

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

NOVEMBER 4, 2020 REGULAR MEETING 7:00 P.M.

AGENDA

1. Call meeting to order.
2. Requirements of the Sunshine Law. This meeting was advertised in the Burlington County Times on January 5, 2020 and posted in the Municipal Building. This meeting is being held virtually via Zoom technology.
3. Pledge of Allegiance. Welcome to guests.
4. Roll Call: Mr. Applegate, Mr. Blair, Mr. Borger, Ms. Burkley, Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Henley, Mr. Odenheimer, Mr. Thorpe, Solicitor Robert Swartz, Engineer Jim Winckowski, Planner Barbara Fegley, Secretary Marion Karp
5. Swear in Board Professionals
6. Approval of Meeting Minutes: 10/7/2020
7. Resolutions:
 - a. Resolution #22-2020 Re-Review Ordinance #14-2020 An Ordinance Supplementing Chapter 250, "Zoning" of the Code of the Township of Westampton to add the TC – Town Center Zone
 - b. Resolution #23-2020 Re-Review Ordinance #13-2020 An Ordinance Supplementing Chapter 250, "Zoning" of the Code of the Township of Westampton to add the MU-1 Mixed Use Zone
 - c. Resolution #24-2020 Re-Review Ordinance #10-2020 An Ordinance Supplementing Chapter 250, "Zoning" of the Code of the Township of Westampton to add the R-9 Residential Zone
 - d. Resolution #25-2020 Highview Commercial, LLC, Block 807, Lot 1 (2035 Route 541) – use variance, height variance (amend previously approved plan to add a warehouse) – to be continued until the Board's November 4, 2020 meeting
 - e. Resolution #26-2020 SBC Laundromat, Inc., Block 301, Lot 2 (483 Woodlane Road) – one year extension to site plan/use variance
 - f. Resolution #27-2020 Terrence & Kimberly Brennan, Block 106, Lot 15 (220 Main Street) – minor subdivision

8. Old Business:

- a. Highview Commercial, LLC, Block 807, Lot 1 (2035 Route 541) – use variance, height variance (amend previously approved plan to add a warehouse) – continued from the Board's October 7, 2020 meeting

9. New Business:

- a. Tesla, Inc., Block 201, Lot 7.01 (570 Rancocas Road) – minor site plan, bulk variance (installation of charging stations at Wawa)

10. Informal Applications: None

11. Correspondence: None

12. Open meeting for public comment:

13. Comments from Board members, Solicitor, Engineer and Secretary:

14. Adjourn

DRAFT

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

REGULAR MEETING

OCTOBER 7, 2020 7:00 P.M.

MINUTES

The regularly scheduled meeting of the Westampton Township Land Development Board was held virtually, via the Zoom app on October 7, 2020 at 7:04 P.M.

The Board elected an acting Chair for the meeting since both the Chairman and the Vice Chair were absent. Ms. Burkley made a motion to appoint Mr. Guerrero; the motion was seconded by Ms. Haas.

The meeting was called to order by Acting Chair Mr. Guerrero and the opening statement required by Sunshine Law was read. This meeting was advertised in the Burlington County Times on January 3, 2020 and posted in the Municipal Building. All guests were welcomed.

Everyone stood for the Pledge of Allegiance.

Roll Call: Present: Ms. Burkley, Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Odenheimer, Mr. Thorpe, Solicitor Robert Swartz, Planner Barbara Fegley, Board Engineer Mike Roberts, Secretary Marion Karp
Absent: Mr. Applegate, Mr. Blair, Mr. Borger, Mr. Henley

Solicitor Robert Swartz swore in the Board Planner and Engineer.

Approval of meeting minutes 9/2/2020 – minutes were approved as written; motion to approve made by Mr. Eckert, seconded by Ms. Burkley. All voted yes, Mr. Freeman and Mr. Thorpe abstain.

Resolutions: None

Old Business: None

New Business:

SBC Laundromat, Inc., Block 301, Lot 2 (483 Woodlane Road) – a request was received from Pat McAndrew, applicant's attorney, requesting 3 one-year extensions of a previously approved site plan. Mr. Guerrero asked if anything would keep the Board from approving it all at once. Solicitor Swartz advised that the Board could do it as one 3-year extension. There is a permit extension act in effect now; any extension granted by the Board will add on to the back end and goes on 6 months after the state of emergency ends.

Mr. Thorpe commented that it seems as if a one-year extension is simple, why are we extending it for three years since we might have new Board members within those three years that think differently. Solicitor Swartz explained that the Board has the right to do that; Ms. Burkley asked if it would cost the applicant money each time they had to come back. Since the state of emergency is still going on, they don't know how much it will add on to the approval. Mr. Thorpe asked if there is an advantage and is trying to wrap his head around why we wouldn't just do a one-year extension, most extensions he has seen have been one year at a time. Mr. Freeman agrees with Mr. Thorpe and he thinks a one-year extension might be more prudent. We have to think about the Township and our concerns. Solicitor Swartz explained it is purely a decision made by the Board and money shouldn't factor into it.

The meeting was opened to the public for comment; no comment was made and the meeting was closed.

Mr. Freeman made a motion to grant a one-year extension; the motion was seconded by Mr. Thorpe. Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Thorpe, Mr. Odenheimer and Ms. Burkley voted yes.

Rereview Ordinance #14-2020 An Ordinance Supplementing Chapter 250, "Zoning" of the Code of the Township of Westampton to add the TC – Town Center Zone. Township Solicitor Ruben Perez was present and explained that Fair Share housing had made a few changes to the ordinances that were not substantive and were diminimus in nature; however, under an abundance of caution; they felt it best to have the Board rereview the ordinances.

Ms. Burkley asked why the affordable housing ordinance and the development fee ordinance were carried at the Township Committee meeting last night; Ruben Perez explained that they wanted to carry them as a package and to approve them all at once.

This was opened to the public for comment; no comment was made and the meeting was closed.

Ms. Haas made a motion to approve; the motion was seconded by Ms. Burkley. Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Thorpe, Mr. Odenheimer and Ms. Burkley voted yes.

Rereview Ordinance #13-2020 An Ordinance Supplementing Chapter 250, "Zoning" of the Code of the Township of Westampton to add the MU-1 Mixed Use Zone. This ordinance had undergone the same kind of deminimus revisions dealing with UHAC and very low-income housing.

This was opened to the public for comment; no comment was made and the meeting was closed.

Mr. Thorpe made a motion to approve; the motion was seconded by Mr. Freeman. Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Thorpe, Mr. Odenheimer and Ms. Burkley voted yes.

Rereview Ordinance #10-2020 An Ordinance Supplementing Chapter 250, “Zoning” of the Code of the Township of Westampton to add the R-9 Residential Zone. This ordinance had undergone the same kind of minimal changes.

This was opened to the public for comment; no comment was made and the meeting was closed.

Ms. Burkley made a motion to approve; the motion was seconded by Ms. Haas. Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Thorpe, Mr. Odenheimer and Ms. Burkley voted yes.

Terrence & Kimberly Brennan, Block 106, Lot 15 (220 Main Street) – minor subdivision. Jim Winckowski was sworn in by the Board solicitor. It shall be noted that Mr. Thorpe recused himself from the application since he is the Chairman of the HPC and Mr. Brennan is the vice chair of the HPC. This application had come before the Board back in 2014 and was approved. Time had passed and the applicant didn’t perfect the subdivision so they had to return to the Board for approvals. Bill Nicholson, applicant’s engineer was sworn in by the Board attorney as was Mr. Brennan.

The subdivision is exactly the same configuration as before; it is the creation of 3 lots. Two new lots will be created on Main Street of about ½ acre each; Mr. Brennan’s lot that he is retaining is about 2.5 acres. No variances are required. Mr. Brennan’s driveway on Main Street will be moved; he will maintain the driveway on Wills Avenue.

Jim Winckowski spoke regarding the application; it had stretched over four meetings when first brought before the Board. Originally, they were looking to create four lots but the Board didn’t approve so they reduced it to three lots with no variances necessary. This is the plan that was approved by the Board back in 2014. There is a drainage issue and a utility connection issue for sewer. Jim thinks they can work out the sewer connection issue; they need to work on drainage improvements; there was an ongoing condition regarding having to provide sidewalks. Sidewalks are required due to RSIS standards; the Board Planner at the time had it in his report; while required, there are none in the village so he suggested a payment in lieu of. The Board could waive this condition; there is no ordinance that would allow for such a contribution and Solicitor Swartz thinks it isn’t a proper contribution. The sidewalk, if installed, would connect to nothing; Nancy Burkley stated that it is on the outskirts of town and is near Springside Road. She doesn’t think the sidewalk should be installed and a fee should not be collected. Jim Winckowski explained that there can’t be a fee.

Planner Barbara Fegley reviewed her report; she asked if the deed restrictions had been filed. The fence in the front will be removed. No other existing structures will be removed, no trees will be removed. The over sized barns are existing structures; the

driveway is partially on Mr. Brennan's lot and partially on Lot 11. They would coordinate lot numbers with the Assessor and would submit to the Fire Official for comments as well. All prior conditions of approval still exist with the exception of the sidewalk/contribution. Mr. Freeman asked if the new homes would have to comply with the HPC requirements; they would have to apply for approval.

The meeting was opened to the public for comment. No comment was made and the meeting was closed.

Mr. Eckart made a motion to approve; the motion was seconded by Mr. Freeman. Mr. Eckart, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Thorpe, Mr. Odenheimer and Ms. Burkley voted yes.

Highview Commercial, LLC, Block 807, Lot 1 (2035 Route 541) – use and height variance (addition of warehouse). The applicant had requested to continue the hearing until the Board's November 4, 2020 meeting.

Informal Applications: None

Correspondence: None

Open Meeting for public comment

No comments were made and the meeting was closed.

