

RECEIVED

APR 09 2025

ZZS-10

RESOLUTION NO. 15-09EX

TOWNSHIP OF EVESHAM

PLANNING BOARD

RE: APPLICATION NO. PB 15-09EX

- Minor Subdivision - Extension
- Major Subdivision Preliminary
- Major Subdivision Final
- Minor Site Plan
- Major Site Plan, Preliminary
- Major Site Plan, Amended Preliminary
- Major Site Plan, Final
- Bulk Variances

- Approved
- General Conditions
- Additional Conditions
- Denied

Application No. PB15-09EX

Applicant: Route 73 Property, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Owner: Route 73 Property, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Block 20, Lot 1 (P.I.Q.)
Action: August 18, 2016
Memorialized: September 15, 2016
Plan Name: Province/Chic-Fil-A

WHEREAS, the applicant has applied to the Evesham Township Planning Board (ETPB) for the following primary approval: Extension of Minor Subdivision Approval with Bulk Variance to create two commercial lots for financing purposes at the property located at 200 Route 73 North;

WHEREAS, the application was considered by the ETPB on August 18, 2016, by the legal representation of Jeffrey Brennan, Esquire.

WHEREAS, a public hearing was not required; or

WHEREAS, a public hearing was required and the ETPB has considered that public comments

- were not made by the public
- were made in favor of all or some aspect of the application
- were made against all or some aspect of the application; and

The following documents and exhibits were incorporated herein by reference:

(a) A Township of Evesham Land Development Application filed July 22, 2016, prepared by Jeffrey I. Baron, Esquire, consisting of eleven (11) pages;

WHEREAS, it appears that all jurisdictional and procedural requirements of the applicable Township Ordinances have been met; and

WHEREAS, the ETPB has considered the application and the evidence and arguments submitted by the applicant in support thereof; and

WHEREAS, the ETPB has considered the recommendations and comments of its professional staff and the following written reports:

- () Engineer report(s) dated _____;
- () Planner report(s) dated _____;
- () Traffic Consultant report(s) dated _____;
- () Environmental Consultant Report dated _____;
- () Evesham Township Fire Marshal Report(s) dated _____;
- () Other: _____;

WHEREAS, the ETPB has made the following Findings of Fact and Conclusions:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicant is the owner of the subject 3.25 acre property located at 200 North Route 73 and identified as Block 20, Lot 1 on the Evesham Township Tax Map (the "P.I.Q."). On November 12, 2015, the applicant received Minor Subdivision Approval with a Bulk Variance for lot frontage which approval was memorialized by Planning Board Resolution No. PB15-09, adopted on December 3, 2015. The applicant was delayed in filing a minor subdivision plat and/or minor subdivision deeds within the statutory period of 190 days due to issues with its professionals and outside agencies. The applicant requested an extension of approvals to a date sixty (60) days beyond the August 18, 2016 hearing date, or until October 17, 2016, to file and/or record a subdivision plat or subdivision deeds as required by law. The applicant's counsel confirmed that the applicant will comply with the prior

condition of approval set forth in Resolution No. PB15-09 requiring the applicant to submit subdivision deeds, if any, for review and approval of the ETPB Solicitor prior to recording same.

2. The ETPB opened the hearing on this application to the public and no members of the public testified as to the application.

WHEREAS, upon motion duly made and seconded to grant the application to extend the minor subdivision approval granted via Planning Board Resolution No. PB15-09 until October 17, 2016, the ETPB voted in favor of granting the application subject to certain conditions mentioned hereinafter; and

NOW, THEREFORE, BE IT RESOLVED by the Evesham Township Planning Board that the said application for extension of minor subdivision approval to October 17, 2016, shall be and is hereby granted specifically subject, however, to the testimony, representations and stipulations of the applicant, its attorney and witnesses at the time of the hearing and is further subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. The approval granted via Planning Board Resolution No. PB15-09 and the time to perfect said approval by filing a minor subdivision deed or plat with the Burlington County Clerk's Office is hereby extended to October 17, 2016.

2. The applicant shall submit copies of the proposed subdivision deeds and legal descriptions to the ETPB Solicitor and Engineer for review and approval prior to recording thereof.

3. All other terms and conditions of any previous approvals granted for the P.I.Q. shall remain in full force and effect and applicant is advised nothing herein shall be construed as a waiver of the requirements of Evesham Township Code requirements as applicable to the applicant's continued use of the P.I.Q.

GENERAL CONDITIONS OF APPROVAL

1. A brief notice of this decision shall be published in the official newspaper of the Township, at the applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETPB within thirty (30) days of the date the decision is memorialized.

2. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

3. These General Conditions of Approval shall be binding upon the applicant, the owner, and any successors and/or assigns of either.

4. The Specific Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

5. The applicant shall be required to obtain all outside agency approvals

6. The applicant shall be responsible for and shall satisfy, in accordance with the Evesham Township Land Use Ordinance, the following fees and charges:

() Mandatory Development fees

() Floor Area Ratio Fees in the amount of \$_____.

7. Any improvement(s) to be constructed as a result of the ETPB approving this application shall be constructed and operated in full compliance with the Code of Evesham Township, the Revised Statutes of the State of New Jersey and any other applicable county and/or Federal law.

