

**RULES AND REGULATIONS
OF THE
PLANNING BOARD**

**BOROUGH OF HIGHLAND PARK
COUNTY OF MIDDLESEX
STATE OF NEW JERSEY**

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Table of Contents

Article 1. Definitions	3
Article 2. Annual Reorganization Meeting; Officers and Staff	4
Article 3. Quorum and Voting	6
Article 4. Meetings and Hearings	9
Article 5. Procedures for Consideration of Applications	12
Article 6. Procedures for Conduct of Public Hearings	14
Article 7. Exhibits, Testimony and Other Evidence	20
Article 8. Decisions on Applications for Development.. ..	23
Article 9. Rehearing	25
Article 10. Disqualification of Board Members	26
Article 11 . Fees.....	27
Article 12. Covenants and Restrictions	28
Article 13. Amendment of Rules and Ordinance	29
Article 14. Procedures for Amending Preliminary Approvals	30
Article 15. Technical Advisory Committee.....	32
Article 16. Master Plan Advisory Review Committee	34
Article 17. Citizen's Advisory Committee	36

**ARTICLE 1.
DEFINITIONS**

1.01. Meaning of "Ordinance". The term "Ordinance" as used herein shall refer to Chapter 17 (Land Development) of the Code of the Borough of Highland Park, New Jersey, as it may be amended from time to time. The "Ordinance" shall be deemed to include any ordinance setting forth fees or escrow deposits if not contained within Chapter 17.

1.02. Meaning of "Board". The term "Board" as used herein shall refer to the Planning Board of the Borough of Highland Park.

1.03. Terms Not Defined. Terms not expressly defined herein shall have the meanings set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, if defined therein. Terms not defined therein shall have the meanings set forth in the Ordinance, if defined therein.

ARTICLE 2.
ANNUAL REORGANIZATION MEETING;
OFFICERS AND STAFF

2.01. Election of Officers. At the first meeting of the year, the Board shall hold its annual reorganization meeting and shall elect from among its Class IV members a Chair and Vice-Chair. Nominations for Chair and Vice-Chair shall be made from the floor and the elections shall follow immediately thereafter. The Board shall also appoint a secretary, who may or may not be a member or alternate member of the Board or a municipal employee. These officers shall serve for the calendar year and until their successors have been duly elected. In the event that an office shall become vacant during the year, the office shall be filled as soon as possible by the same election procedure, and the term of such office shall be the unexpired term of the predecessor.

2.02. Responsibilities of Secretary. Subject to these Rules and Regulations and under the direction of the Chair, the Secretary shall conduct all official correspondence, compile all required records, maintain and keep in order the necessary files and indices, and generally perform the secretarial work of the Board. The Secretary may assign to the Board Clerk such duties as he or she may deem appropriate. The Secretary shall attend all meetings of the Board, and, except as otherwise provided by statute and the Records Retention Schedule for Local Planning Boards and Zoning Board of Adjustment, M140000-001, issued by the New Jersey Division of Archives and Records Management ("Retention Schedule"), shall have the care and custody of all digital files, records, documents, maps, plans and papers of the Board. The Secretary shall make a record of and keep on file the minutes of the proceedings at each meeting of the Board and shall enter therein, with the other proceedings, resolutions and orders as are adopted by the Board and a copy or synopsis of every report or other paper presented. The Secretary shall issue notices of regular, adjourned and special meetings and shall perform such other duties as usually pertain to the office of Secretary in addition to the requirements of the Retention Schedule, the Secretary shall retain all digital files of the matters requiring a Board resolution for a period of one year from the adoption of such resolution.

2.03. Appointment of Staff and Consultants. The Board shall also appoint a clerk, attorney, professional engineer, professional planner, and such other experts or staff as it may deem necessary. The contracts for engagement of any professional who is expected to provide testimony at any hearing shall require the execution of an affidavit certifying that all such testimony is given under oath and shall be truthful and complete.

2.04. Adoption of Rules and Regulations. The Board shall establish and adopt Rules and Regulations setting forth its policies and procedures for considering applications, conducting public hearings, resolving conflict issues, and addressing other matters as the Board shall deem appropriate. The rules shall be placed on the official Borough website.

2.05. Committees. The Board may establish committees to report to the Board on specific matters. Such committees may include, but shall not be limited to, a Technical Advisory Committee, an Affordable Housing Committee, and a Master Plan Advisory

Review Committee. All committees established pursuant to this section are authorized to meet, as the members deem prudent. No such committee shall have any decision making authority, however. If not established at the annual reorganization meeting, the Board may establish said committees at such other meeting as it deems prudent.

2.06. Order of Voting. The Board may determine the order of roll call vote for the year.

2.07. Annual Meeting Schedule. The Board shall determine the day(s) of the month on which the regular meetings of the Board shall be held, and which day(s) of the month shall be set aside for administrative matters such as agenda meetings and work sessions, if needed. The Board shall then approve an annual notice setting forth its meeting schedule.

2.08. Official Newspaper. The Board shall determine its official newspaper(s) for the calendar year. In the event the Board changes its official newspaper(s), no notice given by an Applicant prior to the date of such change shall be deemed ineffective, even if the public hearing is held after, or continued to a date after, the occurrence of such change.

ARTICLE 3.
QUORUM AND VOTING

3.01. Quorum. A "quorum" shall consist of a majority of the full authorized membership of the Board (5 members in the case of a 9 member Board). In the case of a continued hearing on an application, only those members who have attended all prior hearings on the application, or have certified having listened to the digital files of any proceedings from which they were absent, shall be counted in determining whether a quorum is present. Any member who is disqualified from participation in any application shall not be counted in determining whether a quorum is present.

3.02. Absence of Quorum or Other Inability to Meet. In the absence of a quorum, the members present shall adjourn the meeting or hearing to another date. If the Board is unable to meet as scheduled due to a lack of a quorum, or due to extenuating circumstances, such as inclement weather, natural disaster, act of God, inoperable digital recording equipment, or other unforeseeable circumstance, the meeting or hearing shall be adjourned to another date. In the event of such an adjournment, extensions granted by Applicants that will expire prior to the rescheduled meeting of the Board shall be automatically extended to such rescheduled meeting.

3.03. Voting and Abstention. Unless a Board member is disqualified from voting on a specific motion, every member shall be expected to cast a yea or nay vote on any motion before the Board. Any member of the Board who abstains from casting a vote on an application may state for the record the reason for such abstention, and the Board Clerk shall note in the minutes the reasons given for such abstention.

3.04. Motions. All actions of the Board shall be initiated by motion. All motions shall require a second. The Chair shall allow discussion on any motion made and duly seconded.

3.05. Roll Call Vote on Applications for Development. All votes on applications for development shall be taken by roll call, and the vote and name of the member casting the vote shall be recorded in the minutes. Each member of the Board may state the specific reasons supporting his or her vote.

3.06. Vote on Other Matters. Votes on procedural matters, adoption of minutes, appointment of officers and consultants, and other matters not constituting applications for development may be by voice vote or roll call vote, in the discretion of the Chair.

