

**RESOLUTION NO. 2022-PB-22
EVESHAM TOWNSHIP PLANNING BOARD
IN THE MATTER OF EVESHAM TOWNSHIP
TUCKERTON DEVELOPERS, LLC
APPLICATION NO. P22-10
DECIDED ON DECEMBER 15, 2022
MEMORIALIZED ON MARCH 2, 2023
PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH
ANCILLARY BULK VARIANCE RELIEF**

WHEREAS, an application for preliminary and final site plan approval with ancillary bulk variance relief has been made to the Township of Evesham Planning Board (hereinafter referred to as the “Board”) by Tuckerton Developers, LLC (hereinafter referred to as the “Applicant”) on lands known and designated as Lots 2.03, 2.04, and 3.01 in Tax Block 30 and Lot 1 in Tax Block 45 as depicted on the Tax Map of the Township of Evesham (hereinafter “Property”), and more commonly known as 960, 960A, 980, 984 Tuckerton Road in the OP/Municipal Center Overlay/Morrison Rehabilitation Area (Office Professional) Zone District; and

WHEREAS, a public hearing was held on December 15, 2022 after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Jeffrey Baron, Esq. and Jeffrey Brennan, Esq.

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that proper notice has been published and the jurisdiction and powers of the Board have been properly invoked and exercised

NOW, THEREFORE, the Board makes the following findings of fact based on evidence presented at its public hearing, at which a record was made.

1. The subject Property contains approximately 4.17-acres and is located along Tuckerton Road within the OP (Office Professional) Zone within the OP/Municipal Center

Overlay, and the Morrison Property Rehabilitation Area. The subject Property was subject to Resolution #174-2014, “Declaring Certain Property known as Block 30, Lots 2.03 and 3.01 to Constitute an Area in Need of Rehabilitation within the Meaning and Intendment of the NJ Local Redevelopment and Housing Law.” The subject Property is located within the Pinelands and will be subject to filing with the Pinelands Commission. The subject Property is currently improved with structures and buildings which were part of the original Morrison Farm and Farm Market business. The structures and buildings are vacant and in a state of deterioration.

2. The adjacent parcels to the south, east, and west are located in the institutional zoning district. Community ball fields and the Municipal Center are also located in this area. The Office Professional District is located to the north. Wetlands areas are also located along the western boundary.

3. The Applicant is seeking preliminary and final site plan approval to raze the deteriorated non-municipal buildings and to construct a 9,750 square feet retail building that includes a drive through lane and a 14,450 square foot office building. The Applicant also proposes parking and sidewalk areas, stormwater management, utilities, landscaping and lighting. The development will be serviced by public water and sewer. The site plan also depicts off-site work to be performed. The Applicant will construct a parking lot on its southeast corner to connect to the existing Evesham Township police parking lot located on Block 45, Lot 1. This will impact community walking paths on Block 20, Lot 2.04. These paths will be realigned and reconstructed. Forty-eight (48) additional parking spaces will be available to the police department which includes two (2) EV charging stations. A leased area for the parking lot will be delineated and the parking area will be separated from the proposed use by an eight (8) foot high vinyl privacy fence.

4. Two ingress/egress driveways are proposed along Tuckerton Road to service the proposed buildings. One will align with the light at Old Marlton Pike where a one-lane in with a right turn and straight/left turn lane exist will permit site access. The second driveway proposes a two-way in with a right turn only exit. This driveway is located to the east of the Cups and Cones driveway across Tuckerton Road. In addition to the site driveways, there will be a new driveway for the proposed improvements to the police parking lot. This drive aisle will provide two-way access for police vehicles. A portion of this driveway will be constructed on Block 45, Lot 1. Tuckerton Road is a County roadway and under the jurisdiction of Burlington County.

5. Co-Counsel for the Applicant, Jeffrey Baron, Esq. explained that the subject Property was located at 960-984 Tuckerton Road, adjacent to the Municipal Complex. Mr. Baron stated that the subject Property had been used as a garden center for 47 years and has since closed. He then introduced an Aerial Photo as Exhibit A-1. Mr. Baron stated that the Aerial Photo depicted the garden center when it was in operation. He explained that the surrounding area was unchanged. Mr. Baron further stated that the proposal was part of a redevelopment proposal that had begun fifteen (15) years prior when the Morrison Garden Center was interested in selling the subject Property.

