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MEMORANDUM

To: *Chairman and Members of the
West Orange Zoning Board*

From: *John J. Hess, PE, PP, CME
Zoning Board Engineer*

Date: *May 2, 2023*

Re: *Application No. ZB-22-13
MPB Realty, LLC
Preliminary & Final Major Site Plan and Conditional Use Permit
with 'C' and 'D' Variances and Tree Removal Permit - Review #1
470 Eagle Rock Avenue
Block 153, Lot 38
Our File: VWRZ0153.01*

CC: *Paul Grygiel, PP, AICP - Township Planning Director
Leonard Lepore, PE – Township Engineer
Alice Beirne, Esq. – Zoning Board Attorney
MPB Realty, LLC - Applicant
Jason R. Tuvel, Esq. – Applicant's Attorney
Matthew J. Bersch, PE – Applicant's Engineer
Robert A. Grimaldi, RA – Applicant's Architect
George Wheatle Williams, PP – Applicant's Planner*

Our office has received for review the following documents which were submitted in support of the above referenced application for Preliminary & Final Major Site Plan approval with 'C' and 'D' Variances and Tree Removal Permit:

- A set of Preliminary & Final Site Plan drawings (17 sheets) prepared Matthew J. Bersch, PE with Dynamic Engineering of Lake Como, New Jersey and bearing a latest revision date of March 31, 2023.
- A set of architectural plans (6 sheets) prepared by Robert A. Grimaldi, RA with G 141 Architecture, LLC of Kenilworth, New Jersey. The Popeye Louisiana Kitchen drawings are dated November 10, 2021 while the Sonic Drive-In Restaurant drawings are dated February 20, 2023.
- A Boundary and Topographic Survey (1 sheet) prepared by Craig Black, PE, PLS with Dynamic Survey, LLC of Lake Como, New Jersey dated May 13, 2021.
- An unsigned 200 Foot Radius Map (1 sheet) prepared by Matthew J. Bersch, PE dated November 9, 2022.
- A Drainage Statement prepared by Matthew J. Bersch, PE and bearing a latest revision date of March 2023.



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- A Stormwater Management Operation and Maintenance Manual prepared by Matthew J. Bersch, PE and bearing a latest revision date of March 2023.
- A Traffic Impact Study prepared by Kevin M. Savage, PE, PTOE and Corey M. Chase, PE with Dynamic Traffic of Lake Como & Chester, New Jersey and bearing a latest revision date of April 5, 2023.
- A Tree Removal Report prepared by Marla L. Roller, LLA, PP, with Dynamic Engineering of Chester, New Jersey and bearing a latest revision date of April 2023.
- An Acoustical Evaluation of Proposed Outdoor Equipment prepared by Michael J. Dick, INCE Bd. Cert. with Lewis S. Goodfriend & Associates of Chester, New Jersey dated March 30, 2023.
- An unsigned Professional Planning Report prepared by George Wheatle Williams, PP and Steven Martini, PP with the Nishuane Group of Montclair, New Jersey.
- A completed Application Form dated November 17, 2022.
- An undated Proposal which describes the proposed application.
- An undated Corporate Ownership Disclosure Statement.
- A completed Application for Tree Removal and Replacement Permit dated November 15, 2022.
- A completed Site Plan/Subdivision Checklist.
- A completed Sustainability Checklist Form.
- A Variance & Waiver List prepared by Dynamic Engineering of Lake Como New Jersey, undated.
- A Legal Description of Lot 38, Block 153 prepared by Craig Black, PE, PLS dated December 10, 2022.
- A Buffer Report which lists the owners of properties within 200 ft of Block 153, Lot 38 from the Office of the West Orange Assessor dated March 30, 2023.
- An undated Verification of Taxes & Sewer Charges Paid from the Office of the West Orange Tax Collector which states that the taxes are paid until January 31, 2023 and the 2022 sewer is paid in full.
- A copy of West Orange Planning Board Resolution PB-97-18 dated October 8, 1997. This resolution granted waivers and approved the site plan application submitted by Fan and Jade, Inc. to expand the restaurant at the property in question.



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- A February 7, 2023 Memorandum from the Township Planner, Paul Grygiel, AICP, PP which summarizes the site plan and issues that were discussed at the Site Plan Review Advisory Board meeting on February 7, 2023.

We have reviewed the information submitted in support of this application and offer the following comments:

A. PROJECT DESCRIPTION

The property in question is a rectangular tract which fronts on the southerly side of Eagle Rock Avenue. It is bounded by the vacated right-of-way of Fundus Road to the east, Eagle Rock Avenue to the north and Rosney Terrace to the west. It has an area of 45,713 sf or approximately 1.05 acres and is located in the B-2 Zoning District. The property is currently occupied by a vacant 1-story building which was previously used as a restaurant and a parking lot for 52 vehicles.

The Applicant is seeking Preliminary & Final Site Plan approval and Conditional Use Permit with 'C' and 'D' variances and a Tree Removal Permit to demolish the existing building and related improvements and develop the site with two (2) fast food restaurants, a Sonic restaurant and a Popeye's restaurant. On-site parking is proposed for 27 vehicles including 2 handicap accessible parking spaces and 3 electric vehicle charging spaces. In addition, access is proposed to the site via 3 driveways from Eagle Rock Avenue. The easterly driveway will permit full movements while the westerly driveway will be full movement in and right out only. The stormwater runoff from the site will be collected and discharged to an existing inlet in Rosney Terrace.

B. DESIGN COMMENTS

1. Based on our review, we find that the following items from the Township's Site Plan/Subdivision Checklist must be addressed:
 - a) Item #14 – *Affidavit of ownership.*
 - b) Item #20 - *Copy and/or delineation of any existing or proposed deed restrictions or covenants.*
 - c) Item #21 - *Any existing or proposed easement or land reserved for or dedicated to public use.*
 - d) Item #23 - *List of required regulatory approvals or permits.*
 - e) Item #46 – *Solid waste management plan.*
 - f) Item #52 – *Plans and legal documents for compliance with West Orange COAH Ordinances.*
2. The Applicant has requested the following waivers:



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- a) From the requirement to submit an Environmental Impact Statement as required by §25-13.2 of the Ordinance.
 - b) To permit parking in the front yard whereas §25-8.1.a of the Ordinance stipulates that no accessory uses shall be located within any minimum required front yard or side yard.
 - c) To permit curb to be installed directly adjacent to the proposed buildings at the drive-thru windows whereas §25-12.1.B of the Ordinance stipulates that curbing shall not be less than 5 feet from any structure.
 - d) To permit parking in the front yard whereas §25-12.1.L of the Ordinance stipulates that off-street parking may be placed in the side or rear yard only in the O-B and B districts
 - e) To permit the maintained illumination in the parking areas to be 0.5 footcandles whereas §25-14.3 of the Ordinance requires a minimum level of illumination of 2.0 footcandles.
3. The Applicant should address the Board regarding the proposed hours of operation for each restaurant.
 4. The Applicant should address the Board regarding the proposed frequency and hours for deliveries to each restaurant.
 5. The Zoning Requirements table on sheet 5 of the site plan drawings shows that the existing site area is 40,971 sf and the proposed site area is 45,713 sf. In addition, it shows that the remainder of the Fundus Road right-of-way (25') is to be consolidated with lot 38. The Applicant must demonstrate to the Board that they have the right to claim ownership of this portion of the vacated right-of-way.
 6. It shows on sheet 5 that 3 electric vehicle parking spaces are proposed. We note that all 3 of the electric vehicle charging spaces are proposed along the westerly side of the site by the Popeye's restaurant. It is our recommendation that at least 1 of the electric vehicle parking spaces be provided by the Sonic restaurant.
 7. As required by §25-12.6 of the Ordinance, at least 1 of the electric vehicle charging stations shall be accessible for people with disabilities.
 8. The Applicant should address the Board regarding how the proposed restaurants at the site will operate. It is our understanding that car hop service will be provided for the Sonic restaurant in the 9 parking spaces along the easterly side of the site.
 9. It shows on sheet 5 that an island is proposed between the entrance and exit lanes at the westerly driveway. The Applicant should address the Board regarding the feasibility of redesigning the island in order to minimize the likelihood that vehicles will attempt to make an illegal left turn when exiting the site.



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10. The plans should be revised to include a detail of the island in the westerly driveway. In addition, the detail must clarify if the island will have vertical curb or mountable curb. In addition, the proposed surface finish of the island must be noted on the detail.
11. It shows on sheet 5 that an outdoor seating area is proposed in front of the Sonic restaurant. However, sheet the area directly north of the Sonic building is called out as a "Proposed Outdoor Seating Area". However, the architectural plans identify this area as a covered patio. This discrepancy must be resolved.
12. It shows on sheet 5 that a 10'x20 trash enclosure is proposed for the Sonic restaurant and a 10'x18' trash enclosure is proposed for the Popeye's restaurant. The Applicant should provide testimony to the Board to demonstrate that the proposed trash enclosures will have adequate capacity to accommodate the trash and recyclables that will be generated from each restaurant.
13. It shows on sheet 5 that the proposed trash enclosures will be located close to the rear property line. We note that the property in question abuts an existing residential neighborhood. The Applicant should address the Board regarding the anticipated frequency and hours of pickup. Our office is concerned with the potential noise and odor impacts on the adjoining residential properties.
14. Based on the grades shown on sheet 6, the cross slope of the sidewalk at the westerly driveway apron appears to be about 6% which is not ADA compliant. Therefore, the proposed grading must be revised accordingly.
15. The architectural plans show that bollards at several locations along the side of the Popeye's building. Therefore, the bollards must be shown on sheet 5 of the site plan drawings..
16. The plans should be revised to include the following details:
 - a) Electric vehicle charging equipment.
 - b) Electric vehicle signage and parking space markings.
 - c) Bollards.

C. STORMWATER MANAGEMENT COMMENTS

1. The proposed development will result in the disturbance of more than 1 acre. As a result, it is classified as a Major Development and is subject to the stormwater management requirements set forth in §25-29.4 of the Ordinance.
2. As stipulated in §25-29.3.a.2 of the Ordinance, the minimum standards for groundwater recharge, stormwater quality and stormwater runoff quantity shall be met by incorporating green infrastructure. Therefore, the Applicant must demonstrate compliance with this requirement.



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3. The time of concentration path from Point A to Point B shown on the Proposed Drainage Area Map in the Drainage Statement does not follow the proposed contours shown on the Grading Plan (sheet 6). This discrepancy must be resolved.
4. The Stormwater Collection System Calculations table in the Drainage Statement must be revised to show each of the proposed 6" pipes. At present, only the 6" pipe from the Sonic Roof is shown.
5. Our office has reviewed the Stormwater Management Operation and Maintenance Manual and finds that Section II must be revised to include the telephone number of the property/system owner.
6. The Stormwater Management Operation and Maintenance Manual and any future revisions must be recorded upon the deed of record for the property. Prior to recording, the form of the deed must be approved by the Board Attorney and our office.
7. It shows on sheet 4 that a Type 'A' inlet currently exists behind the existing building. The Applicant should clarify how this inlet is piped offsite. The location of the discharge from this inlet could affect the Existing Drainage Area Map in the Drainage Statement.
8. It shows on sheet 7 that 6" drainage pipes are proposed on each side of the outdoor seating area in front of the Sonic restaurant. The plans should be revised to show how the runoff from the outdoor seating area will be directed to the 6" pipes.
9. It shows on sheet 7 that the 6" drainage pipe on the easterly side of the outdoor seating area in front of the Sonic restaurant will be in conflict with a light pole foundation. Therefore, the plan must be revised to eliminate the conflict in this area.
10. It shows on sheet 7 the 6" drainage pipe on the easterly side of the outdoor seating area in front of the Sonic restaurant will have a slope of 1.0%. However, based on the invert elevations shown, the slope will actually be 5.4%. This discrepancy must be resolved..
11. It shows on sheet 7 that the 6" roof leader from the Sonic restaurant to Stm. MH #A-103 will have a slope of 1.0%. However, based on the invert elevations shown, the slope will actually be 5.5%. This discrepancy must be resolved.
12. Sheet 7 must be revised to show invert elevations for all storm cleanouts.
13. The contours do not align with Inlet Area A-110 on the Inlet Area Map. The inlet area indicates that the parking lot just north of the Popeye's building will be collected by the inlet where the contours show that this area will flow off of the site via western driveway. This discrepancy must be resolved.
14. The contours do not align with border of Inlet Areas A-110 and A-111 on the Inlet Area Map. The contours indicate that the parking aisle area between the Popeye's drive-thru



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egress and the parking spaces north of the Popeye's should be part of Inlet area of 110. This discrepancy must be resolved.

15. The contours do not align with border of Inlet Areas A-140 and A-120 on the Inlet Area Map. The inlet area the border covering the entire cartway width near Inlet A-140 where the contours show that the easterly portion of the Sonic drive-thru bypass Inlet A-140 and go to A-120. This discrepancy must be resolved.

D. TRAFFIC COMMENTS

1. The Applicant should address the Board on where drive-thru customers of Sonic and/or Popeyes will park if requested by an employee due to longer waiting times for the food order.
2. The ingress straight arrow marking at the easterly driveway on sheet 5 should be revised to a right-turn only arrow.
3. The Applicant should address the Board regarding their plans to provide a loading space for each restaurant as required by §25-12.3 of the Ordinance.
4. Sheet 16 includes a vehicle circulation plan for a WB-50 tractor trailer. The plan shows that the truck will only access the front of the site. The Applicant should address the Board on how deliveries will be made to each restaurant without obstructing circulation at the site.
5. Sheet 17 includes a vehicle circulation plan for a trash truck. Both the trash truck circulation plan and the tractor trailer circulation plan shows that when both trucks enter the site, they have to drive over the island in the westerly driveway. The Applicant should clarify if the island will have vertical or mountable curb.
6. The plans must be revised to include a circulation plan for a fire truck.
7. In the Traffic Impact Study, the total volumes of trips provided in Table III for the PM and Saturday (137 and 229 respectfully) peak street hours appear to be too low. The Applicant should clarify the source from which this data was obtained.

E. LANDSCAPING AND FORESTRY COMMENTS

1. Revise the plans to provide replacement tree calculations, in accordance with Section 25-27.8g. Currently, the Applicant has provided nine (9) major trees (trees reaching 50' or greater) and twenty-nine (29) minor trees (evergreen and/or ornamental trees). However, of these, eight (8) are evergreen trees that will reach 50 feet at maturity. This should be discussed with the Board.
2. Revise the plans to provide an alternative to proposed GBPS (Ginkgo) as this is a sterile species that does not support any food source (including insects) for foraging birds. Our office recommends Green Pillar Pin Oak, columnar Hornbeam, Lacebark Elm, etc.



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3. Provide a shade tree at the northeast corner of the site, in the open area.
4. Provide large shrubs, such as Arrowwood Viburnum, Witch Hazel, Bayberry, etc., along the eastern property line, to enhance site aesthetics.
5. Provide an ornamental tree within each parking island at the ends of the parking row fronting Eagle Rock Avenue.
6. Revise Note #16 within the 'Planting Notes', sheet 9 of 17, to indicate that no mulch shall come into contact with the root flare.
7. Revise the tree planting details, sheet 13 of 17, to indicate only two (2) tree stakes are required. Also, remove the reference to trunk wrap, as industry standards does not endorse the use of such. Instead, indicate rigid, plastic, open mesh trunk guards for all deciduous trees, to protect form the irreparable damage from buck rub.
8. Revise the plans to graphically depict mulch bed limits on the plans, to prevent confusion during construction.
9. Revise the plans to indicate the proposed disposition for all open areas, such as lawn, stone, mulch, etc., to prevent confusion during construction.

F. LIGHTING COMMENTS

1. In accordance with Section 25-14.3, a minimum of 2.0 footcandles is required for parking areas; whereas the applicant has proposed a minimum of 0.7 footcandles. Staff notes that this meets IES (Illuminating Engineering Society) standards.
2. Revise the plans to provide the concrete strength for proposed light pole foundation detail, sheet 13 of 17. Staff recommends a strength of 4,500 PSI.
3. Revise the plans to indicate proposed timers and hours of operation. Staff recommends light levels be dimmed during non-operational hours, to reduce light pollution.
4. Indicate the proposed color and finish for all light fixtures and poles.
5. Revise the plans to provide isolux pattern details with a scale and graph to correspond with the proposed fixtures.
6. Provide the manufacturer's catalog cuts and ordering information for proposed light poles and fixtures, for further review. Also, indicate the proposed Kelvin light color temperature.

The Applicant is hereby advised that any revised plans or other documents submitted to the Board should be accompanied by a cover letter which addresses each of the comments in this review letter and also details any other changes that have been made to the plans as these may not be readily apparent.