3.07. Number of Votes Required. When the Board votes on any matters, except on a motion for adjournment where a quorum is not present, the number of votes set forth in this Section are required, provided there is a quorum present:

A. In all matters other than those referred to in subparagraphs B. and C. below, any action may be authorized by a majority vote of the members present at the meeting and eligible to vote, provided those eligible constitute a quorum.

B. When voting on an application to permit a building or structure in the bed of any street, public drainageway, flood control basin or public area reserved on an official map, or shown on a plat filed pursuant to the Municipal Land Use Law prior to adoption of such official map, at least a majority of the full authorized membership of the Board (5 members) must vote in favor of the permit sought.

C. Where the Board takes action on an application for development subject to subsequent adoption of a resolution of memorialization, 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. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member.

3.08. Failure of Motion If a motion to approve an application for development does not receive the number of required votes as hereinbefore set forth, such failure shall be deemed an action denying the application.

3.09. Effect of Abstentions. An abstention shall be regarded as an assent to the vote of the majority. Accordingly, if the majority of those voting would affirm a measure, abstentions would be counted toward affirmance; if the majority would defeat a measure, abstentions will be counted toward a defeat. A disqualified member shall not be counted as an abstention and shall remove himself or herself from the panel and not be involved in the consideration of the application. If the Board is evenly split in its decision, no majority exists with whom an abstaining member can be said to vote and accordingly abstentions shall not be assigned. A tie vote shall defeat an application. Abstentions shall not be construed to approve an application, nor shall abstentions be used to create a tie.

3.10. Alternate Members. The two alternate members of the Board appointed by the Borough Council shall be designated by the appointing authority as "Alternate No.1" and "Alternate No. 2" respectively, and each alternate shall retain said designation during the term for which he/she was appointed. The alternate members shall participate in Board affairs subject to the following provisions:

A. An alternate member may sit with the Board and participate in discussions of any Board business or hearings being held by the Board, but may not vote except as designated by the Chair to serve in the place of a regular member who is absent or disqualified.

B. A vote on any matter shall not be delayed by the Board so that a regular member may vote instead of an alternate member, provided that where the alternate member is designated to serve in place of a regular member who is disqualified from participating in

the hearing of a particular case, the alternate member shall be designated to serve only with respect to such case.

C. An alternate member who has been designated to sit in place of a regular member due to the disqualification of such regular member and who has participated in any hearing or matter coming before the Board shall continue to act in the place of such regular member until the final disposition of said matter by the Board.

D. In the event a choice must be made as to which alternate is to vote, Alternate No. 1 shall have preference over Alternate No. 2.

E. When a regular member has been present and has participated in the first hearing on any matter, no alternate member shall be designated to serve in the absence of such regular member during any adjourned or continued hearing or hearings on the same matter unless said alternate member was present at such first hearing or any prior, adjourned or continued hearing on such matter, or has certified that he/she has listened to the digital file of the hearing as required by law. If the absent regular member becomes qualified by listening to the digital files of the hearing(s), the alternate member shall then be unseated in favor of the regular member for purposes of voting on the application in question.

F. Any alternate member who has been designated to serve in the place of an absent or disqualified regular member shall, during the period of his/her service, enjoy all or the rights and privileges and shall be subject to all of the duties and disabilities pertaining to regular members, but no alternate member shall be eligible to serve as Chair, Vice-Chair or Secretary of the Board.

ARTICLE 4.
MEETINGS AND HEARINGS

4.01. Presiding Officer. The Chair shall preside at all meetings and hearings of the Board and shall decide all points of order and matters of procedure governing meetings or hearings, including objections to the admissibility of evidence and testimony. The Chair shall also perform all the duties normally appertaining to the office and as required by law, ordinance, or these rules of the Board. The Vice-Chair shall preside at all Board meetings and hearings in the absence of or disqualification of the Chair. In the absence or disqualification of the Chair and Vice-Chair, the Secretary shall serve as the Presiding Officer, and in the absence of the Secretary, the Class IV Board member elected by the Board shall serve as the Presiding Officer for that particular meeting. When so acting, that individual shall have all the powers of the Chair.

4.02. Time and Place of Meetings. The regular meetings of the Board shall be held at the Municipal Building, 221 South Fifth Avenue, Highland Park, New Jersey at 7:30 p.m., on the third Thursday of each month, and/or at such other time(s) and places as the Board shall determine. If the regular meeting falls on a legal holiday, the meeting shall be held on such other day as the Board may select. Whenever a meeting is canceled due to inclement weather or other unforeseeable circumstance, the Chair may re-schedule the meeting by notifying each Board member of the new meeting date, arranging for the posting of notice on the meeting room doors, and publishing a notice of the rescheduled meeting in the official newspaper designated by the Board. Applicants and interested members of the public are encouraged to call and confirm such rescheduling. All Board meeting dates and Agendas shall be placed on the official Borough website.

4.03. Scheduling of Additional Meetings. In addition to the meetings set forth in the annual meeting schedule adopted by the Board at its annual reorganization meeting, administrative meetings, special meetings, work sessions and executive sessions, as permitted by law, may be scheduled in the Board's discretion, called by the Chair or in his/her absence by the Vice-Chair at any time, or called upon the written request of two (2) members, provided that notice thereof be mailed or given to each member of the Board at least three (3) days prior thereto, and to the public as required or permitted by law.

4.04. Call of Special Meetings to Hear Application for Development.

Special meetings may be called by the Chair or, in his or her absence, by the Vice Chair, at any time or upon the written request of two (2) or more members of the Board, provided that notice thereof be mailed or given to each member of the Board at least three (3) days prior thereto, and to the public as required or allowed by law. An Applicant may request but shall not be entitled to a special meeting. Special meetings at the request of an Applicant may be scheduled at the pleasure of the Board provided the public interest is fairly and reasonably served. The Applicant shall be responsible for all fees and costs related thereto.

4.05. Meetings Open To Public. Except as otherwise provided in these Rules and Regulations, the meetings of the Board shall be open to the public at all times. Nothing herein shall be construed to limit the discretion of the Board to permit, prohibit or regulate the active participation of the public at any meeting. The Board may exclude the public only from those portions of a meeting at which the Board discusses matters within the exclusions provided under the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.*, or the Municipal Land Use law, N.J.S.A. 40:550-1 *et seq.*

The public is authorized to use either audio or video equipment during the course of meetings. Such equipment, however, shall be non-obtrusive and shall not interfere with the conduct of the meetings. At the beginning of the meeting a member of the public, who intends to record the meeting, shall announce it to the Chair. Such recordings, whether audio or video, conducted by the public, shall not be considered the official record of the meeting.

4.06. Public Participation at Administrative Meetings. Any matter considered by the Board at an administrative meeting, or of an administrative nature considered at any other meeting of the Board, shall not be open to participation by the public, except by invitation of the Board,

4.07. Cancellation of Meeting for Lack of Business, Whenever there are no matters to be considered at any regular meeting, other than the annual reorganization meeting, the Chair may dispense with such meeting by directing the Board Clerk to provide notice of cancellation to each member of the Board by reasonable means and as soon as possible in advance of the time set for such meeting and by giving notice in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.*, or otherwise posting the cancellation for the convenience and interests of the public.

4.08. Minutes. The Secretary (or the Board Clerk, if so designated by the Secretary) shall prepare and the Board shall, insofar as reasonably possible, adopt minutes of the previous meeting at each meeting of the Planning Board. Minutes shall be deemed to be public records and shall be made available to the public in accordance with New Jersey statutes pertaining to public records, All Board Minutes shall be placed on the official Borough website.

Draft minutes on which the Board has not acted shall be conspicuously labeled "draft" and shall also be made available to the public in accordance with New Jersey statutes pertaining to public records. They do not need to be placed on the official Borough website. After receiving any comment by Board members and/or members of the public, the Board's adoption of the minutes shall be final. Neither the public nor any party to a proceeding pending before the Board shall have any right of participation or comment in connection with the Board's consideration and adoption of minutes, unless such participation or comment is specifically invited by the Chair, or by the Board following favorable vote on a motion so providing. Without assuming any obligation not otherwise imposed by statute, the Board Clerk will make reasonable efforts to have the draft

minutes of the prior meeting available for public inspection three business days prior to regularly scheduled meetings.

ARTICLE 5
PROCEDURES FOR CONSIDERATION OF APPLICATIONS

5.01. Filing of Application for Development. An application for subdivision, site plan, or conditional use approval, or any other matter over which the Board has jurisdiction, shall be commenced by filing an application, plans and other supporting materials as required by the Ordinance.

5.02. Application Checklists; Completeness Items. The Applicant shall comply with all checklist and Ordinance requirements or request waivers, exceptions or variances therefrom. A statement explaining the reasons supporting each such request shall be submitted with the checklist. If waivers are requested, no application shall be deemed complete until they are granted or subsequently complied with by the Applicant if the request is denied. Failure to abide by the foregoing may result in a dismissal of the application or a delay in its being heard. All statutory time periods for actions by the Board commence only upon the determination that an application is complete. The Applicant shall also supply any and all other information and data that may be required to assist the Board with respect to the relief sought, whether or not such information is specifically noted on the checklist.

5.03 Assignment of Docket Number; Distribution of Filed Application.

Upon receipt of an application by the Board Clerk, the application shall be stamped to indicate the date of filing and shall be assigned a docket number, which number shall thereafter appear on all subsequent papers filed and on copies of all other documents filed with the application. All such documents shall be filed in the permanent case docket of the Board. The Board Clerk shall distribute copies of the application to the Board and to the professionals, consultants and municipal staff who will be asked to review and comment on the plans.

5.04. Completeness Determination.

The Board Secretary and/or the Board Clerk upon receipt of an application for development shall distribute it to the Board Consultants for review and recommendations. Upon receipt of those recommendations, the Board shall make a determination as to whether the application is complete. Said determination shall be made in accordance with the Municipal Land Use Law requirements and at a regular meeting of the Board. The Applicant shall be notified of the meeting date and shall be invited to attend, but such attendance shall be at the Applicant's option. The determination of completeness shall be made by a vote of the Board and shall be contained in the minutes of the meeting. In the event of a determination of incompleteness, the Board shall cause this determination to be communicated in writing to the Applicant within the time prescribed by the Municipal Land Use Law.

5.05. Assignment of Hearing Date. An application shall be assigned a hearing date after the application is deemed complete.

5.06. Filing of Affidavit of Proof of Service. If public notice is required pursuant to N.J.S.A. 40:55D-12 or the Ordinance, the Applicant shall file an affidavit of proof of service by 4:00 p.m. at least three (3) business days prior to the hearing together with a copy of the certified list of the property owners entitled to notice and copies of postal receipts evidencing mailing to each such person. If the Applicant fails to submit an affidavit of proof of service in a timely manner as hereby required, the Board shall, in the reasonable exercise of its discretion, determine whether to hold the public hearing as scheduled or to adjourn it to a new date.

5.07. Dismissal and Withdrawal of Applications for Development. The Board, on its own motion, may dismiss any application without prejudice if the Applicant fails to appear at the time set for the hearing. An Applicant may, at any time prior to commencement of the hearing, voluntarily withdraw an application, in which event the application shall be dismissed without prejudice. Following commencement of the hearing, an application may be withdrawn only upon grant by the Board of leave to withdraw, which leave may be with or without prejudice in the Board's discretion. The Board may dismiss, on its own motion, without prejudice, any application for failure to comply with these Rules and Regulations. The Board reserves the power to impose reasonable terms and conditions on the dismissal of any application. Fees submitted by any Applicant whose application is dismissed for failure to appear, or who voluntarily withdraws an application, shall not be refunded, nor shall the portion of any escrow deposit to cover the cost of plan review by the Board's or the Borough's professionals be refunded, to the extent same was actually used for plan review.

5.08. Amendment of Applications. An Applicant may, prior to or after the commencement of a hearing, amend his or her application without leave of the Board. The Applicant shall consult with the Board Attorney for a determination with respect to whether new notice will be required.

5.09. Submission of Plans, Plan Revisions and Other Materials for Consideration by Board. Applicants, objectors and any other interested parties must file with the Board Clerk, at least ten (10) days prior to the public hearing, all maps and other documents that they wish to have the Board consider. This shall apply whether the hearing in question is the first hearing on a matter or a continuation of a hearing that commenced at a prior meeting of the Board. Exhibits may be presented at the public hearing. Under no circumstances may flyers, petitions, reports or other materials be presented directly to individual Board members, whether via mail or in person at a meeting of the Board. Where a public hearing has been completed but the Board has not rendered its decision, the Board shall not consider such maps and other documents, even if submitted at least ten (10) days prior to the meeting, except where said maps and other documents are limited to providing clarifications of previously submitted evidence or prior testimony.

5.10. Escrow Deposit. No action will be taken on any application if the escrow balance established therefor is below the minimum required by the Ordinance, other than the consideration of a motion to dismiss the application without prejudice.

ARTICLE 6.
PROCEDURES FOR CONDUCT OF PUBLIC HEARINGS

6.01. Order of Business. Subject to the Chair's discretion, the order of business of all public hearings of the Board shall be as follows:

- A. Call to Order.
- B. Statement of compliance with Open Public Meetings Act.
- C. Roll call in the order as previously specified by the Board.
- D. Approval of minutes of previous meetings.
- E. Memorialization of resolutions.
- F. Motions for adjournments of any scheduled applications and any other motions.
- G. Unfinished or adjourned hearings.
- H. Hearing on new matters
- I. Action on any other business.
- J. Correspondence and reports.
- K. Public comment on any item not on the agenda.
- L. Adjournment.

6.02. Ending Time of Hearings. No testimony will be taken after 10:30 p.m. All public hearings shall terminate by 11:00 p.m. However, the Board, in the exercise of its discretion, may modify this time limit by voice vote.

6.03. Identification of Potential Conflicts of Interest. At the commencement of a hearing on a particular application for development, the Applicant and all interested members of the public shall be requested to identify any potential conflict of interest of which they may be aware. The Board members shall similarly be asked to identify any potential conflicts of interest of which they may be aware. If a potential conflict is identified and the Board member in question refuses to disqualify himself/herself voluntarily, the matter shall be referred to the Board Attorney for a legal opinion, after which the other Board members shall vote on whether the member in question should be disqualified. If the vote is in the affirmative, the member in question shall immediately leave the dais. Conflicts of interest are further addressed in Article 10 hereof.

In the event that a member is deemed to have a conflict, said member shall be authorized to remain in the meeting room if that person is an interested party as defined by the Municipal Land Use Law and may be authorized to participate in the meeting as a member of the public, preferably through a representative. In the event that a member is deemed to have a conflict and is not an interested party as defined by the Municipal Land Use Law, said member shall be authorized to stay in the meeting room. However, that individual member shall not be authorized to participate as a member of the public in the hearing and shall not be disruptive of the public hearing.

6.04. Burden of Proof. The burden of proof is on the Applicant [or the objector} and it is the Applicant's [or the objector's] responsibility to supply competent and credible evidence in order for the Board to determine whether the Applicant is entitled to the relief sought (or in the case of an objector, whether an application should be denied). The Board assumes no obligation to seek independent verification of any testimony presented: therefore, adequate sworn testimony and exhibits are required where appropriate.

6.05. Appearances. The Applicant and any objectors shall appear in person or through an attorney admitted to practice law in the State of New Jersey. No corporation shall be heard except through counsel.

6.06. Swearing of Witnesses. All witnesses for the Applicant, any objector(s) and the public giving testimony at the hearing shall swear or affirm to testify truthfully before giving any testimony.

6.07. Order of Proceedings. The order of proceedings shall be in the discretion of the Chair. Unless varied by the Chair, the order for each application shall be as follows:

- A. Read application and reports of professionals into record
- B. Entry of appearance by all counsel (Applicant and objectors)
- C. Discussion of potential conflicts
- D. Opening statement by the Applicant's counsel
- E. Consideration of completeness waivers, if not already granted
- F. Direct examination of Applicant's witness by Applicant's counsel
- G. Cross examination of the Applicant's witness by the Board
- H. Cross examination of the Applicant's witness by objector(s) and the public

{F through H are then repeated for each of Applicant's witnesses; provided, however, that in the discretion of the Chair, the Applicant may be requested allow for questions by

the public at the conclusion of certain portions of the witness's testimony or to complete the presentation of its entire case prior to cross-examination by the public. In matters involving substantial public participation, the Chair shall also be permitted to require all members of the public who wish to speak to so indicate on a sign-in sheet.}

- I. Opening statement by objector's counsel
- J. Direct examination of objector's witness
- K. Cross examination of the objector's witness by the Board
- L. Cross examination of the objector's witness by the Applicant and the public

{J through L are then repeated for each of objector's witnesses: provided, however; that in the discretion of the Chair, the objectors may be requested to allow for questions by the Applicant and the Board at the conclusion of certain portions of the witness's testimony or to complete the presentation of their entire case prior to cross-examination by the Applicant and the Board. In matters involving substantial public participation, the Chair shall also be permitted to require all members of the public who wish to speak to so indicate on a sign-in sheet.}

- M. Comments and statements in favor or in opposition by public
- N. Closing statement by objector's counsel
- O. Closing statement by Applicant's counsel

6.08. Appearance and Participation of Objectors Represented by Counsel.

Prior to being recognized as counsel to an objector or group of objectors, their attorney shall present to the Chair and to the Applicant a list of the parties he/she represents. Such parties shall participate in the proceeding only through counsel.

6.09. Site Inspections; Personal Knowledge of Board Members.

Viewing the property that is the subject of the application by one or more members of the Board shall be permitted, whether individually or in groups, but in no case shall Board members participating in a site inspection constitute a quorum unless notice is given pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, and the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.* In the event of a site inspection, or in the event that one or more members of the Board are well acquainted with the subject property and its surroundings, knowledge thereby acquired of any particular fact or facts maybe used in making a decision if such member places such personal knowledge or evidence into the record at the time of the hearing. The Applicant, any objector, and any interested member of the public shall have an opportunity to refute such facts. However, in the event that one or more Board members visit the subject property or have historical or other knowledge of the subject property and no reference is made to the same on the record, it will be

presumed that such facts were not necessary to reach an informed decision and merely helped such member or members to understand the evidence presented to them at the hearing. The absence of references to site visits and impressions shall not vitiate any decision otherwise reached on adequate grounds.

6.10. Cases in Opposition. Upon the conclusion of the presentation of the application, any objector(s) wishing to present a case in objection may do so in such order as may be recognized by the Chair, and may call any witnesses for testimony and introduce any documentary or other evidence upon which he or she will rely. Any witness and objector shall be subject to reasonable cross-examination by the Applicant or his or her attorney and the Board, and the Chair shall allow a reasonable opportunity for interested parties to ask questions of such witnesses. The Chair shall first recognize presentations of counsel for objectors and those presentations involving expert testimony in the order that the Chair shall determine upon the exercise of reasonable discretion. Such presentations shall be subject generally to the procedure set forth above, affording the attorney for the Applicant, an Applicant *pro se* and any experts for the Applicant a reasonable opportunity for cross-examination.

6.11. Public Comment. The Board shall thereafter recognize public comment by all interested parties appearing *pro se*, and each such interested party shall be subject to cross examination. The Chair shall have the right to cause any interested party appearing before the Board to be first duly sworn and shall do so whenever an interested party will proffer facts on which the Board would be expected to rely. All rebuttal testimony or evidence shall be considered in such order as the Chair shall designate. Only relevant objections shall be considered by the Board. The Board shall not consider unreasonable, repetitive or disorderly objections. The Chair shall have the power to limit objections to those expressed by "interested parties" as that term is defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, and as construed by the courts of the State of New Jersey. The Chair may impose reasonable limitations as to time and number of witnesses in view of the nature of the application, the extent of testimony and proofs presented, the issues to be considered, the number of persons wishing to testify, and the extent to which the testimony is irrelevant, immaterial or unduly repetitious.

6.12. Continuances; Close of Public Hearing. When the Applicant and all interested persons have had an opportunity to be heard, the Chair shall determine whether to close the public hearing. The Applicant or any other interested party may request from the Board a continuance of the hearing for the purpose of presenting further relevant evidence. The Board, acting in its discretion, may either grant or deny such a request. In cases where the Board believes that testimony or other evidence should be received in the public interest from any municipal, county or state official or from any other persons in order to assist the Board in rendering a just decision, the Board may, on its own motion, continue the hearing. In the absence of any request to continue the hearing, the Chair shall declare the hearing to be closed and thereafter no further evidence will be received in the action, except as provided in Section 5.09 hereof, unless the matter is re-opened in accordance with these rules and upon new public notice by the Applicant. The ability of the Board to consider information which clarifies prior evidence (as referred to in §5.09)

may however, be limited by the Board's obligation to act within the time frames required by the Municipal Land Use Law.

6.13. Board Request for Reports; Attendance of Preparers of Reports at Hearing.

The Board, on its own motion at any time, may request a report on any particular matter from any officer, board or agency, or any expert employed or retained by it in connection with the pending application. The cost of such a report, if any, shall be borne by the Applicant to the extent provided for by the Ordinance. A copy of any such report shall be made available, upon request, to the Applicant and to other interested parties for examination and refutation. The Applicant and interested parties shall have the right, subject to Article 7 hereof, to request a subpoena directed to the officer or individual making the report for purposes of cross examination as to its contents and its conclusions. The Applicant, the Board, and any objector(s) shall have the right to insist on the attendance at the hearing of the person making the report (or, if an agency, a representative of the agency) for purposes of cross-examination. The Board shall not be obligated to honor such request unless the Applicant consents to an extension of time within which it must take action on the application for at least forty-five (45) days in order to allow the Board time to arrange such attendance. As a general rule, the Board will only request that its engineer and planner attend the hearings, though reports maybe received from-a variety' of sources. If an Applicant, an objector or a member of the public anticipates objecting to the Board's consideration of a report unless given the right to cross-examine the preparer, the Applicant, objector or member of the public shall serve on the Board a request, at least five (5) business days prior to the hearing, that the preparer attend the hearing. The Board shall have the right to rely upon the expertise of its legal, engineering, planning and other consultants and advisors.

6.14. Continuance to a Date Certain; Notice. All applications may be continued to another date certain, which shall be the next regularly scheduled Board meeting unless otherwise determined by the Board. Requests for continuance may be made in person or in writing. The Chair shall announce to all those present the date, time and place to which the hearing on the matter is continued. No further notice need be given by the Applicant in that event. However, if the matter is continued to a special meeting, the Board shall give notice pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.* The Board reserves the right to continue a hearing on its own motion for purposes of further consideration, subject to limitations of time as provided in the Ordinance and the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.* The Board may also grant reasonable requests of interested parties to continue a matter in order to afford such parties sufficient time to prepare, engage counsel, obtain witnesses or for other good cause shown. Where adjournment for a continuance requires extension of the statutory period within which the Board is required to act, the consent of the Applicant to such an extension shall be made on the record and shall be evidenced in writing. Where an Applicant has taken a substantial period of time to present his or her case and then refuses to consent to a continuance so that objectors can be heard, or where the Board has insufficient opportunity to consider the matter, such refusal by the Applicant may be deemed arbitrary and unreasonable by the Board. Should the Applicant move the Board to decide the matter without affording such opportunity, the Applicant shall be at risk of a

denial of the application for failure to sustain the burden of proof and failure to afford the Board an opportunity to reach an informed decision. If the applicant requests a continuance, verbally, in person or in writing, but fails to expressly consent to an extension of the statutory period within which the Board is required to act, the continuance request shall be deemed to include an extension of time through the meeting to which the matter is continued. The provisions of §3.02 shall also apply.

6.15. Record of Applicant Commitments. At each public hearing on an application, the Chair shall designate one member of the Board, or the Board Clerk or Board Attorney, to record all specific commitments made by the Applicant, such as (but not limited to) to make changes to the plans, provide additional information, or accept certain conditions of approval. Prior to adjourning each public hearing on a particular matter, the person so designated shall summarize those commitments, upon which the Applicant shall be given a chance to comment. In the absence of comment, the Applicant shall be deemed to have accepted the list and shall not receive an approval until the requisite plan changes and additional information have been provided. In the Board's discretion, approval may be granted conditioned upon the requisite plan changes and submission of the additional information.

ARTICLE 7.
EXHIBITS, TESTIMONY AND OTHER EVIDENCE

7.01. Rules of Evidence. The formal rules of evidence shall not apply. However, no decision shall be based upon any facts not proved or on matters not in the record, unless they are such items of which the Board is entitled to take judicial notice.

7.02. Introduction of Evidence. Documents or exhibits admitted into evidence during a hearing shall be marked and retained by the Board as part of the permanent file. After the Board has rendered its decision and the time for filing an appeal has expired, the Board Clerk may return any such exhibits or documents to the person who offered them, upon his or her request. Any evidence presented, Whether by testimony or by documents and exhibits presented at the hearing, which are not questioned or controverted by any other person appearing or by any member of the Board, may be deemed to be true by the Board in its decision making process and findings of fact.

7.03 Record. The record before the Board shall consist of all materials received and filed to the Board's file for each matter, as well as all evidence and testimony present in connection with it.

7.04. Limitations on Testimony and Proffers of Evidence. The Chair may limit irrelevant, immaterial or redundant testimony, and may impose reasonable limitations as to time and number of witnesses. The Board may consider whether proposed testimony or proffers of evidence are relevant to any matter before the Board or within its jurisdiction, and shall reject any testimony or evidence, which fails to meet the threshold of relevance or jurisdiction.

7.05. Flyers, Letters and Petitions. Flyers, letters of objection and petitions may not be submitted to the Board. Participation by members of the public shall be by live testimony.

7.06. Subpoenas. The Applicant, the objector and any member of the public may apply to the Chair for issuance of one or more subpoenas, pursuant to N.J.S.A. 40:55D-10c, to compel the attendance of witnesses and the production of relevant evidence, The Chair may, in the reasonable exercise of discretion, upon consultation with the Board Attorney and the Board, issue subpoena(s) requested by such an application, requested by any member of the Board, or on the Chair's own motion in determining whether to issue subpoena(s), the Chair shall be guided by the following considerations:

- A. The extent to which the witness or other evidence that would have to be produced if the Chair issued the subpoena(s) is relevant to the proceeding, is not otherwise available to the Board, and would not duplicate testimony or other evidence already presented to the Board.
- B. The extent to which issuance of the subpoena(s) would impose an unreasonable burden on the Applicant, the objector, or the party subpoenaed.

C. The extent of any delays that would be likely to result in the Board rendering a decision on the application, which the Chair shall balance against the relevance and potential importance to the Board of the testimony or other evidence sought to be subpoenaed in rendering an informed decision.

D. The motivation of the party making application for the subpoena.

E. The anticipated costs of any witness or other evidence sought to be subpoenaed, and how those costs will be paid.

F. Oral or written legal argument offered by the Applicant and the objector, which they shall be permitted to submit, with respect to issuance of the subpoena(s).

7.07. Failure to Appear Pursuant to Subpoena. Any person under subpoena who refuses or fails to appear or refuses to be examined or answer any proper questions or to produce any books, papers, documents or tangible things in accordance with the subpoena, shall be subject to proceedings in the Superior Court for an Order to compel him or her to do so. If a person subject to subpoena shall engage in contemptuous conduct at any hearing, the Board may apply to the Superior Court to compel such person to refrain therefrom, and may seek costs and fees in connection therewith.