8. Unless specifically waived in whole or in part and noted in the Specific Conditions of this Approval, if the above application involves the granting of a final major subdivision approval or a final site plan approval or the approval for the issuance of a zoning permit, the applicant, in order to assure the installation and maintenance of all required improvements required by the preliminary approval or as a condition to the issuance of a zoning permit, shall furnish written performance guarantees and written maintenance guarantees in the form(s) which comply with the provisions of N.J.S.A. 40:55D-53, et seq. and the Evesham Township Code. The amount of each performance guarantee shall equal 120% of the amount estimated by the Township Engineer as the cost of installing the required improvements. The maintenance guarantee shall equal 15% of the cost of the improvements and shall cover a period of two (2) years after final acceptance of the improvements.

9. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the ETPB shall not sign the Final Subdivision Plat or Final Site Plan nor shall any zoning permit issue until the applicant has posted the required performance guarantee and the applicant has demonstrated that all conditions of the final approval have been satisfied.

10. Applicants seeking site plan or preliminary and/or final subdivision approval shall:

A. Submit five (5) copies of a complete survey of the property

(except for streets) to be dedicated, which survey shall be performed and certified by a licensed surveyor.

B. Submit a topographic survey showing contour intervals of two

(2) feet at a scale no larger than one (1) inch equaling one hundred (100) feet.

C. Submit five (5) copies of complete (as-built) plans of any improvements,

except for streets, on the dedicated property.

D. Submit a deed of conveyance, approved as to form, content and description by the Township Attorney. The said deed shall contain provision for the signature of the Mayor and attestation by the Township Clerk. Where streets are offered for acceptance, a legal description by metes and bounds describing the centerline shall be included.

E. Obtain title insurance naming the Township of Evesham as the insured party in an amount equal to the fair market value of the dedicated property; this requirement shall not pertain to streets. In the case of drainage easements not shown on or generated after the final plan is filed in the County Clerk's Office and property having a fair market value of one thousand dollars (\$1,000.00) or less, a title search indicating marketable title shall be sufficient, provided said search is certified by a title insurance company authorized to do business in the State of New Jersey.

11. If a minor subdivision approval has been granted, such approval shall lapse unless within 190 days from the date the approval has been granted the applicant either files a plat in conformity with the approval and the "Map Filing Law" (N.J.S.A. 46:23-99, et seq.) or records a deed with the County Clerk which clearly describes the approved minor subdivision and files a copy of the deed with the Township's Engineer and the Township's Tax Assessor. Such deed shall also be signed by the Chairman and Secretary of the ETPB.

12. If a final approval has been granted, the applicant shall submit to the ETPB Engineer for his review a minimum of eight (8) complete sets of plans which shall incorporate all of the revisions that have been made conditions of this approval.

13. As part of the first application for final approval, the applicant shall provide a construction schedule as required by the Evesham Township ordinances which must be satisfactory to the ETPB Engineering Consultant.

14. The applicant shall comply with Title 39 of the New Jersey Statutes.

15. The applicant shall construct all drainage basins or alternate drainage facilities upon the P.I.Q., including inflow and outflow structures, prior to the commencement of any construction upon the P.I.Q.

16. The Board presumes that the applicant's application, all exhibits, maps and other documents submitted and relied on by the applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that such Application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

17. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the applicant, the Board reserves the right to

conduct a hearing with the applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

18. The applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the applicant, including but not limited to proper service and notice upon interested parties and publication of the notice of public hearing in this matter in accordance with the law.

19. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

20. The applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The applicant is solely responsible for fore determining which governmental and/or public agencies, if any, such approvals are required of. The applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

21. The applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable

municipal codes, and the N.J. Municipal Land Use Law. The applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

22. The applicant must obtain and all other construction or other municipal permits required with respect to the relief as granted herein.

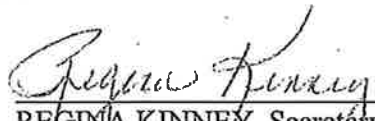
23. The Applicant agrees, as a condition of approval, that any Resolution approving an application for preliminary and/or final major subdivision and/or site plan review will not be memorialized or adopted until the Applicant and the Township execute a Developers Agreement in a form reviewed by the ETPB Solicitor and approved by the Evesham Township Solicitor, to be recorded in the Office of the Burlington County Clerk with the cost of recording the Developers Agreement or a Memorandum thereof to be paid by the Applicant. A recorded copy of the Developers Agreement shall be provided to the ETPB Secretary and Evesham Township Clerk at the time of memorialization and adoption of any approving Resolution and prior to issuance of any building and/or construction permits for the P.I.Q.

24. This minor subdivision approval shall elapse unless within 190 days from the date the approval has been granted, the applicant either filed a plat in conformity with the approval, and the "Map Filing Law" (N.J.S.A. 46:23-99 et seq.) or records appropriate Deeds with the Burlington County Clerk which clearly describes the approved minor subdivision, and files a copy of the Deed with the Township's Engineer and the Township's Tax Assessor. Such Deed shall also be signed by the Chairman and Secretary of the Evesham Township Planning Board.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Township Clerk, Township Construction Official, Township Tax Assessor and Township Zoning Administrative Officer.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson	X					
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					
Councilman, Steven Zeuli	X					
William McGoey, Vice Chairperson						
Jay Parikh, Alternate Vice Chairperson	X				X	
Jerry Menichini	X					
Ila Vassallo						
Paul Cortland	X					X
Sandy Student						
Jeff Foster	X					

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 18th day of August, 2016.


 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson	X					
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					X
Councilman, Steven Zeuli	X				X	
William McGoey, Vice Chairperson						
Jay Parikh, Alternate Vice Chairperson						
Jerry Menichini	X					
Ila Vassallo						
Paul Cortland						
Sandy Student						
Jeff Foster	X					

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 15th day of September, 2016.


 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD