

SOLON TOWNSHIP
SPECIAL LAND USE /PRIVATE STREET APPLICATION
616-696-1718 fax 616-696-3970

You will find chapter 16 of the zoning ordinance describing the special land use requirements and chapter 3.26 describing private street requirements attached. Please read and follow all requirements in these two chapters.

PLEASE ANSWER ALL QUESTIONS AND INCLUDE ALL ATTACHMENTS, OR THIS APPLICATION WILL BE RETURNED TO YOU.

Bring or mail completed application to: **Solon Township Zoning Administrator**
2305 19 Mile Road NE
Cedar Springs, MI 49319

APPLICANT NAME:

ADDRESS: _____

CITY _____ **STATE** _____ **ZIP** _____

PHONE NUMBER _____ **CELL PHONE** _____

LOCATION OF PROPOSED STREET

ADDRESS _____

PARCEL NUMBER _____

Attach Legal description of property.

PROPERTY OWNER INFORMATION: (IF DIFFERENT THAN APPLICANT)

NAME: _____ **PHONE:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP CODE** _____

ATTACHMENTS: Letter each attachment as shown here. All attachments must be included, or this application will be returned to you.

- a. A completed private street permit/special land use application, on the application form provided by the Township.
- b. A detailed written description of the development to be served by the private street, including a designation of the person, association or other entity, which shall be responsible for the operation, maintenance, repair and improvement of the private street.

- c. Ten (10) copies of a site plan, drawn to scale, prepared by a registered engineer or land surveyor, showing the precise location, grade, route, elevation, dimensions and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect.
- d. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
- e. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity and television cable to be located within the private street right-of-way or within ten (10) feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
- f. The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within one hundred (100) feet thereof. DNR or DEQ reports as required.
- g. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private street right-of-way.
- h. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Planning Commission with a recordable private street maintenance agreement or restrictive covenant between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Planning Commission which shall provide for and assure that the private street shall be regularly maintained, repaired and snowplowed so as to assure that the private street is safe for travel at all times, and also to assure that the costs of maintenance, repair, snowplowing and improvement shall be paid.
- i. Private street Permit fee in the amount of \$110.00 and escrow for private street \$1,000.00.
- ii. Irrevocable Letter of Credit in the amount required by Township engineer.
- iii. Special Land Use application fee \$600.00 and escrow for special land use review \$2,000.00.
- j. Road Commission refusal to accept responsibility for any public road system that could be constructed to serve the property in question. Any other information as may be

required by the terms of this ordinance or may otherwise be necessary or helpful for the review of the proposed private street, as required by the Planning Commission.

AFFIDAVIT and permission for municipal, county and state officials to enter the property for inspection:

I hereby agree the statements made above are true, and if found not to be true this application and any approval will be void.

Further, I agree to comply with the conditions and regulations provided in this document and the Solon Township Zoning Ordinance pertaining to Private Streets.

Further, I agree to give permission for officials of the municipality, county, and the State of Michigan to enter the property where this private street is proposed for purposes of inspections to verify that the information on the application is correct at a time mutually agreed with the applicant.

Property Owners Signature: _____ **Date** _____

DO NOT WRITE BELOW THIS LINE

PLANNING COMMISSION APPROVAL

_____/_____/_____/_____

PLANNING COMMISSION CHAIRPERSON SIGNATURE

CONDITIONS IF ANY

ATTACH SPECIAL LAND USE RESOLUTION

SPECIAL LAND USE AND PRIVATE STREET PERMIT

FEES PAID _____ **CK#** _____ **TOTAL DUE \$710.00 (SLU \$600.00 PRI STR \$110.00)**

ESCROW PAID _____ **CK#** _____ **TOTAL DUE \$3,000.00**

(SLU \$2,000.00 PRI STR \$1,000.00)

IRREVOCABLE LETTER OF CREDIT IN THE AMOUNT SPECIFIED BY SOLON TOWNSHIP ENGINEER.

CHAPTER 16 SPECIAL LAND USES

SECTION 16.01 SCOPE

This section provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of Solon Township. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, the following uses shall conform to the specific standards cited in Section 16.04, as applicable.

SECTION 16.02 APPLICATION AND REVIEW PROCEDURES

A. An application shall be submitted through the Zoning Administrator. Each application shall be accompanied by:

1. the payment of a fee as established by the Township Board;
2. an completed application form, as provided by the Township; and
3. a complete site plan as specified in Chapter 14.

B. Applications for a Special Land Use shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.

C. The application, along with the required site plan, shall be forwarded to the Planning Commission at its next scheduled meeting.

D. The Planning Commission shall hold a public hearing on the application, providing the notice of such hearing in accordance with the Zoning Act. The Planning Commission shall then review the application and such other information available to it through the public hearing or from any other sources, including recommendations or reports from the Township planner, engineer, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed.

E. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

F. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development shall be under construction within one (1) year after the date of approval of the special land use, except as noted below.

1. The Planning Commission may grant one (1) six (6) month extension of such time period, provided the applicant requests the extension prior to the date of the expiration of the special land use approval.
2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the special land use approval shall be null and void.

G. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the special land use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

SECTION 16.03 GENERAL STANDARDS

In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in Section 14.08 hereof, and conditions, as authorized in Section 14.09 may be placed upon a Special Land Use.

A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the following standards and, in addition, that each use of the proposed site will:

1. be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of

- the area in which it is proposed;
2. be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
 3. not create excessive additional requirements at public cost for public facilities and services; and
 4. not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

B. The Planning Commission may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the special land use approval, pursuant to Section 16.02, G. Conditions imposed shall be those necessary to:

1. meet the intent and purpose of the Zoning Ordinance,
2. relate to the standards established in the Ordinance for the land use or activity under consideration,
3. insure compliance with those standards,
4. protect the general welfare,
5. protect individual property rights, and
6. ensure that the intent and objectives of this Ordinance will be observed.

SECTION 3.26

PRIVATE STREETS (Amended December 2006)

:

A. Purpose

The Township has determined that as parcels of land are divided, sold, transferred and developed, all new lots should be served by public streets, wherever possible. The Township acknowledges that there may be instances in which a public street system cannot be constructed, because of the shape of the property, its location or natural features, or where the construction of a public street according to public street standards would result in a negative impact upon significant natural features that, in the judgment of the Planning Commission, outweighs the benefits of construction of a public street. The Township also recognizes there are pre-existing private streets in the Township which, of necessity, will continue to be used. The Township has determined it is in the public interest to regulate the design, construction, improvement, maintenance, extension, relocation and use of new and existing private streets, so as to ensure the following:

1. Private streets are designed with width, surface and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles;
2. Private streets are constructed of suitable materials so as to ensure proper maintenance and safe and convenient passage of vehicles;
3. Private streets shall be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and other significant natural features of the Township; and
4. A private street shall only be permitted when it will not adversely affect the public health, safety and welfare of the Township or the Township's development policies regarding private and public streets.

B. Driveways

1. Building Permits. No building permit shall be issued until approval for a driveway has been granted by the Zoning Administrator under this ordinance, and the Kent County Road Commission has issued a permit as to the driveway entrance onto any public street. The Zoning Administrator shall require an application for a driveway together with applicable driveway maintenance agreements and such information as is necessary or helpful for review of the application. The information and

procedures required for private streets under Sections 3.26.E and G may be used as a guide by the Zoning Administrator.

2. Driveway and Easement Widths. Driveways shall have a minimum easement width of 30 feet and a minimum cleared width of 20 feet. Driveways shall have a minimum travel surface width of 12 feet at any point. Driveways serving more than one lot or principal building shall have a minimum easement width of 66 feet, a minimum travel surface width of 20 feet and a minimum cleared width of 28 feet.
3. Overhead Clearance. Overhead branches shall be kept trimmed to a height of at least 14 feet or such other height as may be specified by the Township fire chief.
4. Driveway Surface. The driveway shall have an improved gravel or paved surface that will provide usable access for emergency vehicles in all weather conditions.
5. Driveway Foundation. The driveway shall be constructed on a base of stable soil and a subbase consisting of at least four inches of sand and, on the top of the sand, at least six inches of compacted road gravel.
6. Crowning. The surface of the driveway shall be crowned or sloped to facilitate drainage and shall be constructed over adequate culverts where necessary. Adequate measures shall be provided to maintain the surface water flow of any natural stream or drainage course, to the satisfaction of the Township Zoning Administrator, Township Engineer and any other agency having jurisdiction thereof. Any culvert, bridge or other structure used for the crossing of a natural stream, drainage course or similar feature shall have a sufficient load capacity to safely support emergency vehicles.
7. Maximum Slope. The slope of a driveway shall not exceed 15 percent unless a steeper driveway is specifically approved by the Planning Commission.
8. Driveway Maintenance Agreement. A driveway providing access to more than one lot or principal building shall be the subject of a driveway maintenance agreement, in record able form, which shall be signed by all owners of or parties in interest in the lots to be served by the driveway. The agreement shall normally be provided as part of the building permit application process, but in any event, a certificate of occupancy shall not be granted before the required Driveway Maintenance Agreement has been provided. The maintenance agreement shall be recorded with the county Register of Deeds and a copy thereof promptly submitted to the Township after recording. The agreement shall include the easement or

