



**Consulting & Municipal
ENGINEERS**

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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: October 31, 2024

**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 (60002)**

**CC: Geniece Gary-Adams – Zoning Official
Zayibeth Carballo, PE, PLS, PP – Municipal Engineer
Christopher N. Dochney, PP – Zoning Board Planner
Steven Warner, 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
Mallory Clark, PP – Applicant's Planner
Louis S. Goodfriend & Associates – Applicant's Acoustical Engineer**

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 and Conditional Use Permit approval with 'C' and 'D' Variances and Tree Removal Permit:

- A set of Preliminary & Final Site Plan drawings (21 sheets) prepared Matthew J. Bersch, PE with Dynamic Engineering of Lake Como, New Jersey dated June 7, 2024.
- A set of architectural plans (2 sheets) prepared by Robert A. Grimaldi, RA with G141 Architecture, LLC of Kenilworth, New Jersey dated June 12, 2024.
- A Drainage Statement prepared by Matthew J. Bersch, PE dated June 2024. Included with the Drainage Statement is a set of Drainage Area Maps (3 sheets) prepared by Dynamic Engineering dated June 7, 2024.

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NJ CERTIFICATE OF AUTHORIZATION NO. 24GA28359000
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Page 2

- A Stormwater Management Operation and Maintenance Manual prepared by Matthew J. Bersch, PE dated June 2024.
- An Environmental Impact Statement prepared by Matthew J. Bersch, PE dated June 2024.
- 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 June 4, 2024.
- A Tree Removal Report prepared by Marla L. Roller, LLA, PP, with Dynamic Engineering of Chester, New Jersey dated June 4, 2024.
- An Acoustical Evaluation prepared by Matthew T. Murello, PE and Michael J. Dick, INCE Bd. Cert. with Lewis S. Goodfriend & Associates of Chester, New Jersey dated June 17, 2024.
- An unsigned report entitled "Justifications of Variances" prepared by Dresdner Robin of Jersey City, New Jersey dated August 2, 2024.
- A Solid Waste Management Plan prepared by Matthew J. Bersch, PE dated June 7, 2024.
- A completed Application Form dated July 1, 2024.
- A completed Site Plan/Subdivision Checklist.
- A blank Sustainability Checklist Form.
- A Variance & Waiver List prepared by Dynamic Engineering Consultants, PC of Lake Como New Jersey dated June 7, 2024.
- 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 copy of West Orange Zoning Board of Adjustment Resolution Memorializing Dismissal of Application Without Prejudice dated March 21, 2024.

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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October 31, 2024
Our File No. VWRZ0153.01 (60002)
Page 3

The Applicant is seeking Preliminary & Final Site Plan approval and Conditional Use Permit with 'C' and 'D' variances and a Tree Removal Permit to reconstruct the existing building to house 2 restaurants, an IHOP Sonic restaurant and a Popeye's restaurant with a drive-thru window. In addition, a 300 sf addition is proposed at the southwest corner of the building.

On-site parking is proposed for 50 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.

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 #7 – *Proof that taxes are current.*
 - b) Item #11 – *Date of current property survey.*
 - c) Item #14 – *Affidavit of ownership.*
 - d) Item #20 - *Copy and/or delineation of any existing or proposed deed restrictions or covenants.*
 - e) Item #21 - *Any existing or proposed easement or land reserved for or dedicated to public use.*
 - f) Item #23 - *List of required regulatory approvals or permits.*
 - g) Item #52 – *Plans and legal documents for compliance with West Orange COAH Ordinances.*
 - h) As required by NJAC 13:40-7.2(a)1, a signed and sealed copy of a survey of the property being developed must be submitted to the Board with the site plan submission.
2. The Applicant has not requested any waivers in support of this application.
3. It states on the plans that the IHOP restaurant will be open 24 hours a day, 7 days a week while the Popeye's restaurant will be open 10:30 am to 11:00 pm from Sunday to Thursday and 10:30 am to 11:30 pm on Friday and Saturday.
4. The Applicant should address the Board regarding the proposed frequency and hours for deliveries to each restaurant.
5. The Applicant should address the Board regarding the proposed frequency and hours for trash pickup at the site.
6. The architectural plans show bollards at several locations along the rear of the building. Therefore, the bollards must be shown on sheet 5.



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Page 4

7. It shows on sheet 5 of the site plan drawings that the proposed electric vehicle parking space will be located along the westerly side of the building. It is our recommendation that the electric vehicle charging station be located adjacent to one of the handicap accessible parking spaces so that it will be accessible for people with disabilities.
8. It shows on sheet 5 that a 10'x25 masonry trash enclosure is proposed at the southeast corner of the site. The Applicant should provide testimony to the Board to demonstrate that the proposed trash enclosure will have adequate capacity to accommodate the trash and recyclables that will be generated from each restaurant.
9. It shows on sheet 5 that the proposed trash enclosure 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.
10. It states in the Acoustical Evaluation that that Lewis S. Goodfriend & Associates (LSG & A) understands that a 6 ft tall board on board is proposed at the south and west sides of the site. However, that plans do not show that a fence is proposed. This discrepancy must be resolved. In addition, the Acoustical Evaluation recommends constructing the fence with two layers of $\frac{3}{4}$ inch plywood with overlapping joints, with the two layers on the same side of the supports.
11. It states on page 12 of the Environmental Impact Statement that a 2,500 gallon grease trap is proposed for each building. However, the plans show that only one building is proposed. This discrepancy must be resolved. In addition, a detail of the proposed grease trap must be added to the plans.
12. Sheet 5 shows a stop bar where the easterly drive aisle intersects the drive aisle along the front of the building. In our opinion, a stop bar at this location is unnecessary and should be removed.
13. Sheet 5 should be revised to label all of the proposed on-site traffic signs.
14. The plans should be revised to include the following details:
 - a) Type 'A' Inlet.
 - b) Concrete encasement of pipes.
 - c) Traffic sign post.

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.



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Page 5

2. The plans show that there will be reduction in the motor vehicle surface coverage at the site. Therefore, the required water quality standards have been met by the Applicant. In addition, the project is delineated on the State Plan Policy Map as a Metropolitan Planning Area (PA-1). Therefore, the project is exempt from complying with the groundwater recharge requirements of the Ordinance.
3. Our office has reviewed the Stormwater Management Operation and Maintenance Manual and find it to be satisfactory.
4. 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.
5. 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.

D. TRAFFIC COMMENTS

1. The Applicant should address the Board regarding where drive-thru customers 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 as required by §25-12.3 of the Ordinance.
3. Sheet 19 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, including access to the handicap parking spaces.

E. LANDSCAPING AND FORESTRY COMMENTS

1. Every development application shall submit a tree removal and replacement plan, in accordance with the newly adopted Tree Ordinance. The Applicant has indicated trees to be removed on sheet 12 of 22; however, replacement calculations should be provided, as specified in Table 'A' of the newly adopted Tree Ordinance.
2. The Applicant has proposed to preserve the trees along the southern property line; however, it appears most of the trees are invasive species, in poor condition and should be removed in accordance with the newly adopted Tree Ordinance. They consist of Ailanthus, which is the favorite host of the invasive Spotted Lanternfly, as well as Black Locust, another highly invasive species. Our office recommends shifting the proposed fence to be located either closer to the proposed curb or closer to the southern property line, to provide additional planting area for an improved landscaped buffer.
3. In accordance with Section 25-12.1(o), provide shade trees to create 50% shade for the parking areas within twenty-five (25) years; whereas it does not appear the proposed landscaping will comply.



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Page 6

4. Revise the plans to provide an alternative for the one (1) proposed ALS (Serviceberry) due to proposed Juniperus, as these two (2) species provide the required hosts for the Cedar Apple Rust fungus. To prevent this infection, one (1) of the host species is removed. Our office recommends single stem Redbud to replace ALS.
5. Our office does not recommend providing TC (Hemlock) due to Hemlock Woolly Adelgid, as well as its reduced performance in full sun locations. An alternative should be provided.
6. Revise the plans to provide shade trees along Rosney Terrace. Currently, the three (3) existing trees proposed to remain are a Flowering Pear at the corner, which is invasive and in poor condition, and two (2) Zelkova, which have poor form and are in decline. Our office recommends removing these trees and providing four (4) single stem Redbud along the Rosney Terrace.
7. The Applicant has proposed CXA (Appalachian Sedge) within the front yard landscaping; however, this species performs best in dry shaded locations. Instead, consider ornamental grasses, such as Blue Grama Grass, and flowering perennials, such as Catmint, Ornamental Onion, Black Eyed Susan, etc.
8. Revise the plans to increase the graphic size for proposed JVT (Taylor Juniper), as these appear to be smaller than a shrub.
9. Revise the plans to graphically depict mulch bed limits on the plans to delineate mulch beds from proposed sodded areas.

F. LIGHTING COMMENTS

1. In accordance with Section 25-14.3 of the Ordinance, a minimum of 2.0 footcandles is required for parking areas; whereas the applicant has proposed a minimum of 0.6 footcandles. Staff notes that this meets IES (Illuminating Engineering Society) standards.
2. Provide the manufacturer's catalog cuts for proposed light poles and provide full ordering information for all light fixtures and poles, to prevent confusion during construction. Also, indicate the proposed Kelvin light color temperature. Currently, it appears some fixtures are indicated to be 5,000 Kelvin, which our office does not find acceptable due to the unnatural bluish light of this 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.