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RESOLUTION NO. PB 18-01

TOWNSHIP OF EVESHAM

PLANNING BOARD

RE: APPLICATION NO. PB 18-01

- Minor Subdivision
- Major Subdivision Preliminary
- Major Subdivision Final
- Minor Site Plan
- Major Site Plan, Preliminary
- Major Site Plan, Amended Preliminary
- Major Site Plan, Final
- Major Site Plan, Amended Final
- Bulk Variances
- Submission Waivers
- Design Waivers
- Approved
- General Conditions
- Additional Conditions
- Denied

Application No. PB 18-01

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 1.01
Action: May 3, 2018
Memorialized: June 7, 2018

WHEREAS, the applicant has applied to the Evesham Township Planning Board ("ETPB") for the following primary approvals: Preliminary and Final Major Site Plan Approval to construct a 7,225 square foot diner style restaurant, together with associated site improvements, variances and waivers as outlined herein, to be constructed on the property identified as Block 20, Lot 1.01 on the Evesham Township Tax Map (P.I.Q.):

WHEREAS, the applicant has applied for waivers from the submission requirements to provide contours extending 200 feet beyond the site, to provide an updated Environmental Assessment Report and Environmental Impact Report and Cultural Resource Survey;

WHEREAS, the applicant also has applied for the following variances:

- (a) A variance from Section 160-68(1)(F) to permit a front yard setback from the right-of-way of 16 feet where a minimum of 20 feet is required (existing condition);
- (b) A variance from Section 160-68(1)(F) to permit front yard parking setback of 2 feet from Baker Boulevard and 12 feet from Route 73 where a minimum of 50 feet is required (existing condition);
- (c) A variance from Section 160-68(1)(F) to permit impervious coverage of 72.72% where a maximum of 60% is permitted;
- (d) A variance from Section 160-32(B)(6) to permit no side and rear yard pavement and parking setback where 15 feet is required (existing condition);
- (e) A variance from Section 160-32(D) to permit one loading space where two are required;
- (f) A variance from Section 160-32(D) to permit a loading space within the front yard area of Baker Boulevard where none are permitted;
- (g) A variance from Section 160-75(M) to permit three façade signs where two are permitted;
- (h) A variance from Section 160-75(M) to permit the aggregate area of façade signs to be 230 square feet where a maximum aggregate of 80 square feet is permitted; and
- (i) A variance from Section 160-75(M) to permit façade sign placement to be off-set where façade sign placement is to be flat against a wall.

WHEREAS, the application was considered by the ETPB on May 3, 2018, (1) in the sworn testimony of Hristos Kolovos and Bill Dovas on behalf of the owner/applicant, Peter Lazaropoulos,

PE, AIA, PP, the applicant's engineer and planner, and Nathan Mosley, PE, the applicant's traffic engineer; and (2) by the legal representation of Robert S. Baranowski, Jr., Esquire.

WHEREAS, a public hearing (X) was required and the ETPB has considered that public comments:

- (X) 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

WHEREAS, the following documents and exhibits were reviewed and considered by the ETPB and are incorporated herein by reference:

(a) A Land Development Application, dated January 18, 2018, prepared by Robert S. Baranowski, Jr., Esquire, consisting of ten (10) pages;

(b) A Township of Evesham Land Use Board Application Checklist, dated January 17, 2018, prepared by Robert S. Baranowski, Jr., Esquire, consisting of two (2) pages;

(c) A Plan entitled, "Preliminary and Final Major Site Plan for Proposed Diner," prepared by P. Lazaropoulos AIA, PE, PP. LEED AP, dated December 19, 2017, consisting of eleven (11) pages;

(d) A Plan entitled, "Plan of Survey and Partial Topography, Block 20, Lot 1," prepared by Joseph W. Maxcy, PLS, dated February 11, 2015, last revised December 5, 2017, consisting of one (1) page;

(e) A Plan entitled, "Architectural Elevations and Floor Plans for Proposed Diner," prepared by P. Lazaropoulos AIA, PE, PP. LEED AP, dated December 19, 2017, consisting of two (2) pages;

(f) Commitment for Title Insurance, Scheduled B, prepared by Surety Title Company, LLC, undated, consisting of twenty-eight (28) pages;

(g) Letter from John A. Engle, PE, PP, Burlington County Planning Board Engineer, dated January 12, 2018;

(h) A plan entitled, "Existing Conditions," dated December 19, 2017, last revised May 2, 2018, marked as Exhibit A-1 at the time of the hearing;

(i) A color rendered site plan, dated December 19, 2017, last revised February 9, 2018, marked as Exhibit A-2 at the time of the hearing;

(j) A color rendered elevations plan, undated, marked as Exhibit A-3 at the time of the hearing; and

(k) A truck circulation plan, dated December 19, 2017, last revised May 2, 2018, marked as Exhibit A-4 at the time of the hearing.