other rights necessary for the establishment and use of the driveway, or alternatively such easement or other rights shall be established by other legal instruments. The maintenance agreement shall provide for and assure that the driveway shall be regularly maintained, repaired and snowplowed so as to assure that it shall be safe for travel at all times. The agreement shall also provide for the payment of expenses of such maintenance, repair and snowplowing by the parties in interest. This requirement for a maintenance agreement may be modified in cases where the legal rights of third parties prevent full compliance.

9. Driveways Serving Back Lots. For purposes of this Section 3.26.B, a “back lot” is a lot which does not have frontage on a street and to which access is provided or proposed by an easement connecting the lot to a street. A “front lot,” for purposes of this section, shall be a property that is crossed by a driveway easement to provide access to a back lot. A front lot may not be burdened by more than one driveway providing access to back lots.

Notwithstanding the definition of lot width contained in Section 2.05 of this ordinance, access to a back lot may be granted by means of a driveway if the driveway and back lot comply with the requirements of this Section 3.26.B, including the requirements of 3.26.B.10.

10. Turnaround and Frontage Requirements for Driveways Serving Back Lots. A driveway serving a back lot must include a cul-de-sac with a radius of not less than 40 feet, or other sufficient means for emergency vehicle turnaround, which shall be approved by the Township Zoning Administrator. A back lot served by a driveway complying with this ordinance shall not be required to have frontage on a street, but must have the minimum lot frontage on the cul-de-sac or vehicle turnaround area. A driveway serving the back lot may also serve one contiguous front lot without being considered a private road if the additional front lot has continuous frontage on a street equal to or greater than the minimum lot width distance required in the applicable zoning district.
11. Limit on Further Division. If a driveway easement to a back lot is created, the land subject to the driveway easement and the land served thereby shall not be further divided if the division will cause either lot to be out of compliance with any requirement of this zoning ordinance, including setback, lot width, lot area and other requirements of the zoning ordinance, nor may the easement itself cause the front or back lot to be out of compliance.

12. Private Street Length. A back lot easement that intersects with a private street to provide access to a public street is to be considered part of the private street for purposes of calculating the length of the private street under this ordinance.

C. Special Land Use Approval Required for Private Streets

Special land use approval is required for a new private street. Special land use approval shall be processed and reviewed according to Chapter 16 and the standards contained therein, as well as the design and construction standards of this Section 3.26. Special land use approval shall be granted only if one or both of the following conditions are demonstrated by the applicant, to the satisfaction of the Planning Commission:

1. Road Commission Refusal. The Road Commission has refused or would refuse to accept responsibility for any public road system that could be constructed to serve the property in question. In making this determination, the Planning Commission is not bound to accept the street and lot layout proposed by the applicant, and the Township may require that the applicant submit alternate street layout plans to the Road Commission for the purpose of determining whether any layout would be approved. Additional costs involved with constructing public streets, a reduction in the number of lots which could be served by public street system, or a preference for private streets do not justify approval of a special land use. In making its determination under this subsection, Township officials or agents may seek verification directly from the Road Commission.
2. Preservation of Natural Features. Use of public street standards would have a negative impact upon significant natural features, rural atmosphere, topography, soils, safety or other public benefit that could be avoided by use of private streets. Such natural features or other benefit must be clearly identified and described in the submitted private street site plan and application for the special land use. A special land use will not be granted unless the use of the private street standards will create a benefit by preservation of natural resources, rural atmosphere, enhanced safety or other public benefit that outweighs the benefit obtained by the use of a public street.