6. Mr. Baron represented that the Applicant was proposing to construct an office building and a separate retail building. He also stated that the proposal included a parking lot adjacent to the Municipal Building at the request of the police department. Mr. Baron explained that the office building was to the left of the site with its own parking area. He stated that the retail building would include a stacking lane for a drive thru window, which was a conditional use. Mr. Baron further explained that the Municipal ball fields were located to the rear of the site. He also represented that an ingress and egress driveway was located at the traffic light on Tuckerton Road.

Mr. Baron further advised that the site plan satisfied the parking requirements and incorporated suggestions from the Board's Professionals. He then identified three (3) stormwater basins on site; two (2) at the front, and one (1) at the rear. Mr. Baron stated that the lots would be consolidated, but might still require easements. He represented that the Applicant would be responsible for maintaining the stormwater basins.

7. Co-Counsel for the Applicant, Jeffrey Brennan, Esq. stated that the subject Property was designated Block 30, Lots 2.03, 2.04, and 3.01, along with Block 45, Lot 1. He stated that the subject Property contained 4.17 acres and was located within the Office Professional Zone, Municipal Center Overlay Zone, and the Morrison Property Rehabilitation Area. Mr. Brennan represented that the Applicant was proposing to construct a single story, 9,700 square foot retail building with a fast food drive thru. He stated that the Applicant was also proposing to construct a two-story office building and a parking lot for the police department. Mr. Brennan represented that the Applicant was seeking preliminary and final site plan approval to permit the conditional uses. He explained that the conditional use involved the use of a drive-thru. Mr. Brennan then stated that the Applicant was also seeking variance and design waiver relief for the height of the vinyl fence at eight (8) feet, which was requested by the police department, relief for parking within the buffer area, relief from providing a loading area, relief for parking extending over the property line, relief for the rear yard setback of 10.5 feet, and relief for the trash enclosure and basin within the buffer. Mr. Brennan stated that the height of the lamp posts will be changed to be compliant with the ordinance.

8. The Applicant's Engineer and Planner, Kenneth Levers, P.E., P.P., introduced a Project Site Base Map as Exhibit A-2. Mr. Levers explained that Exhibit A-2 depicted the subject Property in its existing condition. He testified that the municipal ball fields had previously been

part of the tract, but was subdivided in 2011. Mr. Levers then stated that the ball fields had been developed with greenhouses prior to the subdivision. He also testified that five (5) buildings remained on the subject Property, and were used for storage by the former garden center. Mr. Levers explained that the old farmhouse had been demolished, but that the subject Property was still developed with an existing 1950s ranch house, which was leased. Mr. Levers testified that the former garden center had four (4) entrances, three (3) of which were near Old Marlton Pike. He then confirmed that all the buildings would be demolished.

9. Mr. Levers next introduced a Site Plan as Exhibit A-3. He testified that the Applicant was proposing a 14,000 square foot office building with a footprint of 85'x85' on the eastern side of the subject Property. He then stated that the Applicant was also proposing a one-story retail building of 9,750 square feet with a footprint of 150'x160' on the western side of the subject Property. Mr. Levers testified that the main driveway to the subject Property was at the traffic light on Tuckerton Road and Old Marlton Pike. He stated that the timing of the traffic light would be adjusted. Mr. Levers then explained that the main driveway would have one (1) entrance lane and two (2) exit lanes. The center lane would be restricted to a left exit turn only. Mr. Levers further testified that the far eastern driveway would be used for police vehicles to access the police parking lot, were presently, the police parking lot dead ends. He also discussed midpoint of the subject Property where the second driveway would be left and right turn in and right turn out. Mr. Levers further explained that there was no interconnection of the office/retail with the police department driveway. He stated that an eight (8) foot tall vinyl privacy fence and two (2) rows of evergreen screening would separate the Police Department parking area and the office/retail. Mr. Levers then testified that the eight (8) foot height was requested by the police department.

10. Mr. Levers next testified that the main driveway had a sweeping curve to direct traffic toward both buildings. He then explained that the drive thru and pass by lanes were at the western side of the retail building. Mr. Levers then stated that an 1,800 square feet outdoor seating area would be located on the eastern side of the retail building. He stated that the office building would be encircled by a full movement driveway and parking. Mr. Levers then testified that a fire truck would be able to maneuver the driveway and that the Fire Official was satisfied. He opined that the internal circulation was safe and efficient.

11. Mr. Levers next testified that the existing police driveway was a loop at a dead end only accessed from the Municipal Building parking lot. He explained that the driveway at the dead end would become a one-way driveway to allow stacking of police vehicles near the door of the police station. Mr. Levers also testified that the southern side of the police parking lot would be reconfigured to add up to forty-eight (48) parking spaces. He explained that the police currently parked near the dog park at the southwest corner of the municipal building parking lot.

12. Mr. Levers next testified that the retail building could contain between two (2) and six (6) tenants. He stated that no tenants had been secured at the time of this hearing. Mr. Levers testified that the drive-thru intended to accommodate a potential fast food or coffee shop tenant.

13. Mr. Levers next testified that two (2) stormwater basins would be parallel to Tuckerton Road and were connected. He explained that the third stormwater basin would be located at the rear and was within an existing easement that was created as part of the 2011 subdivision.

14. Mr. Levers next testified as to the hours of operation. He stated that the hours of operation for the conditional use drive thru tenant would comply with the conditional use requirement to be closed between 11 p.m. and 6 a.m.. Mr. Levers testified that the other retail

tenants may be open from 5 a.m. to 11 p.m. at most, particularly if a gym is a tenant. Mr. Levers further testified that the hours of operation of the office building would be a maximum of 6 a.m. to 11p.m., but typically 8 a.m. to 6 p.m. or 7 p.m.

15. Mr. Levers next testified that the total number of parking spaces for the office and retail building was 120 parking spaces, which was 26 more than required. He explained that four (4) of those parking spaces would be EV charging spaces with one (1) of those being ADA compliant. Mr. Levers testified that the 120 parking spaces did not include the police parking.

16. Mr. Levers also stated that an oversized loading area would be located west of the retail building and have a 12' x 55' dimension. He, however, stated that the Applicant was seeking variance relief from providing a loading area for the office building. Mr. Levers testified that a loading area would not be utilized by the office building. He explained that the largest trucks that the office building would normally receive deliveries from would be vans or parcel delivery trucks, the largest being a SU-30. He further explained that a loading area would take away parking spaces and that it was better to provide parking spaces, rather than a loading area. Mr. Levers further testified that he had designed the turn circulation to accommodate a WB-40 sized truck. He explained that the delivery times of the retail building would be controlled.

17. Mr. Levers further testified that two (2) trash enclosures were proposed, one (1) center to the site at the rear, and the second at the eastern corner of the office building. He stated that trash pickup would occur once or twice a week. Mr. Levers further testified that three (3) bicycle racks were proposed. He explained that two (2) of the bicycle racks would be located in front of the retail building with one (1) bicycle rack in front of the office building.

18. Mr. Levers also stated that a pedestrian access to the municipal ball fields would be located east of the stormwater basin. He explained that the stormwater basin would be fenced for

safety. He also stated that a retaining wall would be located along the side of the stormwater basin closest to the drive thru lane. Mr. Levers further explained that a crosswalk provided connecting the retail building to the pedestrian access to the municipal ball fields. He then testified that a decorative wall was required to screen the fast-food conditional use. He identified the decorative wall along the side facing the municipal ball fields. Mr. Levers also testified that there was a short sidewalk would connect the site to the walking trail within the Municipal Building area.

19. Mr. Levers next testified that the light poles were initially planned to be twenty (20) feet tall, but the Applicant had agreed to reduce the height to fifteen (15) feet to be compliant with the ordinance. He agreed to work with the Board's Professionals on revising the plans to reflect the change in height of the light poles. Mr. Levers also testified that the lights would be LED. He explained that the style of the light fixtures would meet the style of the adjacent municipal building, which was an older style, so it would not comply with the light style ordinance. Mr. Levers further testified that there would be street trees at both sides of the site and a landscape buffer.

20. Mr. Levers testified that the proposal promoted public health and safety by providing parking for the Police Department. He stated that the proposal would provide sufficient space for office, retail, and outdoor seating that served both uses. Mr. Levers also stated that the proposal would provide sufficient space as required by the 2014 ordinance designating the subject Property as an area in need of rehabilitation. He explained that the proposal would further promote a desirable visual environment. Mr. Levers also testified that the proposal was a more efficient use of land, which had been worked out between a public and private effort over several years.

21. Mr. Levers the explained that the proposed development would not result in any substantial negative impact to the public good. He opined that the ordinance designating the area as in need of rehabilitation had this proposal in mind. Mr. Levers also testified that the ordinance,

having this proposal in mind, was proof that there was no substantial negative impact to the master plan or the zone. He further testified that the proposal met all bulk requirements. He explained that the subject Property was greater than two (2) acres, greater than 200 feet of width, greater than 50 feet of depth, compliant with side and rear yard setbacks that the impervious coverage was 48%, and Floor Area Ratio (FAR) was half of the maximum permitted. Mr. Levers stated that the Applicant could have developed the subject Property more, but chose not to.

22. Mr. Levers next testified as to the fast food conditional use. He stated that the fast food use would not be located in a standalone building, there would not be more than one (1) drive thru, the use would be closed between 11 p.m. and 6 a.m., the drive-thru would be located at the rear of the building with a screen, and the fast food use would have a pedestrian connection with crosswalk and walkway.

23. The Applicant's architect, David Rudzenski, AIA, introduced an architectural rendering of the office building as Exhibit A-4. Mr. Rudzenski testified that the office building would contain 14,000 square feet and have two-stories. He described the building as square with a center core. Mr. Rudzenski explained that the interior of the building would be an open floor plan, but would be subdivided per the tenants' needs. He then testified that the style of the office building and the retail building would be compatible, but not similar. Mr. Rudzenski further explained that the office building material would be a brick base, a masonry portal, along with canopies. He stated that the colors would match that of the retail building. Mr. Rudzenski also testified horizontal siding would be used for the walls. He then stated that the front and rear had the portals that matched and the sides did not have portals.

24. Mr. Rudzenski next introduced an architectural rendering of the retail building as Exhibit A-5. Mr. Rudzenski testified that the retail building would use the same material as the

office building, with a brick base and two (2) masonry pilasters; light and dark gray. He further testified punched windows and canopies would be used to provide depth. Mr. Rudzenski also stated that the design wrapped around all sides of the building.

25. Mr. Rudzenski next introduced a 3-D rendering of the office building as Exhibit A-6. He stated that the color palette had been changed to light gray based upon recommendations from the Board Planner. Mr. Rudzenski also introduced a 3-D rendering of the retail building as Exhibit A-7. He added that the retail building would have an outdoor seating area with a brick wall that matched the base and a railing on top of the brick wall for a total height of five (5) feet.

26. The Board Engineer testified in regard to his Report dated December 6, 2022. He stated that he had worked with the Applicant during several workshop meetings on the layout and circulation. He asked for the Applicant to testify in more detail about the access points on Tuckerton Road.

27. Mr. Levers testified that he had met with the Burlington County Engineer, who was satisfied with the location and movements of the access points. He stated that the Applicant would re-time the traffic light and provide new cameras. Mr. Levers further testified that a traffic study was performed in August 2018 with a site plan that had more retail. He agreed to submit a new traffic study to Burlington County. He stated that traffic in the area was down 18% since 2018.

28. In response to further questions from the Board Engineer, Mr. Levers introduced a Drive Thru circulation map as Exhibit A-8. He explained that the stacking at the drive-thru could fit thirteen (13) to fourteen (14) cars. Mr. Levers further testified that the tenants were unknown at the time of the hearing. He used Starbucks as an example of a potential tenant of the drive-thru and that Starbucks did not have stacking of fourteen (14) cars. Mr. Levers further testified that the distance between the menu board and the pickup window was a stack of seven (7) cars. He agreed

to provide a written contingency plan for the tenants. Mr. Levers testified that Chick-fil-A would not be a tenant because the drive thru was not large enough space for a Chick-fil-A.