Comments from the Board

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marion Karp, Secretary
Westampton Township Land Development Board

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

**RECOMMENDING ADOPTION OF ORDINANCE NO 14-2020
“AN ORDINANCE SUPPLEMENTING CHAPTER 250, “ZONING”, OF THE
TOWNSHIP CODE OF THE TOWNSHIP OF WESTAMPTON TO ADD TC-TTOWN
CENTER ZONE”**

RESOLUTION NO. 22-2020 Amended

WHEREAS, the Township Committee of the Township of Westampton (“Township Committee”), in the County of Burlington, State of New Jersey, has introduced and proposed the adoption of the following ordinance: Ordinance No 14-2020 “An Ordinance Supplementing Chapter 250, “Zoning,” of the Township Code of the Township of Westampton to Add TC-Town Center Zone” (the “Ordinance”); and

WHEREAS, the Ordinance is a land development regulation in that it adds to, amends, or otherwise modifies the Township’s Land Use, Development, and Zoning regulations to establish standards and requirements for the Township to satisfy its *Mt. Laurel* affordable housing obligation in accordance with the requirements of the Fair Housing Act, N.J.S.A. 52:27D-310 et seq., as established by the Settlement Agreement between the Township and Fair Share Housing Center (“FSHC”) and the Superior Court of New Jersey’s February 4, 2020 Conditional Judgment of Compliance and Repose, resolving the Township’s affordable housing litigation, captioned In the Matter of the Adoption of the Township of Westampton Housing Element and Fair Share Plan and Implementing Ordinance, Docket No. BURL-L-1625-15; and

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-26a provides that prior to adoption of any land development regulation by the governing body, the land development regulation must be transmitted to the Land Development Board for its report and recommendations thereon; and

WHEREAS, in accordance with N.J.S.A. 40:55D-26a, Township Committee transmitted the Ordinance to the Land Development Board of the Township of Westampton (the “Board”) for its report and recommendations thereon regarding the Ordinance’s consistency with the Township’s Master Plan; and

WHEREAS, at a regular meeting held on September 2, 2020, the Board reviewed and discussed the Ordinance, the Township’s Master Plan, land use regulations, affordable housing obligation, affordable housing litigation history, including the Settlement Agreement between the Township and FSHC, and the Township’s efforts to implement the terms of that Settlement Agreement, with the Board’s Attorney, Planner, and members of the public; and

WHEREAS, based on the Ordinance, testimony, and other evidence presented at the September 2, 2020 public hearing, the Board recommended that the Township Committee of the Township of Water adopt the Ordinance as presented in accordance with law; and

WHEREAS, since that meeting, it was learned that there were some de minimis revisions to Ordinance No. 14-2020; and

WHEREAS, at a regular meeting held on October 7, 2020, the Board reviewed and discussed the Ordinance, the Township’s Master Plan, land use regulations, affordable housing obligation, affordable housing litigation history, including the Settlement Agreement between the Township and FSHC, and the Township’s efforts to implement the terms of that Settlement Agreement, with the Board’s Attorney, Planner, and members of the public; and

WHEREAS, based on the Ordinance, testimony, and other evidence presented at the October 7, 2020 public hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. **Incorporation by Reference of “WHEREAS” Clauses.** In addition to the paragraphs below, the above “WHEREAS” clauses are expressly adopted and incorporated by reference herein as the Board’s Findings of Fact and Conclusions of Law, as appropriate.
2. **Adoption of the Ordinance.** The Board hereby adopts and incorporates by reference as if fully set forth at length herein the entirety of the Ordinance.
3. **Participation of Public.** No member(s) of the public appeared during the Board’s October 7, 2020 public hearing to comment on the Ordinance.
4. **Conclusion as to the Ordinance.** The Board hereby finds and concludes that the Ordinance as presented is substantially consistent with, adheres to, and advances the purposes of the Township’s Master Plan; and further, that the Ordinance creates a realistic opportunity for the Township to satisfy a portion of its affordable housing obligation as required by the Court in the Township’s affordable housing litigation, In the Matter of the Adoption of the Township of Westampton Housing Element and Fair Share Plan and Implementing Ordinance, Docket No. BURL-L-1625-15. N.J.S.A. 40:55D-26a.

NOW, THEREFORE, IT IS HEREBY DETERMINED by the Land Development Board of the Township of Westampton that Ordinance No 14-2020 “An Ordinance Supplementing Chapter 250, “Zoning,” of the Township Code of the Township of Westampton to Add TC-Town Center Zone” is substantially consistent with and designed to effectuate the Township’s Master Plan, creates a realistic opportunity for the Township to satisfy its affordable housing obligation, and it is therefore **RECOMMENDED** by the Land Development Board of the Township of Westampton that the Township Committee of the Township of Water adopt the Ordinance as presented in accordance with law.

ROLL CALL VOTE

Ayes Nays Abstentions Recusal

Applegate
Blair
Borger
Eckart
Freeman
Guerrero
Henley
Haas
Thorpe
Odenheimer
Burkley

Attest:

Gary Borger, Vice Chairman

Marion Karp, RMC, CMR, Board Secretary

CERTIFICATION

I HEREBY CERTIFY that the Land Development Board of the Township of Westampton, County of Burlington, State of New Jersey adopted the foregoing Resolution at its meeting held in the Municipal Building, 710 Rancocas Road, Westampton, New Jersey, on October 7, 2020, and said Resolution was authorized for memorialization at a meeting held on November 4, 2020.

Marion Karp, RMC, CMR, Board Secretary

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

**RECOMMENDING ADOPTION OF ORDINANCE NO 13-2020
“AN ORDINANCE SUPPLEMENTING CHAPTER 250, “ZONING”, OF THE
TOWNSHIP CODE OF THE TOWNSHIP OF WESTAMPTON TO ADD MU-1 MIXED
USE ZONE”**

RESOLUTION NO. 23-2020 Amended

WHEREAS, the Township Committee of the Township of Westampton (“Township Committee”), in the County of Burlington, State of New Jersey, has introduced and proposed the adoption of the following ordinance: Ordinance No 13-2020 “An Ordinance Supplementing Chapter 250, “Zoning,” of the Township Code of the Township of Westampton to Add MU-1 Mixed Use Zone” (the “Ordinance”); and

WHEREAS, the Ordinance is a land development regulation in that it adds to, amends, or otherwise modifies the Township’s Land Use, Development, and Zoning regulations to establish standards and requirements for the Township to satisfy its *Mt. Laurel* affordable housing obligation in accordance with the requirements of the Fair Housing Act, N.J.S.A. 52:27D-310 et seq., as established by the Settlement Agreement between the Township and Fair Share Housing Center (“FSHC”) and the Superior Court of New Jersey’s February 4, 2020 Conditional Judgment of Compliance and Repose, resolving the Township’s affordable housing litigation, captioned In the Matter of the Adoption of the Township of Westampton Housing Element and Fair Share Plan and Implementing Ordinance, Docket No. BURL-L-1625-15; and

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-26a provides that prior to adoption of any land development regulation by the governing body, the land development regulation must be transmitted to the Land Development Board for its report and recommendations thereon; and

WHEREAS, in accordance with N.J.S.A. 40:55D-26a, Township Committee transmitted the Ordinance to the Land Development Board of the Township of Westampton (the “Board”) for its report and recommendations thereon regarding the Ordinance’s consistency with the Township’s Master Plan; and

WHEREAS, at a regular meeting held on September 2, 2020, the Board reviewed and discussed the Ordinance, the Township’s Master Plan, land use regulations, affordable housing obligation, affordable housing litigation history, including the Settlement Agreement between the Township and FSHC, and the Township’s efforts to implement the terms of that Settlement Agreement, with the Board’s Attorney, Planner, and members of the public; and

WHEREAS, based on the Ordinance, testimony, and other evidence presented at the September 2, 2020 public hearing, the Board recommended that the Township Committee of the Township of Water adopt the Ordinance as presented in accordance with law; and

WHEREAS, since that meeting, it was learned that there were some de minimis revisions to Ordinance No. 13-2020; and

WHEREAS, at a regular meeting held on October 7, 2020, the Board reviewed and discussed the Ordinance, the Township's Master Plan, land use regulations, affordable housing obligation, affordable housing litigation history, including the Settlement Agreement between the Township and FSHC, and the Township's efforts to implement the terms of that Settlement Agreement, with the Board's Attorney, Planner, and members of the public; and

WHEREAS, based on the Ordinance, testimony, and other evidence presented at the October 7, 2020 public hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. **Incorporation by Reference of "WHEREAS" Clauses.** In addition to the paragraphs below, the above "WHEREAS" clauses are expressly adopted and incorporated by reference herein as the Board's Findings of Fact and Conclusions of Law, as appropriate.
2. **Adoption of the Ordinance.** The Board hereby adopts and incorporates by reference as if fully set forth at length herein the entirety of the Ordinance.
3. **Participation of Public.** No member(s) of the public appeared during the Board's October 7, 2020 public hearing to comment on the Ordinance.
4. **Conclusion as to the Ordinance.** The Board hereby finds and concludes that the Ordinance as presented is substantially consistent with, adheres to, and advances the purposes of the Township's Master Plan; and further, that the Ordinance creates a realistic opportunity for the Township to satisfy a portion of its affordable housing obligation as required by the Court in the Township's affordable housing litigation, In the Matter of the Adoption of the Township of Westampton Housing Element and Fair Share Plan and Implementing Ordinance, Docket No. BURL-L-1625-15. N.J.S.A. 40:55D-26a.

NOW, THEREFORE, IT IS HEREBY DETERMINED by the Land Development Board of the Township of Westampton that Ordinance No 13-2020 "An Ordinance Supplementing Chapter 250, "Zoning," of the Township Code of the Township of Westampton to Add MU-1 Mixed Use Zone" is substantially consistent with and designed to effectuate the Township's Master Plan, creates a realistic opportunity for the Township to satisfy its affordable housing obligation, and it is therefore **RECOMMENDED** by the Land Development Board of the Township of Westampton that the Township Committee of the Township of Water adopt the Ordinance as presented in accordance with law.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Recusal</u>
Applegate				
Blair				
Borger				
Eckart				
Freeman				
Guerrero				
Henley				
Haas				
Thorpe				
Odenheimer				
Burkley				

Attest:

Gary Borger, Chairman

Marion Karp, RMC, CMR, Board Secretary

CERTIFICATION

I HEREBY CERTIFY that the Land Development Board of the Township of Westampton, County of Burlington, State of New Jersey adopted the foregoing Resolution at its meeting held in the Municipal Building, 710 Rancocas Road, Westampton, New Jersey, on October 7, 2020, and said Resolution was authorized for memorialization at a meeting held on November 4, 2020.

Marion Karp, RMC, CMR, Board Secretary

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

RECOMMENDING ADOPTION OF ORDINANCE NO 10-2020

“ORDINANCE SUPPLEMENTING CHAPTER 250, “ZONING”, OF THE TOWNSHIP CODE OF THE TOWNSHIP OF WESTAMPTON TO ADD R-9 RESIDENTIAL ZONE”

RESOLUTION NO. 24-2020 Amended

WHEREAS, the Township Committee of the Township of Westampton (“Township Committee”), in the County of Burlington, State of New Jersey, has introduced and proposed the adoption of the following ordinance: Ordinance No 10-2020 “An Ordinance Supplementing Chapter 250, “Zoning,” of the Township Code of the Township of Westampton to Add R-9 Residential Zone” (the “Ordinance”); and

WHEREAS, the Ordinance is a land development regulation in that it adds to, amends, or otherwise modifies the Township’s Land Use, Development, and Zoning regulations to establish standards and requirements for the Township to satisfy its *Mt. Laurel* affordable housing obligation in accordance with the requirements of the Fair Housing Act, N.J.S.A. 52:27D-310 et seq., as established by the Settlement Agreement between the Township and Fair Share Housing Center (“FSHC”) and the Superior Court of New Jersey’s February 4, 2020 Conditional Judgment of Compliance and Repose, resolving the Township’s affordable housing litigation, captioned In the Matter of the Adoption of the Township of Westampton Housing Element and Fair Share Plan and Implementing Ordinance, Docket No. BURL-L-1625-15; and

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-26a provides that prior to adoption of any land development regulation by the governing body, the land development regulation must be transmitted to the Land Development Board for its report and recommendations thereon; and

WHEREAS, in accordance with N.J.S.A. 40:55D-26a, Township Committee transmitted the Ordinance to the Land Development Board of the Township of Westampton (the “Board”) for its report and recommendations thereon regarding the Ordinance’s consistency with the Township’s Master Plan; and

WHEREAS, at a regular meeting held on September 2, 2020, the Board reviewed and discussed the Ordinance, the Township’s Master Plan, land use regulations, affordable housing obligation, affordable housing litigation history, including the Settlement Agreement between the Township and FSHC, and the Township’s efforts to implement the terms of that Settlement Agreement, with the Board’s Attorney, Planner, and members of the public; and

WHEREAS, based on the Ordinance, testimony, and other evidence presented at the September 2, 2020 public hearing, the Board recommended that the Township Committee of the Township of Water adopt the Ordinance as presented in accordance with law; and

WHEREAS, since that meeting, it was learned that there were some de minimis revisions to Ordinance No. 10-2020; and

WHEREAS, at a regular meeting held on October 7, 2020, the Board reviewed and discussed the Ordinance, the Township’s Master Plan, land use regulations, affordable housing obligation, affordable housing litigation history, including the Settlement Agreement between the Township and FSHC, and the Township’s efforts to implement the terms of that Settlement Agreement, with the Board’s Attorney, Planner, and members of the public; and

WHEREAS, based on the Ordinance, testimony, and other evidence presented at the October 7, 2020 public hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs

1. **Incorporation by Reference of “WHEREAS” Clauses.** In addition to the paragraphs below, the above “WHEREAS” clauses are expressly adopted and incorporated by reference herein as the Board’s Findings of Fact and Conclusions of Law, as appropriate.
2. **Adoption of the Ordinance.** The Board hereby adopts and incorporates by reference as if fully set forth at length herein the entirety of the Ordinance.
3. **Participation of Public.** No member(s) of the public appeared during the Board’s October 7, 2020 public hearing to comment on the Ordinance.
4. **Conclusion as to the Ordinance.** The Board hereby finds and concludes that the Ordinance as presented is substantially consistent with, adheres to, and advances the purposes of the Township’s Master Plan; and further, that the Ordinance creates a realistic opportunity for the Township to satisfy a portion of its affordable housing obligation as required by the Court in the Township’s affordable housing litigation, In the Matter of the Adoption of the Township of Westampton Housing Element and Fair Share Plan and Implementing Ordinance, Docket No. BURL-L-1625-15. N.J.S.A. 40:55D-26a.

NOW, THEREFORE, IT IS HEREBY DETERMINED by the Land Development Board of the Township of Westampton that Ordinance No 10-2020 “An Ordinance Supplementing Chapter 250, “Zoning,” of the Township Code of the Township of Westampton to Add R-9 Residential Zone” is substantially consistent with and designed to effectuate the Township’s Master Plan, creates a realistic opportunity for the Township to satisfy its affordable housing obligation, and it is therefore **RECOMMENDED** by the Land Development Board of the Township of Westampton that the Township Committee of the Township of Water adopt the Ordinance as presented in accordance with law.

ROLL CALL VOTE

Ayes Nays Abstentions Recusal

Applegate
Blair
Borger
Eckart
Freeman
Guerrero
Henley
Haas
Thorpe
Odenheimer
Burkley

Attest:

Gary Borger, Vice Chairman

**Marion Karp, RMC, CMR, Board
Secretary**

CERTIFICATION

I HEREBY CERTIFY that the Land Development Board of the Township of Westampton, County of Burlington, State of New Jersey adopted the foregoing Resolution at its meeting held in the Municipal Building, 710 Rancocas Road, Westampton, New Jersey, on October 7, 2020, and said Resolution was authorized for memorialization at a meeting held on November 4, 2020.

Marion Karp, RMC, CMR, Board Secretary

RESOLUTION: 25 -2020

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Highview Commercial X5, LLC

BOARD'S DECISION: Continued Application for Use Variance and Height Variance

PROPERTY ADDRESS: 2035 Burlington-Mount Holly Road (CR 541) – Block 807, Lot 1

ZONING DISTRICT: Commercial “C” Zoning District

DATE OF HEARING: October 7, 2020

WHEREAS, Highview Commercial X5, LLC (“Applicant”) filed an application with the Westampton Land Development Board (“Board”) requesting a variance from N.J.S.A. 40:55D-70(d)(1) to permit construction of a 217,500 square foot warehouse distribution facility and a variance from N.J.S.A. 40:55D-70(d)(6) to permit a building height of 50 feet which exceeds the maximum height permitted by more than 10% in the Commercial “C” Zone. The property is located at 2035 Burlington-Mount Holly Road (CR 541), Westampton, New Jersey, designated as Block 807, Lot 1 on the Township Tax Map (“Subject Property”); and

WHEREAS, the Board had jurisdiction to hear this matter (the “Application”) under the New Jersey Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-1 et seq.*; and

WHEREAS, prior to the October 7, 2020 Board meeting, the Applicant submitted a request for the Application to be continued to the next regularly scheduled public Board meeting in November 2020 to allow the Applicant to be heard on its application; and

WHEREAS, the Board Chairman announced the Applicant’s request at the October 7, 2020 meeting to advise any members of the public present for the Application that the Application would be heard at the next meeting; and

WHEREAS, in light of the Board Chairman’s announcement to the public at the October 7, 2020 public meeting, the Board determined that the Applicant would not be required to notice and advertise the Application again for the November 4, 2020 meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the within Application requesting a variance from N.J.S.A. 40:55D-70(d)(1) to permit construction of a 217,500 square foot warehouse distribution facility and a variance from N.J.S.A. 40:55D-70(d)(6) to permit a building height of 50 feet which exceeds the maximum height permitted by more than 10% in the Commercial “C” Zone was and is hereby **CONTINUED**, subject to the testimony and representations set forth on the

record by the Applicant, and any conditions set forth herein.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Board will consider the testimony of the Applicant's witnesses and professionals, the members of the public, and the Board professionals, as well as the evidence and exhibits provided during the November 4, 2020 hearing in addition to any new evidence submitted and testimony provided during the Applicant's subsequent hearing(s) following this continuance.

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

Gary Borger, Vice Chairman

ATTEST:

Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: _____

RESOLUTION: 26 -2020

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: SBC Laundromat, Inc
BOARD'S DECISION: Granting a One Year Extension of Preliminary and Final Site Plan Approval and a Use Variance
PROPERTY ADDRESS: 483 Woodlane Rd – Block 301, Lot 2
ZONING DISTRICT: Commercial “C” Zoning District
DATE OF HEARING: October 7, 2020

WHEREAS, SBC Laundromat, Inc. (the “Applicant”) was previously granted Preliminary and Final Major Site Plan Approval with bulk variances and waivers (“Approval”) to construct an 11,780 sf retail building and 4,671 sf car wash facility in the Commercial “C” Zone and located at 483 Woodlane Road, Westampton, New Jersey, designated as Block 301, Lot 2 on the Township Tax Map (“Subject Property”) by the Westampton Land Development Board (“the Board”); and

WHEREAS, the Approval was granted on October 3, 2018, and adopted under Resolution number 20-2018; and

WHEREAS, the Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-52(a)*, allows for extensions of approval and protection, and provides: “[i]f the developer has followed the standards prescribed for final approval, . . . , the planning board may extend such period of protection for extensions of one year but not to exceed three extensions”; and

WHEREAS, by letter dated September 8, 2020 from Applicant’s attorney, Patrick F. McAndrew, Esq, the Applicant now seeks a three one-year extensions of approval and protection to October 3, 2023 (the “Application”); and

WHEREAS, the Board discussed the Application. The Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, based on all the evidence submitted, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. The Subject Property is located at 483 Woodlane Road, Westampton, New Jersey and is owned by SJ BR King. The Subject Property is designated as Block 301, Lot 2, and lies in the

Commercial "C" Zoning District.

2. The Applicant is seeking three one-year extensions of approval and protection to October 3, 2023 for Preliminary and Final Major Site Plan Approval with bulk variances and waivers to construct an 11,780 sf retail building and 4,671 sf car wash facility at the Subject Property pursuant to *N.J.S.A. 40:55D-52(a)*.

3. Neither the Applicant nor its attorney were present at the hearing.

4. Board Member Thorpe, commented that it seems as if a one-year extension should suffice and questioned why the Applicant required three years, concerned that future Board members may have their own concerns. Solicitor Swartz explained that the Board has the right limit the request to a single year. The state of emergency was briefly discussed relative to the current permit extension act. Board Member Freeman agreed with Board Member Thorpe and believes a one-year extension might be more prudent.

4. The Board finds and concludes that the Applicant has followed the standards prescribed for final approval and a motion was made to allow the Applicant a one year extension of approval pursuant to *N.J.S.A. 40:55D-52(a)*.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that a one-year extension to October 3, 2021 of Preliminary and Final Major Site Plan Approval with bulk variances and waivers to construct an 11,780 sf retail building and 4,671 sf car wash facility at the Subject Property upon motion duly made by Mr. Freeman and seconded by Mr. Thorpe, was and is hereby **GRANTED**, subject to the representation set forth on the record by the Applicant, and any conditions set forth herein.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nayes</u>	<u>Abstentions</u>	<u>Recusal</u>
Eckart	x			
Freeman	x			
Guerrero	x			
Haas	x			
Thorpe	x			
Odenheimer	x			
Burkley	x			

IT IS FURTHER RESOLVED, the above relief is subject to the following standard conditions:

1. All standards and conditions of the Applicant's prior approvals remain in full force and effect.
2. That the Application, all exhibits, testimony, map, 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 approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, 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 review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;

3. Upon discovery by the Board of clear and convincing evidence 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, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate. In addition, at any time within 45 days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein;
4. 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 made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to *N.J.S.A. 40:55D-12(c)*, and publication of the notice of public hearing in this matter in accordance with the law;
5. 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;
6. 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;
7. 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;
8. The Applicant must 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;

9. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
10. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
11. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.
12. The Applicant shall comply with all other applicable Township Code requirements.

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

Gary Borger, Vice Chairman

ATTEST:

Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: _____

RESOLUTION: 27 - 2020

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Terrence and Kimberly Brennan
BOARD'S DECISION: Granted Minor Subdivision Approval
PROPERTY ADDRESS: 220 Main Street - Block 106, Lot 15
ZONING DISTRICT: R-6 Residential Zoning District
DATE OF HEARING: October 7, 2020

WHEREAS, Terrence and Kimberly Brennan (the "Applicants") filed an application with the Westampton Land Development Board ("Board") requesting a minor subdivision to subdivide the property into three lots where proposed Lot 15.01 will comprise 20,026.90 square feet, proposed lot 15.03 will comprise 20,026.60 square feet and proposed lot 15.02 will comprise 102,297.90 square feet and contain the existing dwelling and barn in the R-6 Residential Zoning District. The property is located at 220 Main Street, Westampton, New Jersey, and designated as Block 106, Lot 15 on the Township Tax Map ("Subject Property"); and

WHEREAS, the Board had jurisdiction to hear this matter under the New Jersey Municipal Land Use Law; and

WHEREAS, the Application came before the Board at the regularly scheduled public meeting held on October 7, 2020.

WHEREAS, during the October 7, 2020 meeting, the Board discussed the Application and the Board Professionals offered recommendations. The Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, Mr. Thorpe recused himself from the Board at this time due to a conflict with the Applicants; and

WHEREAS, based on all the evidence and testimony submitted during the October 7, 2020 hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. The Board considered the following submissions from the Applicants:
 - A. Township of Westampton Minor Subdivision Application.
 - B. Minor Subdivision Plan, prepared by Vallee Surveying Inc., dated 7/21/20

- C. Improvement Plan, Sheet 1 of 2 prepared by William H. Nicholson Associates, PA, dated 10/04/13 and revised to 6/19/20.
- D. Construction Details, Sheet 2 of 2 prepared by William H. Nicholson Associates, PA dated 10/15/13 and revised to 2/11/14.
- E. Submission letter prepared by Kyle J. Spohn, EIT of William H. Nicholson Associates, PA, dated 8/12/20.

- 2. The Board considered the following review letters submitted by the Board professionals:
 - A. A letter prepared by Board Engineer, James Winckowski, PE, CME, dated February 4, 2014 and a letter dated August 28, 2020; and
 - B. A letter prepared by Board Planner, Barbara Fegley, AICP, PP, dated August 27, 2020.

3. The Applicants, Terrence and Kimberly Brennan are the owners of the Subject Property, which is located at 220 Main Street, Westampton, New Jersey. The Subject Property is designated at Block 106, Lot 15 on the Township of Westampton tax map, and lies in the R-6 Residential Zoning District.

4. An application for a three lot Minor Subdivision was heard and approved on February 5, 2014 by this Board and it appears the plans were not perfected or filed. Resolution: 10-2014 contained a number of conditions.

5. The Application seeks Minor Subdivision Approval to subdivide the property into three lots where proposed lot 15.01 will comprise 20,026.9 square feet (0.46 ac.), proposed lot 15.03 will comprise 20,026.6 square feet (0.46 ac.) and proposed lot 15.02 will comprise 102,297.9 square feet (2.35 ac.) and contain the existing dwelling and barns. The Applicants are proposing to construct a single-family dwelling with an attached garage on each of the two remaining lots. All of the lots will be serviced with public water and sewer. A new stone driveway is proposed to access the existing house located on proposed lot 15.02. Proposed lot 15.01 will utilize a portion of the driveway servicing the existing dwelling for access to Main Street and a new driveway will be constructed to access proposed lot 15.03 in the R-6 Residential Zoning District.

6. The Subject Property has 280' of frontage on Main Street and 12' of frontage on Wills Street. It is improved with a 2.5 story brick and frame dwelling that is set back approximately 287' from Main Street. A one-story frame barn and a 1.5 story metal and frame barn are located behind the dwelling. A stone driveway provides access to the dwelling from both Main Street and Wills Street. Lot 15 comprises 142,351.3 square feet (3.26 ac.).

7. The Application requires Minor Subdivision.

8. The following witnesses were sworn in and appeared and testified in favor of the Application during the October 7, 2020 hearing: Terrence Brennan, the Applicant, and William H. Nicholson, P.E., the Applicant's Engineer.

9. At the October 7, 2020 hearing, the Applicant presented and introduced the Application to the Board and agreed to comply with the comments in the Board Planner and Board Engineer reports.

10. Mr. Brennan started his testimony stating that the subdivision is exactly the same configuration as approved in 2014.

11. Mr. Nicholson, the Applicants' Engineer placed his credentials on the record and was accepted as an expert witness and then testified that the application is the creation of 3 lots; two new lots will be created on Main Street of about half an acre each and that the lot that the Applicants will be retaining is about 2.5 acres. Mr. Nicholson further testified that no variances are required and that the driveway on Main Street will be moved and that the Applicants will maintain the driveway on Wills Avenue.

12. Mr. Winckowski, the Board Engineer, after being sworn in, spoke regarding the application stating the following: When originally brought before the Board in 2014 the application stretched over four meetings and originally, the Applicants were looking to create four lots but did not receive Board approval so the Applicants reduced the request to a three lot subdivision with no variances required; the three lots subdivision is the plan that was approved by the Board in 2014; there is a drainage issue and a utility connection issue for sewer that Mr. Winckowski believes can be worked out with the Applicants; the Applicants need to work on drainage improvements; there was an ongoing condition regarding having to provide sidewalks as sidewalks are required pursuant to RSIS standards as the Board Planner at the time of the 2014 hearing had in his report; while required under RSIS, there are no sidewalks in the village so the Board Planner at the time suggested a payment in lieu of. Mr. Winckowski further stated that the Board could waive the payment in lieu condition as there is no ordinance that would allow for such a contribution and Solicitor Swartz believes such contribution is not proper given there is not ordinance for same. Mr. Winckowski stated that the sidewalk, if installed, would connect to nothing;

13. Ms. Burkley stated that the Subject Property is on the outskirts of town and is near Springside Road and she does not think the sidewalk should be installed and a fee should not be collected. Mr. Winckowski explained that there cannot be a fee.

14. The Board Planner's letter was reviewed. Ms. Fegley asked the Applicant if the deed restrictions had been filed. The Applicant testified that the fence in the front will be removed and no other existing structures will be removed, no trees will be removed. The Applicant further testified that the oversized barns are existing structures and the driveway is partially on the Applicants' lot and partially on Lot 11. The Applicant testified that they would coordinate lot numbers with the tax assessor and would submit to the Fire Official for comments as well. Ms. Fegley stated that all prior conditions of approval still exist with the exception of the sidewalk/contribution.

15. Mr. Freeman asked if the new homes would comply with the Township Historic Preservation Commission requirements and the Applicant testified that they would have to apply for approval.

16. After testimony was presented by the Applicant and comments by the Board professionals during the October 7, 2020 hearing, the matter was opened to the public for comment. Seeing no public comment, public comment was then closed.

17. After considering the testimony and evidence submitted, the comments and recommendations of the Board professionals, and members of the public, the Board finds that the Application for Minor Subdivision Approval to permit the Subject Property to be subdivided into three residential lots conforms to the Revised Statutes of New Jersey, the Zoning Chapter, the Land Subdivision Chapter and other applicable requirements of the Township as set forth in Chapter 196 of the Township's Development Regulations. The Minor Subdivision Plan promotes the development of an aesthetically acceptable and well-ordered community, and serves the interest of the public health, safety, and general welfare of the Township residents by providing additional security and safety at the Subject Property.

NOW, THEREFORE BE IT RESOLVED, by the Land Development Board of the Township of Westampton that the Applicant's Application requesting Minor Subdivision Plan Approval to permit the subdivision of the Subject Property into three (3) residential lots, lot 15.01 containing 20,026.9 square feet (0.46 ac.), lot 15.03 containing 20,026.6 square feet (0.46 ac.) and lot 15.02 containing 102,297.9 square feet (2.35 ac.) and contain the existing dwelling and barns.

Upon motion duly made by Mr. Eckart and seconded by Mr. Freeman, was and is hereby **GRANTED**, subject to the testimony and representation set forth on the record by the Applicant, and any conditions set forth herein.

IT IS FURTHER RESOLVED, the above relief is subject to the following conditions:

1. Except for the requirement to pay the contribution-in-lieu-of-sidewalk-construction as provided in the resolution, the approval is subject to the conditions of that certain Minor Subdivision approval previously granted to the Applicants on February 5, 2014 as the Westampton Township Land Development Board Resolution 10-2014.
2. The Applicants shall work with and satisfy the Board Engineer as to the new sewer connections and drainage improvements required for development of the Subject Property.

IT IS FURTHER RESOLVED, the above relief is subject to the following standard conditions:

1. That the Application, all exhibits, testimony, map, 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 approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, 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 review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;

2. Upon discovery by the Board of clear and convincing evidence 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, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate. In addition, at any time within 45 days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein.
3. 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 made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to N.J.S.A. 40:55D-12(c), and publication of the notice of public hearing in this matter in accordance with the law;
4. 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;
5. 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;
6. 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;
7. The Applicant must 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;

- 8. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
- 9. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
- 10. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nayes</u>	<u>Abstentions</u>	<u>Recusal</u>
Eckart	x			
Freeman	x			
Guerrero	x			
Haas	x			
Odenheimer	x			
Burkley	x			
Thorpe				x

WESTAMPTON LAND DEVELOPMENT BOARD

BY: _____
Gary Borger, Vice Chairman

ATTEST: _____
Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: _____

DATE FILED: _____ (for office use only)

**WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD
APPLICATION FOR VARIANCE OR APPEAL**

To the Westampton Township Land Development Board:

The petition of Highview Commercial X5, LLC,
who resides at 280 Highway 35, Suite 150, Red Bank, NJ 07701,
respectfully shows:

1. A variance is requested with respect to land designated on the Westampton Township Tax Map as Block 807, Lot(s) 1.
2. The property is located at Route 541 and Irick Road
Phone # _____ in
a C1 zone district, the street number is 2035 Burlington-Mount Holly Road.
- 2a. A variance is sought from Section(s) 250-16A and 250-16D
of the Zoning Ordinance to permit
a warehouse distribution facility in a Commercial zone that does not permit such facilities and to
permit the warehouse building to be a maximum of 50 feet in height where a maximum of 35 feet
is permitted in the zone.
- 2b. Applicant appeals from the decision of N/A
on _____, based upon
Sections _____ of the Zoning Ordinance
for the reasons outlined on paragraph 9. *(Complete only for appeals)*
3. Peter Tucci, a member of 2035 Burlington Mount Holly Road, LLC, who resides at
560 Hudson Street, Hackensack, New Jersey, is
the present owner of the property. Applicant's interest in the property is
as a purchaser
4. No variance, conditional use, or special permit has ever been granted
with respect to this property, except N/A

5. The last previous use or occupancy of the property was by _____
 _____,
 who used the property for _____
 _____.
6. The dimensions of the property are _____,
 a. Frontage: 2861ft(includes Rt 541 & Irick Rd) b. Depth: 900 ft
 The total area of the property is 24.762 AC.
7. The property is now occupied by (a) building(s). Said building(s)
 occupy _____% of the lot(s) as nearly as can be determined. The height
 of said building(s) is _____feet and _____stories. (Please give the
 maximum if more than one building.) The setback from the nearest
 street is _____feet.
8. The percentage of coverage, height and setback of the proposed
 building(s) are 50 ft height proposed; 50 ft minimum building setback
 _____.
9. The petitioner advances the following reasons why the application
 should be approved:
- 9a. Describe how the proposed variances would promote the public welfare:
See attached Narrative.

 _____.
- 9b. Demonstrate that the proposed variance would do no substantial
 damage to the Westampton Township Plan: See attached Narrative.

 _____.
- 9c. Provide details of the future use of the property and structures if the
 variance is granted: See attached Narrative.

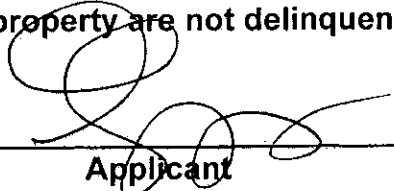
 _____.
- 9d. Describe any changes in traffic and/or parking patterns: See attached Narrative.

 _____.

9e. Describe impact on neighbors if variance is granted for use described in 9c: See attached Narrative.

10. Twelve (12) copies of each of a certified survey/plot plan; one copy of proof of publication, proof of service of notice, or such of them as are required by the Board are submitted herewith.

11. Proof that taxes and assessments upon the property are not delinquent is attached hereto.



Applicant

GEORGE M. MORRIS,
ATTORNEY FOR THE APPLICANT

STATE OF _____ :
ss.

COUNTY OF _____ :

_____, of full age, being duly sworn according to law on his/her oath deposes and says:

I am the applicant named in the foregoing application and on my oath declare that each and every allegation therein contained is true.

Applicant

Sworn to and Subscribed :
before me this day :
of , 20 .

Notary Public of

Block 807 Lot 1
Westampton Township
Narrative for inclusion with the Zoning Board Application

A variance is sought from Section 250-16A of the Zoning Ordinance to permit a warehouse and distribution use on the property located within the C-1 zoning district at 2035 Burlington-Mount Holly Road (Route 541). **A variance is also sought from Section 250-16D** of the Zoning Ordinance to permit the warehouse building to be a maximum of 50 feet in height where a maximum of 35 feet is permitted.

9. The petitioner advances the following reasons why the application should be approved:

9a. Describe how the proposed variances would promote the public welfare:

The proposal will enable the site to be put to productive use and to take advantage of the location along an urban arterial roadway and in close proximity to exit 5 of the New Jersey Turnpike. The proposed development will provide opportunity for retail and services uses to serve the public and to provide warehouse space in an area equipped with necessary transportation and utility infrastructure.

9b. Demonstrate that the proposed variance would do no substantial damage to the Westampton Township Plan:

The property is within the C-1 zoning district which allows retail, service, restaurant, bank, and office uses. The proposal will include permitted commercial uses along the Route 541 frontage, but will enable the southwestern (rear) portion of the site to be developed with a 217,500 square foot warehouse and distribution facility. The 2010 Vision Plan and 2015 Master Plan Reexamination focus on the desire to foster coordinated development along the Route 541 corridor. Most of the focus was on the area east of the Turnpike. The subject property is the last lot in Westampton along Route 541 and is between the Turnpike and the border with Burlington Township. The proposal will advance the goals of improving circulation and pedestrian connectivity and will make productive use of an underused site.

9c. Provide details of the future use of the property and structures if the variance is granted:

The intersection of Irick Road with Route 541 will be relocated to improve the geometry and to provide a signalized intersection. The commercial frontage along Route 541 will be developed with uses that may include restaurant, convenience store, bank, retail and personal services. A 217,500 square foot warehouse and distribution building together with 199 parking spaces and approximately 118 truck loading/trailer parking spaces. The site will be designed in an interconnected way that will also allow truck traffic to be separated from vehicular traffic.

9d. Describe any changes in traffic and/or parking patterns:

See 9c above

Describe impact on neighbors if variance is granted for use described in 9c:

One of the reasons that the site is ideally suited for the proposed development is that it is adjacent to the New Jersey Turnpike and other commercial properties. Areas to the southwest are wetlands that will remain undisturbed. There are no residential neighbors that would be directly impacted by the proposal.

JOHN H. ALLGAIR, PE, PP, LS (1983-2001)
DAVID J. SAMUEL, PE, PP, CME
JOHN J. STEFANI, PE, LS, PP, CME
JAY B. CORNELL, PE, PP, CME
MICHAEL J. McCLELLAND, PE, PP, CME
GREGORY R. VALESI, PE, PP, CME



TIMOTHY W. GILLEN, PE, PP, CME
BRUCE M. KOCH, PE, PP, CME
LOUIS J. PLOSKONKA, PE, CME
TREVOR J. TAYLOR, PE, PP, CME
BEHRAM TURAN, PE, LSRP
LAURA J. NEUMANN, PE, PP
DOUGLAS ROHMEYER, PE, CFM, CME
ROBERT J. RUSSO, PE, PP, CME
JOHN J. HESS, PE, PP, CME

October 5, 2020

Westampton Township Land Development Board
710 Rancocas Road
Westampton, NJ 08060

Attn: Marion Karp
Administrative Officer

**Re: Highview Commercial X5, LLC
Use Variance – Review #1
Block 807, Lot 1
2035 Burlington-Mount Holly Road
Zone: C (Commercial)
Westampton Township, Burlington County, NJ
CME File: CWAL0807.01**

Dear Chairman and Board Members:

In accordance with your authorization, our office has performed a review of the following items in consideration of the above referenced application:

- Plan entitled, "Use Variance Plan - Warehouse, The Gateway", Burlington-Mount Holly Road (C.R. 541), Block 807, Lot 1, Westampton Township, Burlington County, New Jersey," consisting of one (1) sheet, prepared by Taylor Wiseman & Taylor, dated September 15, 2020.
- Plan entitled, "Overall Site Plan, The Gateway", Burlington-Mount Holly Road (C.R. 541), Block 807, Lot 1, Westampton Township, Burlington County, New Jersey," consisting of one (1) sheet, prepared by Taylor Wiseman & Taylor, dated September 15, 2020.

Site Description

The subject property is a 24.762+/- acre triangular parcel located at the south corner of Burlington-Mt. Holly Road (a.k.a. County Route 541) and Irick Road (a.k.a. County Road 637). The property is bound to the south by the New Jersey Turnpike. The parcel has approximately 1,166 feet of frontage along Burlington-Mt. Holly Road to the northeast and approximately 2,196 feet of frontage along Irick Road to the northwest. The property is situated in the C-Commercial Zoning District. The site is currently unoccupied; two (2) existing structures and a dirt path remain. Access to the site is currently achieved from Irick Road via the aforementioned dirt path. No other access to the site was identified.



Marion Karp, Board Secretary
Westampton Township Land Development Board
Re: Highview Commercial X5, LLC – Engineering Review #1
Use Variance

October 5, 2020
Our File No. CWAL0807.01
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Current Proposal

The previous applicant, Crown Point Associates, LLC, received amended preliminary and final subdivision approval (phases I and II), an amended preliminary site plan approval (phase I and II), and a final site plan approval (for phase I only) on the property in October 2019. The current applicant, Highview Commercial X5, LLC, has assumed ownership of the property and is submitting an application for a Use Variance for the construction of a warehouse, which are not a permitted use in the district.

Site improvements depicted in the Variance Plan include an eight (8) -pump gas station with 5,585 square-foot convenience store, a 217,500 square-foot warehouse, a 3,000 square-foot bank, a 2,400 square-foot fast-foot restaurant with drive-thru, and an 8,900 square foot building consisting of one (1) 3,500 square-foot restaurant, one (1) 2,400 square-foot restaurant, and two (2) unidentified retail units totaling 3,000 square-feet.

Site improvements include, but are not limited to: three-hundred, eighty-five (385) parking spaces, seventy-two (72) trailer parking spaces, and associated drive aisles, access roads, and a stormwater management basin.

As was the case with the previous application, the plan also depicts the relocation of the eastbound approach of Irick Road (C.R. 637) with Burlington-Mt. Holly Road (C.R. 541) so that it aligns with Western Drive to create a new four-legged signalized intersection. The Right of Way (ROW) associated with the relocated portion of Irick Road is proposed to be vacated and become part of the proposed lot.

Based upon our review, we offer the following comments for the Board's consideration:

A. Variations

1. The Applicant is requesting a use Variance to construct a warehouse in the C-Commercial Zone, which is not a permitted use in the zone.
2. The maximum building height in the zone is 35 feet whereas 50 feet is proposed for the proposed warehouse. A (d) variance will be required since the proposed height is greater than 10% or 10 feet. Please note: The maximum building height in the Commercial Zone can be increased to 45 feet if the front yard setback is increased to 100 feet. A variance would still be required.
3. Based on the provided Variance Plan, the applicant may require the following variations when submitting for Site Plan approval:



Marion Karp, Board Secretary
Westampton Township Land Development Board
Re: Highview Commercial X5, LLC – Engineering Review #1
Use Variance

October 5, 2020
Our File No. CWAL0807.01
Page 3

- a. The maximum floor area ratio in the Commercial Zone is 20% whereas 33.29% is depicted on the plan. (The proposed warehouse is 217,500 SF and the proposed lot size is ±15 acres.) A variance would be required.
- b. The maximum lot coverage in the Commercial Zone is 60%. While the provided plan does not quantify the lot coverage in the bulk table, based on the layout it appears that a variance for lot coverage may be required.

B. Major Subdivision

1. An Amended major subdivision plan application will need to be submitted to reflect the now lot layout as depicted on the Use Variance Plan.

C. Design Waivers:

1. Based on the provided Variance Plan the applicant may require the following design waivers when submitting for Site Plan approval:
 - a. §250-22(R)(6): No off-street loading and maneuvering areas shall be located in any front yard where one appears to be proposed in the front yard of the proposed warehouse and retail lots.

D. Traffic

1. The Applicant is proposing to relocate the intersection of Burlington-Mount Holly Road (CR 541) and Irick Road and align Irick Road with Western Drive to create a new four-legged signalized intersection and replace the existing intersection. Any updated plans should be forwarded to the board and our office for review.
2. It appears that no access is provided to the solar farm located west of Irick Road. Same should be revised.
3. The Applicant's Engineer utilized a previously completed site-specific study from NJDOT of similar facilities that are operational today in New Jersey to determine the new trips for the warehouse use.
4. The Applicant should provide details on the hours of operation for the proposed warehouses as well as when the peak hours of the warehouse traffic will occur.



Marion Karp, Board Secretary
Westampton Township Land Development Board
Re: Highview Commercial X5, LLC – Engineering Review #1
Use Variance

October 5, 2020
Our File No. CWAL0807.01
Page 4

5. The analysis does not appear to update heavy vehicle percentages for the build condition. The Applicant's Traffic Engineer should provide a breakdown of the amount of heavy vehicles accessing the warehouse and update the Highway Capacity Manual (HCM) 2010 reports. The additional heavy vehicles within the network will increase overall delay as well as 95th percentile queues.
6. The Applicants Engineer should update the pass-by trip percentages per NJDOT approved pass-by rates for each use. The pass-by rates differ between AM, PM, and Saturday peak hours. For instance, the approved pass-by rate for a Land Use Code (LUC) 960 - Super Convenience Market with Gas Station is 75% for AM and PM peak hours but 50% for the Saturday peak hour. The Applicant's analysis for the AM and PM peak hours is conservative while the Saturday peak hour should include 206 extra trips. The Applicant should revise the Saturday peak hour trips to ensure there is no significant increase in delay.
7. The Applicant's Traffic Engineer should provide clarification on how the trip distribution was determined. Trip Distribution may be different for the Warehouse land use compared to the other uses. If so, the two separate distributions should be discussed within the Traffic Assessment and the trips should be depicted on separate figures.
8. The Applicant's Traffic Engineer should provide clarification on how the volumes were redistributed. Some approach volumes do not equal the existing no-build volumes such as the western and northern approaches of Western Drive and Irick Road. The northern approach in Figure 2 had zero (0) vehicles during all peak hours while Figure 8 (redistributed volumes) has 71, 18, and 52 vehicles for the AM, PM, and Saturday peak hours, respectively. While it is understood that the intersection is being renovated, vehicles are currently able to make through and right-turn movements from the northbound approach but none are depicted. Additionally, the overall volumes between Figure 2 and Figure 8 should match as no vehicles are being added or removed from the network. The northbound approach of CR 541 at Western Drive/Irick Road has increased vehicles due to the addition of the left-turn. Vehicles in Figure 2 that utilize the right-turn lane to access the jughandle should be removed to off-set the additional left-turn vehicles.
9. The Applicant's Traffic Engineer should update Figure 9 to depict all turning movements including the intersection of Western Drive and Irick Road as well as the proposed intersection of CR 541 and Jug handle/Driveway #3. It does not appear that the volumes for the Synchro 10 analysis reports will all match up with the volumes in the figure.



Marion Karp, Board Secretary
Westampton Township Land Development Board
Re: Highview Commercial X5, LLC – Engineering Review #1
Use Variance

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10. For the intersection of Woodlane Road and Irick Road, significant delays for the Build condition are depicted for the westbound lane AM and PM peak hours of 479.6 seconds and 358.5 seconds, respectively. No-build delays should be provided for all proposed intersections to determine how much of the delay is due to the proposed project and if mitigation should be considered. Additional intersections such as the proposed signalized intersection of CR 541 and Irick Road/Western Drive have multiple approaches that have a Level of Service (LOS) E. A summary table should be provided to compare the LOS at each studied intersection for each movement as well as overall for No-Build and Build conditions. Our office defers further comment to the Burlington County Traffic Engineer.

E. Utilities

1. The Applicant should update the Board the plan to provide water, sewer and gas for the property. We do not the plan does identify a sewer pump station and water tower.

F. Site Plan

1. Any approval of the Use Variance for the proposed warehouse shall be conditioned upon receipt of amended site plan approval for the overall project.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,
CME Associates

James Winckowski, PE, CME
Land Development Board Engineer's Office

JW/aa

Enclosure (Stormwater Summary)

cc: Gene Blair, Construction Code Official
Robert Swartz, Esq, Board Solicitor
Barbara Fegley, PP, Board Planner
James Smith, Highview Commercial X5, LLC, Applicant
Edward P. Brady, P.E., Taylor Wiseman & Taylor, Applicant's Engineer
George M. Morris, Esq., Parker McCay, Applicant's Attorney



PARKER McCAY

Parker McCay P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, New Jersey 08054-5054

P: 856.596.8900
F: 856.596.9631
www.parkermccay.com

George M. Morris, Esquire
Shareholder
P: 856 810-5855
F: 856 489-6980
gmorris@parkermccay.com

October 7, 2020

File No.: 30451-1

VIA ELECTRONIC MAIL

Ms. Barbara J. Fegley, AICP, PP, Sr. V.P.
Environmental Resolutions, Inc.
815 East Gate Drive, Suite 103
Mount Laurel, NJ 08054

**Re: Highview Commercial X5 LLC, 2035 Burlington-Mt. Holly Road,
Westampton, NJ 08060
Block 807, Lot 1**

Dear Barbara:

As you are aware this Firm represents the above applicant which will appear before the Westampton Township Land Development Board this evening seeking a use variance and associated height variance for the development of a warehouse in the rear of the property. Thank you for your review letter of October 12, 2020. After speaking with the client, we can affirmatively answer each of the comments identified during your review and provide this communication in advance of tonight's testimony.

Variations

1. Our application seeks a d(1) use variance and testimony will be presented to support such a use.
2. Similarly our application seeks a d(6) height variance. Our planner and industry representative will testify to the importance of the height requirement based upon modern standards for warehouse uses.
3. The applicant seeks a deferral of the question of the maximum floor area ratio until the filing of the site plan application. Nonetheless, we believe that we would currently meet

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Mount Laurel, New Jersey | Hamilton, New Jersey | Atlantic City, New Jersey



the standards established in other zones and redevelopment areas within the Township that permit a warehouse/distribution use.

4. Parking - Similarly, the applicant will address the parking requirement at the time of the site plan application. Again, we anticipate that this project will be compliant with or will exceed the parking requirements.
5. Transcontinental Pipeline Easement. – Our engineer will confirm through his testimony that this project will not affect the easement.
6. Impervious Coverage – the applicant will address this important issue at the time of site plan submission, however, it is noted that (a) the prior approval for this property included a variance for impervious coverage and (b) our proposed impervious coverage appears to match that permitted in the redevelopment zone.

General Comments

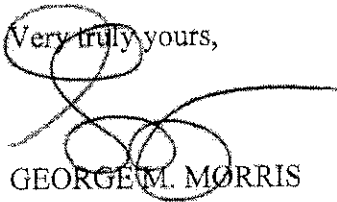
1. Tenants – our industry representative will provide testimony on the potential tenancy(ies), but, please note, this warehouse will be constructed “on spec” meaning that the need exists and this applicant is willing to construct this considerable ratable without having a tenant immediately in place.
2. Warehouse operation – our industry representative will provide general testimony as to expectations of operation. The warehouse use will comply with the Township’s codes for operation. Further, our traffic engineer is prepared to discuss the traffic flows in detail.
3. Traffic patterns – The traffic engineer will also provide testimony of the Burlington Township site and will provide testimony as to the project as a whole.
4. Site control – The industry representative will be able to provide general testimony regarding site control and security but ultimately this issue will be tenant driven.
5. Stacking – Again, the industry representative will be able to provide general testimony but the applicant plans to construct the warehouse immediately and the site use will be tenant driven. Nonetheless, the site can accommodate the standard warehouse use.
6. Right In/Right Out – The applicant will give this issue consideration during the site plan application however, initially, there are safety questions to consider including the overpass elevation, blind spots, county approval, etc. The applicant’s goal is to create a visually appealing site that provides efficient means of ingress and egress.
7. Architectural elevations – We will provide sample architectural elevations of the building from a similar project, however, we have not developed these for this site while the use variance is pending.



8. Phasing -- It is the applicant's intention to develop the entire site simultaneously and as soon possible. The applicant is under contract for the warehouse (pending the use variance) and the Wawa and has had considerable discussions and negotiations with other tenants for the roadside locations. Our marketing expert will provide testimony on the difference between the successful roadside marketing and the difficulty of filling tenancies in the rear of a commercial property. Assuming a use variance in 2020 and site plan approval in the first quarter of 2021, the project will be fully under construction in late 2021.
9. Pylon sign -- The applicant will abandon its approval for the pylon side upon the approval for the use variance.
10. Roundabout -- The traffic engineer is prepared to testify regarding the change from the roundabout to the four-way intersection and the benefits to this project.
11. Wawa changes -- The applicant recognizes this comment and it will address the same in the future site plan application.
12. Site plan approval -- The applicant anticipates filing a site plan application and conducting a hearing in the first quarter of 2021.

We look forward to provide ample testimony at the hearing to earn the use variance and height variance approvals.

Very truly yours,



GEORGE M. MORRIS

cc: All via email
Marion Karp, Board Secretary
James Winckowski, PE, CME
Robert Swartz, Esq.
Leah Furey Bruder, PP/AICP
Edward P. Brady, P.E.
Nathan Mosely, PE, CME
James Murray
Client

Christopher J. Noll, PE, CME, PP
President & CEO

Barbara J Fegley, AICP, PP
Sec./Treas. & Sr. Vice President

William H. Kirchner, PE, CME, N-2
Vice President



Rakesh R. Darji, PE, PP, CME, CFM, Vice President
Harry R. Fox, NICET III, CPSI
G. Jeffrey Hanson, PE, CME
Joseph R. Hirsh, PE, CME, CPWM
C. Jeremy Noll, PE, CME, CPWM
Joseph P. Orsino, CET
Marc H. Selover, LSRP, PG
Benjamin R. Weller, PE, CME, CPWM, S-3, C-3

October 12, 2020
#88018 03

Westampton Township Land Development Board
710 Rancocas Road
Westampton, NJ 08060

Attn: Marion Karp, Secretary Land Development Board

Re: Highview Commercial X5, LLC
The Gateway
Block 807, Lot 1
2035 Burlington-Mount Holly Road (CR 541)
Use Variance and Bulk Variance

Dear Members:

An application has been received and reviewed for a d(1) Use Variance to permit construction of a 217,500 square foot warehouse distribution facility, a d(6) Use Variance to permit a building height of 50 feet which exceeds the maximum height permitted by more than 10%, and potentially a d(4) Use Variance to increase the permitted floor area ratio (FAR). The Use Variance Plan depicts the warehouse with a setback of approximately 400 feet from Burlington-Mount Holly Road behind several pad sites proposed along the frontage of the site. The pad sites include a 5,585 square foot Wawa gas station and convenience store, a 3,000 square foot bank with a drive thru, an 8,900 square foot commercial building comprised of a 3,500 square foot restaurant, two 1,500 square foot retail spaces and a 2,400 square foot restaurant. A separate, 2,400 square foot fast food restaurant with a drive thru pad site is also proposed. The plan also depicts a pump station, a water tower, a stormwater basin and a pylon mounted sign along its NJ Turnpike frontage.

Block 807, Lot 1 received Land Development Board approval on 12/5/18 (Resolution 24-2018) for Preliminary Major Subdivision and Major Site Plan with Variances and Waivers to develop the property as a shopping center with seven separate lots consisting of a gas station with a 5,525 square foot convenience store, a 3,660 square foot bank, two fast food restaurants with drive-thru totaling 9,200 square feet, a 250 seat restaurant totaling 10,300 square feet, a four story 150 room hotel with a footprint of 24,175 square feet and a retail shopping center totaling 60,625 square feet in the C-Commercial Zone.

The site received Land Development Board approval on October 2, 2019 (Resolution 21-2019) for Amended Preliminary and Final Subdivision and Amended Preliminary Site Plan and Final Site Plan Approval for Phase I with Variances to create two lots and construct the following: an eight pump gas station with a 5,585 square foot convenience store to be constructed on Lot "A" and a 10,500 square foot Kiddie Academy day care center, a water treatment building, a water storage tank, and the stormwater management basin on Lot "B." Amended Preliminary Site Plan approval for Phase II improvements to be constructed on Lot "B" included a 20,000 square foot Retail Building, a 8,900 square foot Retail Building comprised of a 3,500 square foot restaurant, a 2,400 square foot restaurant and two 1,500 square foot retail spaces, a 3,000 square foot bank, a 22,500 square foot retail building, a 41,250 square foot retail building and a 9,000 square foot retail building with an end unit restaurant.

The Use Variance Plan proposes to re-align the northern terminus of Irick Road with the intersection of Burlington-Mount Holly Road (CR 541) at Western Drive. The proposed signalized intersection is intended to serve as the primary access to the site. The roundabout proposed as part of Irick Road improvements included with previous submissions has been replaced with a four-way intersection and a second traffic signal to facilitate cross traffic from the commercial development and a second 313,500 square foot warehouse proposed on adjacent land in Burlington Township. The right in, right out secondary access proposed in previous applications has been retained and provides direct ingress and egress to the 217,500 square foot warehouse from CR 541. The proposed 217,500 square foot warehouse effectively eliminates the previously approved 22,500 square foot Retail Building A, 40,000 square foot Retail Building B, 20,000 square foot Retail Building C, 9,000 square foot Retail Building D, and the 10,500 square foot Kiddie Academy.

The site contains 24.76 acres. It is located in the triangle between Burlington-Mount Holly Road, the New Jersey Turnpike, and Irick Road in the central part of the Township within the Commercial (C) zone. The area north of the parcel, opposite Burlington-Mount Holly Road contains a number of commercial uses in Westampton Township's Commercial zone. The New Jersey Turnpike is located to the south and Irick Road and a solar farm and agricultural lands are located to the west.

The following documents have been received with this application:

1. Plans prepared by Taylor Wiseman & Taylor of Mount Laurel, NJ, dated 9/14/20 unless otherwise noted, including:
 - a. Use Variance Plan - Warehouse, Sheet 1 of 2.
 - b. Overall Site Plan, Sheet 2 of 2.
 - c. ALTA/NSPS (2016) Land Title Survey, Sheet 1 of 1 dated 02/28/20.
2. Traffic Engineering Assessment prepared by Nathan B. Mosley, PE, CME, of Shropshire Associates dated September 16, 2020.
3. Submission letter prepared by George M. Morris, Esq., of Parker McCay, dated September 16, 2020.

4. Westampton Township Land Development Board Application for Variance or Appeal, undated.
5. Westampton Township Land Development Board Affidavit dated September 11, 2020.
6. Ownership Authorization dated 8/31/20.

We have reviewed the documents listed above for conformance to the Zoning Code of Westampton Township and offer the following comments:

Variances

The subject tract is located in the Commercial (C) Zone.

1. The applicant is proposing to include a 217,500 square foot warehouse within the commercial development. Ordinance §250-16A does not list warehouses as a permitted use. **Consequently a d(1) use variance is required.**
2. Ordinance 250-16D, (§250 Attachment 2) permits a maximum building height of 35 feet which may be increased to 45 feet if the building has a minimum front yard setback of 100 feet however the warehouse appears to be set back approximately 95 feet from its Irick Road frontage. The proposed 50' height exceeds that permitted by more than 10% (3.5 feet). **Consequently a d(6) Use Variance is required to permit a building height of 50'.**
3. Ordinance §250-16D, (§250 Attachment 2) permits a maximum floor area ratio (FAR) of 20% in the Commercial Zone. The Site Data Chart indicates FAR is To Be Determined. **If FAR exceeds 20%, a d(4) Use Variance will be required.**

The applicant must demonstrate the positive and negative criteria associated with the Use Variances. The applicant must also demonstrate that the site is suited for the use, particularly with respect to the surrounding properties and that the proposed use will not impair the intent and purpose of the Master Plan and Zoning Ordinance nor be substantially detrimental to the public good. The applicant should include testimony responding to the General Comments offered below as part of the discussion.

4. Ordinance §250 -16E(1) requires one parking space per 250 of gross floor area for all uses except restaurants, theaters and bowling alleys in the Commercial Zone. Based upon that requirement, 870 parking space are required whereas the plan proposes 199 spaces. Testimony should be provided indicating what percentage of the building will be reserved for office space and warehouse space. **A bulk variance will be required.** If the site were in a zone that permitted distribution centers and warehouses, 1 parking space per 250 square feet is required for offices and one space per 5,000 square gross floor area is required for the warehouse or distribution center.

5. Ordinance §250-16F(2) requires screen plantings be provided to a minimum depth of 20 feet along property lines where a nonresidential use abuts another nonresidential use. The access drive leading to the warehouse loading area abuts a Transcontinental Pipeline Easement which typically prohibits tree planting. Testimony should be provided regarding the easement language. **A bulk variance may be required.**
6. Ordinance §250 Attachment 2 permits a maximum impervious coverage of 60% for the Commercial (C) Zone. The Site Data Chart indicates that the coverage is To Be Determined. **A Bulk Variance may be required.**

General Comments

1. Testimony should be provided with regard to potential tenants and to the extent known, whether the warehouse will support a single or multiple tenants.
2. Testimony should be provided on the operation of the warehouse use, including the following:
 - a. Hours and days of operation.
 - b. The number of trucks using the facility(ies) on a daily basis.
 - c. Truck volume during peak hours of ingress and egress.
 - d. Number of employees anticipated per shift.
 - e. Number of shifts.
3. The applicant should provide testimony regarding traffic patterns for trucks entering and exiting the subject tract as well as the 313,500 square foot warehouse facility proposed in Burlington Township.
4. The applicant should provide testimony regarding methods proposed to control the timing and number of tractor trailers entering the warehouse facility and whether gates and a guard house will be required.
5. The applicant should discuss how potential stacking of tractor trailers waiting to enter the warehouse facility will be accommodated.
6. The southerly most right in/right out driveway from Burlington-Mount Holly Road directly approaches the loading area of the warehouse and may well be the major means of truck ingress and egress. If the Use Variance is approved, we recommend that the driveway be shifted south in order to visually separate the warehouse from the retail component and better integrate the retail uses or that the entrance to the warehouse use end at the retail uses and access to the warehouse only be permitted from Irick Road.
7. Architectural elevations for the proposed warehouse should be presented to the Board.

8. The applicant should provide testimony regarding phasing of the warehouse and retail components.
9. The subject tract was granted bulk variances and Site Plan approval on October 2, 2019 (Resolution 25-2019) to construct a 100' tall, 800 square foot pylon sign along its NJ Turnpike frontage based upon testimony that it was a requirement imposed by certain tenants prior to signing leases to buildings that will now be replaced with the warehouse. The applicant should provide testimony to justify the need for the sign should the use variance be granted.
10. The previously approved plan provided a roundabout as part of the Irick Road re-alignment. The Use Variance Plan has replaced the roundabout with a four way intersection and traffic signal. The applicant should discuss the modification as well as any discussion regarding same with the Burlington County Planning Board.
11. As indicated above, the Wawa gas station and convenience store received Amended Final Site Plan and Subdivision approval from the Board on 10/02/19. The Use Variance plan depicts several changes to the Wawa site, including an additional driveway and expansion of the trash enclosure into Burlington Township. The elimination of the round-about as described above affects the subdivision. The modifications will require Amended Site Plan approval and Subdivision approval.
12. If the Board grants a use variance to permit the warehouse, the approval should be conditioned on the subject tract obtaining site plan approval from the Board and all required outside agencies.

If you have any questions or require further information, please feel free to contact me.

Sincerely,



Barbara J. Fegley, AICP, PP
Township Planner

Cc: Gene Blair, Construction Code Official, via email
Louis Capelli, Esq., Board Solicitor, via email
Robert Swartz, Esq., via email
James Winckowski, PE, CME, Board Engineer, via email
Jennifer Bupp, Secretary, Burlington Township Planning Board, 851 Old York Road, Burlington Township, NJ 08016
Highview Commercial X5, LLC, 280 Rt. 35, Suite 150, Red Bank, NJ 07701
George M. Morris, Esq. via email (gmorris@parkermccay.com)
Edward P Brady, PE, Taylor Wiseman & Taylor, via email
Nathan B. Mosley, PE, CME, via email



DATE FILED: _____ (for office use only)

To the Westampton Township Land Development Board:

The petition of Tesla, Inc.,
who resides at has offices at 160 Van Brunt Street, Brooklyn, NY 11231,
respectfully shows:

1. A variance is requested with respect to land designated on the
Westampton Township Tax Map as Block 201, Lot(s) 7.01.

2. The property is located Rancocas Road & Highland Drive
Phone # (510) 289-4108 in
a B-1 zone district, the street number is 570 Rancocas Road

2a. A variance is sought from Section(s) Please see variance list
Please see variance list of the Zoning Ordinance to permit
Please see variance list

2b. Applicant appeals from the decision of _____
_____ on _____, based upon
Sections _____ of the Zoning Ordinance
for the reasons outlined on paragraph 9. *(Complete only for appeals)*

N/A

3. Provco Pinegood Westampton LLC, who resides at
795 E Lancaster Avenue, #200, Villanova, PA 19085, is
the present owner of the property. Applicant's interest in the property is
lessee

4. No variance, conditional use, or special permit has ever been granted
with respect to this property, except previous approvals in 2018 and 2020

5. The last previous use or occupancy of the property was by _____
Prior approved use: Wawa convenience store with drive-thru and sale of fuel _____,

who used the property for _____
Prior approved use: Wawa convenience store with drive-thru and sale of fuel _____.

6. The dimensions of the property are _____,
a. Frontage: 369.5 FT b. Depth: 300.7 FT
The total area of the property is 3.28 AC.

N/A

7. The property is now occupied by (a) building(s). Said building(s) occupy _____% of the lot(s) as nearly as can be determined. The height of said building(s) is _____ feet and _____ stories. (Please give the maximum if more than one building.) The setback from the nearest street is _____ feet.

N/A

8. The percentage of coverage, height and setback of the proposed building(s) are _____
_____.

9. The petitioner advances the following reasons why the application should be approved:

9a. Describe how the proposed variances would promote the public welfare:
Legal testimony will be provided at public hearing

_____.

9b. Demonstrate that the proposed variance would do no substantial damage to the Westampton Township Plan: Legal testimony will be provided at public hearing.

_____.

9c. Provide details of the future use of the property and structures if the variance is granted: _____
Installation of Tesla-branded electric vehicle supercharging posts
within approved parking area of Wawa food market and fueling station
_____.

9d. Describe any changes in traffic and/or parking patterns: _____
Please refer to site plan and parking analysis.

_____.

9e. Describe impact on neighbors if variance is granted for use described in 9c: Legal testimony will be provided at hearing

10. Twelve (12) copies of each of a certified survey/plot plan; one copy of proof of publication, proof of service of notice, or such of them as are required by the Board are submitted herewith.

11. Proof that taxes and assessments upon the property are not delinquent is attached hereto.

[Signature]
Applicant

Duncan M. Prime, Esquire,
Attorney for Tesla, Inc.

STATE OF New Jersey :

ss.

COUNTY OF Burlington :

Duncan M. Prime, Esquire, of full age, being duly sworn according to law on his/her oath deposes and says:

I am the applicant named in the foregoing application and on my oath declare that each and every allegation therein contained is true.

[Signature]
Applicant

Duncan M. Prime, Esquire,
Attorney for Tesla, Inc.

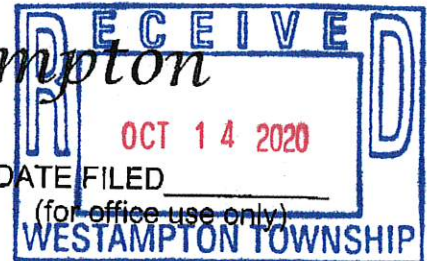
Sworn to and Subscribed :
before me this 12th day :
of October, 2020.

Marianne C. Barton
Notary Public of New Jersey

MARIANNE C. BARTON
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES JULY 31, 2022



Township Of Westampton



SITE PLAN REVIEW APPLICATION X
SUBDIVISION APPLICATION _____
MINOR X MAJOR _____
PRELIMINARY _____ FINAL _____ CONSOLIDATED _____

BLOCK 201 **LOT** 7.01
Rancocas Road & Highland Drive

1. GENERAL INFORMATION

A. Applicant Name Tesla, Inc.

Address 160 Van Brunt Street, Brooklyn, NY 11231

Telephone Number (510) 289-4108

B. The Applicant is a:

Corporation* X
Partnership* _____
Individual _____
Other (specify) _____

* See attached

*If the applicant is a corporation or a partnership, please attach a list of the names and addresses of persons having a 10% interest or more in the corporation or partnership.

C. The relationship of the applicant to the property in question is:

Purchaser under contract _____
Owner _____
Lessee X
Other (specify) _____

Attorney Duncan M. Prime, Esquire for Prime & Tuvel, LLC

Address 14000 Horizon Way, Suite 325, Mount Laurel, NJ 08054

Telephone Number 856-273-8300

D. Engineer/Surveyor: Dave Revette, PE for Dewberry Engineers, Inc.
Address 600 Parsippany Road, Suite 301, Parsippany, NJ 07054
Telephone Number (973) 739-9400

2. INFORMATION REGARDING THE PROPERTY

- A. Street address of the property 570 Rancocas Road & Highland Drive
- B. The location of the property is approximately 375 feet from the intersection of Highland Drive and Rancocas Road
- C. Existing use of the property Previously approved Wawa convenience store with fuel and drive-thru
Proposed use of property Installation of Tesla-branded electric vehicle supercharging posts within approved parking area of Wawa food market and fueling station
- D. Zone in which property is located B-1
- E. Acreage of property 3.28 AC
- F. Is the property located on a County road? Yes X No ; State road? Yes No X; or within 200 feet of a municipal boundary? Yes No X

SITE PLAN APPLICATIONS ONLY (ANSWER ITEMS G, H & I):

- G. The type of proposal is: New Structure Expanded area Improved Parking Area Alteration to Structure Expansion to Structure Change of Use Sign ** Add charging stations to previously approved parking area
- H. Name of business or activity (if any) Tesla, Inc.
- I. Are there deed restrictions that apply or are contemplated? No
(if yes, please attach a copy to application)

SUBDIVISION APPLICATIONS ONLY (ANSWER ITEMS J, K, L & M)

N/A

- J. Number of lots proposed
- K. Was the property subject to a prior subdivision? Yes No
(If so, list dates of prior subdivisions and attach resolutions)
- L. Number of lots created on tract prior to this application

M. Are there any existing or proposed deed restrictions, easements, rights-of way or other dedication? Yes X No ___ (if yes, attach a copy)

* Please see attached title report

N. List all proposed on-site utility and off-tract improvements:

Please refer to site plan

O. List maps and other exhibits accompanying this application:

Please refer to cover letter

3. INFORMATION REGARDING THE APPLICATION

A. Describe any proposed "C" or bulk variances requested, their location (Block & Lot) and the sections of the Zoning Ordinance from which relief is requested. Attach 1 copy of variance notification documents.

Please see variance and waiver list

4. CHECK LIST AND WAIVER REQUESTS

A. Please refer to the Ordinance for the specific submission requirements, which are listed in Chapters 196, 215 and 250 (Site Plan Review, Subdivision of Land and Zoning) from the Code of the Township of Westampton.*

B. Please list which sections of the Ordinance applicant requests a waiver from and the reasons therefore.

Please see variance and waiver list

5. AUTHORIZATION AND VERIFICATION

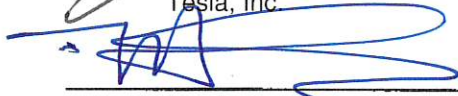
I certify the statements and information contained in this application are true.



Signature of Applicant
Tesla, Inc.

9/22/20

Date



Signature of Owner

9/28/20

Date

Provco Pinegood Westampton LLC

*Copies of the Township Ordinance are available for purchase at the Westampton Township Municipal Building. The entire ordinance is also available on the Internet at the Township website: <http://www.westampton.com>

October 7, 2020

RE: Site Name: Tesla Supercharger – WAWA Westampton, NJ
Site Address: 570 Rancocas Road, Westampton, NJ 08060

List of Variances Requested:

1. Minimum Side Yard Setback
B-1 Zone Required Distance: 30 Feet
Existing Distance: 30.2 Feet
Proposed Distance: 9 Feet

Description: Proposed Tesla electrical equipment & utility transformer mounted on concrete pad to be placed within required setback on southern property line.

Sincerely,



David E. Revette, PE
New Jersey License No. 24GE05408600

mkarp@westampton.com

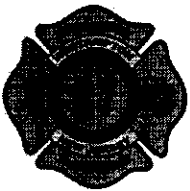
From: Craig Farnsworth <cfarnsworth@wtes.us>
Sent: Wednesday, October 28, 2020 2:19 PM
To: marianne@primelaw.com; mkarp@westampton.com; rswartz@floriolaw.com; bfegley@erinj.com; 'Winckowski, Jim'
Cc: 'Duncan Prime'
Subject: Re: Tesla Westampton, Application documents

The Westampton Township Fire Department does not have any comments or concerns on the planned addition for the Tesla charging station at the Wawa located at Rancocas Road and Highland Drive.

Please let me know if you need anything else from me.

Respectfully,

Craig Farnsworth, II
Fire/EMS Chief
Westampton Township
780 Woodlane Road
Westampton, NJ 08060
609-267-2041 ext 201
609-850-7417 (cell)
609-267-3305 (fax)
Email: cfarnsworth@wtes.us
Website: www.westamptonfire.org



PLEASE NOTE MY EMAIL ADDRESS HAS CHANGED TO CFARNSWORTH@WTES.US

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From: <marianne@primelaw.com>
Date: Monday, October 19, 2020 at 3:43 PM
To: <mkarp@westampton.com>, <rswartz@floriolaw.com>, <bfegley@erinj.com>, <cfarnsworth@wtes.us>, "Winckowski, Jim" <JWinckowski@cmeusa1.com>

Christopher J. Noll, PE, CME, PF
President & CEO

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Sec./Treas. & Sr. Vice President

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Marc H. Selover, LSRP, PG
Benjamin R. Weller, PE, CME, CPWM, S-3, C-3

October 29, 2020
#88013 03

Westampton Township Land Development Board
710 Rancocas Road
Westampton, NJ 08060

Attn: Marion Karp, Secretary Land Development Board

Re: Tesla, Inc.
Block 201 Lot 7.01
570 Rancocas Road (CR 626) & Highland Drive
Minor Site Plan and Bulk Variance

Dear Members:

The site referenced above was granted a d(1) Use Variance to permit a 5,585 square foot Wawa convenience store with sixteen (16) motor vehicle fueling stations together with Preliminary and Final Major Site Plan and Minor Subdivision approval on May 2, 2018. In addition to the proposed Wawa convenience store and fuel fueling stations, the site was granted approval for a new full movement access drive from Highland Drive, parking, site lighting, landscaping and two connected aboveground stormwater basins. As a result of the approved minor subdivision, the tract consists of 3.279 acres.

On July 1, 2020, the Land Development Board granted the applicant a d(1) Use Variance, bulk variances and Amended Site Plan approval for a reduction in the number of previously approved fueling stations together with approval to permit the addition of an 88 square foot drive-thru window to the previously approved 5,585 square foot building as an ancillary service to the convenience store.

The current applicant is seeking Minor Site Plan approval to install two (2) Tesla V3 Supercharger Cabinets, eight (8), Tesla-Branded Electrical Vehicle Charging Posts adjacent to previously approved parking stalls located in the southerly portion of the site, one (1) 1200A, 480V Switchgear and a Utility Transformer on a concrete pad constructed in a nearby, previously approved grass area. Ordinance §250-15B(3) permits accessory uses customarily incidental and subordinate to the permitted use in the B-1 Zoning District. The Tesla Charging Stations and electric charging stations in general are an emerging type of accessory use that the Land Development Board will likely see more of on future development plans.

We have reviewed the following documents, submitted as part of the application:

1. Plans prepared by Dewberry Engineers, Inc., dated 10/07/20, including the following:
 - a. Title Sheet, Sheet T-1.
 - b. Tax Map, Aerial & Zoning Schedule, Sheet Z-1.
 - c. List of Property Owners & Utilities, Sheet Z-2.
 - d. Site Plan, Sheet Z-3.
 - e. Existing Conditions Plan, Sheet Z-4.
 - f. Equipment & Parking Plan, Sheet Z-5.
 - g. Equipment & Parking Elevations, Sheet Z-6.
 - h. Construction Details, Sheet Z-7.
2. Township of Westampton Land Development Board Site Plan Review Application.
3. Submission Letter prepared by Duncan M. Prime, Esq. dated October 12, 2020.
4. List of requested variances prepared by David E. Revette, PE, dated 10/07/20.
5. Easement and Right-of-Way documents from the parcels Title Report.
6. Traffic Assessment of Charging Stations report dated October 19, 2020, prepared by Nick Verderese, PE and Justin Taylor, PE, PTOE of Dynamic Traffic, LLC.

Variances

1. Ordinance Section 250-15D, Table II, Schedule of Area, Yard and Bulk Requirements, requires a side yard of 30 feet in the B-1 District. The proposed 1200A EV-2 Switchboard and Proposed V3 Supercharger Cabinet encroach to within 9' 6" of the property line of the side yard. A "c" bulk variance is required.
2. Ordinance §250-15G(2) requires screen plantings be installed to a minimum depth of 25 feet along property lines where a non-residential use abuts another non-residential use. A concrete pad and charging equipment encroach into the 25' buffer strip required along the southern property line. A bulk variance is required.

The applicant will require bulk variances for deviation from the ordinance requirement listed above. Under the terms of the Municipal Land Use Law, the applicant must show that the variance can be granted without substantial detriment to the public good and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

General Comments

1. As indicated above, eight (8) parking stalls will be reserved as electric vehicle supercharging stations. The applicant should indicate how the reservations will be enforced and provide testimony regarding the adequacy of the remaining standard parking stalls to accommodate patrons.
2. Testimony should be provided regarding the anticipated time individual charging stalls will be occupied. The signage detail indicates 15 minutes. Testimony should include the charging time for all vehicles that can utilize the stations, whether the stations are exclusive to Tesla or if other vehicles can utilize them and how the time limit will be enforced if vehicles are not fully charged within 15 minutes.
3. If the charging stations will be available for general use the applicant should provide testimony regarding demand for the service and the extent to which queuing may occur if all the spaces are occupied particularly as electric vehicles become more prevalent
4. The applicant should discuss the hours that the charging stations will remain operational.
5. Testimony should be provided on whether there is a fee to use the charging stations and if so, how the fee is paid
6. It appears that the concrete pad supporting the switchboard and supercharger cabinets will encroach into the landscape bed previously shown and approved on the Landscape Plan (Sheet C-09) of the Amended Site Plan for the Wawa Drive Thru. The landscape bed was approved to be installed along the outside of the basin fencing. The affected landscaping should be relocated to the inside of the fence and supplemented. Landscape adjustments should be depicted on the plan.
7. We recommend that the transformer, switchboards and supercharger cabinets be screened with mix of evergreen and deciduous shrubs such as 'Dragon Lady' Holly, 'Skip' Laurel and 'Merlot' Sweetspire supplemented with ornamental grass such as 'Karl Foerster' Feather Reed Grass. The plantings should be installed within a mulched planting bed.
8. The applicant should indicate if there is any additional signage or modifications of existing signage to advertise and/or direct patrons to the charging stations.
9. The Equipment and Parking Plan indicates a proposed 4' x 1' pad mounted CT enclosure (For Wawa secondary by others), a proposed Wawa Transformer (by others), and two (2) proposed 4" SCH 40 PVC Conduits (by others) that do not appear to be included in the application narrative. Testimony should be provided on whether these improvements are part of this application or if another application will be submitted for this work.

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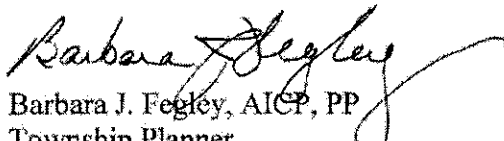
10. The Lighting Plan (Sheet C-11) for Wawa Drive Thru Amended Final Site Plan showed a 20.5' high light (Symbol B4) along the curb between the second and third Drive Thru Pickup parking stalls to the east of the trash enclosure. The Equipment and Parking Plan (Sheet Z-5) submitted with this application does not show this light. If the light is still proposed, it should be shown on the plans submitted with this application. If the light has been eliminated for some reason, a revised Lighting Plan should be provided for the Amended Site Plan for the Drive Thru.

Outside Agency Approvals and Other Approval Conditions

1. The applicant shall meet all the other Conditions of Approval by the Land Development Board and obtain all other approvals required for the development.

If you have any questions or require further information, please feel free to contact me.

Sincerely,


Barbara J. Fegley, AICP, PP
Township Planner

Cc: Tesla, Inc., 160 Van Brunt Street, Brooklyn, NY 11231
Provco Pinegood Westampton LLC, 795 E. Lancaster Avenue, #200, Villanova, PA 19085
Gene Blair, Construction Code Official, via email
Craig Farnsworth, Westampton Township Fire Official, 710 Rancocas Road, Westampton, NJ 08060
Robert Swartz, Board Solicitor, via email
James Winckowski, PE, CME, Board Engineer, via email
Duncan Prime, Esq., via email
David E. Revette, PE, Dewberry Engineers, Inc., 600 Parsippany Road, Suite301, Parsippany, NJ 07054
Nick Verderese, PE and Justin Taylor, PE, PTOE, Dynamic Traffic, LLC, 1904 Main Street, Lake Como, NJ 07719