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MEMORANDUM

TO: West Windsor Township Zoning Board of Adjustment

FROM: Ian L. Hill, PE 
Zoning Board of Adjustment Engineer

DATE: September 16, 2020

SUBJECT: **Windsor 1 Developers, LLC**
D-4 FAR and D-6 Height variances w/ C Bulk Variances
Preliminary & Final Major Site Plan and Minor Subdivision
Block 7, Lot 59
3499 Brunswick Pike (US Highway Route 1) & Emmons Drive
ZB19-06

Documentation:

The following documents have been submitted for review:

- A. Set of drawings entitled "Preliminary and Final Site Plan & Minor Subdivision for Windsor 1 Developers, LLC – Proposed Wawa Food Market and Fueling Station and Hotel – Block 7, Lot 59; Tax Map Sheet #13.02 – Latest Rev. Dated 01-01-1996 – U.S. Route 1 (Brunswick Pike) and Emmons Drive – Township of West Windsor, Mercer County, New Jersey, 08540", twenty-three (23) sheets total, prepared by Dynamic Engineering Consultants, P.C., (Matthew Sharo, PE), dated January 6, 2020, revised through August 5, 2020;
- B. Architectural Elevations and Floor Plan for the Wawa Food Market, 1 sheet total, prepared by Andrew Durin, Architect dated August 21, 2020;
- C. Architectural Elevations for the Wawa Fueling Station, 1 sheet total, prepared by Andrew Durin, Architect dated August 21, 2020;
- D. Architectural Rendering entitled "Hyatt House Hotel Prototype Rendering: Exterior Day" prepared by Ben Horten Architecture & Design dated August 4, 2020;
- E. Report entitled "Stormwater Management, Groundwater Recharge and Water Quality Analysis – Prepared for Windsor 1 Developers, LLC – Proposed Wawa Food Market and Fueling Station and Hotel – U.S. Route 1 (Brunswick Pike) & Emmons Drive – Block 7, Lot 59 - Township of West Windsor, Mercer County, New Jersey prepared by Dynamic Engineering Consultants, P.C., (Matthew Sharo, PE), dated January 2020, revised through April 2020;

VanCleefEngineering.com

Please Reply To:

WESTERN NJ OFFICE
1128 Route 31 • Lebanon NJ 08833
908.735.9500 • Fax: 908.735.6364

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Hillsborough NJ • Mt. Arlington NJ • Freehold NJ • Phillipsburg NJ
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- F. Document entitled "Operation & Maintenance Plan for Windsor 1 Developers, LLC – Proposed Wawa Food Market and Fueling Station and Hotel - U.S. Route 1 (Brunswick Pike) & Emmons Drive – Block 7, Lot 59 - Township of West Windsor, Mercer County, New Jersey prepared by Dynamic Engineering Consultants, P.C., (Matthew Sharo, PE), dated January 2020, revised through April 2020;
- G. Document entitled "Water and Sanitary Sewer Engineer's Report for Windsor 1 Developers, LLC – Proposed Wawa Food Market and Fueling Station and Hotel - U.S. Route 1 (Brunswick Pike) & Emmons Drive – Block 7, Lot 59 - Township of West Windsor, Mercer County, New Jersey prepared by Dynamic Engineering Consultants, P.C., (Matthew Sharo, PE), dated February 2020, revised through August 2020;
- H. Traffic Engineering documentation, prepared by Dynamic Traffic, LLC, including:
- Traffic Volume Figures;
 - Traffic Counts;
 - Traffic Capacity Analysis; and
 - Traffic Crash Reports
- I. Development Application Package Including
- Development Application;
 - Application to West Windsor Zoning Board of Adjustment;
 - Zoning Board of Adjustment Checklist;
 - Request for Bulk Variance;
 - Request for Variance including, but not limited to a Use or Structure not Permitted in a Zoning District;
 - Request for Conditional Use Approval;
 - Site Plan Checklist;
 - Subdivision Checklist;
 - West Windsor Township Environmental Impact Statement Worksheet (included in Environmental Impact statement);
 - West Windsor Township Green Development Practices Checklist (included in Environmental Impact statement); and
 - Attachment D – Major Development Stormwater Summary form

In addition to the above, the below documents were previously submitted for review and are presumed to remain part of the record documentation for the application.

- J. Plan entitled "Minor Subdivision Plan – Windsor 1 Developers, LLC – Existing Conditions, Block 7, Lot 59 – Route 1 and Emmons Drive Township of West Windsor, Mercer County, New Jersey", one (1) sheet total, prepared by Dynamic Survey, LLC., (Craig Black, PE & LS), dated January 14, 2020, unrevised;

- K. Plan entitled "ALTA/ASCM Land Title Survey - Paramount - Existing Conditions, Block 7, Lot 59 - Route 1 and Emmons Drive Township of West Windsor, Mercer County, New Jersey", one (1) sheet total, prepared by Dynamic Survey, LLC., (Craig Black, PE & LS), dated April 4, 2019, unrevised;
- L. Set of architectural drawings for the proposed Hyatt House hotel, eleven (11) sheets total, consisting of floor plans, sections, guest room plans and elevation drawings prepared by Horten Architecture & Design (Benjamin J. Horten, R.A.), dated March 3, 2020;
- M. Report entitled "Environmental Impact Statement - Prepared for Windsor 1 Developers, LLC - Proposed Wawa Food Market and Fueling Station and Hotel - U.S. Route 1 (Brunswick Pike) & Emmons Drive - Block 7, Lot 59 - Township of West Windsor, Mercer County, New Jersey prepared by Dynamic Engineering Consultants, P.C., (Matthew Sharo, PE), dated January 2020, unrevised; and
- N. Cover letter from DuBois & Associates to NJDEP dated February 6, 2020 that accompanied an application for a Freshwater Wetlands Transition Area Waiver application for the project;

Summary:

The applicant is requesting minor subdivision of the lot, preliminary and final site plan approval along with various use and bulk variances from the West Windsor Zoning Board of Adjustment for a project that involves the proposed redevelopment of Lot 59 in Block 7. The property is currently occupied by a Clarion Hotel and attached restaurant. The existing building and other existing site features are proposed to be demolished as part of the redevelopment. The property is 5.51 acres in size and fronts on both US Route 1 as well as Emmons Drive. It is located within the B-2 zoning district and is serviced by public sewer and water.

The redevelopment will consist of a 5,585 square foot Wawa convenience store retail use with sixteen (16) fueling stalls and a 4-story, 75,700 square foot, 120-room Hyatt hotel use with ancillary improvements including, but not limited to, driveways, parking areas, pedestrian and bicycle facilities, landscaping and lighting. With the adoption of Ordinance 2020-17, both the convenience store with gasoline service station and hotel uses are permitted uses within the B-2 zoning district, whereas previously they were conditional uses under the B-2 standards. The hotel use requires a D-4 Floor Area Ratio (FAR) variance where 0.35 is the maximum permitted and 0.45 is proposed, as well as a D-6 Height variance, per the applicant's request form. Commentary on the merits of the zoning and relief aspects of the application are deferred to the Board Planner.

I have reviewed the documents submitted and offer the following for the Board's consideration.

1.0 Minor Subdivision

- 1.01 The applicant is requesting a waiver from Minor Subdivision Checklist Item 200-50.C (15) which requires a Letter of Interpretation (LOI) issued by NJDEP. The plans indicate the existence of wetlands in the rear of the property and the proposed improvements do not extend beyond the existing limit of disturbance in this area. The applicant has also submitted an application to NJDEP (see previous Submission Item L, above) for a Transition Area Waiver for the proposed improvements. As such, I have no objection to granting this waiver.

- 1.02 It is presumed that the minor subdivision, if approved by the Board, will be perfected by deed. If this is the case, legal descriptions for each lot and any existing or proposed easements contained thereon shall be submitted for review and approval of the Board Engineer. Deed instruments shall be subject to the approval of the Board Attorney. Should the applicant decide instead to file via Plat, same will be subject to the review and approval of the Township Engineer. This should be made a condition of any Board action on this application.
- 1.03 Block and lot numbers to be utilized for the new lots shall be as assigned by the Township Engineer.
- 1.04 Emmons Drive is classified in the Circulation Plan Element of the Township Master Plan as a minor collector which requires a right-of-way width of 60 feet, per section 200-56.B.(e) of the Township Code. The existing width from the road centerline to the right-of-way line is 30 feet. As such, no additional right-of-way is required to be dedicated along the Emmons Drive frontage as a result of the proposed subdivision. The taking of additional right-of-way along the US-1 frontage is at the discretion of NJDOT and will be determined as part of any Highway Access Permit application process the applicant is required to undertake.
- 1.05 The "Request for Bulk Variance" form submitted indicates that the proposed hotel lot will be 3.87 acres in size and requires a bulk variance. I believe this is a holdover from when the hotel was a conditional use and no longer applies. The form should be updated to reflect current zoning and resubmitted.