29. In response to further questions from the Board Engineer, Mr. Levers testified that the largest trucks anticipated to circulate the site were WB40. He then stated that the hours for loading would be restricted. Mr. Levers also agreed to send all correspondences with Burlington County to the Board. Mr. Levers also agreed to comply with all other comments in the Board Engineer's Report. He then testified that any signs would comply with all relevant ordinances, including directional signs. Mr. Levers also agreed to paint the drive thru lane.

30. The Board expressed its concern with traffic exiting the center driveway. Mr. Levers explained that a left turn out would not be permitted of the center driveway. The Board also asked if the stormwater management issues were resolved. Mr. Levers replied that the overall stormwater management system had addressed the issues raised in the Board Engineer's Report, which the Board Engineer confirmed. He also agreed to submit greater detail of the maintenance of the stormwater management system.

31. In response to further questions from the Board, Mr. Levers testified that the traffic study was performed on a Saturday and a weekday in August 2018. He explained that the only left turn exit was at the traffic light. Mr. Levers also stated that there would be signs at the police driveway informing drivers that that driveway was police only.

32. In response to further questions from the Board, Mr. Levers testified that the rear door near the drive thru of the retail building would be employee only access. He also explained bollards and an eight (8) foot wide sidewalk would be located between the rear door and the drive-thru.

33. The Board Environmental Expert testified as to his Report dated December 9, 2022. He stated that there were simple remedies to address the comments in his Report. Mr. Levers testified that the Applicant agreed to comply with the comments in the Environmental Report, except for providing an archaeology study. After some discussion, it was agreed that the Applicant did not need to provide a full archaeology study, rather provide information on the cultural resource study for the 300-year-old farmhouse. It was agreed that the Applicant did not need to conduct a Phase I or Phase II Environmental study.

34. In response to questions from the Board Environmental Expert, Mr. Levers testified that the impervious coverage would be 48%. He also stated that the stormwater basins were shallow with a berm of three (3) to five (5) feet in height. Mr. Levers proceeded to explain that seven (7) test pits had been done revealing groundwater table to be three (3) to six (6) feet. He stated that the depth of the stormwater basins was 2-2.5 feet, at least two (2) feet above the water table. Mr. Levers explained that the berm near the ball field would be four (4) feet high. He further noted that there was no green infrastructure within the basins and that a rain garden was not warranted because the grade of the site could handle the stormwater.

35. In response to further questions from the Board Environmental Expert, Mr. Levers testified that the pond on the western side of the subject Property was an irrigation pond for the former garden center and was isolated. He agreed to provide a Letter of Interpretation (LOI) in regard to the irrigation pond. Mr. Levers also agreed to retain a Licensed Site Remediation Professional (LSRP) to evaluate the subject Property. Mr. Levers testified that he expected to meet with NJDEP and would comply with all requirements. He also agreed to test for asbestos, lead paint, and universal wastes before demolition of the remaining structures. Mr. Levers testified that

the Applicant was seeking a waiver for dual twelve (12) inch pipes because the pipe cannot be larger than twelve (12) inches. The Board Engineer agreed to the waiver for the dual pipes.

36. In response to questions from the Board, Mr. Levers testified that the Pinelands Commission found inconsistencies with the wetlands and stormwater management. He explained that the report in 2012 required a wetlands transition area. Mr. Levers further explained that a second report was based on isolated wetlands, which was the irrigation pond along the western property line. He stated that the irrigation pond was not filled in well. He also stated that the Pinelands Commission required a wetlands buffer of 300 feet or no closer than existing structures. He explained that the existing structures were 100 feet from the irrigation pond, so the permitted buffer was 100 feet, not 300 feet. He next testified that the Applicant would be resubmitting to the Pinelands Commission to resolve the inconsistencies.