7.08. False Testimony. Any person who shall willfully give false testimony under oath in the course of any hearing held before the Board shall, in accordance with the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 *et seq.*, be guilty of perjury.

7.09. Judicial Notice. The Board may take judicial notice of such matters as are so notorious as not to be the subject of reasonable dispute, including matters of common knowledge, and provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, and the Ordinance.

7.10. Qualification as Expert Witness. Individuals seeking to qualify as experts in a particular field must present to the Board their qualifications, including any relevant professional licenses, educational background, practical experience, or other pertinent expertise. The Chair, in the reasonable exercise of discretion, shall determine whether the individual shall be qualified as an expert, and whether the matters on which the individual wishes to testify are germane to the proceeding before the Board and would be of assistance to the Board in rendering a decision. Once an individual has satisfied the threshold of having the requisite background, the Board in rendering its decision shall determine how much weight, if any, shall be accorded to all testimony given.

7.11. Board Expert Witnesses. The Board shall have the power to engage its own independent experts to either corroborate or refute the testimony of experts produced by an Applicant or other party. The cost of such experts shall be borne by the Applicant to the extent provided for by the Ordinance.

7.12. Acceptance of Expert Testimony. The Board shall not be bound to accept the testimony of any expert where there is conflicting testimony of experts, the Board shall decide which, if any, to accept. These Rules and Regulations shall not be construed as requiring expert testimony in all instances to sustain a Board finding.

7.13. Consultation Among Experts. The Board may require its consultants to confer with the experts of the Applicant and, where appropriate, with experts hired by objectors or the Board in order to expedite consideration of the application. Informal communications between the Board's consultants or experts and those for the Applicant shall be permitted outside the context of public meetings. The Applicant shall reimburse the municipality as provided in the Ordinance for the expenses incurred by the municipality in having Board professionals and experts participate in such communications.

ARTICLE 8.
DECISIONS ON APPLICATIONS FOR DEVELOPMENT

8.01. Decisions Based on Record. Each case shall be decided strictly on the basis of the facts adduced at the hearing. The facts adduced at the hearing, all testimony and all evidence on which the Board makes its decision must be part of the record, except for matters of which the Board may properly take judicial notice. The Board's decision must include findings of fact from the record.

8.02. Decisions Made in Public Session. The Board's decision shall be made at a public meeting and the Board's vote on each application and its adoption of a resolution shall take place at a public meeting.

8.03. Reasons Supporting Decision. Prior to, or at the end of casting his or her vote on an application for development, each Member of the Board may state on the record the reasons for voting to approve or deny the application. However, the official reasons for the Board's decision shall be contained in the Resolution of Memorialization approved by the appropriate vote of the Board. There shall not be individual reasons of individual Board Members.

8.04. Power to Grant Additional or Different Relief. The Board shall have the discretionary power to grant relief, to the extent within its statutory jurisdiction, other than and in addition to the precise relief sought by the Applicant. Interested parties shall be given notice on the record of the fact that such relief might be granted.

8.05. Reservation of Decision. The Board may decide to reserve decision on a matter after the hearing is completed and may make its decision at the next meeting provided that the period within which to decide the application will not expire prior to the next meeting. The Board may also authorize the Board Attorney to prepare a resolution for consideration at the next meeting provided that the period within which to decide the application will not expire prior to the next meeting. In either instance, the applicable time limitation for action on the application may be extended by the mutual consent of the Board and the Applicant. The making and passage of a motion to have a resolution prepared for consideration by the Board shall not be construed as the making of a decision, but shall be only an indication of an intention to act upon an application in a certain manner. The Board shall not be bound thereby and may ultimately take an action different than the intention originally expressed.

8.06. Memorializing Resolution The Board's decision on each application shall be reduced to a written resolution which shall contain the findings of fact and conclusions of law made by the Board. It shall be immaterial that at the time of voting certain Board members may have given other reasons or discussed matters not addressed in the resolution.

8.07. Imposition of Conditions. The Board shall have the authority and discretion to impose reasonable conditions to the extent permitted by law. Conditions that are

development-specific shall predominantly be aimed at mitigating specific concerns arising in connection with the proposed project. Such conditions shall not be deemed exclusive, and the Applicant shall be subject to terms and conditions of approval that are expressed and implied at law, including those imposed pursuant to the Ordinance as applied uniformly to every development application. If a term or condition of approval is imposed by Ordinance or law and the Board is not expressly granted the power to waive, enlarge or relax such term or condition, the Board shall not have such discretion or power. The right to impose conditions is an inherent power of the Board that exists regardless of whether the ordinance grants such a right to the Board. Conditions must not be inconsistent with any provisions of the Ordinance, must be in the public interest, must be reasonably calculated to achieve a legitimate objective of the Ordinance and shall not be unnecessarily burdensome to the Applicant and/or owner. The Board shall have the power to require that conditions be fulfilled within a stated period of time. The Board may require that some or all conditions of approval, or the resolution itself, be recorded with the County Clerk.

8.08. Applicant Subject to Testimony and Representations. In addition to any conditions expressly set forth in resolution of approval, the Applicant shall also be subject to all the testimony and representations made by the Applicant during the hearing, all of which implicitly shall be deemed continuing conditions of approval. Omission of any condition to which the Applicant agreed, or of any representation made by the Applicant, from the Board's memorialized written decision shall not relieve the Applicant from compliance with such condition or representation.

8.09. Draft Resolutions. A draft Resolution (or any document which includes proposed findings of fact or conclusions of law that may ultimately be included in such Resolution of Memorialization) prepared by the Board Attorney and transmitted to the Board and/or its Consultants for consideration by the Board at a public meeting shall be considered a privileged document between the Board Attorney and the Planning Board and its Consultants and shall not become a matter of public record until the Board Members have had an opportunity to provide comment regarding said draft but not later than five (5) days after submission to the Board Members. Thereafter, the draft may be distributed to the Applicant or Applicant's Attorney and/or Objectors.

**ARTICLE 9.
REHEARING**

9.01. Reliance on Truth of Evidence; Misrepresentation, Fraud or Mistake The Board may presume that all material statements of fact are true. The Board may also presume that all exhibits, maps and other documents submitted are true and accurate representations of all facts which such materials have been introduced to substantiate. In the event that it later appears to the Board on reasonable grounds that an Applicant or witness has not been truthful, or that a mistake has been made, and such circumstances bear on facts which are essential in the granting of the relief sought by the Applicant and were relied upon by the Board in taking such action, then, upon discovery of such misrepresentation, fraud or mistake, the Board may rehear the matter either upon application of an interested party or on its own motion when unusual circumstances so require in the interest of justice. In such event the Board may, upon notice to the Applicant and to interested parties in the same manner as for the original public hearing, require the Applicant to appear before it for the purpose of explaining the testimony previously given at the hearing. At such subsequent hearing it may be determined whether or not the testimony as given at the original hearing was in fact false. Mistake or fraud in proceedings, left uncured, shall constitute grounds for rescission.

ARTICLE 10.
DISQUALIFICATION OF BOARD MEMBERS

10.01. Disqualification for Interest Members of the Board shall be subject to disqualification for interest as set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, and the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 *et seq.* No member of the Board shall be permitted to participate in any matter in which he or she has, either directly or indirectly, any personal or financial interest. The decision as to whether a particular interest is sufficient to disqualify shall depend on whether the facts and circumstances could reasonably be interpreted to show that the interest in question has the likely capacity to tempt the Board member to depart from his or her sworn public duty:

10.02. Interests Requiring Disqualification. Any member of the Board shall disqualify himself or herself from participating in any matter in which he or she has a disqualifying interest, such as, but not limited to, the following:

- A. The Board member is the Applicant or owns the property which is the subject of an application for development.
- B. The Board member owns property located within 200 feet of the property affected by the application;
- C. The Applicant is related within the third degree of consanguinity to the Board member by blood or is the husband or wife of any person so related;
- D. The Applicant or the Applicant's attorney is the employer, employee, or partner of the Board member, or the Applicant is a corporation in which the Board member is a shareholder or has other financial interests;
- E. The Board member has any other personal or pecuniary interest in the proceeding.

10.03. Determination Regarding Disqualification; Voluntary Recusal. Where a Board member believes that a basis may exist for his or her disqualification; he or she may consult with the Board Attorney, who shall render an opinion. The facts presented to the Board Attorney and which were the basis for his or her opinion shall be set forth on the record, together with the opinion rendered. If the Board member determines that the facts in question are sensitive in nature and wishes to avoid public disclosure, said Board member may voluntarily elect not to participate in a particular matter on the basis of a potential conflict of interest, whether or not such disqualification would in fact be required.

ARTICLE 11.
FEES

11.01. Application Fees. At the time of filing an application, the Applicant shall pay all required application fees pursuant to the Ordinance.

11.02. Escrow Deposit. At the time of filing an application the Applicant shall deposit funds for the purpose of defraying expenses incidental to the proceedings described in these Rules and Regulations. The deposit applicable to each application shall be determined by reference to the Ordinance. If such deposit is depleted during the pendency of an application, the Board or the Board Clerk shall advise the Applicant of the additional deposit required to supplement the escrow account. The Board shall have the right to remove any application from its agenda if such supplement has not been paid by the date of the Board's meeting, provided that the Applicant has been given at least ten (10) days written notice of the amount of the required supplement. Failure of the Applicant to pay the required supplement within ten (10) days shall be deemed to toll the time in which the Board must act on the application.

11.03. Digital Recording of Planning Board Meeting. A digital file shall be furnished to any interested party at his/her expense. When furnishing a digital file of the proceedings to an interested party, the Board shall not charge such interested party more than the maximum permitted by law. The digital file shall be certified by the Board Clerk to be accurate. The actual cost of the digital files shall be paid by the party requesting same. An amount estimated by the Board Clerk shall be deposited immediately after the request for a digital file is made. All digital file Planning Board meeting recordings requests shall be made in writing

11.04. Special Meetings. Should an Applicant request that the Board consider his/her application at other than a regular meeting of the Board, the Applicant shall, in addition to the fees hereinbefore provided, pay the costs incurred by the Board in connection with the holding of such special meeting pursuant to the Ordinance.

11.05. Review by Board Professionals. An Applicant may also request additional review by the Board's professionals, provided the Applicant shall pay any fees as required by the Ordinance.

ARTICLE 12.
COVENANTS AND RESTRICTIONS

12.01. Private Restrictions. The Board is established for the sole purpose of exercising the powers conferred upon it by the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, as implemented through the Ordinance and these Rules and Regulations. The Board is authorized by the Ordinance to hear only matters within the purview of that Ordinance. An easement, restrictive covenant, or other similar limitation on the use of land shall be construed as being in the nature of a private contract which may be enforceable either by a grantor, grantee, or other party. Such an easement, covenant or restriction shall not affect the jurisdiction of the Board, and the grant of relief by the Board shall not affect its validity or enforceability.

ARTICLE 13.
AMENDMENT OF RULES AND ORDINANCE

13.01. Amendment of Rules and Regulations. The Board may from time to time amend any part or parts of these Rules and Regulations at any meeting, provided notice of such amendment has been given, in writing, to each member of the Board at least three (3) days prior to such meeting. In no case, however, shall any rule as amended be applicable to any application commenced prior to the adoption of such amendment where the application thereof would result in surprise, hardship or injustice to the Applicant or any other interested persons.

ARTICLE 14.
PROCEDURES FOR AMENDING PRELIMINARY APPROVALS

14.01. Procedures Upon Modification of Preliminary Approvals. In the event changes are required to a plan for which an Applicant has received preliminary major site plan or subdivision approval, the following procedures shall be followed:

A. The Applicant shall submit the revised plan to the Board with a narrative explanation of the nature of and reasons for the changes from the preliminarily approved plan.

B. The Board Engineer and Board Planner shall each prepare a report evaluating the Applicant's submission and further offering an opinion on whether the changes affect the integrity of the preliminarily approved plan or any material aspect thereof.

C. The Applicant shall then proceed to a hearing before the Board, on notice to all parties who would be entitled to notice of an application for preliminary approval. The Applicant shall address the following:

(1) All changes to the preliminarily approved plan.

(2) The reasons for the changes.

(3) The Applicant's case as to why the changes are not substantial.

D. The hearing shall follow the procedures set forth in Article 6 of these Rules and Regulations.

14.02. Board Action on Modifications of Preliminary Approvals. At the conclusion of the hearing, the Board shall take one of the following actions:

A. Determine that the changes are not substantial, in which case the Applicant may proceed with an application for final approval.

B. Determine that the changes are not substantial as to the preliminarily approved plan itself, but that the Applicant must submit additional data, engineering detail, or other technical information for review and approval by the Board Engineer prior to proceeding with any application for final approval.

C. Determine that the changes are substantial but not of a nature requiring reconsideration of the entire preliminary approval. The action of the Board shall then be consideration of the plans to the extent changes are required to the preliminarily approved plan, and the adoption of a resolution either denying or approving of the resolution granting preliminary approval.

D. Determine that the changes are substantial and that a re-submission of an application for preliminary approval is required. In the event of such a decision, the previous approval shall be disregarded in its entirety and the Applicant shall address all aspects of the plan, irrespective of the prior proceedings.

ARTICLE 15
TECHNICAL ADVISORY COMMITTEE

15.01. Purpose and Establishment. The Board recognizes and acknowledges that the time allotted for evening public hearings is often quite limited, particularly when a number of substantial or controversial matters are simultaneously pending. The Board further considers the interests of both the Applicant and the public to be better served when an application is presented in an orderly and complete manner over a relatively short period of time, rather than in piecemeal fashion over an extended period of time that often can consist of many months. Finally, the Board considers it to be a service to the public, the Applicant, and the members of the Board to limit the amount of time consumed at public hearings by administrative, procedural, technical and similar matters, so as to maximize the time available for consideration of substantive matters. For the foregoing reasons, the Technical Advisory Committee ("TAC") is hereby authorized to review and consider matters coming before the Board in the future, within the general contemplation of N.J.S.A. 40:55D-9b and in accordance with § 17-6.12.a. of the Ordinance.

15.02. Composition. In the event the Board determines to utilize a TAC for the purposes set forth in this Article: Its membership shall consist of the individuals and officials set forth in §17-6.12.a. of the Ordinance as amended.

15.03. Meetings. The TAC shall meet at the call of its Chair. Meetings shall be held in the Municipal Building in the room designated by the TAC's Chair. Those with an interest in a particular application as well as the public in general are invited to attend; however, the meetings are not open to public participation and discussion is limited to that solicited by members of the TAC.

15.04. Quorum. A quorum of the TAC shall consist of any three (3) of its members.

15.05. Notice and Agenda. An annual notice shall be published in the same manner as the notice advising of the meetings of the Board. If meetings are conducted on an as-needed basis, notice shall be given as required by the Open Public Meetings Act, N.J.S.A.10:4~6 *et seq.* Printed agendas shall be posted on the main floor bulletin board of the Municipal Building, but nothing shall preclude the TAC from reviewing any application then pending and for which the public hearing has not yet begun.

15.06. Waiver Requests. In addition to the duties and responsibilities set forth in § 17-6.12.a. of the Ordinance: the TAC may also consider waiver requests involving applications for development to come before the Board. Such waiver requests may be referred to TAC by the Board. The TAC shall submit all recommendations directly to the Board.

15.07. Completeness Reviews. The TAC shall review applications for development for purposes of making recommendations regarding completeness. The TAC may also make

a preliminary assessment of the degree of engineering and other detail provided. Because the TAC's role is strictly advisory, however, Applicants need not attend TAC meetings or comply with requests of the TAC for additional engineering or other detail. Similarly, discussion by TAC members is strictly informational and is in no way binding upon the Board.

15.08. Review of Applications for Procedural Matters, The TAC may also review the application for procedural matters such as the relief required, the number of witnesses the Applicant proposes to call the exhibits the Applicant intends to introduce, whether special accommodations may be necessary, and other similar matters so that the TAC can recommend an appropriate place on the agenda for the Board to consider the application.

15.09. Record of Meetings. A recording secretary shall be appointed for each TAC meeting. Formal minutes need not be adopted; however, the recording secretary's notes shall be sent to all Board members and kept on file in the Board offices. All such notes shall be available for public inspection.

ARTICLE 16
MASTER PLAN ADVISORY REVIEW COMMITTEE

16.01. Purpose and Establishment The Board is required to prepare, adopt and periodically review the Borough's Master Plan and the sub-plan elements comprising it, pursuant to N.J.S.A. 40:55D-28. The Board recognizes the significant time and effort that must be expended to accomplish this statutory responsibility and further recognizes its ongoing obligation to hear and decide land use applications over which it has jurisdiction in a timely manner. To encourage the simultaneous accomplishment of these responsibilities the time frames established by statute, the Board authorizes the establishment of the "Master Plan Review Advisory Committee" ("MPARC") This committee shall review and consider the Master Plan and the sub-plan elements comprising it and shall report the result of its study to the Planning Board.

16.02. Composition. The membership of the MPARC shall consist of four (4) members of the Board appointed by the Planning Board Chairman, who shall serve as Chair of MPARC and shall be counted as one of the four members appointed from the Planning Board. These individuals shall meet with, study and analyze the data, standards, studies and recommendations provided for its consideration by Board professionals, consultants, Borough representatives and officials. The MPARC shall perform its review in conjunction with the "Citizens Advisory Committee" ("CAC"), established in §17.01, hereof.

16.03. Meetings. MPARC shall meet as provided herein. Meetings shall be held in the Municipal Building in a room designated by MPARC's Chair. The public in general are invited to attend. The degree of public participation, shall be determined by the MPARC and shall be in accord with the agenda for the meeting. The joint Master Plan review meetings of the MPARC and the CAC will be chaired by the Chair of the MPARC.

16.04. Quorum. A quorum of the MPARC shall consist of any three (3) of its members. A meeting shall take place if a quorum of the MPARC is reached, regardless of the presence or absence of the CAC membership or a quorum thereof.

16.05. Notice and Agenda. At the discretion of the Chair, a quarterly, semi annual or annual notice shall be published in the same manner as the notice advising of the meetings of the Board. If meetings are conducted on an as-needed basis, notice shall be given as required by the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq. Printed agendas shall be posted on the main floor bulletin board of the Municipal Building within a reasonable time prior to the meeting.

16.06. Reports. The MPARC shall, in conjunction with the Board Planner and after ongoing consultation with the CAC, deliver a report to the Planning Board containing its recommendations on the reviewed of the Master Plan and of its sub-plans and sub-elements. The MPARC may report to or consult with the Planning Board on an interim basis at any time during the review of the Master Plan, as a whole, or on any sub-plan or sub-element thereof The MPARC's role is strictly advisory and the Master Plan shall be

adopted by the Planning Board upon notice and hearing as required by N.J.S.A 40:55D-13.

16.07. Record of Meetings. A recording secretary shall be appointed for each MPARC meeting. Formal minutes need not be adopted; however, the recording secretary's notes shall be sent to all MPARC and CAC committee members and to the Chair of the Planning Board.

ARTICLE 17
CITIZENS ADVISORY COMMITTEE

17.01. Establishment. The Board recognizes and acknowledges that, pursuant to N.J.S.A. 40:55D-27, the Mayor has the authority to appoint a Citizen's Advisory Committee, ("CAC") to the Board.

17.02. Function. In any year where the mayor has elected to appoint a Citizen's Advisory Committee, the Chair, in consultation with the members of the Board, shall determine what matters shall be referred to the CAC for input. The Chair shall appoint one Member to serve as liaison to the CAC. The liaison Member shall meet with the CAC at the reasonable request of the latter, and shall thereafter report back to the Board.

In any year where the Master Plan shall be the subject of review by the Board, and the Mayor appoints up to three (3) members of the CAC to meet with the Master Plan Review Advisory Committee (MPARC) to review the Master Plan, the MPARC shall meet with the CAC members so appointed as provided in Article 16 hereof.

17.03. Reporting. The CAC shall be invited to address the Board during at least one meeting during the year. The purpose shall be to provide the Board with any comments the CAC may have regarding relevant zoning, planning and development issues. The Chair of the Planning Board shall determine the protocol and the amount of time allocated to the CAC's presentation. The Board and the CAC recognize that the review of development applications remains the obligation and responsibility of the Board and that the CAC is specifically directed to refrain from reviewing and commenting on pending applications. Likewise, the CAC and the Planning Board recognize that the review, revision or adoption of the Master Plan is the statutory obligation of the Board. The CAC and the Planning Board recognize that the CAC's role in the development of the Master Plan is an advisory one, and that the Planning Board, with the assistance of its sub-committee, the MPARC, is charged with the responsibility to review, revise and adopt the Master Plan, and any re-examination thereof.