2.0 Site Plan

- 2.01 The applicant is requesting the following waivers from the Township Site Plan Checklists:
 - a. 200-13.C Preliminary Site Plan Details
 - Checklist Item (9) requires submission of an LOI. See Comment 1.01 above; I have no objection to granting this waiver.
 - Checklist Item (11) requires the submission of a Traffic Signage Plan. The plans show all of the proposed traffic signs and striping so I have no objection to the waiver of a formal dedicated Traffic Signage Plan, subject to the Township traffic Consultant's input.
 - b. 200-14.C.1 Final Site Plan Details
 - Checklist Item a) requires the submission of the approved preliminary site plan and resolution of approval. As the applicant is seeking preliminary and final site plan approvals concurrently, this item is "not applicable" to this application.
 - Checklist Item b) (6) requires the submission of a Traffic Signage Plan. See Comment 2.01.a.; I have no objection granting this waiver, subject to the Township Traffic Consultant's input.
- 2.02 Retaining walls in excess of 4 feet in height are proposed along the rear of the hotel within the delineated freshwater wetlands transition area. Structural design of these walls and NJDEP approval of the transition area waiver requested will be required prior to the issuance of construction permits for same.

2.03 The applicant should provide testimony related to the proposed “propane kiosk” adjacent to the westerly building wall of the Wawa. Will it be a “Blue Rhino”-type bottle exchange facility? I defer to the Board Planner and Attorney to advise the Board if this is a permitted use in the B-2 zoning district.

3.0 Access and Circulation:

3.01 The applicant should provide testimony regarding any consideration that was given to providing vehicular cross-access with the adjacent Windsor Green property.

3.02 Traffic study information was provided by the applicant. I defer to the Township Traffic Consultant to provide commentary on its merits.

3.03 It should be discussed whether a cross-access easement between the Wawa and Hyatt lots is necessary, as the two parking lots are interconnected.

3.04 The site plan adequately addresses pedestrian interconnections between the hotel, the Wawa and the adjacent Village Green property. Likewise, ADA accessibility appears to have been adequately addressed on both sites.

3.05 Off-street motor vehicle parking requirements for each of the proposed uses are as follows per Ordinance section 200-27.B.(1):

a. Hotel – 1 space per rental room, plus 1 space per each two employees

- The proposed hotel will have 120 rooms and the applicant has indicated that there will be a maximum of 12 employees working on any given shift, resulting in a parking demand of 126 spaces, which is the number provided.
- The applicant should provide testimony on whether the hotel would be seeking a plenary retail consumption liquor license for this hotel (which it is entitled to as it has more than 100 rooms) and, if so, how many seats the bar/lounge would have. Based on this number, it should be discussed whether this would have an impact on required parking,

b. Retail and Fueling station

- The retail use has a range for parking demand with a minimum of 1 space per 350 sf of gross floor area (GFA) and a maximum of 1 space per 200 sf of GFA. Given a GFA of 5,585 sf, this results in a range of required parking between 16 and 28 spaces.
- The fueling station standard requires one space per fueling location plus one space per employee. Given 16 fueling locations and 12 employees yields a parking demand of 28 spaces.
- Combining the two uses yields a range of between 44 and 56 spaces; 50 are proposed, which is conformance with the Township standard.

3.06 Section 200-27.B.(2) requires one bicycle parking space per each 20 vehicle parking spaces. This results in three spaces being required for Wawa and seven for the hotel. Both the Wawa and the hotel provide the proper number in accordance with the ordinance requirements.

3.07 Both lots require a loading area per Section 200-27.D, but only the Wawa is proposing to provide one. A design waiver will be required for the hotel with supporting testimony to the Board’s satisfaction.

- 3.08 Section 200-29.B.(2) prohibits parking and loading between the front building line and the street line. Both lots will require relief with respect to the parking spaces and the Wawa will require additional relief for the loading area.
- 3.09 Section 200-29.D.(1) requires parking spaces to be curbed between it and the principal structure with the sidewalk raised 6 inches above the parking area. The Wawa is proposing a flush curb/bollard combination to provide similar protection. A design waiver will be required with justification by the applicant.
- 3.10 Section 200-29.I.(d) requires that no part of any driveway shall be located within a minimum of 10 feet of a side property line. However, the Planning Board (in this case, the Zoning Board) may permit a driveway serving two or more adjacent sites to be located on or within 10 feet of a side property line between the adjacent sites. The Wawa driveway from Emmons Drive is within 10 feet of the side property line with the hotel site, but the driveway also connects to the hotel site, so the Board can decide whether or not this requires relief, at its discretion.
- 3.11 Section 200-29.M.(4) requires that parking spaces be double-striped (hairpin-style) whereas both lots are proposing single-striped stalls. The design should be revised to comply or a design waiver will be required with supporting testimony to the Board's satisfaction.
- 3.12 Section 200-29.N.(3) requires that driveways be 30 feet in width to accommodate both bicycle and vehicular two-way travel. The main Wawa driveway accommodates this standard, but the hotel driveways do not. A design waiver will be required if the applicant is unable to increase the width of the hotel driveways to meet the standard.
- 3.13 Further comment on the access and circulation aspects of the proposed design are deferred to the Township Traffic Consultant.

4.0 Stormwater Management:

- 4.01 The proposed development will result in the disturbance of over 1 acre of land. As such, it must comply with the Township Stormwater Management Ordinance. However, since this is a redevelopment site that has slightly reduced the impervious coverage from the existing to proposed conditions, the following are true:
 - Because the proposed development does not result in the addition of over ¼-acre of new impervious surface, the applicant is not required to employ water quality measures on the stormwater discharges. However, I note that Downstream Defender mechanical vortex separator units are being provided upstream of all discharges to the NJDOT system in US-1 and that maintenance of these units is addressed in the Operation and Maintenance Plan (Submission Item F, above).
 - Because the proposed condition will have less impervious coverage than the existing condition and the time of concentration does not change between the two conditions, it follows that the post-development hydrograph will not exceed the pre-development hydrograph at any point in time; thus satisfying the water quantity management portion of the ordinance.
 - Similarly, because of the reduction in impervious coverage, the post-developed condition will have a higher groundwater recharge volume than the existing condition, thus satisfying that aspect of the ordinance.

- Essentially, the applicant has met the requirements “non-structurally” simply by choosing to develop a previously developed site at slightly less intensity, rather than building on “virgin ground”.

- 4.02 I have reviewed the storm sewer design for both sites and find each to be acceptable.
- 4.03 Section 200-36.1 requires the use of pervious surfaces for all sidewalks, trails, courtyards and other site amenities. The applicant is seeking design waiver relief from this standard and testimony to the Board’s satisfaction in support of that request must be provided.
- 4.04 The applicant has submitted an Operation and Maintenance Plan for the stormwater infrastructure. I have had the opportunity to review same and find it to be acceptable given the limited stormwater infrastructure required.
- 4.05 The applicant is to address their proposed means of handling their periodic discharge of pool water for the hotel. The discharge of same to surface waters, such as through the stormwater collection system, is permitted under DEP General Permit (NJ0128589) subject to meeting the conditions of the permit.

5.0 Utilities

- 5.01 Sanitary sewer demand calculations have be provided, both for the existing hotel and for the proposed development. The proposed sanitary sewer demand for the overall development is 11,558.5 gallons per day (gpd), which is in excess of the 8,000 gpd threshold for which a Treatment Works Approval (TWA) permit becomes required. In addition, the calculations indicate an increase of 3,083.5 gpd in sewer demand from the existing to proposed conditions, which will require the applicant to be granted additional allocation from the Township Council. This should be made a condition of any Board action on this application.
- 5.02 The sewer lateral connection for the Wawa shows a 1,750-gallon grease trap (external grease interceptor – EGI) and a grease monitoring pit directly downstream in accordance with Township Ordinance Section 133-30. Construction details for each must be added to the plans.
- 5.03 No EGI is shown for the hotel use. The submission letter indicates that the hotel will be serviced by an internal grease interceptor (IGI). A note to this effect shall be added to the plans, also noting that it must comply with the requirements of Section 133-30.
- 5.04 The existing sanitary sewer service on the site is identified as an 8” clay pipe that exits the hotel building at some unidentified location and connects to an existing manhole along the westerly property line. From there, it connects to an existing manhole along the curblineline of the private drive that runs along the rear (northwest) property line of the development site. This run between manholes is problematic, as it is shown as 8” clay on one end and 8” PVC on the other. It also is not a straight run between manholes; it has two cleanouts attached and a significant bend in the middle of the run. It is also laid within a wooded wetlands area. This pipe run must be jetted and televised to determine the composition and integrity of the line. If the video indicates root intrusion or other structural integrity issues that would contribute to the inflow and infiltration (I&I) problems in the existing system, then mitigation methods (e.g. sliplining) must be employed. A copy of the video shall be provided to the Township Engineer and the Department of Public Works for their input. This work would need to be

completed prior to any certificates of occupancy issued for the project and should be made a condition of any approvals granted by the Board.

- 5.05 Public water for this development will be provided by NJ American Water. Proposed hydrant locations are subject to the review and approval of the Director of Fire and Emergency services.
- 5.06 Other utilities (electric, telephone, CATV, gas, etc.) shall be installed per the designs of the respective public utilities.