37. The Board Planner testified as to his Report dated December 8, 2022. He stated that he had worked with the Applicant to make improvements to the site plan. He explained that the Applicant was proposing a conditional use a fast food drive-thru and that the proposal met the conditions for the use. He also stated that the Applicant agreed to comply with the technical comments in his Report. The Board Planner further explained that the Township would work with the Applicant on connecting the walkway to the ball fields as long as no new variances are created. He next stated an easement had been granted to the Applicant for the basin at the rear with the Township property. He also testified that an agreement on the maintenance of the basin was not necessary because the easement was sufficient.

38. In response to questions from the Board, the Applicant agreed to work with the Fire Official on the comments in the Fire Report.

39. The hearing was then opened to the public at which time, Ila Vassallo, appeared before the Board. Ms. Vassallo identified herself as the Chair of the Evesham Township Environmental Commission. Ms. Vassallo testified that the Applicant had made good use of native plantings, however, she was concerned with the proposed boxwoods and arborvitaes. The Applicant agreed to replace the boxwoods and arborvitaes with native plantings. Ms. Vassallo also asked for clarification on the inconsistencies that the Pinelands Commission found. Mr. Levers in response testified that there were two (2) letters from the Pinelands Commission that were available as part of the record. He stated that there were new State regulations that the Pinelands Commission adopted after this application was filed. Mr. Levers explained that the Applicant would address the inconsistencies when applying to the Pinelands Commission for a Certificate of Filing. Ms. Vassallo also asked if an Environmental Impact Study was issued. Mr. Levers testified that an Environmental Impact Study would be issued as a condition of approval.

40. The next member of the public to address the Board was Jill Torpey, 452 Barton Run Boulevard. Ms. Torpey was concerned with people parking on the subject Property to then go to the ball fields. She was also concerned with stacking in the left turn lane on Tuckerton Road to enter the site. Mr. Levers responded by stating that there was space to stack five (5) cars between the proposed police driveway and the center driveway. Ms. Torpey was also concerned about construction vehicle traffic. Mr. Levers explained that there would be one (1) construction entrance, which would be signed. Ms. Torpey was further concerned with the age of the traffic study and whether it was reflective of the present conditions. Mr. Baron explained that a new traffic study was being prepared for the application to the Burlington County Planning Board. He explained that because Tuckerton Road was a county road, Burlington County Planning Board had

jurisdiction regarding traffic. Mr. Baron stated that this Board did not have jurisdiction to base its decision on the traffic impact on the county road.

41. The next member of the public to address the Board was Evan Sharko, 1245 Old Marlton Pike. Mr. Sharko questioned whether the proposal had any benefit to the community. Mr. Sharko was also concerned that Tuckerton Road and Old Marlton Pike did not have sufficient infrastructure to handle the increase in traffic that the proposal may bring. He stated that there was no sidewalk, curb, drainage, or shoulder and that it was unsafe for pedestrians and bicyclists. Mr. Sharko was also concerned that the increase in impervious coverage would increase stormwater runoff. Mr. Sharko asked what the soil type of the subject Property was. Mr. Levers, in response, testified that the soil was uniform fine, loamy sand, which was good for stormwater drainage. Mr. Levers further stated that the soil type changed to clay north of the subject Property toward Route 70. Mr. Sharko argued that a strip mall was not permitted in the zone. In response, the Board Planner explained that the subject Property was within the OP (Office Professional) Zone within the Municipal Center Overlay, and the Morrison Property Rehabilitation Area. The Board Planner explained that the Municipal Center Overlay permitted similar uses as were permitted in a C2 zone, which a fast food drive thru was a conditionally permitted use. Mr. Sharko insisted that the proposal was a detriment to the area and no benefit. Mr. Sharko asked the Board to deny the application.

42. The next member of the public to address the Board was Andrew Farrell, III, 325 Stoney Brook Lane. Mr. Farrell was concerned with the traffic impact and the lack of testimony by a traffic engineer. Mr. Baron responded by explaining that traffic testimony would be provided at a public hearing before the Burlington County Planning Board because that board had jurisdiction. Mr. Farrell also asked why the stormwater basins were open and not underground.

