

July 10, 2023
Via Hand Delivery & Newforma

Township of West Orange
Zoning Board of Adjustment
66 Main Street
West Orange, NJ 07052

Attn: Diana Chandler-Zimmermann
Zoning Board Secretary

**RE: MPB Realty, LLC
Proposed Popeyes & Sonic Restaurant
470 Eagle Rock Avenue (CR 611)
Block 153, Lot 38
Township of West Orange
Essex County, New Jersey
DEC# 1021-99-025
ZB-22-13**

Dear Ms. Chandler-Zimmermann,

On behalf of the applicant, MPB Realty, LLC, this letter shall serve as the formal resubmission to the Township of West Orange Zoning Board of Adjustment towards issuance of Site Plan Approval for the above referenced project. Enclosed please find the following items:

- Six (6) signed copies of the Affidavit of Ownership, dated 7/7/2023;
- Six (6) copies of the Variance and Waiver List, prepared by our office, dated 7/7/2023;
- Six (6) copies of the Required Regulatory Approvals List, prepared by our office;
- Six (6) signed and sealed copies of the Architectural Plans, prepared by G141 Architecture, LLC;
- Six (6) copies of the Architectural Renderings, prepared by G141 Architecture, LLC;
- Six (6) copies of the Professional Planning Report, prepared by Nishuane Group, dated 12/21/2022, last revised 7/7/2023;
- Six (6) copies of the Township of West Orange Ordinance #2185-08, adopted 11/25/2008;
- Six (6) signed copies of the Acoustical Evaluation of Proposed Outdoor Equipment, prepared by Michael J. Dick, INCE Bd. Cert. of Lewis S. Goodfriend & Associates, dated 6/28/2023;

- Six (6) signed and sealed copies of the Solid Waste Management Plan, prepared by our office, dated June 30, 2023;
- Six (6) signed and sealed copies of the Environmental Impact Statement, prepared by our office, dated June 2023;
- Six (6) signed and sealed copies of the Drainage Statement, prepared by our office, dated October 2022, last revised June 2023;
- Six (6) signed and sealed copies of the Stormwater Management Operation & Maintenance Manual, prepared by our office, dated October 2022, last revised June 2023;
- Six (6) signed and sealed copies of the Traffic Impact Study, prepared by Dynamic Traffic LLC, dated 10/21/2022, last revised 7/6/2023;
- Six (6) signed and sealed copies of the Tree Removal Report, prepared by our office, dated October 2022, last revised June 2023;
- Six (6) signed and sealed copies of the Preliminary and Final Site Plan Drawings, prepared by our office, dated 11/9/2022, last revised 7/5/2023; and
- Six (6) copies of a Summary of Fast-Food Developments, prepared by our office, dated 7/5/2023.

The enclosed documents have been provided to address the review comments provided in the following:

- Board Engineer's Review #1, prepared by John J. Hess, PE, PP, CME of CME Associates, dated May 2, 2023
- Board Planner's Review Letter, prepared by Paul Grygiel, AICP, PP, Township Planner, dated April 17, 2023

In order to facilitate your review, below please find an itemized response to the aforementioned review letter:

Board Engineer's Review #1, prepared by John J. Hess, PE, PP, CME of CME Associates dated May 2, 2023

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.*

Enclosed please find the revised Affidavit of Ownership.

- b. Item #20 - Copy and/or delineation of any existing or proposed deed restrictions or covenants.*

There are no known existing or proposed deed restrictions or covenants.

- c. Item #21 - Any existing or proposed easement or land reserved for or dedicated to public use.*

Any known easements and/or dedications are depicted on the enclosed Site Plan drawings and previously submitted survey. Should additional easements and/or dedications be required, they will be depicted on a future revision of the Site Plan drawings.

- d. Item #23 - List of required regulatory approvals or permits.*

Enclosed please find the Required Regulatory Approvals List.

- e. Item #46- Solid waste management plan.*

Enclosed please find the Solid Waste Management Plan.

- f. Item #52 - Plans and legal documents for compliance with West Orange COAH Ordinances.*

Not applicable.

- 2. The Applicant has requested the following waivers:*

- a. From the requirement to submit an Environmental Impact Statement as required by §25-13.2 of the Ordinance.*

Enclosed please find the Environmental Impact Statement.

- 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.*

Information.

- 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.*

Information.

- 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.*

Information.

- 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.*

Information.

3. *The Applicant should address the Board regarding the proposed hours of operation for each restaurant.*

The proposed Popeyes will be open from 10:30 AM to 11:00 PM Sunday to Thursday and 10:30 AM to 11:30 PM Friday and Saturday. The proposed Sonic will be open 8:00 AM to 12:00 AM every day.

4. *The Applicant should address the Board regarding the proposed frequency and hours for deliveries to each restaurant.*

Testimony will be provided regarding deliveries.

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.*

Enclosed please find the Township of West Orange Ordinance #2185-08 declaring the vacation of the Fundus Road right-of-way, with half of the width being dedicated to the adjacent property. The second half was consequently dedicated to Lot 38.

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.*

The Site Plan (Sheet 5 of 20) has been revised to reduce the proposed electric vehicle parking spaces to one (1) space as required by the Township of West Orange Land Use Regulations.

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.*

The Grading Plan (Sheet 6 of 20) has been revised to demonstrate the proposed electric vehicle charging station will be accessible.

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.*

Testimony will be provided regarding site operations.

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.*

The Site Plan (Sheet 5 of 20) has been revised to increase the size of the proposed island to further restrict left turn movements.

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.*

The Construction Details (Sheet 15 of 20) has been revised to provide a detail of the proposed mountable concrete island.

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.*

The Site Plan (Sheet 5 of 20) has been revised to note the Proposed Uncovered Exterior Dining Area. The Architectural Plans have been revised to note as such.

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.*

Testimony will be provided regarding the proposed trash enclosures.

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.*

Testimony will be provided regarding the proposed trash enclosures.

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.*

The Grading Plan (Sheet 6 of 20) has been revised to provide additional grade spots to confirm compliant cross slopes.

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.*

The Site Plan (Sheet 5 of 20) has been revised to provide the proposed bollard locations in accordance with the Architectural Plans.

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.*

The Construction Details (Sheet 15 of 20) has been revised to provide the above requested details.

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.*

Information.

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.*

The enclosed Drainage Statement has been revised to demonstrate compliance with the referenced Township Ordinance and NJAC 7:8.

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.*

The Proposed Drainage Area Map has been revised to have the time of concentration path follow the proposed contours.

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.*

The Stormwater Collection System Calculations in the enclosed Drainage Statement have been revised accordingly.

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.*

The Stormwater Management Operation and Maintenance Manual has been revised to provide 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.*

Acknowledged.

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.*

Our office conducted an additional site visit to the property and were unable to locate the discharge from the existing inlet due to it being filled with debris. The Demolition and Tree Removal Plan (Sheet 4 of 20) has been revised to note the "Contractor to confirm discharge point of inlet and report back to engineer of record".

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.*

The Drainage Plan (Sheet 7 of 20) has been revised to remove the proposed drainage pipes from the Sonic outdoor seating area. The outdoor seating area will not be covered.

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.*

The Drainage Plan (Sheet 7 of 20) has been revised to eliminate the proposed drainage pipe from the outdoor seating 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.*

The Drainage Plan (Sheet 7 of 20) has been revised to provide accurate pipe slopes.

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.*

The Drainage Plan (Sheet 7 of 20) has been revised to provide accurate pipe slopes.

12. *Sheet 7 must be revised to show invert elevations for all storm cleanouts.*

The Drainage Plan (Sheet 7 of 20) has been revised to provide 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.*

The Inlet Area Map has been revised to accurately follow the contours for the inlet delineations.

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

The Inlet Area Map has been revised to accurately follow the contours for the inlet delineations.

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.*

The Inlet Area Map has been revised to accurately follow the contours for the inlet delineations.

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.*

Testimony will be provided regarding the drive-thru operations.

2. *The ingress straight arrow marking at the easterly driveway on sheet 5 should be revised to a right-turn only arrow.*

The Site Plan (Sheet 5 of 20) has been revised to provide a right-turn only pavement marking 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.*

Testimony will be provided regarding loading operations.

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.*

Testimony will be provided regarding deliveries.

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.*

The Site Plan (Sheet 5 of 20) has been revised to denote the proposed concrete island as mountable.

6. *The plans must be revised to include a circulation plan for a fire truck.*

The Vehicle Circulation (Fire Truck) (Sheet 20 of 20) has been provided to depict the fire truck circulation per the truck template provided by Joseph Matullo, Fire Captain/Fire Official.

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.*

The peak hour trip generation contained in Table IV was developed based on data published by the Institute of Transportation Engineers (ITE) in the 11th Edition of the *Trip Generation Manual* which is the National and State standard for developing traffic volume projections. This publication sets forth trip generation rates based on empirical traffic count data conducted at numerous research sites.

Landscaping and Forestry Comments:

1. *Revise the plans to provide replacement tree calculations, in accordance with Section 25-27.Sg. 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.*

The Landscape Plan (Sheet 9 of 20) has been revised to replace the eight (8) evergreen trees with smaller varieties.

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.*

The Landscape Plan (Sheet 9 of 20) has been revised to replace the proposed Princeton Sentry Brand Ginkgo with Pyramidal European Hornbeam.

3. *Provide a shade tree at the northeast corner of the site, in the open area.*

The Landscape Plan (Sheet 9 of 20) has been revised to provide a shade tree at the northeast corner of the site.

4. *Provide large shrubs, such as Arrowwood Viburnum, Witch Hazel, Bayberry, etc., along the eastern property line, to enhance site aesthetics.*

The Landscape Plan (Sheet 9 of 20) has been revised to provide additional plantings along the eastern property line.

5. *Provide an ornamental tree within each parking island at the ends of the parking row fronting Eagle Rock Avenue.*

The Landscape Plan (Sheet 9 of 20) has been revised to provide an ornamental tree within each island along 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.*

The Landscape Plan (Sheet 9 of 20) has been revised to note “No mulch shall come into contact with the root flare” under note #16.

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.*

The Construction Details (Sheet 14 of 20) has been revised to reduce the number of tree stakes required and replace the trunk wrap note with “Rigid, Plastic, Open Mesh Trunk Guard”.

8. *Revise the plans to graphically depict mulch bed limits on the plans, to prevent confusion during construction.*

The Landscape Plan (Sheet 9 of 20) has been revised to delineate the proposed mulch beds.

9. *Revise the plans to indicate the proposed disposition for all open areas, such as lawn, stone, mulch, etc., to prevent confusion during construction.*

The Landscape Plan (Sheet 9 of 20) has been revised to delineate the proposed mulch and sod areas.

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.*

Information.

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.*

The Construction Details (Sheet 14 of 20) has been revised to provide 4,500 PSI concrete strength.

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.*

The Lighting Plan (Sheet 10 of 20) has been revised to note the proposed hours of operation and required timers for lighting to be dimmed during non-operational hours.

4. *Indicate the proposed color and finish for all light fixtures and poles.*

The Lighting Details (Sheet 12 of 20) has been revised to provide details of all proposed light fixtures and poles.

5. *Revise the plans to provide isolux pattern details with a scale and graph to correspond with the proposed fixtures.*

The Lighting Details (Sheet 12 of 20) has been revised to provide photometric pattern details of the proposed light 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 Lighting Details (Sheet 12 of 20) has been revised to provide the proposed lighting details.

Board Planner's Review Letter, prepared by Paul Grygiel, AICP, PP, Township Planner, dated April 17, 2023

Introduction

Information

Land use/Circulation

Information

Variances Required

The Sonic restaurant has been reduced in size in order to comply with the parking requirement. As such, a parking variance is no longer required and the project complies with this conditional use requirement.

The layout has been revised to further reduce the proposed impervious coverage from 69.4% to 68.8%.

The proposed Sonic signage package has been reduced from five (5) to four (4) façade signs. The total sign area for the Sonic was reduced from 160.2 SF to 142.5 SF.

The proposed Popeyes freestanding sign height has been reduced from twenty (20) feet to sixteen (16) feet. A variance is no longer required.

Enclosed please find the Environmental Impact Statement for review. A waiver is no longer required.

Proposed Development

The proposed Sonic parking canopy will be 11.67 FT in height. Enclosed please find the revised Architectural Plans providing canopy information.

Variance Proofs

Information. Testimony will be provided regarding the requested variances.

Site Plan and Other Issues

The Traffic Impact Study has been revised to examine the proposed traffic impacts in the morning peak hour from the proposed Sonic.

An Environmental Impact Statement has been provided discussing the impacts of the proposed development. The Acoustical Evaluation has been revised to further discuss the proposed sound levels. Testimony will be provided regarding the proposed development impacts.

1. *The applicant variously listed as MPB Realty, LLC, Orange Dev, LLC, and Parikh Network, LLC. Please confirm which is correct.*

The applicant and owner of the property are confirmed to be MPB Realty, LLC. All submitted documents have been revised to reflect the correct entity.

2. *The height of the proposed canopy over the Sonic parking area must be provided, along with details of this structure and the ordering positions below it. Testimony should be provided regarding its operations.*

The proposed Sonic parking canopy will be 11.67 FT in height. Enclosed please find the revised Architectural Plans providing canopy information.

3. *The applicant's planning report must be updated to address the current proposal and required variances.*

Enclosed please find the revised Professional Planning Report.

4. *Testimony should be provided as to why a sign is proposed on the south façade of the sonic building, as it does not face a street only interior circulation aisles and the adjoining residential properties to the rear.*

The applicant has removed the proposed signage on the south façade of the Sonic building.

5. *The traffic impact study refers multiple times to the "Mayfield driveway." The applicant's traffic engineer should confirm whether this reference should be corrected to Mayfair Farms.*

The Traffic Impact Study has been revised to correctly reference the Mayfair Farms.

Please review the enclosed documents towards issuance of Site Plan Approval for the above referenced project. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Sincerely,

DYNAMIC ENGINEERING CONSULTANTS, PC



Matthew J. Bersch, PE



Danny Goncalves

Enclosures

cc: Benjamin T.F. Wine, Esq. (via Newforma)
Ed Baksh (via Newforma)
Lawrence BenBassett (via Newforma)