6.0 Lighting

- 6.01 The overall development site is proposed to be lit through a combination of pole-mounted, building-mounted and bollard light fixtures. There are 17 pole-mounted fixtures mounted on 15 poles (two back-to back fixtures on two different poles), 56 building-mounted fixtures and 10 bollard light fixtures proposed.
- 6.02 Ordinance Section 200-31.D requires that all lighting not required for security purposes be turned off by 11:00 pm. The applicant has indicated that all lights will remain on all night due to security concerns and 24-hour operation of each use. Testimony to the Board in support of this position shall be provided.
- 6.03 Ordinance Section 200-31.K.(1) requires that lighting design of parking lots average 0.5 footcandle and intersections average 3.0 footcandles. The proposed lighting design yields the following:

	Parking Areas	Intersections
Wawa	3.19 foot-candles	3.48 foot-candles
Hyatt Hotel	3.02 foot-candles	3.05 foot-candles

The plans indicate that the applicant will request design waivers from the requirements of 200-31.K.(1) for the listed exceedances. Testimony to the satisfaction of the Board in support of this request will be required.

- 6.04 The average light values at the fueling station canopy and the hotel's porte cochere are extremely bright, at 23.83 and 22.14 footcandles, respectively, although the levels have been significantly reduced from the previous proposal (29.79 and 37.03 footcandles, respectively). The applicant must provide testimony on glare impacts to traffic on adjoining roadways, especially for US-1 from the Wawa fuel pump canopy and what sort of shielding will be employed to mitigate it.

7.0 General Comments

- 7.01 As previously mentioned, metes and bounds descriptions for both lots, any proposed easements and dedications, with closure calculations for same, are to be submitted for review and approval of this office. The forms of any easement or dedication shall be reviewed and approved by the Board Attorney. This should be made a condition of any Board action on this application.

- 7.02 All construction details are subject to the review and approval of the Township Engineer. This should be made a condition of any Board action on this application.
- 7.03 The applicant is required to submit an Engineer's construction cost estimate for review. The Applicant will be required to post performance guarantees and inspection fees for the site improvements and frontage improvements in accordance with the MLUL and the Township Ordinance. This should be made a condition of any Board action on this application.
- 7.04 As per Ordinance section 200-81.1 the applicant will be required to provide, via both hard copy and in electronic format, approved subdivision and site plans being submitted for signature and as-built surveys upon project completion should this project be approved and constructed. Electronic copies of the Stormwater Management Report and Maintenance Manual are also requested upon approval of same. This should be made a condition of any Board action on this application.
- 7.05 Other outside agency approvals will also be required. The following approvals are anticipated at this time:
- Mercer County Planning Board - **Provided**
 - Mercer County Soil Conservation District - **Provided**
 - Delaware and Raritan Canal Commission – **Staff Report of compliance provided.**
 - New Jersey Department of Transportation (Highway Access Permit)
 - NJDEP (LOI, Transition Area Waiver)
 - NJDEP Treatment Works Approval
 - NJDEP 5G3 Construction Stormwater Discharge Permit (to be provided prior to construction)

All outside agency approvals are to be obtained as a condition of any approval that may be granted.

This concludes my comments on the current submission. I will attend the Board of Adjustment's public hearing on September 24, 2020 to hear the applicant's presentation and offer additional commentary based on this report and the applicant's testimony.

ILH

cc: Lisa Komjati Dan Dobromilsky, LLA, PP, CTE
Sam Surtees Francis Guzik, PE, CME
Jim Yates David Novak, PP, AICP
Stephen Nehmad, Esq James Kochenour, PE
Matthew Sharo, PE Chris Jepson, PE



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
ASSOCIATES, INC.

Principals:
Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

MEMORANDUM

To: West Windsor Zoning Board of Adjustment
West Windsor Division of Land Use

From: David Novak PP, AICP

Subject: Windsor 1 Developers, LLC
Preliminary and Final Site Plan & Minor Subdivision
"d" and "c" Variance Relief
Block 7 Lot 59
3499 US Route 1

Date: September 16, 2020

BA#: 3688.02

WWT#: ZB19-06

Introduction

The applicant, Windsor 1 Developers, LLC, has submitted an application seeking minor subdivision approval and preliminary/final site plan approval as well as "d(4)" floor area ratio variance relief, "d(6)" height variance relief, "c" variance relief, and waiver relief for the development of a Wawa convenience store with fueling stations and a four-story Hyatt House Hotel. The site, which is identified by municipal tax records as Block 7 Lot 59, is located at 3499 US Route 1 in the B-2 Business District.

In addition to the application form and application checklists, the following has been submitted for review:

1. Preliminary and Final Site Plan and Minor Subdivision Plan prepared by Dynamic Engineering, dated January 6, 2020 (dated August 5, 2020), consisting of twenty (20) sheets.
2. Minor Subdivision Plan prepared by Dynamic Survey, LLC, dated January 14, 2020 (no revision date), consisting of one (1) sheet.
3. Alta/NSPS Land Title Survey prepared by Dynamic Survey, LLC, dated April 4, 2019 (no revision date), consisting of one (1) sheet.
4. Architectural Plan for Hyatt House prepared by Ben Horton Architecture & Design, dated March 3, 2020 (no revision date), consisting of eleven (11) sheets.
5. Architectural rendering for the Hyatt House prepared by Ben Horton Architecture & Design, dated August 4, 2020 (no revision date), consisting of one (1) sheet.
6. Wawa Architectural Plan, prepared by Cuhaci & Peterson, undated, consisting of one (1) sheet.
7. Wawa Canopy Architectural Plan, prepared by Cuhaci & Peterson, undated, consisting of one (1) sheet.

Property Description

The subject site is located in the northwesterly portion of the Township, at the intersection of US Route 1 and Emmons Drive. The site has an area of 5.51 acres and is somewhat rectangularly shaped. It is a corner lot, and fronts along US Route 1 and Emmons Drive for approximately 313 feet and 779 feet, respectively.

The site is presently developed with a two-story building which contains a Clarion Hotel Palmer Inn and the Anjappar Indian Bar and Grill. This building is located within the front (southeasterly) and central portions of the site. The rear of the site is largely forested and contains a wetland area. Altogether, approximately two hundred and thirty-one (231) parking spaces presently exist on site. These spaces are located to the north, south, east, and west of the existing building. Access to the site is provided by two (2) driveways: a right-in/right-out driveway located along US Route 1, as well as a full-movement driveway located along Emmons Drive.

Surrounding land uses consist of: retail, office, and commercial uses to the north; the Square at West Windsor shopping center to the east; an undeveloped property and a shopping center to the south; and the Windsor Green Shopping Center to the southwest. See the aerial at the end of this memorandum for an overview of the subject site and its surrounding environs.

Proposed Improvements

The applicant is proposing to demolish the existing building, subdivide the property into two (2) separate lots, and construct a Wawa Food Market & Fueling Station and a four-story Hyatt House Hotel. The following is noted:

1. Wawa Food Market & Fueling Station. The applicant proposes to develop the front portion of the site with a Wawa Food Market and Fueling Station. The Wawa Market will have an area of 5,585 square feet. The architectural plan indicates that its interior will consist of a food service area with an associated walk-in freezer and refrigerator, mechanical/electrical rooms, retail aisles, offices, and restrooms. The façade of the building will largely consist of a stone veneer base, tan and grey EIFS, white trim, and metal canopies and roofing.

Furthermore, a fueling station is proposed to be located to the northeast of the proposed Wawa. This station will contain four (4) kiosks and eight (8) fueling stations, which would accommodate sixteen (16) fueling positions. The columns of the canopy will consist of a stone veneer base, while the roof will consist of a metal canopy.

Fifty (50) parking spaces are proposed for the Wawa, which will be located to the building's westerly, southerly, and easterly façades. Access to the site is proposed to be provided by a right-in/right-out driveway along US Route 1, a full-movement driveway along Emmons Drive, and a shared access aisle with the proposed Hyatt House Hotel.

2. Hyatt Hotel. In addition to the aforementioned, the applicant proposes to develop the central portion of the site with a four-story Hyatt House Hotel. The hotel will have a footprint of approximately 21,643 square feet and a total area of 75,700 square feet. It is proposed to contain one hundred and twenty (120) rooms, as well as a gathering room, public computer area, social seating/commons room, dining area, coffee station/guest kitchen, offices, mechanical/storage rooms, workout room, and an indoor pool. The façade of the hotel will consist of brick, EIFS, stone/cast stone trims, and metal coping.

One hundred and twenty-six (126) parking spaces are proposed for the Hyatt House Hotel. These spaces will be located in two (2) separated parking areas. The main parking area is to be located to the east of the proposed hotel and will contain one hundred and four (104) parking spaces. A smaller parking area is to be located to the north of the proposed hotel and will contain twenty-two (22) parking spaces. Access to the hotel lot is to be provided by two (2) full-movement driveways along Emmons Drive, as well as and a shared access aisle with the proposed Wawa as previously discussed.

Master Plan

As per the 2020 Land Use Plan, the site is located in the B-2 land use category and corresponding zoning district, which generally permits retail stores and shops, personal service establishments, offices, eating and drinking establishments, and planned commercial developments. The areas which are currently located in this district are generally developed with larger commercial centers that include locally oriented goods and services, as well as goods and services which attract a more regional clientele. Both Market Fair and the Windsor Green Shopping Center are located in this district, as well as smaller, individual commercial uses located in the vicinity of Emmons Drive and Farber Road. The district is also located in close proximity to some of the Township's inclusionary and mixed-use housing developments as well as the Carnegie Center office development.