Mr. Levers, in response, explained that underground stormwater retention was not viable on the subject Property because of the high water table. Mr. Levers also explained that open stormwater basins were the preferred design for stormwater management. Mr. Levers explained that underground basins were only used as an alternative when land for an open basin was not available. Mr. Farrell further asked who was responsible for maintenance of the stormwater basins. Mr. Baron stated that the Applicant was responsible for the maintenance of the stormwater basins, including the one partly on the Township recreation property. Mr. Baron stated that the maintenance requirement would be documented. Mr. Farrell also asked about the lease regarding the police parking lot. Mr. Baron stated that the lease was for the Governing Body to make a decision on, not the Planning Board.

43. There were no other members of the public expressing an interest in the application.

NOW, THEREFORE, the Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for preliminary and final site plan approval as well as ancillary bulk variance and design waiver relief in regard to Lots 2.03, 2.04, and 3.01 in Tax Block 30 and Lot 1 in Tax Block 45 on the Tax Assessment Map of the Township of Evesham. The subject Property is located within the OP (Office Professional) Zone within the Municipal Center Overlay Zone, and the Morrison Property Rehabilitation Area.

The Applicant seeks preliminary and final site plan approval for a permitted use and conditionally permitted use but does require bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel

is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the Applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board addresses the required bulk variances collectively. The Board finds that the Applicant has satisfied the positive criteria. The Board finds that the Applicant has designed the subject Property to comply with the bulk standards except for the police driveway that straddles the property line. The building design also creates a desirable visual environment and the location

of the improvements allows for a variety of amenities. The police driveway and parking lot improves public health and safety by providing secured parking for the Police Department. The Board therefore concludes that the goals of planning enumerated in the Municipal Land Use Law at N.J.S.A. 40:55D-2 have been advanced. The positive criteria pursuant to N.J.S.A. 40:55D-70c(2) has therefore been satisfied.

The Board also finds that the negative criteria has been satisfied. As previously stated, the design incorporated the police driveway and parking lot. The Board finds that the police driveway would not create a substantial negative impact. The Board also finds that the driveway was mitigated with existing mature trees buffering it from the adjacent property. The proposed buildings will also be visually attractive with a wide variety of amenities. The proposed variance relief will not result in any additional traffic, noise or odors not already contemplated by the Ordinance. The Board therefore finds that the proposed variance relief will not result in substantial detriment or impairment of the zone plan, zoning ordinance or public welfare. The Board concludes that the negative criteria pursuant to N.J.S.A. 40:55D-70c(2) has been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and that variance relief pursuant to N.J.S.A. 40:55D-70c(2) may be granted.

The Board now addresses the required design waiver relief collectively. The Board finds a perimeter buffer around the stormwater basin to be impracticable. The Board also finds screening of the parking lots and drive thru is also impracticable. The Board finds the eight (8) feet vinyl privacy fence is a better design to screen police activity entering the police station. The Board finds the masonry wall trash enclosure to be a better design than a fence. The Board finds the parking setback for minimum rear and side yards to be appropriate. The Board further finds that a loading area for the office building is unnecessary due to the needs of the proposed uses. The

Board finds that the strict application of the design standards would result in practicable difficulty in designing the subject Property to contain all of the amenities, complying with the impervious coverage standards, and designing a visually attractive building. The Board therefore determines that design waiver relief pursuant to N.J.S.A. 40:55D-51 is appropriate in this instance.

The Board now addresses the requests for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50. The Board begins by acknowledging that the proposed fast food restaurant is a conditional use. The Board finds that all conditions have been satisfied and that variance relief pursuant to N.J.S.A. 40:55D-70d(3) is not required. The Board is therefore properly vested with exclusive jurisdiction.

The Board finds that with the exception of the above referenced relief, the Applicant has complied with all zoning, site plan and design ordinance requirements. The Applicant has also agreed to comply with all conditions contained herein. Preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50 are therefore appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of the Township of Evesham for property known and designated as Lots 2.03, 2.04, and 3.01 in Tax Block 30 and Lot 1 in Tax Block 45 on the Tax Assessment Map of the Township of Evesham requesting land use relief and checklist waivers is determined as follows:

- A. Preliminary site plan approval pursuant to N.J.S.A. 40:55D-46;
- B. Final site plan approval Pursuant to N.J.S.A. 40:55D-50;
- C. Conditional use approval pursuant to N.J.S.A. 40:55D-67
- D. Variance relief pursuant to N.J.S.A. 40:55D-70c(2)
- E. Design waiver relief pursuant to N.J.S.A. 40:55D-51.

