board under this Section shall stay all proceedings in furtherance of the action with respect to which the decision appealed was made unless the officer from whose action the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown.

**Section 603. Applicability of Requirements.**

A. Subdivision Review.

All subdivisions, as defined in Section 104, are subject to the review procedures specified in Sections 605 and 606.

B. Site Plan Review.

No Zoning Permit or Construction Permit shall be issued for any new structure or for an alteration or addition to an existing structure and no Zoning Permit or Certificate of Occupancy shall be issued for any change of use of any existing structure until the site plan has been reviewed and approved by the Planning Board in accordance with this Article (Sections 605 & 606) except that:

1. A Construction Permit for a single-family detached dwelling unit or a two-family dwelling unit and/or their accessory building(s) on a lot shall not require site plan approval, except that the use of any existing or proposed principal or accessory building for a professional office (other than a Home Occupation) shall require minor site plan approval prior to the issuance of a Construction Permit or Certificate of Occupancy. The foregoing shall in no way affect the responsibility of an applicant to submit the necessary information and receive the necessary approvals as may be required pursuant to other ordinances or Articles in this Ordinance (Chapter 145).
2. Barns, sheds and silos erected for agricultural purposes shall require minor site plan approval.

C. Variances and Other Relief.

1. All appeals, applications for variance relief, applications for a Certificate of Nonconformity, or applications for direction of the issuance of a permit not involving any related site plan, subdivision or conditional use approval shall be filed at least fourteen (14) days prior to the regular meeting of the Board. The filing shall include fifteen (15) copies of any maps and related material; fifteen (15) completed copies of the appropriate

- application form(s), which includes the checklist for variances included in Section 608.A of this Ordinance and the fee(s) in accordance with Article 7 of this Ordinance.
2. The Board shall render its decision not later than one-hundred and twenty (120) days after a complete application is submitted for a variance or an appeal is taken from the decision of a Borough officer. Failure of the Board to render a decision within the required time period, or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant. In the event that the developer elects to submit separate consecutive applications for the variance and for any required subdivision and/or site plan approval(s), the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval for subdivision or site plan shall be as otherwise provided in Sections 605.C.4 and 606.B.4 & 5.
  3. Variances shall expire if the applicant has failed to exercise his rights under the variance approval within two (2) years of the date of the Board's decision to grant the variance. Exercising rights shall mean either applying for a Construction Permit or applying for such subsequent site plan or subdivision approval as may be required prior to the applicant's obtaining a Construction Permit. The applicant must obtain a Zoning Permit following approval of the variance in order to proceed with the project. For variances that become the subject of litigation, the two (2)-year period shall commence on the date of the last reviewing Court's decision to grant the variance.

For good cause shown, and after a hearing before the Board on notice in the manner required for original variance applications, the Board may extend the variance by resolution. Any extension may not exceed one (1) year in duration and no more than four (4) such extensions shall be permitted. To receive consideration, an application for extension of a variance shall be made prior to the expiration of the time limit sought to be extended.

#### D. Informal Review.

1. At the request of a applicant, the Board shall grant one (1) informal review of a concept plan for a development for which the applicant intends to prepare and submit an application for development. This includes Borough residents who intend to submit or need clarification on an application for a site plan or variance approval.
2. The applicant shall not be required to submit any fees for such an informal review in accordance with fees per Section 701; however, no professional review(s) will be undertaken unless the applicant agrees to pay for said review(s).
3. The applicant shall not be bound by any concept plan for which review is requested, and the Board shall not be bound by any such review.
4. A applicant desiring to have a concept plan informally reviewed by the Board shall so notify the Administrative Officer at least fourteen (14) days prior to the regular meeting of the Board. The Administrative Officer shall thereafter notify the applicant of the time and place that has been scheduled by the Board for the informal review.

### **Section 604. Environmental Impact Statement.**

#### A. General Provisions.

The impact on the environment generated by land development projects necessitates a comprehensive analysis of the variety of problems that may result and the actions that can be taken to minimize the problems. It is further recognized that the level of detail required for various types of applications will vary depending on the size of the proposal, the nature of the site, the location of the project and the information already in the possession of the Borough. The applicant may request a preapplication conference with the Planning Board to discuss the scope and detail of the Environmental Impact Statement (EIS), and the Planning Board may seek the

advice of the Environmental Commission in determining said scope and detail. Therefore, having determined that some flexibility is needed in preparing the EIS, the requirements for such a document pertaining to different types of development applications are listed below:

1. All agricultural operations conducted in accordance with a plan approved by the Soil Conservation District and all agriculture operations conducted in accordance with a plan prepared by a professional forester are specifically exempt from the Environment Impact Statement requirements.
2. Any application for minor subdivision approval and or minor site plan approval shall not require an EIS unless specifically requested by the Board. However, a brief written description of the project, an inventory listing of all existing natural resources on the site, and a statement verifying that either no significant resources exist on the site or no impacts would be expected, shall be provided.
3. All preliminary major subdivision applications and all preliminary major site plan applications shall be accompanied by an EIS unless specifically waived by the Board.
4. An EIS is required for all public and quasi-public projects unless they are exempt from the requirements of local law or by supervening county, state or federal law.
5. EIS scope guidelines. The table below indicates the specific sections of the EIS that should be emphasized depending on the intensity of the development. This is a guideline only. Other sections may be needed depending upon the unique characteristics of the project.

**RESIDENTIAL**

| Subsection<br>'B'<br>Reference | EIS Item                              | 1 or 2 Lots<br>& Minor<br>Site Plans | 3 to 9<br>Lots | 10 or More<br>Lots &<br>Major Site<br>Plans | NON-<br>RESIDENTIAL |
|--------------------------------|---------------------------------------|--------------------------------------|----------------|---|---------------------|
| 1.                             | Project Description                   | X                                    | X              | X   | X                   |
| 2.                             | Site Description and Inventory        | X                                    | X              | X   | X                   |
| 3.a                            | Soils                                 | X                                    | X              | X   | X                   |
| 3.a & 3.c                      | Surface Water Quality                 |                                      | X              | X   | X                   |
| 3.b                            | Floodplains                           |                                      | X              | X   | X                   |
| 3.g                            | Vegetation Destruction                | X                                    | X              | X   | X                   |
| 3.h                            | Wildlife Habitats                     | X                                    | X              | X   | X                   |
| 3.f                            | Solid Waste Disposal                  |                                      |                | X   | X                   |
| 3.e                            | Wastewater Management                 | X                                    | X              | X   | X                   |
| 3.d                            | Ground Water                          |                                      | X              | X   | X                   |
| 3.m                            | Water Supply                          | X                                    | X              | X   | X                   |
| 3.j                            | Air Quality                           |                                      |                | X   | X                   |
| 3.k                            | Noise                                 |                                      | X              | X   | X                   |
| 3.n                            | Traffic                               |                                      |                | X   | X                   |
| 3.p                            | Socio-economic                        |                                      |                | X   | X                   |
| 3.i                            | Scenic or Historic Features           |                                      | X              | X   | X                   |
| 3.o                            | Lighting                              |                                      |                | X   | X                   |
| 3.l                            | Energy Conservation                   |                                      |                | X   | X                   |
| 3.q                            | Environmental Pollution               | X                                    | X              | X   | X                   |
| 3.r                            | Cumulative Impacts                    |                                      | X              | X   | X                   |
| 4.                             | Alternatives Analysis                 |                                      | X              | X   | X                   |
| 5.                             | Mitigation Measures                   | X                                    | X              | X   | X                   |
| 6.                             | Licenses, Permits and Other Approvals | X                                    | X              | X   | X                   |
| 7.                             | Documentation                         | X                                    | X              | X   | X                   |
| 8.                             | EIS Summary                           | X                                    | X              | X   | X                   |

6. Waiver. The Planning Board, at its sole discretion, may waive the requirement for an EIS, in whole or in part, upon receipt of a written request, if sufficient evidence is submitted to support a conclusion that the proposed project will have a negligible environmental impact or that a complete EIS, in accordance with the guidelines above, need not be prepared in order to evaluate adequately the environmental impact of a project.

B. Submission Format.

When an EIS is required, the applicant shall retain one (1) or more competent professionals to perform the necessary work. The professional(s) who prepares the EIS shall have an academic and experiential background in ecology or related, natural-resource field of study or demonstrated expertise in a particular area of impact assessment, based on their specific contribution to the EIS. The qualifications and background of the preparer(s) shall be provided, and the method of investigation shall be described. The Planning Board reserves the right to accept or reject the qualifications of any professional presented to them. All applicable material on file in the Borough pertinent to evaluation of regional impacts shall be considered including the Borough's Master Plan and Natural Resources Inventory. Furthermore, as much original research as necessary shall be conducted to develop the EIS. Where the information is provided elsewhere in the application, it may be incorporated by reference. The EIS shall consist of written and graphic materials as appropriate to clearly present the required information utilizing the following format:

1. Project Description. Plan and description of proposed project complete with site plans, which shall specify the purpose of the proposed project, including products and services, if any, being provided, and the regional, municipal and neighborhood setting, including current land use and zoning of the project site and properties within five hundred (500) feet of the site (200 feet for 1-9 lot subdivisions and minor site plans).
2. Site Description and Inventory. Provide a description and mapping of environmental conditions on the site, which shall include the following items:
  - a. Existing development features. Describe any existing features on the site that are not considered to be part of the natural environment. This may include, but not necessarily be limited to, roads, driveway accesses, housing units, accessory structures, utility lines, etc.
  - b. Types of soils. List and describe each soil type on the site and provide a copy of the SCS soils map. If applicable, provide percolation test and soil log data. Where the proposed area of land disturbance will involve soils with moderate or severe limitations relative to the type of project proposed, include a complete mapping of all soil types where the moderate and severe limitations exist.
  - c. Topography. Describe the topographic conditions on the site and provide a mapping of areas with steep slopes in the ranges of 8%-15%, 15%-25% and greater than 25%.
  - d. Geology. Describe the geologic formation and features associated with the site as well as depth to bedrock. Delineate those areas where bedrock is within two (2) feet of the surface as well as major rock outcroppings.
  - e. Vegetation. Describe the existing vegetation on the site. A map shall be prepared showing the locations of major vegetative communities such as woodlands, open fields and wetlands. Where woodlands are delineated, the forest types shall be indicated. The location, species and diameter at four and one-half (4 ½) feet above the ground of all isolated trees eight (8) inches or greater and understory trees (e.g. dogwoods) four (4) inches or more in diameter are to be shown on the same map. If any documentation indicates the potential presence of endangered or threatened plant species on the site, then the applicant must retain the appropriate botany expert as required by NJDEP to conduct a detailed site survey for the species in question using standard techniques during the appropriate time of year.
  - f. Wildlife. Identify and describe any habitats of endangered or threatened species, critical habitat, or any wildlife habitat that is rare or important in the region located on or within two hundred (200) feet of the site. Include a copy of a letter from the NJ Endangered and Nongame Species Program indicating the potential presence or absence of endangered or threatened species within the study area. Also include the characteristics of the site and adjacent area as mapped in the Landscape Project (Endangered and Nongame Species Program, 1999). If such documentation indicates the potential presence of endangered or

- threatened species on the site or adjacent area, then the applicant must retain the appropriate wildlife expert as required by NJDEP to conduct a detailed site survey for the species in question using standard techniques during the appropriate time of year.
- g. Subsurface water. Describe the subsurface water conditions on the site both in terms of depth to ground water and water supply capabilities. The location, depth, capacity and water quality of all existing water wells on the site and within five hundred (500) feet of the site (200 feet for minor subdivisions and site plans, if required) shall be indicated. Identify any aquifer recharge areas on or within five hundred (500) feet of the site.
  - h. Distinctive scenic and/or historic features. Describe those portions of the site that can be considered to have distinctive scenic and/or historic qualities.
  - i. Surface waters. A description of any streams and immediate environs, steep banks, springs and wetlands and streamside vegetation located on the property, including a map depicting the floodway and flood hazard area as reflected on flood hazard area delineation maps on file with the Borough or as mapped by the NJDEP. The applicant shall supply copies of all resource information provided to the NJDEP Land Use Regulation Program in support of an application for any required Stream Encroachment Permit (N.J.A.C. 7:13 et seq.) or wetlands permits (N.J.A.C. 7:7A et seq.).
  - j. Air quality and noise. When warranted, an analysis should be conducted of existing air quality and noise levels as prescribed by the NJDEP.
  - k. Environmental pollution. The results of a Phase I investigation, and a Phase II, if warranted, shall be provided.
3. Impacts. Discuss both the adverse and positive impacts, as well as direct and indirect impacts, during (short-term) and after construction (long-term) on the resources identified on the site or vicinity in B.2 above. The discussion should demonstrate compliance with the design standards in Article 8 and the environmental performance standards in Article 3, Section 311. Indicate those impacts that are unavoidable or result in public benefits. The specific concerns that shall be considered include, but are not limited to, the following and shall be accompanied by specific quantitative measurements where necessary and possible:
- a. Soil erosion and sedimentation resulting from surface runoff. The amount of land disturbance, runoff patterns, phasing of the development, and other project factors that may promote soil erosion shall be discussed. The effect of soil limitations on the project and vice versa shall be described.
  - b. Flooding and disruption to the functioning of the floodplain.
  - c. Degradation of surface water quality. Include a description of direct and indirect impacts to streams and wetlands, including the functions of transition areas. Any ways in which the project may affect the base flow of streams or groundwater discharge to wetlands within the region of impact within the geologic formation should also be discussed.
  - d. Groundwater pollution. The potential impact to groundwater quality from on-site septic systems, if proposed, should be analyzed quantitatively in relation to lot size. The potential for contamination of on-site or off-site wells due to on-site septic systems or other project features and the relationship to aquifer recharge areas should be discussed.
  - e. Wastewater management. An estimate of the expected quantity and type of wastewater expected from the proposed development. If any flow is expected, discuss:
    - (1) The relation to topography, soils and underlying geology, including water table, aquifer recharge areas and all wells within five hundred (500) feet (or 200 feet for minor subdivisions and site plans) of the disposal area, if disposal is on-site. Include the results and significance of percolation tests and soil logs required by ordinance.