The 2020 Land Use Plan recommends that the Township expand this land use category and corresponding zoning district to two (2) additional areas in the Township, both of which are located along the US Route 1 corridor. It also recommends that the Township expand the list of permitted uses in the B-2 District to include: hotels; fitness and wellness centers; fast food restaurants and banks with drive-throughs; urgent care and out-patient surgical facilities; elder care facilities; freestanding mortuaries without crematoriums; and gasoline service stations with convenience stores. It further recommends that the B-2 District permit fee-simple subdivided lots. These recommendations were ultimately incorporated into the Township's zoning regulations by Ordinance No. 2020,17, which was adopted by the Township Council on July 28, 2020.

Ultimately, the intent of the B-2 land use category and corresponding district is to recognize and preserve the existing development pattern of this district. Where development and future development is proposed, it should be done so in a manner which promotes an attractive and unified design, meets the needs of both local residents and a regional clientele, and avoids negative impacts to the existing traffic patterns in the surrounding area. For those portions of the district along the US Route 1 corridor, access easements and driveways will be provided between properties to the greatest degree feasible in order to reduce the number of trips onto the highway. Buffering along the US Route 1 corridor is also strongly encouraged.

Zoning

The site is presently located in the B-2 District, wherein convenience stores in conjunction with a gasoline service station as well as hotels are both identified as permitted uses. The following tables compare the proposed development's compliance with the bulk standards of the B-2 District.

For ease of reference, three (3) separate tables have been provided. Table 1 summarizes the lot requirements of the proposed subdivision, Table 2 summarizes the bulk standards of the proposed Wawa and gasoline service station, and Table 3 summarizes the bulk standards of the proposed Hyatt House Hotel.

Table 1: B-2 District Standards

Regulations	Required	Existing	Proposed Wawa Lot	Proposed Hotel Lot	Code
Minimum Lot Area (ac)	1	5.51	1.64	3.86	200-202.A
Minimum Lot Frontage (ft)	125	1,092.50	558.30	534.20	200-202.B
Minimum Lot Width (ft)	150	313.00	313.00	534.20	200-202.C
Minimum Lot Depth (ft)	200	779.50	221.50	278.28	200-202.D

Table 2: Proposed Wawa Bulk Standards

Regulations	Required	Proposed Wawa Lot	Code
Minimum Yards			200-202.E
Front Yard (ft): US Route 1	30	68.00	200-202.E.(1)
Front Yard (ft): Emmons Dr	30	40.00	200-202.E.(1)
Rear Yard (ft)	15	95.50	200-202.E.(2)
Side Yard (ft)	15	30.50	200-202.E.(3)
Maximum FAR (%)	0.18	0.08	200-202.F
Maximum Imp. Coverage (%)	55	(V) 82.70	200-202.G
Max. Building Height (st/ft)	2.5/35	1/33	200-202.H

Table 3: Proposed Hyatt House Hotel Bulk Standards

Regulations	Required	Proposed Hotel Lot	Code
Minimum Yards			200-202.E
Front Yard (ft): Emmons Dr	30	(V) 11.10	200-202.E.(1)
Rear Yard (ft)	40	56.10	200-202.I.(2)
Side Yard (ft)	40	101.70	200-202.I.(2)
Maximum FAR (%)	0.18	(V) 0.45	200-202.F
Maximum Imp. Coverage (%)	55	41.70	200-202.G
Max. Building Height (st/ft)	4/55	(V) 4/61.3	200-202.I.(1)
Minimum Number of Units (#)	20	120	200-202.I.(3)
Minimum Room Size (sf)	250	>250	200-202.I.(4)

Variance and Waiver Relief: Proposed Wawa

The applicant has requested variance relief pursuant to 40:55D-70.c as well as waiver relief for the following items for the proposed Wawa. Please see the statutory criteria section of this review memorandum for additional comments on these variances.

"c" Variance Relief

1. Improvement Coverage. Variance relief has been requested from Section 200-202.G which establishes a maximum improvement coverage of fifty-five percent (55%), whereas the applicant has proposed a coverage of 82.70%. This represents approximately 19,890 square feet more of improvement coverage than what is otherwise permitted by code.
2. Landscaping. The following variances are related to landscaping:
 - a. Landscaping for Nonresidential Uses. Variance relief has been requested from section 200-228.A which establishes that in any nonresidential district, the entire lot, except for areas covered by buildings or surfaced as parking, recreation or service areas, shall be seeded, sodded or planted with ground cover and suitably landscaped in accordance with an overall landscape plan consistent with the natural surroundings. All landscaping shall be properly maintained throughout the life of any use on said lot. Existing trees or landscaping located within 20 feet of any street line, lot or zoning district line shall not be removed, except upon written approval by the Planning Board, nor shall the existing grade within that space be disturbed without such approval.

The applicant should specify the specific provision of this requirement from which variance relief is requested.

- b. Landscaping for Parking Areas. Variance relief has been requested from Section 200-228.B.(2) which establishes that any single parking area with fifty (50) or more parking spaces shall provide at least five percent (5%) of its area in landscaping. The applicant should specify what percentage is proposed in order to determine the extent to which variance relief is required.

Waiver Relief

The applicant requires waiver relief from the following items:

1. Parking, Loading, and Circulation. The following waivers are related to parking, loading, and circulation:
 - a. Location of Parking and Loading Area. Waiver relief has been requested from Section 200-29.B.(2) which establishes that parking lots as well as loading and unloading areas are prohibited in the area between the front building line and the street line.
 - b. Sidewalks. Waiver relief has been requested from Section 200-29.D.(1) which establishes that sidewalks between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur shall be provided with a minimum width of four feet of passable area and be raised six inches or more above the parking area, except when crossing streets or driveways. The sidewalks for the Wawa are proposed to be flush with bollards.
 - c. Striping. Waiver relief has been requested from Section 200-29.M.(4) which establishes that "in outdoor parking or service areas for uses open to the public, parking spaces shall be double-striped between spaces with eighteen (18) inches on center," and that "such areas shall be curbed." The proposed parking spaces will not be curbed, and will only have single-line striping.
 - d. Roadway Access Standard. Waiver relief has been requested from Section 200-29.N.(3) which establishes that bicycle access should be combined with motor vehicle access where possible, and that two-way driveways are to be 30-feet wide to provide for bicycle access. It does not appear as if any bicycle lanes have been provided at this time
 - e. Use of Pervious Pavers. Waiver relief has been requested from Section 200-36.1 which establishes that impervious surfaces shall be used for all drives and parking areas, and pervious surfaces shall be used for all other paved areas. The applicant has proposed concrete sidewalks. In consideration of the aforementioned requested improvement coverage variance, testimony should be provided as to whether these sidewalks can be switched to a pervious material.

f. Location of Driveway. Waiver relief has been requested from Section 200-29.1(1)(d) which establishes that “no part of any driveway shall be located within a minimum of 10 feet of a side property line. However, the Planning Board may permit a driveway serving two or more adjacent sites to be located on or within 10 feet of a side property line between the adjacent sites.” The proposed driveway has a zero (0) foot setback from the proposed hotel lot.

2. Landscaping. The following waivers are related to landscaping:

- a. Landscape Buffer. Waiver relief has been requested from Section 200-91.P.(6) which establishes that landscape buffers are required to minimize and screen any adverse impacts or nuisances on a site or from any adjacent area. We note that no landscape buffer is proposed between the proposed Wawa and the proposed hotel.
- b. Landscape Buffer Width. Waiver relief has been requested from Section 200-91.P.(6)(c)[1][a] which requires a landscape buffer of twenty-five (25) feet in width or as per the requirements for front yards, whichever is greater. The proposed Wawa development requires a landscape buffer width of thirty (30) feet, whereas landscape buffer widths of nine and one-half (9.5) feet and fifteen (15) feet are provided along Emmons Drive and US Route 1, respectively.
- c. Mix of Landscaping. Waiver relief has been requested from Section 200-91.P.(6)(c)[2][a] which requires gentle berming with masses and groupings of evergreen, shade and ornamental trees, and shrubs. The planting may be predominantly mixed varieties of shade trees and evergreen shrubs. Parked cars shall be screened from all vehicular and pedestrian views. Shrubs used to screen headlight glare shall be spaced a minimum of two feet on center as a double row. We defer to the Township’s landscape architect regarding this matter.
- d. Staggered Row. Waiver relief has been requested from Section 200-91.P.(6)(d)[1] which requires a landscape strip consisting of a double staggered row of evergreen trees of six (6) feet to eight (8) feet in height spaced eight (8) feet on center. These staggered rows are not proposed.
- e. Landscaping in Parking Areas. Waiver relief has been requested from Section 200-91.P.(7)(c) which establishes that trees within parking areas shall be provided at a minimum rate of two (2) trees per ten (10) parking spaces. For reference, the proposed Wawa would require approximately ten (10) trees within the parking areas, whereas no trees are proposed.