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

WHEREAS, the ETPB has considered the application and the evidence and arguments submitted by the applicant in support thereof and the public comments were not made against any aspects of the application;

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

(X) Planner report dated March 20, 2018;

(X) Engineer report dated April 30, 2018;

(X) Environmental Consultant reports dated February 23, 2018 and May 2, 2018;

(X) Traffic Consultant report dated April 10, 2018;

() Evesham Township Fire Marshal memorandum dated _____;

() Other: _____;

Copies of which are attached hereto and made a part hereof as Exhibits A-D respectively;
and

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

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant is the owner of the P.I.Q. which property is situated within the Commercial-1 (C-1) and the Evesham Crossroad Overlay (EVCO) Zoning Districts. The applicant seeks preliminary and final major site plan approval to permit the construction of a 7,225 square foot diner style restaurant. The applicant also seeks various variances and submission waivers enumerated herein.

2. The applicant's attorney, Robert S. Baranowski, Jr. Esquire summarized the application. He indicated the applicant was seeking preliminary and final major site plan approval to construct a 7,225 square foot diner style restaurant, with variances and submission waivers.

3. Hristos Kolovos, one of the owners described the proposed diner/restaurant which will be named "Olga's Diner."

4. Bill Dovas, testified on behalf of the applicant. He testified that the proposed diner style restaurant would be open from 6:00 a.m. to 12:00 a.m. Monday through Sunday and would get deliveries twice a week between the hours of 7:00 a.m. and 11:00 a.m. The deliveries would be by cargo van or large box truck and not tractor-trailers. He also testified the trash and recycling would be picked up two to three times per week between the hours of 7:00 a.m. and 9:00 a.m. The trash and recycling containers will be in a fenced in trash/recycling enclosure. He testified there will be 65 to 75 employees total with 20 to 25 employees per shift and shift change is between 3:00 p.m. and 4:00 p.m.

5. Peter Lazaropoulos, PE, AIA, PP, the applicant's engineer and planner testified on behalf of the applicant. He was qualified as an expert in the fields of engineering and planning and he testified under oath. He introduced Exhibit A-1 which is an existing conditions plan, dated December 19, 2017, last revised May 2, 2018. He testified that the previous 14,000 square foot restaurant located on the P.I.Q. was demolished and the applicant is proposing an approximate 7,200 square foot diner style restaurant to be constructed in the approximate location of the previous building with added landscaping. He introduced Exhibit A-2 which is a color rendered site plan, dated December 19, 2017 and last revised February 9, 2018. He testified the applicant would be adding landscaping and that the P.I.Q. is ADA compliant. He also testified the applicant has requested variances due to site constraints for parking and building setbacks from Baker Boulevard. He introduced Exhibit A-3 which is a color elevations plan. He testified the building will have a brick and stone veneer and that the applicant will be utilizing the existing diner sign. The applicant will be adding landscaping, one loading zone and will be utilizing the existing basin on the southwest side of the P.I.Q. The applicant will be increasing the grass area on the P.I.Q., thereby reducing impervious coverage and the lighting will be upgraded to Township lighting standards. He also introduced Exhibit A-4 which is a truck circulation plan, dated December 19, 2017 and last revised May 2, 2018. He described the trash and delivery circulation on the P.I.Q.

6. Nathan Mosley, PE, the applicant's traffic engineer testified on behalf of the applicant. He was qualified as an expert in the field of traffic engineering and he testified under oath. Mr. Mosley summarized his traffic study. He testified that the size of the restaurant is proposed to be reduced from 13,400 square feet to approximately 7,200 square feet, thereby reducing the number of trips from that of the prior restaurant. The prior restaurant averaged 69 trips to and from the restaurant during peak hours. He testified that due to the volume of traffic

already existing on Route 73, there will be no change in the delay of ingress and egress on the site. The additional drive-thru lane at the Chick-Fil-A restaurant located adjacent to the P.I.Q. will help alleviate the one-site circulation at the Route 73 access. He further testified that the existing parking spaces are being reduced from 110 parking spaces to 108 parking spaces with the existing Chick-Fil-A having 66 of those spaces. The 108 parking spaces will accommodate patrons of both the proposed diner style restaurant and the Chick-Fil-A restaurant. He also testified that the applicant is seeking a Letter of No Interest from the DOT.