- (2) If disposal is to an existing private facility or to a public facility, identify the owner and location of the plant and location of existing collection point to which the proposed project would be connected. Documentary evidence that the expected flows from the proposed project will be accepted and can be treated adequately by the private or public facility must accompany the EIS.
  - (3) Compliance with all applicable state, county, and township health regulations.
- f. Solid waste disposal. Estimate the volume of solid wastes, by type, including excess earth, expected to be generated from the proposed project during construction and operation and describe plans for collection, storage, transportation and disposal of these materials. Identify the location(s), type(s) and owner(s) of the facility (facilities) which will receive such solid wastes. If the facility is a landfill, submit proof that it is registered with the Division of Environmental Quality, New Jersey Department of Environmental Protection, and is operated in compliance with the New Jersey Sanitary Code.
  - g. Vegetation destruction. Quantify the amount of each vegetation community that will be disturbed or destroyed and describe how the proposed project will affect the communities on the site and adjacent area. Identify any individual trees, especially specimen trees, that will be removed. Describe the potential impact of the project on any rare plants, rare communities, or invasive species.
  - h. Disruption of important wildlife habitat. Describe how alteration of the vegetation communities will affect the usage of the site and/or surrounding area by wildlife. Describe the direct and indirect impacts to all wildlife, including endangered or threatened species.
  - i. Destruction or degradation of scenic and historic features. Discuss how the natural or present character of areas will be changed as a result of the proposed project.
  - j. Air quality. Describe each source, its location, the quantity and nature of materials to be emitted from any furnace or other device in which coal, fuel oil, gasoline, diesel fuel, kerosene, wood or other combustible material will be burned, or if any other source of air pollutants, including automobiles attracted by the facility, will be present on the site during or after construction. Evidence of compliance with any applicable State and Federal regulations shall accompany the EIS. If a State or Federal emission permit is required, a copy of all resource data submitted with the application for the permit shall also accompany the EIS.
  - k. Noise levels. State the anticipated effects on noise and vibration levels, magnitude and characteristics related to on-site activities. Background levels of noise throughout the anticipated area affected must be determined. Any applicant for industrial and commercial enterprises must show that after construction and during normal operation the enterprise will not exceed the State of New Jersey regulations controlling noise from industries and commercial stationary sources (N.J.A.C. 7:29-1.1 et seq.)
  - l. Energy conservation. Describe the site in terms of its physical orientation to the sun and prevailing winds, addressing the building and site design and arrangement in terms of energy-efficient principles and maximum utilization of renewable energy sources. Describe any features of the project that are expected to require significant amounts of energy to sustain (e.g., manufacturing).
  - m. Water supply.
    - (1) If the water supply is to be supplied from the site and a flow of one-hundred thousand (100,000) gallons per day or less is required, an impact assessment of water supply is required if the anticipated demand exceeds the available safe yield of the aquifer contained within the property limits. In such case, the applicant must substantiate and explain the anticipated demand, present proof that the aquifer contained