- f. Screening of Parking Areas. Waiver relief has been requested from Section 200-91.P.7.(e) which establishes that parking areas shall be screened from interior drives using evergreen, deciduous and flowering trees, and shrubs to create a continuous landscape strip of ten (10) feet minimum width. No landscape screen is provided between the proposed Wawa and the proposed hotel.
3. Signage. The following waivers are related to signage:
- a. Wall Sign: Number of Signs. Waiver relief has been requested from Section 200-32.A.(2)(a)[1] which establishes a maximum of one (1) wall sign per business, whereas the proposed Wawa has two (2) such signs: one (1) on its front southeasterly façade, and one (1) on its rear northwesterly façade.
- b. Wall Sign: Area of Signs. Waiver relief has been requested from Section 200-32.A.(2)(a)[3] which establishes a maximum sign area of ninety percent (90%) of the linear business frontage, with a maximum area of fifty (50) square feet. The front façade has a sign area of 67.7 square feet, while both signs combined have collective areas of 104.6 square feet.
- c. Wall Sign: Letter Height. Waiver relief has been requested from Section 200-32.A.(2)(a)[4] which establishes a maximum letter height of eighteen (18) inches for wall signs, whereas the applicant has proposed letter heights of forty-four (44) inches and thirty-two (32) inches on the front and rear façades, respectively.
- d. Ground Mounted Sign: Number of Signs. Waiver relief has been requested from Section 200-32.A.(2)(c)[1] which establishes that one (1) ground-mounted project/tenant identification sign shall be permitted for each site, provided that a monument sign is not installed. The applicant has proposed a monument sign and a ground mounted sign.
- e. Ground Mounted Sign: Sign Area. Waiver relief has been requested from Section 200-32.A.(2)(c)[2] which establishes a maximum area of forty-eight (48) square feet, whereas the applicant has proposed an area of 88.63 square feet. The applicant should provide clarification as to how this area was calculated. We note that the Township's only excludes bases and/or caps from the calculation of sign area for monument signs.
- f. Ground Mounted Sign: Sign Height. Waiver relief has been requested from Section 200-32.A.(2)(c)[3] which establishes a maximum sign height, inclusive of the structure and sign area, of nine (9) feet above existing grade. The applicant has proposed a height of twenty (20) feet.

- g. Monument Sign: Sign Area. Waiver relief has been requested from Section 200-32.A.(2)(d)[2] which establishes a maximum area of forty-eight (48) square feet for monument signs, whereas the applicant has proposed an area of 49.87 square feet.
 - h. Monument Sign: Sign Height. Waiver relief has been requested from Section 200-32.A.(2)(d)[3] which establishes a maximum sign height of four (4) feet for monument signs, whereas the applicant has proposed a height of 7.83 feet.
 - i. Spanner Sign. Waiver relief has been requested for two (2) spanner signs, which are to be located beneath the canopy. Spanner signs are not identified as a permitted sign type in the Township's land use and development regulations.
4. Lighting. The following waivers are related to lighting.
- a. Average Footcandle. Waiver relief has been requested from Section 200-31.K.(1) which requires an average of 0.5 footcandles throughout parking lots. The applicant should specify the proposed average footcandle.
 - b. Intersections. Waiver relief has been requested from Section 200-31.K.(2) which requires 3.0 footcandles at intersections. The applicant should specify the proposed intersection footcandle.

Variance and Waiver Relief: Proposed Hotel

The applicant has requested variance relief pursuant to NJSA 40:55D-70.d and 40:55D-70.c as well as waiver relief for the following items for the proposed Hyatt House Hotel. Please see the statutory criteria section of this review memorandum for additional comments on these variances.

"d(4)" FAR Variance

Variance relief is requested pursuant to NJSA 40:55D-70.d(4) for an increase in the permitted floor area. Multi-story hotels are permitted a maximum FAR of 0.35, whereas the applicant has proposed a FAR of 0.46. This equates to approximately 16,750 square feet more of floor area than what is otherwise permitted by code.

The applicant should confirm the extent of the site's environmentally constrained areas. We note that Section 200-238 of the Township's zoning ordinance requires the permitted FAR be reduced based upon the presence of certain environmental features.

"d(6)" Height Variance

Variance relief has also been requested pursuant to NJSA 40:55D-70.d(6) for the height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure. Hotels are permitted a maximum height of four (4) stories and fifty-five (55) feet, whereas the applicant has proposed a height of four (4) stories and 61.3 feet as measured to the highest point of the canopy.

"c" Variance Relief

1. Front Yard Setback. Variance relief has been requested from Section 200-202.E.(1) which establishes a front yard setback of thirty (30) feet, whereas the applicant has proposed a front yard setback of 11.1 feet.
2. Landscaping. The following variances are related to landscaping:
 - a. Landscaping for Nonresidential Uses. Variance relief has been requested from Section 200-228.A which establishes that in any nonresidential district, the entire lot, except for areas covered by buildings or surfaced as parking, recreation or service areas, shall be seeded, sodded or planted with ground cover and suitably landscaped in accordance with an overall landscape plan consistent with the natural surroundings. All landscaping shall be properly maintained throughout the life of any use on said lot. Existing trees or landscaping located within 20 feet of any street line, lot or zoning district line shall not be removed, except upon written approval by the Planning Board, nor shall the existing grade within that space be disturbed without such approval.

The applicant should specify the specific provision of this requirement from which variance relief is requested,

- b. Landscaping for Parking Areas. Variance relief has been requested from Section 200-228.B.(2) which establishes that any single parking area with fifty (50) or more parking spaces shall provide at least five percent (5%) of its area in landscaping. The applicant should specify what percentage is proposed in order to determine the extent to which variance relief is required.

Waiver Relief

The applicant requires waiver relief from the following items:

1. Parking, Loading, and Circulation. The following waivers are related to parking, loading, and circulation:

- a. Location of Parking Area. Waiver relief has been requested from Section 200-29.B.(2) which establishes that parking lots as well as loading and unloading areas are prohibited in the area between the front building line and the street line.
- b. Striping. Waiver relief has been requested from Section 200-29.M.(4) which establishes that "in outdoor parking or service areas for uses open to the public, parking spaces shall be double-striped between spaces with eighteen (18) inches on center," and that "such areas shall be curbed." The proposed parking spaces will only have single-line striping.
- c. Number of Loading Spaces. Waiver relief has been requested from Section 200-27.D.(2) which establishes that hotels with floor areas between 10,001 square feet and 100,000 square feet require one (1) loading space, whereas the proposed hotel does not have any loading space.
- d. Number of Driveways. Waiver relief has been requested from Section 200-29.I.(1)(f) which establishes that where two (2) or more driveways connect a single site to any road, a minimum clear distance of two hundred (200) feet along the right-of-way line shall separate the closest edges of any two such driveways. The distance between the two (2) proposed driveways on the hotel lot is approximately one hundred and ten (110) feet.
- e. Acceleration/Deceleration Lanes. Waiver relief has been requested from Section 200-29.J which establishes that where access to a parking area of one hundred (100) or more parking spaces is proposed, acceleration and/or deceleration lanes shall be provided in accordance with design criteria established by the American Association of State Highway and Transportation Officials Standards Manuals.
- f. Roadway Access Standard. Waiver relief has been requested from Section 200-29.N.(3) which establishes that bicycle access should be combined with motor vehicle access where possible, and that two-way driveways are to be 30-feet wide to provide for bicycle access. It does not appear as if any bicycle lanes have been provided at this time.
- g. Use of Pervious Pavers. Waiver relief is required from Section 200-36.1 which establishes that impervious surfaces shall be used for all drives and parking areas, and pervious surfaces shall be used for all other paved areas. The applicant has proposed concrete sidewalks.

2. Landscaping. The following waivers are related to landscaping:

- a. Landscape Buffer. Waiver relief has been requested from Section 200-91.P(6) which establishes that landscape buffers are required to minimize and screen any adverse

impacts or nuisances on a site or from any adjacent area. We note that no landscape buffer is proposed between the proposed Wawa and the proposed Hyatt House Hotel.

- b. Landscape Buffer Width. Waiver relief has been requested from Section 200-91.P.(6)(c)[1][a] which requires a landscape buffer of twenty-five (25) feet in width or as per the requirements for front yards, whichever is greater. The proposed hotel development requires a landscape buffer width of seventy-five (75) feet, whereas a landscape buffer of nine and one-half (9.5) feet is provided along Emmons Drive.
- c. Mix of Landscaping. Waiver relief has been requested from Section 200-91.P.(6)(c)[2][a] which requires gentle berming with masses and groupings of evergreen, shade and ornamental trees and shrubs. The planting may be predominantly mixed varieties of shade trees and evergreen shrubs. Parked cars shall be screened from all vehicular and pedestrian views. Shrubs used to screen headlight glare shall be spaced a minimum of two feet on center as a double row. We defer to the Township's landscape architect regarding this matter.
- d. Staggered Row. Waiver relief has been requested from Section 200-91.P.(6)(d)[1] which requires a landscape strip consisting of a double staggered row of evergreen trees of six (6) feet to eight (8) feet in height spaced eight (8) feet on center. These staggered rows are not proposed.
- e. Landscaping in Parking Areas. Waiver relief has been requested from Section 200-91.P.(7)(c) which establishes that trees within parking areas shall be provided at a minimum rate of two (2) trees per ten (10) parking spaces. For reference, the proposed hotel would require approximately twenty-five (25) trees within the parking area, whereas it appears as though five (5) trees are proposed.
- f. Screening of Parking Areas. Waiver relief has been requested from Section 200-91.P.7.(e) which establishes that parking areas shall be screened from interior drives using evergreen, deciduous and flowering trees and shrubs to create a continuous landscape strip of ten (10) feet minimum width. No landscape screen is provided between the proposed Wawa and the proposed hotel.

3. Signage. The following waivers are related to signage:

- a. Wall Sign: Number of Signs. Waiver relief has been requested from Section 200-32.A.(2)(a)[1] which establishes a maximum of one (1) wall sign per business, whereas the proposed hotel has two (2) such signs: one (1) on its front southerly façade, and one (1) on its westerly façade.

- b. Wall Sign: Area of Signs. Waiver relief has been requested from Section 200-32.A.(2)(a)[3] which establishes a maximum sign area of ninety percent (90%) of the linear business frontage, with a maximum area of fifty (50) square feet. Both the southerly and westerly façade signs have an area of 124.92 square feet, which represents a collective area of 249.84 square feet.
 - c. Wall Sign: Letter Height. Waiver relief has been requested from Section 200-32.A.(2)(a)[4] which establishes a maximum letter height of eighteen (18) inches for wall signs, whereas the applicant has proposed letter heights of forty-eight (48) inches for both signs
 - d. Monument Sign: Sign Height. Waiver relief has been requested from Section 200-32.A.(2)(d)[3] which establishes a maximum sign height of four (4) feet for monument signs, whereas the applicant has proposed a height of 5.42 feet.
4. Lighting. The following waivers are related to lighting.
- a. Average Footcandle. Waiver relief has been requested from Section 200-31.K.(1) which requires an average of 0.5 footcandles throughout parking lots. The applicant should specify the proposed average footcandle.
 - b. Intersections. Waiver relief has been requested from Section 200-31.K.(2) which requires 3.0 footcandles at intersections. The applicant should specify the proposed intersection footcandle.

Planning Review

We offer the following comments on the proposed development:

1. Proposed Use. The applicant should provide an overview of the proposed uses on site. Specifically, the following should be discussed:
 - a. Hours of Operation. Testimony should be provided regarding the envisioned hours of operation for both the Wawa and the Hyatt House Hotel. The applicant should specify whether both operations will operate twenty-four (24) hours a day.
 - b. Staff. Testimony should be provided regarding the envisioned number of staff members to be located on site during a typical shift.
 - c. Diesel. The applicant should confirm that no diesel fueling stations are proposed with this application.
 - d. Deliveries. Testimony should be provided as to the expected weekly deliveries to be made to both the Wawa and the Hyatt House Hotel, as well as the anticipated delivery schedule.

2. Parking and Circulation. We offer the following comments which are related to parking and circulation.

- a. ADA Accessibility. The Americans with Disabilities Act (ADA) establishes standards for the required number of accessible parking spaces for developments. The standards note that these required accessible spaces must be calculated separately for each parking facility, and are not calculated based upon the total number of parking spaces provided on a site.

The main parking area located to the east of the proposed hotel is to contain one hundred and four (104) parking spaces. This would require five (5) accessible parking spaces, including one van accessible space.

The rear parking area located to the west of the proposed hotel is to contain twenty-two (22) parking spaces. This would require one (1) accessible parking spaces which must be van accessible.

The applicant has proposed six (6) accessible spaces in the main parking area of the hotel, and zero (0) accessible spaces to its rear. When questioned on this distribution, the applicant noted that “the hotel use provides the required six (6) ADA accessible spaces within the main parking area to provide the shortest ADA accessible route to the main entrance.” This should be discussed.

- b. Rear Parking Area. The rear parking area to be located to the west of the proposed Hyatt House Hotel will result in a dead-end scenario. The applicant should consider providing additional room for vehicles to perform a k-turn movement. This may require converting a parking space to a striped turn-around area.
- c. Number of Curb Cuts Along Emmons Drive. As previously noted, there is presently one (1) curb cut along Emmons Drive which provides access to the existing Clarion Hotel Palmer Inn and the Anjappar Indian Bar and Grill. The applicant proposes to increase the number of curb cuts along this street to three (3). While we defer to the Board’s traffic engineering consultant regarding the matter, we question whether the number of curb cuts could be reduced along the street. This would help eliminate the potential for conflicting traffic movements along Emmons Drive while also providing for additional space for landscaping.
- d. Vehicular Circulation. Testimony should be provided as to how vehicles will circulate through the site. This testimony should focus on customer vehicles as well as delivery vehicles, emergency service vehicles, and refuse vehicles.

- e. Pedestrian Circulation. In addition to the above, testimony should be provided regarding the proposed pedestrian circulation of the site. We note that a sidewalk has been provided from the proposed Hyatt House Hotel to the existing sidewalk along US Route 1. The sidewalk is also proposed to extend to the proposed Wawa via a striped crosswalk, as well as to adjoining Lot 16.01 to the south. Testimony should be provided as to whether this will require a cross-access easement.
 - f. Traffic Generation. Testimony should be provided regarding the expected amount of traffic to be generated by these uses.
 - g. Electric Vehicle Charging Stations. It is recommended that the applicant incorporate electric vehicle charging stations at both the proposed Wawa and the Hyatt House Hotel.
3. Landscaping. While we defer to the Township's landscape architect regarding landscaping issues, we note the following:
- a. Parking Lot Landscaping. As previously noted, the applicant has requested waiver relief relating to landscaping within the parking areas. Our prior memorandum dated May 20, 2020 noted that the proposed design featured large swaths of impervious coverage and pavement, and recommended that the applicant consider ways to break this expanse with additional landscaping, green spaces, or similar treatments.

Subsequently, additional landscaping has been added to the parking lot. While this serves to add some greenery to the area, there still remains a large swath of uninterrupted pavement between the Hyatt House and the Wawa. This should be discussed.
 - b. Buffering along US Route 1. The 2020 Land Use Plan strongly encourages buffering along the US Route 1 corridor. We note that the site presently has a minimal buffering between the parking lot and US Route 1. The applicant should discuss the proposed buffer, which we note has generally been increased to approximately sixteen (16) feet.
4. Wetland Buffer. We note that a portion of the proposed Hyatt House Hotel and its associated parking area are located within a wetland transition area. The applicant should provide testimony as to what NJDEP approvals will be required.
5. Trash Enclosure. There appears to be one (1) trash enclosure for the proposed development. This should be confirmed. Testimony should be provided as to how trash operations will occur on site. We question whether an additional access easement will be required for the shared trash enclosure.

6. Unified Design. The 2020 Land Use Plan notes that where development and future development is proposed, it should be done so in a manner which promotes an attractive and unified design. Based upon the provided architectural plans, it does not appear as though the proposed Wawa and the proposed Hyatt House Hotel will share any similar architectural features. The applicant should explore ways to increase the unified design of the site through the utilization of similar façade materials or other similar elements.
7. Signage. As previously noted, the applicant has requested several design waivers related to signage. The applicant should provide testimony as to its proposed sign package. This testimony should focus on what, if any, unified themes or designs the signage will share. Testimony should also focus on the relationship and the distance the signage will have to the local road network.

We recommend the applicant provide an exhibit offering comparisons of the proposed signage to the signage which would otherwise be permitted by the Township's development regulations, as well as to existing signage within the area.

Statutory Criteria

The following is noted regarding the statutory criteria.

1. "d(4)" FAR Variance Relief. The applicant has requested variance relief pursuant to N.J.S.A. 40:55D70.(d)(4) from the Municipal Land Use Law (MLUL) for an increase in the permitted floor area ratio. As previously noted, the RR/C District establishes a maximum FAR for five percent (5%), whereas the applicant has proposed a FAR of 13.33%.

An applicant requesting "d(4)" variance relief must demonstrate the positive criteria: specifically, that special reasons exist for the granting of the variance, and that the granting of the variance will further the purposes of the MLUL. In addition, the applicant must also address the negative criteria and demonstrate that there will be no substantial detriment to the public and no substantial impairment to the intent of the zone plan.

Randolph Town Center v. Township of Randolph, 324 N.J. Super at. 416 provides guidance for Boards of Adjustments in evaluating applications requesting "d(4)" variance relief. In that decision, the Court held that in establishing special reasons for a FAR variance, Boards should look to *Coventry Square v. Westwood Zoning Board of Adjustment* and not *Medici v. BPR*. Therefore, an applicant requesting "d(4)" variances does not need to show that the site is particularly suited for more intensive development. Rather, an applicant must demonstrate that the site will accommodate the problems associated with a floor area larger than that permitted by the ordinance. In addition, the applicant must still address the negative criteria.

2. "d(6)" Height Variance Relief. The applicant is also seeking variance relief pursuant to N.J.S.A. 40:55D-70(d)(6) for the height of a principal structure which exceeds the zone's maximum height permitted by ten (10) feet or ten percent (10%).

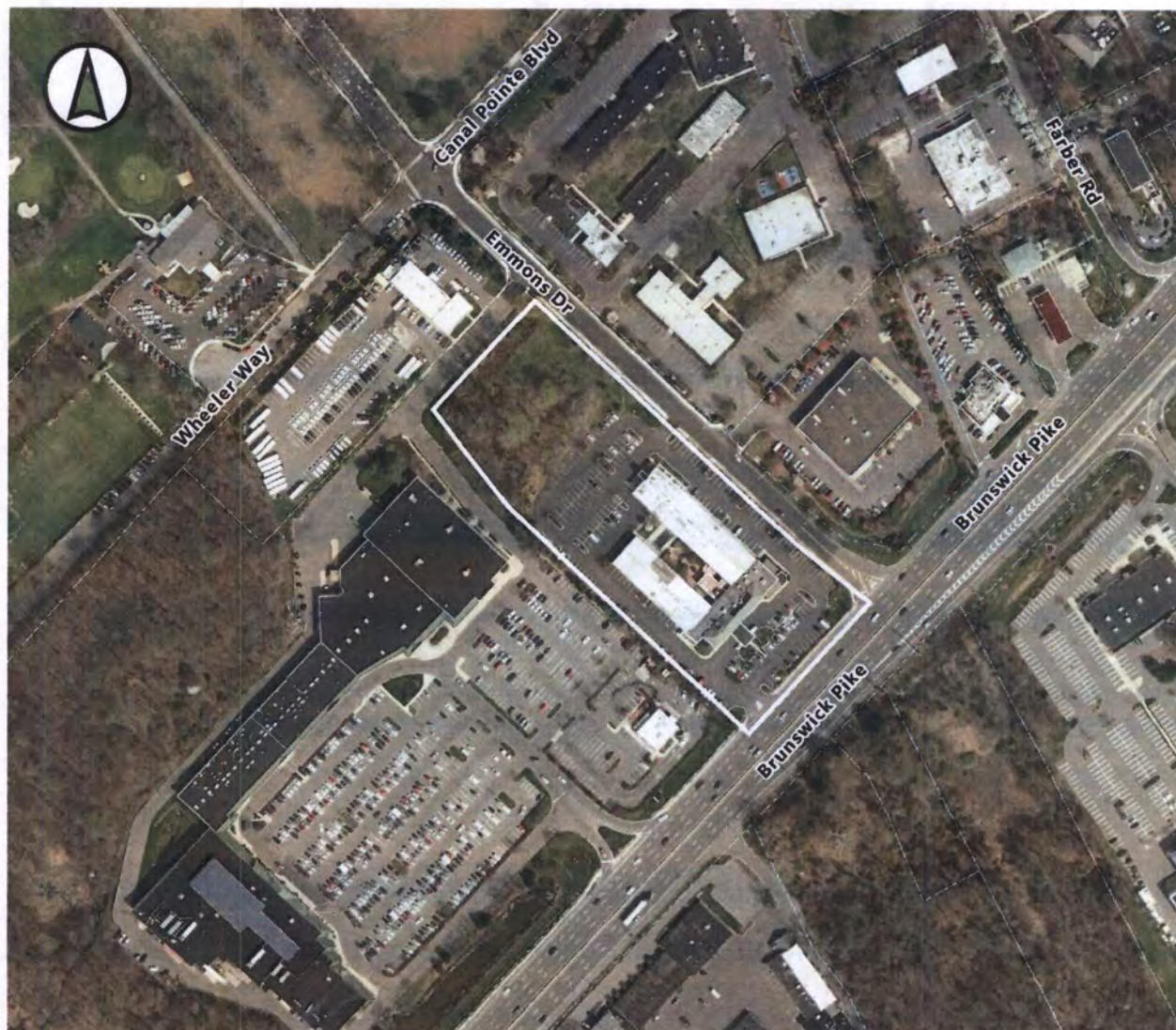
As noted above, the applicant requesting a 'd' variance must demonstrate that special reasons exist for the granting of the variance, and that the granting of such variance will further the purposes of the MLUL (positive criteria). In addition, the applicant must prove that there will be no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning Ordinance.

In *Grasso v. Borough of Spring Lakes*, the court explored reasons for adopting height controls in residential zones and some of the special reasons and negative criteria arguments that might be advanced in seeking a variance from such controls, likening the test to be applied for FAR variance relief. As such, the applicant is not obligated to show that the site is particularly suited for the proposed height. Rather, the applicant must show that the site can accommodate the problems associated with a height which is greater than that permitted by the ordinance. The applicant may also discuss the topography of the site, and whether there are any unusual aspects of the topography which would warrant variance relief.

3. "c" Variance Relief. In addition to the above, the applicant is also seeking variance relief pursuant to NJSA 40:55D-70(c)(1) and/or (2). The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test. These are identified as follows:
 - a. **Physical Features Test**: An applicant may be granted c(1) variance relief when it is demonstrated that the noncompliant condition is caused by 1) an exceptional narrowness, shallowness, or shape of the property, 2) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
 - b. **Public Benefits Test**: An applicant may be granted c(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the Municipal Land Use Law; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

Furthermore, the applicant must address the Negative Criteria of the statute. To meet the negative criteria, an applicant must demonstrate the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the master plan and zoning ordinance.

Map 1: Subject Site (scale: 1" = 300')



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Cc: S. Surtees, WWT CD
Lisa Komjati, WWT CD
Frank Guzik, Municipal Engineer
Ian Hill, Consultant Engineer
Dan Dobromilsky, Landscape Architect
Jim Kochenour, Consultant Traffic Engineer
Jeff L'Amoreaux, Consultant Traffic Engineer
Edward Schmierer, Board Attorneys
Timothy Lynch, Chief of Fire and Emergency Services




Nell I. Van Cleef, P.E., L.S. & P.P.
Robert J. Clerico, P.E., P.P., CME, CPWM
Samuel D. Costanzo, P.E. & P.P.
Cynthia V. Norfleet, COO
Mark A. Bahnick, P.E.
Lawrence M. Duffley, P.E., PTOE
Michael K. Ford, P.E., P.P.
Jeffrey W. Munzing, P.E.
Stanley J. Schrek, P.E., A.I.A., P.P., CME, LEED AP
Herbert J. Seeburger, Jr., P.E., CME, CPWM

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MEMORANDUM

TO: Zoning Board of Adjustment
West Windsor Township

FROM: Christopher B. Jepson, P.E. 
Environmental Consultant

DATE: September 15, 2020

SUBJECT: Windsor 1 Developers, LLC (ZB 19-06)
Use Variances & Minor Subdivision
Block 7, Lot 59
VCEA Project No. 20-08-WW

As West Windsor Township's environmental consultant, Van Cleef Engineering Associates (VCEA), has reviewed the second submittal of site plans and accompanying information and visited the site for the above referenced application for use variances and minor subdivision plan review and offers the following comments for the Board's consideration:

I. Overview

The applicant is seeking a review of the plans and information submitted for a Preliminary and Final Site Plan and Minor Subdivision for a Hotel and WAWA food market and fueling station. The site is located at the intersection of Route 1 and Emmons Drive. The applicant is requesting to subdivide Lot 59 into 2 sites. The applicant is also requesting several use and bulk variances including FAR, height of a structure, MIC, landscaping and signage among others. The applicant is proposing to construct a 4-story hotel and 5,585 square foot WAWA food market. The site is located in the B-2 zone (neighborhood center business) where the hotel and fueling station are conditional uses. The site is 5.51 acres in size and the area to be developed is 3.98 acres and is primarily impervious coverage with a small portion of open space that includes wetlands. This is a redevelopment project on the site of the existing Palmer Inn and Indian restaurant. The applicant is proposing 176 parking spaces for the entire development.

VanCleefEngineering.com

Please Reply To:

SOUTHCENTRAL NJ OFFICE

4 AAA Drive, Suite 103 • Hamilton NJ 08691
609.689.1100 • Fax: 609.689.1120

With Other Offices In:

Hillsborough NJ • Lebanon NJ • Mt. Arlington NJ • Freehold NJ
Phillipsburg NJ • Toms River NJ • Doylestown PA • Bethlehem PA
Mechanicsburg PA • Leesport PA • Newark DE

II. Comments/Recommendations on Pertinent Issues

A. Wetlands

This site has a small area of wetlands (0.56 acres) associated with the small wooded portion in the rear of the property. The applicant has applied to NJDEP for a Freshwater Wetland Transition Area Waiver for this project. The existing wetlands are not outstanding. Please submit the results of the NJDEP application.

B. Greenbelt

There is no recorded or proposed Greenbelt area on this property. Trees in the small wooded area include primarily maple and sweet gum. Birds observed included crows, sparrows and blue jays while a large black cat was also seen.

C. Water Quality

This site is located in the Duck Pond Run drainage basin. Duck Pond Run is approximately 800 feet away. A DRCC permit is required since more than an acre of additional impervious surfaces are proposed. There is an oil/water separator shown for WAWA that assists in keeping the sewer in good running order provided it is maintained properly. The stormwater is either piped to Route 1 or back toward the small wetland area. Please go into more detail regarding the storm water management system. Water quality should be kept at it highest level for discharge in West Windsor Township. The applicant has now indicated that 2 manufactured treatment devices will be installed for stormwater treatment that are required by the DRCC. They are Hydro International units (a First Defense MTD and a Downstream Defender MTD) both approved by NJDEP. One will be installed at each of the 2 discharge points. These units will help keep stormwater discharge at a higher quality.

D. Environmentally Sensitive Areas

The proposed project site is underlain by the Stockton Sandstone geological formation. Wissahickon Schist is a geological formation that generally provides potentially low to moderate aquifer recharge. There are no naturally occurring slopes greater than 5-10% located on this site. There are no flood hazard areas on this site. This site has a low erosion hazard. The proposed development will not take place in any environmentally sensitive area. The project is taking place as a redevelopment of existing structures with little impact to the existing environment in that area.

E. Historic Resources

There are no listed historical sites nearby – Route 1 has always been considered a historical highway.