D. Existing Private Streets

1. Continuation of Current Private Streets. A private street lawfully existing as of December 1, 2006, may continue in existence and be maintained and used, though it may not comply with the provisions of this Section 3.26. Such private street shall be continuously maintained so as to provide a safe

and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.

2. Addition of lots along length of private streets lawfully existing on December 1, 2006.

- a. One or more additional lots or parcels may be permitted access to an existing private street if, for each such lot to be added, there exists frontage on the existing street equal to or greater than the minimum lot width required for that zoning district. In such a case, the lots may be added, but the entire length of the existing private street shall be constructed and maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
- b. If, for each additional lot or parcel to be created, there does not exist frontage on the existing street equal to or greater than the minimum lot width for that zoning district, the additional lot or parcel shall not be permitted access unless the existing private street is upgraded along the direct route of travel from the driveway of the new lot or lots to the public street. The upgraded portion of the private street shall comply with the applicable requirements of Section 3.26.F.
- c. Review and approval of the addition of lots along the length of an existing private street under Section 3.26.D.2 shall be carried out by the Township Zoning Administrator, or in the Zoning Administrator's discretion, such review and approval may be carried out by the Planning Commission. The Zoning Administrator, or Planning Commission, if applicable, may waive those private street application requirements that are not necessary to determine compliance with this section, or otherwise are not needed with respect to review of the matter.

3. Extension of private streets.

- a. If a private street existing on December 1, 2006, is extended by the construction and use of an additional length of private street equaling or exceeding 400 feet, or if the street as extended will exceed 1,320 feet in length, then the private street, including the existing portion and the additional portion, shall comply with the applicable requirements of Section 3.26.F. If the private street, as extended, shall exceed 1,320 feet in length, including any "back lot" easements as provided in Section 3.26.B, then the private

street shall have more than one point of access to the public street system.

- b. If the extension is less than 400 feet, and as extended will be less than 1,320 feet, then the extension shall be constructed in the same manner as the existing portion of the private street, provided that the entire private street shall be maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
- c. A maintenance agreement complying with this section shall be provided at least for the lands to be served by the extension.

E. Application for Private Street

- 1. Special Land Use Permit Required for Private Street. A private street shall not be constructed unless a special land use permit has been granted pursuant to the terms of Chapter 16 and unless a private street permit has been issued by the Township.
- 2. Application Information. Any person or party in interest desiring to construct a private street shall first apply to the Township for special land use approval and for a private street permit. An application for special land use approval and private street permit shall contain the following:
 - a. A completed private street permit application, on the application form provided by the Township.
 - b. A detailed written description of the development to be served by the private street, including a designation of the person, association or other entity, which shall be responsible for the operation, maintenance, repair and improvement of the private street.
 - c. Ten (10) copies of a site plan, drawn to scale, prepared by a registered engineer or land surveyor, showing the precise location, grade, route, elevation, dimensions and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect.
 - d. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
 - e. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity and television cable to be located within the private street right-of-way or within ten (10) feet

of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.

- f. The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within one hundred (100) feet thereof.
- g. The location of any other buildings and structures located, or to be located, within one hundred (100) feet of the private street right-of-way.
- h. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Planning Commission with a recordable private street maintenance agreement or restrictive covenant between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Planning Commission which shall provide for and assure that the private street shall be regularly maintained, repaired and snowplowed so as to assure that the private street is safe for travel at all times, and also to assure that the costs of maintenance, repair, snowplowing and improvement shall be paid.
- i. Permit and escrow fees in such amounts as may be periodically established by resolution of the Township Board.
- j. Such other information as may be required by the terms of this ordinance or may otherwise be necessary or helpful for the review of the proposed private street, as required by the Planning Commission.

3. Planning Commission Findings. Prior to approving a private street permit application; the Planning Commission shall determine the following:

- a. The proposed private street will not be detrimental to the public health, safety or general welfare.
- b. The proposed private street will not adversely affect the use of land.
- c. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
- d. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and natural environment of the Township.
- e. The construction of the private street will conform to the requirements of this section.

4. Conditions. The Planning Commission may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
5. Performance Guarantees and Time Deadlines. The Planning Commission may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Section 3.26.G.11. Construction of a private street is to be commenced within one (1) year of issuance of the permit and the developer is to proceed diligently to completion of the street. If construction is not commenced within such period and pursued to completion, the permit shall expire, and the applicant shall reapply as provided in this section if the applicant later decides to proceed. The period within which construction must be commenced is subject to extension by the Planning Commission for good cause shown and, as a condition of extension, the Planning Commission may increase the amount of performance guarantee required.
6. Building Permits. The Building Inspector shall not issue building permits for construction of any building or structure on lots served by a private street until construction of the private street as approved by the Planning Commission has been completed and the owner shall have submitted to the Zoning Administrator a letter of approval from the Township Engineer indicating that the road has been completed in accordance with the approved plan and the requirements of this section, unless a performance guarantee assuring the completion of the private street has been submitted in accordance with the requirements of Section 3.26.G.11.

F. Private Street Design and Construction Requirements. A private street shall comply with all of the following requirements:

1. Survey. There shall be a survey, submitted to the Planning Commission, covering the easement or right-of-way, prepared by a registered land surveyor or professional engineer, together with surveys of each parcel of land to be served by the private street.
2. Legal Documents. Accurate copies of all easements, agreements or other instruments whereby the private street, and all rights necessary thereto are conveyed or established, shall be submitted to the Planning Commission.
3. Easements. A private street shall have a recorded permanent right-of-way and easement, with a minimum width of 66 feet. The instrument establishing the easement and right-of-way shall expressly permit public or private utilities to be installed within the right-of-way or within ten feet on either side thereof.

4. Street Width. A private street shall be constructed approximately in the center of the private street easement. The area within which the private street is to be located shall have a minimum cleared width of 28 feet, and such cleared area shall always be maintained. Overhead tree branches shall be trimmed and maintained to a height of no less than 14 feet above the ground over the roadbed of the private street.
5. Street Foundation. A private street shall have a roadbed not less than 24 feet wide and a minimum sub-base of 12 inches of sand and six inches of finished, compacted gravel (No. 22A). The street shall be paved with bituminous blacktop paving of a depth of at least two and three-quarters inches. Such sub-base and paving shall comply in other respects with the requirements of the county road commission for local platted streets.
6. PUD Streets. A private street in a planned unit development shall comply with this subsection, except that the width of the easement and traveled portion of the street may be modified by the Planning Commission and Township Board in their approval of the planned unit development.
7. Industrial and Commercial. Private streets serving commercial or industrial uses shall be designed and constructed in accordance with county road commission requirements for public commercial or industrial streets, but in its discretion the Planning Commission may permit modification of such public street requirements if deemed justified in the circumstances and if safe and adequate access would nevertheless be provided.
8. Vehicle Turnaround. A private street which terminates at a dead end shall have a means for vehicle turnaround, either by use of a cul-de-sac or by a continuous loop private road system, both of which must be constructed in accordance with the private street design and construction requirements of this section. In the case of a residential cul-de-sac, there shall be a minimum radius easement of 60 feet, with at least a 40-foot radius roadbed; in the case of a commercial or industrial cul-de-sac, there shall be a minimum radius easement of 75 feet, with at least a 50-foot radius roadbed.
9. Dwellings Permitted with Single Access. A private street or interconnected private street system shall not serve more than 50 residential lots, or dwelling units, nor shall it exceed 1,320 feet from a public street, unless a secondary means of ingress and egress is provided for the entire property served. Such secondary access shall meet the minimum standards of this section.

10. Crowned Street. The private street surface shall have a minimum crown of 2/10ths of one foot, from the centerline of the street to the outside edge thereof.
11. Street Shoulder. A street shoulder, composed of at least six inches of compacted gravel, shall be provided on each side of the private street surface, with a minimum width of two feet for each shoulder, and with a slope of 22/100ths foot from the outside edge of the road surface downward to the toe of the slope.
12. Street Grade. The maximum longitudinal street grade shall not exceed 6 percent, provided, however, that the Township may allow up to a 10 percent grade if the applicant submits written justification thereof, satisfactory to the Planning Commission, to the effect that an increase in the street grade will not adversely affect public safety and the overall design of the street system; but provided further, that there shall be a maximum grade of 4 percent for a minimum distance of 30 feet back from the intersection of the private street with a public street right-of-way or another private street.
13. Stormwater. A private street shall be constructed so as to sufficiently control storm water runoff, such as by means of seepage basins, culverts and drainage contours and/or by such other effective methods as may be required by the Township so as to ensure adequate drainage and control of storm water runoff.
14. Wetland Crossings. The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course, by a private street, shall satisfy the requirements of the Township Engineer and/or any governmental agency having jurisdiction. The method or construction technique used shall have a sufficient load capacity to safely support emergency vehicles.
15. Signs. A private street shall be given a name subject to the approval of the Kent County Road Commission, and street signs shall be installed in accordance with the relevant standards of the Road Commission. Stop signs shall be installed at all intersections with a public street or another private street. The addresses of dwellings or other buildings on a private street shall be posted in a conspicuous place where it is visible from the private street.
16. Addresses. All lots or other parcels of land on a private street shall use the private street address for property address and mailing purposes, when the lot or parcel of land is occupied.

G. Procedures for Approval of a Private Street

1. Special Land Use Procedure. An application for a private street shall be granted only as a special land use, subject to the approval of the Planning Commission. The Commission shall consider approval of a private street at a public meeting according to the procedures and requirements of Chapter 16, including a duly-noticed public hearing.
2. Initial Review. After an application for private street has been received, the Township Zoning Administrator shall initially review the application and determine whether the application and other materials submitted are in compliance with this section. The Zoning Administrator may submit the application to the Township Fire Chief for review and comment.
3. Findings. In approving an application for a private street special land use, the Planning Commission shall make findings that the requirements of this Section 3.26, Chapter 16 and other applicable provisions of this ordinance have been satisfied.
4. Conditions. In approving an application for private street, the Planning Commission may require that the applicant comply with reasonable terms and conditions relating to the placement, design, construction and use of the private street, consistent with the terms of this section and other applicable provisions of this ordinance.
5. Street Permit. Following review and approval of a proposed private street by the Planning Commission, the Township Zoning Administrator shall issue a permit for the construction of the private street, consistent with this section and any terms and conditions included in the Planning Commissions approval.
6. Certificate of Compliance
 - a. The Township Engineer, or the Engineers designee, shall inspect the completed construction to determine whether it complies with the approved plans and specifications for the street, the approval given therefore by the Planning Commission, and the terms of this section and other applicable provisions of this Ordinance.
 - b. The applicant shall provide the Township with a set of “as-built” drawings, bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of this section and other provisions of this Ordinance and with the terms of approval given by the Planning Commission.

- c. After receiving the as-built drawings and the certification by the registered engineer, the Township Engineer shall issue to the applicant a certificate of compliance if based upon the Engineers inspection of the construction, review of drawings and other evaluation, the private street complies with this section, other applicable provisions of this Ordinance and the approval by the Planning Commission.
- d. If the completed private street does not satisfy the requirements of this section, other applicable provisions of this Ordinance or the approval given by the Planning Commission, the applicant shall be notified in writing of such noncompliance.

7. Building Permits

- a. No building permits or other permits shall be issued for any dwelling, or other principal building, principal structure or principal use, the primary access to which is to be provided by a private street, until the private street has been approved in accordance with this section and other applicable provisions of this ordinance, and until a certificate of compliance have been issued, except as stated in subparagraph b. of this paragraph 7.
- b. If a private street has not yet been completed and approved in accordance with this section and other applicable provisions of this ordinance, but if the applicant has submitted to the Township a performance bond, with acceptable surety, or a letter of credit, in an amount satisfactory to the Township, conditioned upon the timely and full completion of the private street in accordance with this section, then a building permit may nevertheless be issued for a dwelling or for other principal building, structure or use, the primary access to which is to be provided by the private street; provided, however, that no such permit shall be issued unless the building inspector also determines that persons and vehicles may traverse the incomplete private street in sufficient safety. In such a case, the further construction of the private street shall be pursued diligently to completion.

8. Occupancy Permit. An occupancy permit for a dwelling or other principal building, the primary access to which is to be provided by a private street, shall not be issued until the private street has been laid out and constructed with sufficient width, surface and grade so as to assure the safe passage and maneuverability of fire, police, ambulance and other emergency service vehicles.

9. Planned Unit Developments. If the private street is proposed as part of a planned unit development, the provisions of this section may be modified by the Planning Commission and Township Board, in the approval of the planned unit development, upon their determination that the requirements of the Planned Unit Development chapter and the requirements of this section would nevertheless be sufficiently accommodated.
10. Indemnification. The applicant for a private street and the owners of the affected lands agree that by applying for and obtaining approval of the private street, and a permit to construct the same, they shall indemnify the Township and shall hold it harmless from any and all claims for personal injury or property damage arising out of or in any way relating to the use of the private street or of the failure to properly construct, maintain, repair and replace the private street, in whole or in part. The indemnification required herein shall be included in the maintenance agreement required by this section.
11. Performance Guarantee. As a condition of approval of a private street and the issuance of a construction permit therefore, the Township may require that the applicant provide a performance bond, with an acceptable surety, or a letter of credit, in a specified amount, conditioned upon the timely and faithful performance by the applicant under the terms of this section and under the terms of any approvals given for the private street by the Planning Commission and Township Engineer.
12. Application Fee; Escrow Account.
 - a. The application fee established by resolution of the Township Board shall be paid at the time of application for private street approval.
 - b. In addition to the payment of the application fee, the applicant shall deposit sufficient funds in an escrow account with the Township, so as to cover reimbursement to the Township of its costs and expenses for the review and consideration of the private street application, including costs for services rendered by the Township Engineer and other Township consultants, together with reimbursement for other Township expenses in the matter. Any amounts paid into the escrow account that are in excess of Township expenses shall be refunded to the applicant. Other aspects of the payment of funds into an escrow account, for such purposes, shall be subject to the applicable Township Board resolution pertaining to escrow funds generally.

13. Inspections. The Zoning Administrator or Township Engineer may conduct periodic inspections during the construction of the private street to assure construction as proceeding in accordance with the requirements and conditions of the private street permit and special land use. Those inspections may include inspections of the sub grade, the base course and asphalt layers of a private street and may include appropriate density tests or other tests as may be deemed necessary by the Township official.

H. Maintenance and Repairs of Private Streets; Private Street Maintenance Agreements

1. Maintenance. All driveways and private streets shall be continuously maintained in such a way that they will comply with all provisions of this ordinance and will not constitute a danger to the health, safety and welfare of the inhabitants of the Township. All driveways and private streets shall be continuously maintained in such a way that they assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
2. Cost of Maintenance. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
3. Private Street Maintenance Agreement. The applicant for approval of a private street, together with any other owners or parties in interest, shall submit to the Township a record able private street maintenance agreement, signed by all owners of the easement or right-of-way for the private street and by all other parties having any interest therein. Such agreement shall provide for and assure that the private street shall be regularly maintained, repaired and snowplowed so as to assure that the street shall be safe for travel at all times. The agreement shall also provide for the payment of all costs and expenses of such maintenance, repair and snowplowing by all or any of the parties in interest.
 - a. By filing an application for private street approval, the applicant(s) agree that they will assure that any buildings or parcels of land thereafter constructed or established along or at the end of the private street shall also be subject to the private street maintenance agreement, including any corner parcels that have public street frontage, unless the same shall be exempted by the Planning Commission.
 - b. The agreement shall run with the land and shall be recorded with the Kent County Register of Deeds. The certificate of compliance

specified in this section shall not be issued until the agreement has been recorded.

c. The agreement shall be in a form and shall have such content as is satisfactory to the Township. A copy of the agreement shall be submitted to the Township prior to recording.

d. The private street maintenance agreement shall be so prepared as to legally constitute a restrictive covenant, binding upon all current and future owners and other parties in interest as to the lands occupied by the private street and any right-of-way or easement therefore, and also as to all lots and other parcels of land served or to be served by the private street.

4. Cleanup. Upon completion of construction of a private street, the applicant shall properly dispose of all removed trees and shrubs, along with construction debris and any other rubbish or debris.

I. Modification of Standards. The standards and requirements of this Section 3.26 may be modified by the reviewing authority, whether the Planning Commission or Zoning Administrator, so as to permit a private street or driveway on a basis other than the standards and requirements contained in this section, but only after the reviewing authority has made a determination that the following facts exist:

1. The modification will equally satisfy the purposes of the private street requirements, as expressed in Section 3.26.A.

2. The modification shall be compatible with adjacent, existing and future land uses and shall not be injurious to the use and enjoyment of nearby property.

3. The modification will result in the preservation of existing vegetation or other natural features on site.

4. The modification is necessary due to topography, natural features or other unusual aspects of the site.

5. The modification will improve or not impede emergency vehicle and personnel access.

a. The modification will not result in traffic or other safety hazards; shall not result in visual blight, distraction or clutter, and shall not otherwise result in the detriment to the public health, safety and general welfare.