7. The ETPB reviewed and considered the March 20, 2018 report, prepared by the ETPB Planner, Leah Furey Bruder, PP, AICP, attached hereto as Exhibit "A."

8. The applicant agreed as a condition of approval to satisfy all of the comments set forth in the ETPB Planner's report, dated March 20, 2018.

9. The ETPB reviewed and considered the April 30, 2018 report, prepared by the ETPB Engineer, Chris R. Rehmann, PE, PLS, PP, CME, attached hereto as Exhibit "B."

10. The applicant agreed as a condition of approval to satisfy all of the comments set forth in the ETPB Engineer's report, dated April 30, 2018.

11. The ETPB reviewed and considered the February 23, 2018 and May 2, 2018 reports, prepared by the ETPB's Environmental Consultant, Behram Turan, PE, LSRP, attached hereto as Exhibit "C."

12. The applicant agreed as a condition of approval to satisfy all of the comments set forth the ETPB Environmental Consultant's reports, dated February 23, 2018 and May 2, 2018.

13. The ETPB reviewed and considered the April 10, 2018 report prepared by the ETPB Traffic Engineer, Stacey Arcari, PE, PP, CME, PTOE, attached hereto as Exhibit "D."

14. The applicant agreed as a condition of approval to satisfy all of the comments set forth in the ETPB Traffic Engineer's report, April 10, 2018.

15. The ETPB opened the hearing on this application to the public and no members of the public appeared in connection with the hearing.

WHEREAS, in support of its determination, the Board found that the purposes of the Municipal Land Use Law would be advanced by the requested deviations from the Zoning Ordinance requirements and the benefits of such deviations would substantially outweigh any detriment.

WHEREAS, The Board also determined that granting the variance would not substantially impair the intent and purposes of the Master Plan and Zoning Ordinance.

WHEREAS, upon motion duly made and seconded to grant the application for Preliminary and Final Major Site Plan approval to permit the construction of a 7,200 square foot diner style restaurant, together with the requested variances and waivers, the Board voted in favor of granting the application subject to certain conditions mentioned hereinafter.

NOW, THEREFORE, BE IT RESOLVED by the Evesham Township Planning Board that the said application for Preliminary and Final Major Site Plan approval to permit the construction of a 7,200 diner style restaurant, together with the requested variances and waivers, shall be and is hereby granted subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Planner's report dated March 20, 2018 (Exhibit "A"), except as may be otherwise set forth herein.

2. The applicant shall fully comply with and satisfy all of the items set forth in the

ETPB Engineer's report dated April 30, 2018 (Exhibit "B"), except as may be otherwise set forth herein and will clean the existing basins.

3. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Environmental Consultant's reports dated February 23, 2018 and May 2, 2018 (Exhibit "C"), except as may be otherwise set forth herein.

4. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Traffic Consultant's report dated April 10, 2018 (Exhibit "D"), except as may be otherwise set forth herein. The applicant will install additional signage and striping in lieu of alternative pavement block at the main access from Route 73 for visual contrast

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:

(X) Mandatory Non-Residential Development fees pursuant to N.J.S.A. 40:55D-8.3.

() 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 improvements required to be bonded pursuant to law. The maintenance guarantee shall equal 15% of the cost of the bonded 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 be required to execute a Developer's Agreement with the Township of Evesham prior to the issuance of any construction permit for work to be performed pursuant to this approval. The Developer's Agreement shall be in the form required and/or approved by the Township Solicitor.

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 P.I.Q. 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 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.

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						
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					
Councilman, Steven Zeuli						
Jay Parikh, Vice Chairperson	X				X	
Jerry Menichini	X					
Dominick Mondì						
Paul Cortland	X					X
Jeff Foster						
Jay Levenson	X					
Ghanu Dave'	X					
Richard Maratea						

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 3rd day of May, 2018.



 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson						
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee						
Councilman, Steven Zeuli						
Jay Parikh, Vice Chairperson	X					X
Jerry Menichini	X					
Dominick Mondì						
Paul Cortland	X				X	
Jeff Foster						
Jay Levenson	X					
Ghanu Dave'						
Richard Maratea						

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 7th day of June, 2018.



 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD