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February 20, 2025

**VIA PRIORITY MAIL AND EMAIL**

Heather Kepler, Planning Board Secretary  
Township of Neptune Engineering/Planning Dept.  
25 Neptune Blvd.  
Neptune, NJ 07753  
[hkepler@neptunetownship.org](mailto:hkepler@neptunetownship.org)

**Re: Request of 3501 RT 66 LLC for  
Extension of Minor Subdivision Approval (Resolution No. 24-14) for  
Block 3903, Lots 12 and 13, Neptune, NJ (the "Property")**

Dear Ms. Kepler:

As you know, this firm represents 3501 RT 66 LLC ("Applicant") with regard to the above-referenced resolution of approval adopted August 28, 2024 (the "Resolution") (attached for reference). The Resolution approved, among other things, a minor subdivision of the Property (the "Subdivision"). We write to request that the Planning Board extend the Resolution's approval of the Subdivision.

The Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. ("MLUL"), states as follows:

Except as provided in subsection f. of this section, approval of a minor subdivision shall expire 190 days from the date on which the resolution of municipal approval is adopted unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law," [ ], or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the municipal engineer and the municipal tax assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the planning board.

[N.J.S.A. 40:55D-47d.]

Here, as the Resolution is dated August 28, 2024, the Resolution's approval of the Subdivision is currently set to expire on March 6, 2025.

However, the above referenced subsection f. of N.J.S.A. 40:55D-47 states:

The planning board may extend the 190-day period for filing a minor subdivision plat or deed pursuant to subsection d. of this section if the developer proves to the reasonable satisfaction of the planning board (1) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and (2) that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the planning board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

N.J.S.A. 40:55D-47g adds:

The planning board shall grant an extension of minor subdivision approval for a period determined by the board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of minor subdivision approval or (2) the 91<sup>st</sup> day after the developer receives the last legally required approval from other governmental entities, whichever occurs later.

The Appellate Division of the New Jersey Superior Court has explained N.J.S.A. 40:55D-47f and -47g as follows:

The 190-day period may be extended by the board in certain circumstances, N.J.S.A. 40:55D-47(f), and must be extended in others, N.J.S.A. 40:55D-47(g).

[In re Miller, Docket No. A-5404-04T5, 2006 N.J. Super. Unpub. LEXIS 2181, 7 (App. Div. 2006).]<sup>1</sup>

The Applicant thus requests a one-year extension of the Resolution's approval of the Subdivision such that the new expiration date would be March 6, 2026.

The extension is necessary because of the complexities of the resolution compliance process for the Applicant's application. The Applicant is still working with the Township to obtain confirmation of resolution compliance. Additionally, applicant anticipates receipt of exemption approval of our subdivision plan by the Monmouth County Division of Planning at a meeting of its Development Review Committee on February 24, 2025.

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<sup>1</sup> The court also noted: "N.J.S.A. 40:55D-47(d) provides for the expiration of approval unless the 190-day period is extended pursuant to N.J.S.A. 40:55D-47(f). It does not reference N.J.S.A. 40:55D-47(g). We assume this was a legislative oversight." In re Miller, supra, 2006 N.J. Super. Unpub. LEXIS at 7 n.2.

Meanwhile, the March 6, 2025 expiration date for the Resolution's approval of the Subdivision is rapidly approaching. That Subdivision approval will expire on March 6, 2025 unless the necessary Township officials sign the Subdivision plat soon enough for us to record it before the March 6 expiration.

Accordingly, we respectfully request that the Planning Board adopt a resolution extending the approval of the Subdivision until March 6, 2026. In the meantime, the Applicant will continue working with the Township to satisfy all outstanding aspects of resolution compliance and will record the Subdivision plat as soon as the Township permits us to do so via execution of the plat.

Please confirm by email that the requested extension will be placed on the agenda of the next available Planning Board meeting.

Thank you,



Patrick J. McAuley

Encl.

cc: Mark Kitrick, Esq. – via e-mail to MKitrick@kmwlawfirm.com  
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