

SETTLEMENT AGREEMENT

WHEREAS, Pennwell Holdings, LLC and The Gadbey Organisation ("Pennwell"), filed suit against Hopewell Township ("Township"), the Township Committee of the Township of Hopewell ("Township Committee") concerning Township zoning regulations which pertain to Block 37, Lots 17.01, 17.02, 17.03 and 17.04, Hopewell Township Tax Map (Pennwell Holdings, LLC and The Gadbey Organisation v. Township of Hopewell and Township Committee of the Township of Hopewell, Docket No. L3455-01)); and

WHEREAS, the litigation has been managed by the Honorable Linda R. Feinberg, A.J.S.C.; and

WHEREAS, the parties now wish to resolve the litigation and have reached an agreement that addresses the concerns of the parties.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and for good and other valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

1. In consideration of Pennwell's agreement to dismiss all claims against the Township and the Township Committee concerning the current zoning of Block 37, Lot 17.01, 17.02, 17.03 and 17.04 Hopewell Township Tax Map, the Township agrees to consider an amendment to the Land Use Development Ordinance ("LUDO") and the Township's Zoning Map to create a VRC-HLI Valley Resource Conservation ("VRC") and Hamlet Light Industrial ("HLI") zoning district. The amendment to the LUDO and Zoning Map shall be substantially the same as set forth in the draft Ordinance annexed as Exhibit A. The amendment to the LUDO and zoning map shall be introduced to the Township Committee within fifteen (15) days after the execution of this agreement by all parties. Following introduction, the Township Committee shall refer the aforementioned LUDO amendments and zoning map amendments to the Planning Board for consideration by the Planning Board within five (5) days after the date of introduction of the Ordinance. In the event that the Township Committee does not adopt the Ordinance, Pennwell shall the right to advise the Court that the litigation referred to above shall be reinstated and in such an event the agreement shall have no further force and effect.
2. The parties further agree that the litigation will be dismissed without prejudice upon passage of the aforementioned LUDO and Zoning Map amendment and the expiration of the contestability period without suit having been filed and the dismissal shall be with prejudice upon approval by the Planning Board of preliminary site plan or other approval allowed under the provisions of the Municipal Land Use Law or the LUDO with conditions acceptable to Pennwell and the contestability period with respect hereto having expired without suit having been filed. If such an approval is not granted or suit is filed during the

contestability period, Pennwell may refile its action, with such amendments as it deems appropriate, or appeal the Planning Board's decision.

3. The parties further agree that in applying the aforementioned LUDO and Zoning Map amendment, the parties agree that Pennwell shall be permitted to build up to twenty-five (25) percent of the floor area as office before the rest of the Pennwell property is built out.
4. The Township Committee shall conduct its hearing on said amendments to the Land Use and Development Ordinance and Zoning Map within 50 days after introduction of the ordinance.
5. Provided that the Settlement Agreement and the amendments to the Land Use and Development Ordinance and Zoning Map have been approved by the Township Committee and no challenge to any approval has been filed in the New Jersey Superior Court within 45 days of the effective date of the approval of either the Settlement Agreement or the amendments to the Land Use and Development Ordinance and Zoning Map, the parties through their attorneys shall execute and file a Stipulation of Dismissal Without Prejudice concerning the above-referenced litigations as paragraph 2 above .
6. In the event that the Settlement Agreement or amendments to the Land Use and Development Ordinance are approved by the Township Committee but are invalidated pursuant to a challenge filed by a third party, then the parties shall advise the Court that the above-referenced litigation shall be reinstated and this Agreement shall have no further force and effect.
7. In the event that the Settlement Agreement is challenged by a third party and the challenge is unsuccessful, this Agreement shall remain in effect and the time periods set forth in paragraph 4 above shall run from 45 days after the date of dismissal of the third party challenge.
8. The New Jersey Superior Court shall retain jurisdiction of this matter to insure the performance of all of the terms and conditions by the parties hereto.
9. This Settlement Agreement may be modified or amended only by written instrument duly signed by each of the parties or their respective successors or assigns. This document contains the entire agreement of the parties and fully supercedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter of this Settlement Agreement.
10. This Settlement Agreement shall be construed in accordance with the laws of the State of New Jersey.
11. This Settlement Agreement shall bind and enure to the benefit of the respective successors and assigns of the parties hereto.

Parker McCay, P.A.
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(609) 896-4222
Attorneys for Defendants,
Township Committee of The Township of Hopewell
and Hopewell Township

PENNWELL HOLDINGS, L.L.C.,	:	SUPERIOR COURT OF NEW JERSEY
and THE GADBEY ORGANISATION	:	MERCER COUNTY
	:	LAW DIVISION
Plaintiffs,	:	
	:	DOCKET NO: MER-L-3455-01
v.	:	
TOWNSHIP COMMITTEE OF THE	:	
TOWNSHIP OF HOPEWELL,	:	Civil Action
HOPEWELL TOWNSHIP, a	:	CONSENT ORDER
Municipal Corporation of the State	:	
of New Jersey, located in Mercer	:	
County, New Jersey	:	
Defendants.	:	

This matter having been opened before the Court upon application of Parker McCay, P.A. (Howard D. Cohen, Esq., appearing) attorneys for defendants, and Miller Porter & Muller, PC (Gerald J. Muller, Esq., appearing) attorneys for plaintiffs; and the parties having reached a resolution of the claims in this matter pursuant to a Settlement Agreement annexed hereto; and for good cause shown;

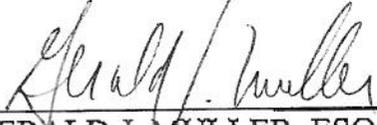
It is on this day of 2006,

ORDERED:

1. The above matter be and the same is hereby dismissed without prejudice subject to compliance with the terms of the Settlement Agreement.

We hereby consent to the form
and entry of this Order.

Miller Porter & Muller, PC
Attorneys for Plaintiffs

BY: 
GERALD J. MULLER, ESQ.

Parker McCay, P.A.
Attorneys for Defendants

BY: _____
HOWARD D. COHEN, Esq.