

RESOLUTION: 5-2024

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: NFI Real Estate, LLC
BOARD'S DECISION: Approval of a Preliminary and Final Site Plan
PROPERTY ADDRESS: 2035 Burlington-Mt. Holly Road
Block 807, Lot 1
ZONING DISTRICT: Business (B-1) District Zone
DATE OF HEARING: January 3, 2024; February 7, 2024

WHEREAS, on January 3, 2024 and February 7, 2024, the Westampton Land Development Board ("Board") considered the application of NFI Real Estate, LLC (the "Applicant") requesting approval of a preliminary and final site plan ("Approval"). The Applicant is proposing to subdivide the property into two lots, and construct a 218,478 square foot warehouse/distribution center on the site, designated as Block 807, Lot 1 on the Township Tax Map ("Subject Property"), located in the Township's Business (B-1) Use Zoning District (the "Application"); and

WHEREAS, the Board has 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, the Applicant came before the Board at the regularly-scheduled public meetings held on January 3, 2024 and February 7, 2024, represented by Kevin Sheehan, Esquire and John Gillespie, Esquire. The Board heard testimony from the Applicant's engineer, Ryan Harvey, Applicant's planner, Leah Furey-Bruder, Applicant's traffic engineer, Nathan Mosley, Applicant's architect, Kerry Haber, and the Applicant's Development Manager, Brian Werrell, as to the nature, purpose, location, and description of the Application; and

WHEREAS, the Board discussed the Application and the Board Professionals offered comments. 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 as well as statements on the record:

1. The Board considered the following submissions from the Applicant:

- A. Twenty-three (23) sheet site plan entitled, "NFI Westampton Warehouse, Preliminary/Final Site Plan, Burlington-Mt. Holly Road (CR 541), Block 807, Lot 1", prepared by Taylor, Wiseman, and Taylor, dated October 5, 2023, last revised December 14, 2023;
- B. An ALTA/NSPS Land Title Survey for Block 807, Lot 1, prepared by Taylor, Wiseman, and Taylor, last revised May 16, 2023;
- C. A Traffic Engineering Assessment for Block 807, Lot 1, prepared by Shropshire Associates, LLC, dated October 4, 2023, last revised December 13, 2023;
- D. An Environmental Impact Statement for Block 807, Lot 1, prepared by Taylor, Wiseman, and Taylor, dated August 10, 2023;
- E. A Stormwater Management Report for NFI Westampton Warehouse, prepared by Taylor, Wiseman, and Taylor, dated September 26, 2023, last revised December 13, 2023;
- F. A Stormwater Management Facility Operation and Maintenance Manual for NFI Westampton Warehouse, prepared by Taylor, Wiseman, and Taylor, dated September 26, 2023, last revised December 13, 2023;
- G. A Community Impact Statement for NFI Westampton Warehouse, prepared by Taylor, Wiseman, and Taylor, dated August 8, 2023;
- H. A copy of the Letter of Interpretation: Presence/Absence Determination, File No.: 0337-18-0001.1, prepared by the NJDEP Division of Land Use Regulation, dated December 5, 2018;
- I. An Overall Floor Plan and Elevations, prepared by Bernardon, dated May 10, 2023, last revised August 7, 2023;
- J. One sheet Overall Site Plan Exhibit (landscaping color rendering), prepared by Taylor, Wiseman, and Taylor, dated October 20, 2023;
- K. One sheet 3D views of the site, prepared by Bernardon, undated;
- L. Correspondence from Westampton Warehouse Operational Sound Levels Analysis, prepared by Russell Acoustic, dated October 10, 2023;
- M. Will Serve Letters, prepared by PSE&G, Comcast, and Verizon, dated October 2023; and
- N. The Application form.

2. The Board considered the following review letters submitted by the Board Professionals:
 - A. A letter prepared by the Board's Engineer, Michael Roberts, PE, CME, dated November 20, 2023, last revised January 2, 2024.
 - B. A letter prepared by the Board's Planner, Christopher Dochney, PP, AICP, dated November 29, 2023, last revised February 2, 2024.

3. The Applicant submitted the following exhibits: **Exhibit A-1** – Minor Subdivision Plan; **Exhibit A-2** – Site Plan Rendering; **Exhibit A-3** – Floor Plan; **Exhibit A-4** – Perspective Landscape Renderings; **Exhibit A-5** – Building Elevations; **Exhibit A-6** – Revised Building Elevations; **Exhibit A-7** – Revised Floor Plan; **Exhibit A-8** – Conceptual Renderings; and **Exhibit A-9** – Traffic Report.

4. The Subject Property is owned by the Applicant and is located at 2035 Burlington-Mt. Holly Road, Block 807, Lot 1, Westampton, New Jersey, lying within the Business (B-1) Zone District.
5. The Applicant seeks approval of a minor subdivision and preliminary and final site plan to construct a 218,478 square foot warehouse building on the Subject Property.
6. During the January 3, 2024 hearing, Ryan Harvey, Applicant's Engineer; Leah Furey-Bruder, Applicant's Planner; Nathan Mosley, Applicant's traffic engineer; Kerry Haber, Applicant's architect; and Brian Werrell, the Applicant's Representative, were sworn in by the Board's Solicitor.
7. Mr. Werrell presented that the Applicant was seeking preliminary and final site plan approval to construct a 218,478 square-foot warehouse building on the Subject Property and a minor subdivision of the Subject Property. Mr. Werrell stated that the Subject Property is located in the Township's Business (B-1) Zoning District. The Subject Property consists of 24.7 acres, which is currently undeveloped farmland. Mr. Werrell indicated that the Applicant requires various variances and design waivers for the proposed approval of the site plan.
8. Mr. Werrell testified that the facility built on the Subject Property is a speculative project that will be a 24-hour facility with three around the clock shifts. Mr. Werrell further presented that the facility will not be a fulfillment center or parcel distribution center.
9. Mr. Borger asked that once the building was built, would the Applicant be in a position to maintain a vacant building until they find a tenant. Mr. Werrell responded that the Applicant would be able to maintain the building if they are unable to find a tenant and that they have a property management group on board to assist in maintaining the building.
10. Mr. Thrope asked the Applicant to clarify that the property will not be used as a fulfillment center or parcel distribution center. Mr. Werrell confirmed that it would not be used for those purposes.
11. After being qualified as a professional planning expert, Ms. Furey-Bruder presented that she is confident that this site is conditionally permitted in the B-1 Zone and satisfied all the conditions of conditional uses set forth in the Township Ordinance. Ms. Furey-Bruder further testified as to the surrounding properties, and the Application's impact on those surrounding properties. Ms. Furey-Bruder also testified as to the specific requirements for conditional use in the B-1 Zone.
12. Mr. Thorpe asked whether the maximum impervious coverage requirement includes the parking area that is not being utilized. Ms. Furey-Bruder responded that the impervious coverage requirement includes phantom parking.
13. After being qualified as a civil engineering expert, Mr. Harvey testified that bulk standards for the two lots comply with the standards set forth in the Township Ordinances. Mr.

Harvey also testified as to the flow of traffic around Irick Road and the points of ingress and egress for trucks.

14. Mr. Harvey further testified that the site plan provides for a pump station on site. He also stated that the Applicant is in contact with Burlington Township regarding connecting with their water main for the Subject Property. Mr. Harvey also testified as to the fire loop around the building.

15. Mr. Harvey also stated that the proposed Application complies with the buffer and that it provides for landscape buffering along the entire building. The landscaping will range from 8-12 feet in height to mature heights of 40 feet or so. He also testified as to the 45 feet buffer for the pipeline easement with the New Jersey Turnpike. However, the pipeline easement creates an impediment to meeting the eight-foot buffer requirement. But Mr. Harvey testified that the intent of the Township Ordinance is not triggered because that side of the building borders the New Jersey Turnpike.

16. Mr. Harvey further testified as to the lighting of the Subject Property. He stated that the Application provides for pole-mounted and wall-mounted lights for the Subject Property. However, Mr. Harvey stated that the Applicant is seeking two design waivers seeking: (1) to exceed 0.1 footcandles average because the Applicant exceeds that limit along the New Jersey Turnpike side of the property; and (2) to reduce the color rendering index (CRI) of 90 because the industry standard is between 70-80 CRI. Mr. Harvey testified that the design waivers are necessary because it would promote health and safety by assuring that the property is adequately lit. He further provided that it would not provide any detriment to the drivers, and that the Applicant would be willing to work with the Board Professionals if necessary;

17. Mr. Harvey testified that the Application provides for three infiltration basins above ground. The Applicant provided the Letter of Intent prepared by the New Jersey Department of Environmental Protection which indicates that there are no wetlands on the lot;

18. Mr. Harvey also testified that there would be a generator pad located at the front of the building facing Irick Road. The Board recommend that the Applicant move the pad to the rear of the property on the southeast corner side of the building. The Applicant consented to moving the pad to comply with the Board's request; and

19. Mr. Harvey testified that the nearest residence is 2,200 feet from the Subject Property.

20. Mr. Jones asked whether the Subject Property would have the capability to utilize solar energy in the future. Mr. Harvey responded that they are exploring solar panels on the roof or parking area. He stated that the Applicant will comply with the Township Ordinance requirement if it does not implement solar panels on the roof or parking area.

21. Mr. Dochney provided that the Applicant will need to provide a scorecard of their LEED Certification and that a minimum Silver certification would be required as a condition of approval.

22. Mr. Roberts asked whether the Applicant plans to develop the remaining parcel. Mr. Werrell responded that it intends to develop the remaining parcel, but the Applicant does not have any plans at this time.
23. Mr. Roberts asked whether the Applicant has applied for Irick Road realignment with the County. The Applicant responded that it is currently going through the final process and will provide the County approvals as needed by the Township.
24. Mr. Roberts stated that the Applicant would need to include signage for the truck access at the roundabout entrance. Mr. Guerrero also asked whether the Applicant is including a signage package with the Applicant.
25. The Applicant responded that it has not included a signage package but is willing to submit one and comply with all requirements in the Township Ordinances.
26. Mr. Roberts asked about the status of the water connection with Burlington Township. He also asked whether the Applicant has considered alternatives to connection with Burlington Township. The Applicant responded that it is working through the details of the connection points with Burlington Township. The Applicant responded that it has considered access points from the other side of Burlington-Mt. Holly Road.
27. After being qualified as an architectural expert, Mr. Haber presented the elevation views and renderings to discuss the elevations and the design of the exterior of the building. He discussed the color and pattern of the building and stated that he would be willing to make variations to the plans pursuant to the Board's request.
28. Mr. Guerrero asked Mr. Dochney whether he had comments on the architectural plans presented by Mr. Haber. Mr. Dochney responded that the Applicant still requires a design waiver because of the minimum of one-foot offsets.
29. Mr. Werrell responded that the Applicant would be willing to provide new drawings to comply with the Township Ordinances to avoid the necessity of a design waiver.
30. Mr. Thorpe stated that he did not like the gray tones in the plans and would like to see more earth tones in the new plans.
31. The January 3, 2024 hearing on the Application was adjourned to the next regularly scheduled meeting on February 7, 2024.
32. During the February 7, 2024 hearing, Kevin Sheehan, Esq. appeared as Applicant's attorney; and the Applicant's witnesses from the prior hearing were sworn in again by the Board's Solicitor.
33. Mr. Haber, resuming his testimony, presented Exhibits A-6, A-7, and A-8, which showed the landscaping and architecture of the building and land based on the Board's suggestions and comments from the prior meeting.

34. After being qualified as an expert in traffic engineering, Mr. Mosley presented an overview and summary of the traffic report that were submitted to the Board and presented as Exhibit A-9.

35. Mr. Ebersole asked if the Applicant intended to implement signage explaining the two access points dedicated to trucks. Mr. Harvey responded that he defers to the Applicant's civil engineer, but is willing to comply with the Board's professionals.

36. Mr. Odenheimer asked if there would be a dedicated left-turn lane at the truck access off Irick Road. Mr. Mosley responded that the Application does not currently propose a left-turn lane.

37. Mr. Odenheimer asked if the Applicant analyzed the level of service for the movement of the traffic and flow with the trucks waiting to turn into the driveway. Mr. Mosley responded by presenting his evaluation and advised that under peak-hour conditions the inbound and outbound movements, whether turning left or right, operate at level service A. Mr. Mosley further presented Exhibit A-9 to provide a visual and further clarification.

38. Mr. Odenheimer again asked if any consideration was given to prohibiting trucks from turning left on the property to force trucks to travel down Route 541 instead of turning left and traveling through town. Mr. Mosley responded that the Subject Property will provide a full moving driveway, but they are willing to work with the Board's professionals and add signage to encourage trucks to go down Route 541.

39. Mr. Dochney also asked if the Applicant considered providing trucks with direct access from Route 541, instead of having them go down Irick Road. Mr. Harvey responded that the trucks entering off Irick Road would help separate passenger car traffic and truck traffic and filter the trucks into the Irick Road access point. Mr. Mosley further responded that it is easier for tractor trailers to go counterclockwise as they arrive.

40. Mr. Guerrero further asked if the Applicant considered the egress off the backside of Route 541 to keep the trucks from going around the roundabout. Mr. Mosley responded that they are trying to separate the passenger and truck traffic.

41. Mr. Guerrero also agreed with Mr. Odenheimer that the Applicant may want to consider having a right-turn only out of the facility to avoid trucks driving through town.

42. Mr. Guerrero asked whether the Applicant has provided a fire report to the Board. Mr. Harvey responded that he is waiting for the fire report from the Fire Official and will provide it to the Board.

43. Mr. Borger requested that the Applicant submit the Fire Report to the Board Secretary to add it to the record.

44. Mr. Sheehan stated that the Applicant will work with the Board for the signage to encourage only car traffic through town at the Irick Road entrance and exit.
45. Mr. Odenheimer asked, when the trucks are leaving on Route 541, whether they anticipate an equal distribution of trucks to travel via I-295 and the New Jersey Turnpike. Mr. Mosley responded that they do expect an equal distribution of trucks to travel via I-295 and the New Jersey Turnpike.
46. Mr. Thorpe asked why there is no egress off of Route 541 and advised that he is concerned about this element of the traffic plan. He stated that he would like the Applicant to provide an explanation as to why they are forcing all the trucks to utilize the roundabout. He also noted that he would like to implement more than just signage to prevent a lefthand turn out of the facility.
47. Mr. Mosley responded that the Applicant did extensive research, and the County approved the proposed traffic plans.
48. Mr. Thrope stated that he does not like the roundabout as proposed by the Applicant and expressed how a right-turn only would be a safety feature added to a roundabout.
49. Mr. Borger asked if the Applicant would be willing to add signage and a concrete barrier to force the trucks to turn right.
50. Mr. Werrell responded that the Applicant would be willing to add the signage for the Subject Property but advised that he would need to look into the site plan in detail before he can commit to a barrier. He also noted that the road is a County-designated road. He responded that, by adding the barrier, it will cut off the passenger cars' ability to turn left into the facility.
51. Mr. Thorpe explained how the roundabout would work with the barrier and that the barrier would be on the Subject Property, not the County road.
52. Mr. Odenheimer asked that the Applicant's professionals look at the site plan and consider a two-lane exit, providing a suggestion on how to prohibit trucks from turning left.
53. Mr. Werrell advised that the Applicant will consent to make the access on Irick Road a right-only so that the trucks cannot go down Irick Road into the town.
54. Ms. Furey-Bruder provided concluding testimony on the variances requested by the Applicant and how the Applicant's variance applications meet the requirements for bulk variance under the MLUL.
55. Mr. Thorpe discussed lighting options the Applicant selected and is requesting that they consider utilizing a better option with a higher CRI.
56. Mr. Dochney responded that the Applicant already agreed to use lights with a CRI of 90 or higher.

57. Mr. Guerrero asked about the Applicant's signage package. Mr. Werrell responded that the Applicant does not have a sign package right now but will submit one when they go for the construction permits. The Applicant will not be seeking any waivers for signage.

58. After testimony was presented by the Applicant and comments were made by the Board and the Board professionals, the matter was opened to the public for comment:

59. Mr. Bryan O'Neal asked if Irick Road would be done before the warehouse is constructed or if it would all be constructed at the same time. Mr. Werrell responded that modifications to Irick Road will be completed first.

60. Mr. O'Neal also asked why the Applicant is constructing a roundabout. Mr. Mosley explained the Applicant's reasoning for constructing a roundabout for the Subject Property.

61. No more public comment was offered; public comment was closed by the Board.

62. Following a summary of the Application by the Board's Solicitor, Mr. Borger asked for a motion to approve or deny the application subject to the conditions to which the Applicant agreed. The Motion to approve was made by Mr. Thorpe and seconded by Mr. Guerrero.

63. Due to technical difficulty, Mr. Holshue was not able to activate his video or audio on Zoom but was able to cast his vote by providing an affirmative indication through Zoom.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the Applicant's Application for preliminary and final major site plan approval of the Subject Property upon motion duly made by Mr. Odenheimer and seconded by Mr. Guerrero was and is hereby **GRANTED**, subject to the representations set forth on the record by the Applicant and the Applicant's professionals, and any conditions set forth on the record and stated herein.

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.

11. The Applicant shall comply with all other applicable Township Code requirements.

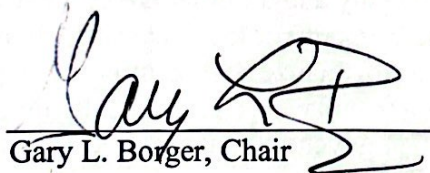
ROLL CALL VOTE

Ayes Nays Abstentions Recusal

Board Members				
Mr. Borger	X			
Mr. Guerrero	X			
Mr. Henley	X			
Mr. Holshue	X			
Ms. Tolor	X			
Mr. Odenheimer	X			
Mr. Thorpe	X			
Mr. Jones	X			
Mr. Singh	X			

WESTAMPTON LAND DEVELOPMENT BOARD

BY:



Gary L. Borger, Chair

ATTEST:



Jennifer Cragg, Board Secretary

DATE MEMORIALIZED: March 6, 2024