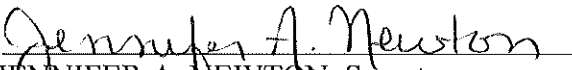
IT IS FURTHER RESOLVED that the above approvals are granted subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.
2. The Applicant shall comply with any terms and conditions contained in any Reports of the Board's Professionals.
3. The Applicant represents that all its representations and stipulations made either by the Applicant or on its behalf to the Township of Evesham Planning Board are true and accurate and acknowledges that the Land Use Board specifically relied upon said stipulations in the Board's granting of approval. If any representation or stipulation is false, this approval is subject to revocation.
4. This approval is granted strictly in accordance with any recommendations set forth on the record at the time of hearing on December 15, 2022.
5. The Applicant shall depict the lighting specifications, including fixtures and pole height, on the plans subject to the review and approval of the Board Planner and Board Engineer.
6. Vehicles larger than WB-40 shall be prohibited from the subject Property.
7. The fast food restaurant shall be restricted to one (1) drive thru lane.
8. The Applicant shall obtain approval from the New Jersey Pinelands Commission prior to implementing any demolition and/or redevelopment activities at the site.
9. The final location for the walkway and fences in the area accessing the municipal ball fields shall be subject to the review and approval of the Board Planner and Board Engineer.
10. The Applicant shall request a crosswalk be provided on Tuckerton Road when applying to Burlington County Planning Board.
11. All signage shall comply with Ordinance requirements.
12. The Applicant shall use native species in the landscaping plan subject to the review and approval of the Board Planner.
13. The Applicant shall comply with all comments in the Fire Marshall's Report including water main capacity to the satisfaction of the Fire Marshall.

14. The Applicant shall retain a LSRP to address the Areas of Concern (AOCs) associated with the site, and to issue a Response Action Outcome for the entire site (RAO-E) in accordance with NJDEP regulations and guidance documents.
15. The Applicant shall provide a cultural resource supplement concerning the farmhouse on the subject Property.
16. The Applicant shall obtain an LOI.
17. The Applicant shall test for asbestos, lead paint and universal wastes prior to demolition of the remaining structures.
18. All correspondence with the Burlington County Planning Board or other individuals or entities associated with Burlington County shall be submitted to the Board.
19. The center driveway shall be restricted to right turn only.
20. A revised traffic study shall be submitted to the Burlington County Planning Board.
21. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
22. Certificate that taxes are paid current to date of approval.
23. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Evesham, County of Burlington, State of New Jersey or any other jurisdiction.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Gene Friedman, Chairperson	X					
Mayor Jaclyn Veasy				X		
Councilman Eddie Freeman, III	X					X
Elizabeth Costello, Vice Chairperson				X		
Patricia Everhart				X		
Craig Higginbotham	X					
Lisa Killion-Smith	X				X	
Robert Sullivan	X					
Stephen Kavalkovich	X					
Victoria Smith				X		

I, Jennifer A. Newton, 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 15th day of December, 2022.


 JENNIFER A. NEWTON, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

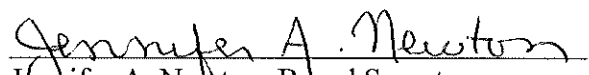
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Councilman Eddie Freeman, III	X					
Elizabeth Costello, Vice Chairperson						
Patricia Everhart						
Craig Higginbotham	X					X
Lisa Killion-Smith	X				X	
Robert Sullivan				X		
Stephen Kavalkovich	X					
Victoria Smith						

I, Jennifer A. Newton, 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 2nd day of March, 2023.


 JENNIFER A. NEWTON, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

CERTIFICATION

The undersigned secretary certifies that the within Resolution was adopted by the Township of Evesham Planning Board on December 15, 2022 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on March 2, 2023.


 Jennifer A. Newton, Board Secretary