

JOHN H. ALLGAIR, PE, PP, LS (1983-2001)
DAVID J. SAMUEL, PE, PP, CME
JOHN J. STEFANI, PE, LS, PP, CME
JAY B. CORNELL, PE, PP, CME
MICHAEL J. McCLELLAND, PE, PP, CME
GREGORY R. VALES, PE, PP, CME



BRUCE M. KOCH, PE, PP, CME
LOUIS J. PLOSKONKA, PE, CME
TREVOR J. TAYLOR, PE, PP, CME
BEHRAM TURAN, PE, LSRP
LAURA J. NEUMANN, PE, PP
DOUGLAS ROHMEYER, PE, CFM, CME
ROBERT J. RUSSO, PE, PP, CME
JOHN J. HESS, PE, PP, CME
KEITH CHIARAVALLI, PE, CME

MEMORANDUM

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

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

Date: *July 20, 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 #2
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 (20 sheets) prepared Matthew J. Bersch, PE with Dynamic Engineering of Lake Como, New Jersey and bearing a latest revision date of July 5, 2023.
- A set of architectural plans for the proposed Popeyes Louisiana Kitchen (4 sheets) prepared by Robert A. Grimaldi, RA with G 141 Architecture, LLC of Kenilworth, New Jersey dated November 10, 2021
- A set of architectural plans for the proposed Sonic Drive-In Restaurant (5 sheets) prepared by Robert A. Grimaldi, RA dated May 4, 2023.
- A Drainage Statement prepared by Matthew J. Bersch, PE and bearing a latest revision date of June 2023.
- A Stormwater Management Operation and Maintenance Manual prepared by Matthew J. Bersch, PE and bearing a latest revision date of June 2023.



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- 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 July 6 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 June 2023.
- An Environmental Impact Statement prepared by Matthew J. Bersch, PE dated June 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 June 28, 2023.
- A Professional Planning Report prepared by George Wheatle Williams, PP and Steven Martini, PP with the Nishuane Group of Montclair, New Jersey and bearing a latest revision date of July 7, 2023.
- A Solid Waste Management Plan prepared by prepared by Matthew J. Bersch, PE dated June 30, 2023.
- A Variance & Waiver List prepared by Dynamic Engineering Consultants, PC dated July 7, 2023.
- A Required Regulatory Approvals List prepared by Dynamic Engineering Consultants, PC, undated.
- A table listing Fast Food Restaurants Adjacent to Residential Uses prepared by Dynamic Engineering Consultants, PC dated July 7, 2023.
- A table listing Multiple Commercial Uses as a Single Development prepared by Dynamic Engineering Consultants, PC dated July 5, 2023.
- An executed Owner's Authorization and Applicant's Verification dated July 7, 2023.
- A copy of West Orange Ordinance #2185-08 which was adopted on November 25, 2008 and recorded in the Essex County Register's Office on January 22, 2009 as Instrument No. 9003337 in Book 12175 Page 2396. This Ordinance vacated a portion of Fundus Road adjacent to Block 153.13, Lots 30, 31, 32 & 33.
- A copy of a July 10, 2023 letter from Matthew J. Bersch, PE and Danny Goncalves with Dynamic Engineering Consultants, PC to the West Orange Zoning Board of Adjustment which addresses the comments on our May 2, 2023 review letter and the April 17, 2023 review letter from Paul Grygiel, AICP, PP.

In addition to the above, our office previously received the following information as part of the original submission for this application:



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- 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 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 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.
- 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.



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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 1 electric vehicle charging space. In addition, access is proposed to the site via 2 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. In addition, the proposed building will be serviced by connections to the existing sanitary sewer and water systems in Eagle Rock Avenue.

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 #52 – *Plans and legal documents for compliance with West Orange COAH Ordinances.*
2. The Applicant has requested the following waivers:
 - a) 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.
 - b) 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.
 - c) 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
 - d) To permit the maintained illumination in the parking areas to be 0.8 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. It shows on sheet 5 that 1 electric vehicle parking space is provided for the Popeyes restaurant. The Applicant should address the Board regarding why an electric vehicle parking space is not provided by the Sonic restaurant.



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6. 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. In their July 7, 2023 letter, Messrs. Bersch and Goncalves state that the Grading Plan demonstrates that the proposed electric vehicle charging station will be accessible.
7. 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.
8. It shows on sheet 5 that an island is proposed between the entrance and exit lanes at the westerly driveway. The plans should be revised to include a detail showing the dimensions and curb radii of the island.
9. 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.
10. 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.
11. In their July 7, 2023 letter, Messrs. Boesch and Goncalves state that the proposed bollard locations are shown on sheet 5 in accordance with the architectural plans. Therefore, the proposed bollards must be labeled.
12. In his June 28, 2023 Acoustical Evaluation letter, Mr. Michael J. Dick, INCE Bd. Cert. recommends that the proposed board on board fence on the southerly and westerly sides of the site be designed with two layers of 3/4" plywood with overlapping joints with the two layers on the same side of the supports. We note that the Board-on Board Fence Detail on sheet 13 does not comply with Mr. Dick's recommendations. Therefore, the Applicant should address the Board regarding whether the proposed fence will have the same noise characteristics and the fence recommended by Mr. Dick.
13. The Environmental Impact Statement includes a list of the permits that are required for this project. We note that the list does not agree with the Required Regulatory Approvals List submitted by the Applicant. The Applicant's Engineer should clarify which list is correct.



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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. The Drainage Statement received by our office is missing the Drainage & Inlet Area Maps. Therefore, our office is unable to offer any comments at this time. Copies of the Drainage & Inlet Area Maps must be submitted to our office for review.
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. Sheet 7 must be revised to show the length of each roof drain pipe segment.
5. Our office has reviewed the Stormwater Management Operation and Maintenance Manual and finds it to be acceptable. We note that 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.

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 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.
3. Sheet 18 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.
4. Sheet 20 includes a circulation plan for a fire truck. The plan shows that the fire truck will only access the front of the site. The circulation plans should be revised to show how the fire truck will be able to access the sides and rear of each building as well as the trash enclosures.
5. The new primary trip generation considering passby traffic in Table IV of the July 6, 2023 Traffic Impact Study is significantly lower than the trip generation in Table III of the October 21, 2022 Traffic Impact Study. For example, the new primary trip generation is reduced by 20 for the PM peak hour and by 47 for the Saturday peak hour. The Applicant should address the Board regarding the reasons for these changes.



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E. LANDSCAPING AND FORESTRY COMMENTS

1. Revise the plans to provide replacement tree calculations in accordance with Section 25-27.8g of the Ordinance.

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.

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.