F. Other Environmental Concerns/Comments

This site is suitable for the development as shown on the plans. The environmental concerns are primarily minor while very little clearing is necessary since the project development area is in a redevelopment area. The proposed internal landscaping for this project seems somewhat deficient and we defer further comments on this issue to the Landscape Architect.

The applicant has submitted the West Windsor Township Green Development Practices Checklist. As the project moves forward please consider the greater use of green development techniques for this project. We want you to consider the use of pervious pavement in this project even though a waiver is being requested to avoid using them. This is an opportunity to promote sustainability and enhance groundwater recharge. Other applicants have used pervious pavers among other green building techniques to enhance their projects.

III. ITEMS PROVIDED FOR REVIEW

- Preliminary and Final Site Plan and Minor Subdivision (19 sheets), prepared by Dynamic Engineering, LLC, dated January 6, 2020, April 20, 2020 and August 5, 2020.
- Minor Subdivision Plan and ALTA/NSPS Land Title Survey, prepared by Dynamic Survey, LLC, dated April 4, 2019 and January 14, 2020.
- Cover Letter, prepared by Nehmad Perillo Davis & Goldstein, PC, dated January 31, 2020 and revised August 18, 2020.
- Development Application, Site Plan Checklist, Subdivision Checklist and Request for Conditional Use Approval, prepared by Nehmad Perillo Davis & Goldstein, PC, various dates.
- Application to West Windsor Zoning Board of Adjustment, Request for Bulk Variance, Request for Variance Including But Not Limited To A Use Or Structure Not Permitted In A Zoning District and Zoning Board Of Adjustment Checklist, Prepared by Nehmad Perillo Davis & Goldstein, PC, various dates.
- WAWA Architectural Plan (2 sheets), prepared by Richard W. Luke Architect, dated October 22, 2019 and December 9, 2019.
- WAWA Architectural Plan (2 sheets), prepared by Andrew Dorin Architect, dated August 21, 2020.
- Hyatt House Hotel Architectural Plans, prepared by Horten Architectural Design, dated March 3, 2020 and August 4, 2020.

- Stormwater Management, Groundwater Recharge and Water Quality Analysis and Major Development Stormwater Summary, prepared by Dynamic Engineering, LLC, dated January 2020, February 6, 2020 and April 2020.
- Environmental Impact Statement, prepared by Dynamic Engineering, LLC, dated January 2020.
- Mercer County Planning Board Approval dated April 3, 2020.
- Mercer County Soil Conservation District approval dated June 4, 2020.
- Delaware & Raritan Canal Commission Staff Report dated June 11, 2020.
- Freshwater Wetland Transition Area Waiver Application, prepared by DuBois & Associates, dated February 6, 2020.
- Transmittal and Response Letter, prepared by Dynamic Engineering, LLC, dated August 13, 2020.

If you should have any questions or concerns regarding these comments please contact me at this office.

cc: Applicant	Zoning Board Members
S. Surtees, WWT CD	E. Schmierer, Mason, Griffin & Pierson
D. Novak, Burgis Associates	J. Kochenour, Traffic Consultant
D. Dobromilsky, Landscape Architect	I. Hill, Consultant Engineer



WEST WINDSOR TOWNSHIP

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF ENGINEERING

MEMORANDUM

Date: September 15, 2020

To: **West Windsor Zoning Board of Adjustment**

From: Dan Dobromilsky, LLA/PP/LTE
Landscape Architect 

Subject: **WINDSOR 1 DEVELOPERS, LLC – Variances and P/F Site Plan**
(B-7, L-59) 3499 US Route One
ZB 19-06 B-2 zone

A site visit has been conducted and the revised plans (dated last revised August 5, 2020) submitted for this application have been analyzed. The following comments are offered for the Board's consideration as this application is reviewed:

1. Redevelopment of this property, as requested, seems to offer the potential for some desirable benefits to the community. However, the numerous zoning variances and design waivers, as listed and detailed on sheet #3 of the plan set, that are needed to implement the proposed site design, would also seem to suggest that the intensity of construction proposed may be excessive. The non-conforming aspect of the proposed design that present the most significant concern regarding visual quality and function include:
 - An 11.1' setback (30' required) at Emmons Dr. for a hotel that exceeds the F.A.R. by nearly one-third permitted (45% or 75,794 sf vs. 35% or 58,950 sf).
 - Improvement coverage on the Wawa lot that exceeds standards by 28% (83% vs. 55%).
 - Substandard offset and landscape buffer dimensions (9.5' to 15' proposed vs. 25' required) between Emmons Drive and Route one and proposed front yard parking and loading/service areas (not permitted in front yard).
 - Less than 5% of the parking areas constructed with landscape beds, and substandard quantity of shade trees proposed within the parking lot (18 vs. 35).
 - Proposed removal of the existing evergreen shrubs hedge buffer that may be within the Township right of way along Emmons drive.
 - Street trees are not proposed along the Route One frontage.

These proposed conditions present the potential that the hotel and gas station canopy will loom over the road and the parkings lots, gas pumps, and loading zone will be highly visible from a major Township thoroughfare, with insufficient setback to implement a landscape buffer or streetscape to mitigate these conditions.

It is also noted that relationship between some of the parking stalls and the circulation around the gas pumps at entrance drives could create awkward movements with vehicles backing into busy travel lanes.

It is peculiar that the layout presents an increased setback between the proposed parking lot and the adjacent Windsor Green / Wendy's parking lots, which are heavily landscape with evergreen plantings on those lots, while diminishing the setback/buffer along Emmons Drive. The attached site plan analysis suggests that it may be possible to shift the proposed improvements to the south to achieve a 25' setback for the hotel and most of the parking lot from Emmons Drive without any reduction in development intensity. This sketch also proposes the relocation of parking stalls directly opposite the gas pumps and central Emmons access drive. It is suggested that this alternative be considered as a possible means of facilitating improved aesthetics and circulation.

MEMORANDUM

To: W.W. Z.B.
From: Dan Dobromilsky, LLA/PP/LTE
Re: ZB 19-06
Date: September 15, 2020

2. The compliance notes on sheet #3 indicates compliance with Township code section 200-29.M. disregarding the required subdivision and separation of parking stalls and modules by landscape islands. The proposed design is not compliant. The main parking field between the Wawa and hotel will include greater than 60 stalls without the required separation by a 10' wide landscape island. Also, the planting islands proposed at the ends of two parking rows are not designed with 10' width for the full width of the bay as required. These islands are split to incorporate storm drains. The reduced dimension does not provide sufficient soil volume to support the survival and growth of the required landscape. The expanse of paved surfacing does not address code requirements intended to mitigate aesthetic, functional, and environmental impacts that can result from expansive areas of paved surfacing.
3. An undersized (<10') landscape peninsulas is proposed at the end of the parking row near the fuel storage tanks.
4. Full size landscape peninsulas are lacking at the four corners of the parking stalls around the Wawa store. Smaller landscape areas are proposed at two corners. It is understood that Wawa's standard for these parking areas is flush concrete surfacing, bollards and traffic paint, in lieu of the required curbing and landscape separation. Options that address the Township code intentions for aesthetics as well as the retailers concerns for safety and maintenance should be considered. Incorporation of decorative pavements such as scoring or imprinting colored concrete; planting in the rear corners are options to consider.
5. The construction details for the refuse enclosure are not depicted, but do indicate that materials will match the architectural finishes. Images of the proposed materials should be presented for review by the Board.
6. The proposed landscape architectural design does not fully address many of the Township code standards, section 200-91.P., presenting numerous aesthetic and functional concerns as follows:
 - a. Street trees are present in the right of way along the Emmons Drive frontage of this property. The plans propose removal of one these trees. New shade trees are proposed in between the existing trees to contribute to the buffer requirements. These trees would typically be setback onto the site, but the undersized buffer provided along this frontage limits the location and area available for planting.
 - b. One street tree is proposed along the Route One frontage, whereas 5 are required by Township code. Trees in this location are also required to address code standards for filtered buffering. The potential to locate a couple of strategically placed and selected trees along this frontage should be examined to address code standards and avoid conflicts with visibility of signs and overhead wires.
 - c. The existing stormwater management area, which is now classified as wetland, in the rear of the property is mostly wooded to address code standards. No modification of this area is proposed. However, an existing area of upland and wetland buffer that is currently mown grass should be examined. The potential to reforest this area as mitigation for the wetland buffer encroachments should be considered.
 - d. The potential for stormwater or other utility elements within the front landscape buffer areas should be examined. These elements will conflict with, and further reduce the required dimension for the required landscape buffers. Shifting these elements into or at the very edge of paved areas should be considered.
 - e. Landscape buffering is required along the perimeter of all parking areas by Township code. In addition to the landscape buffer dimension deficiencies noted previously, the proposed landscape planting for these buffers will not achieve conformance with code standards. Along a good portion of the frontage of this property existing evergreen shrubs are present that might provide conforming landscape if preserved.

These existing hedges should be examined to determine if they could be preserved. Areas that are lacking preserved, conforming landscape will need to be planted with predominantly evergreen shrubs, and some shade trees, at a size and spacing to sufficiently screen parked vehicles and headlight glare, immediately, while facilitating a filtered view of the commercial buildings and signs.

MEMORANDUM

To: W.W. Z.B.
From: Dan Dobromilsky, LLA/PP/LTE
Re: ZB 19-06
Date: September 15, 2020

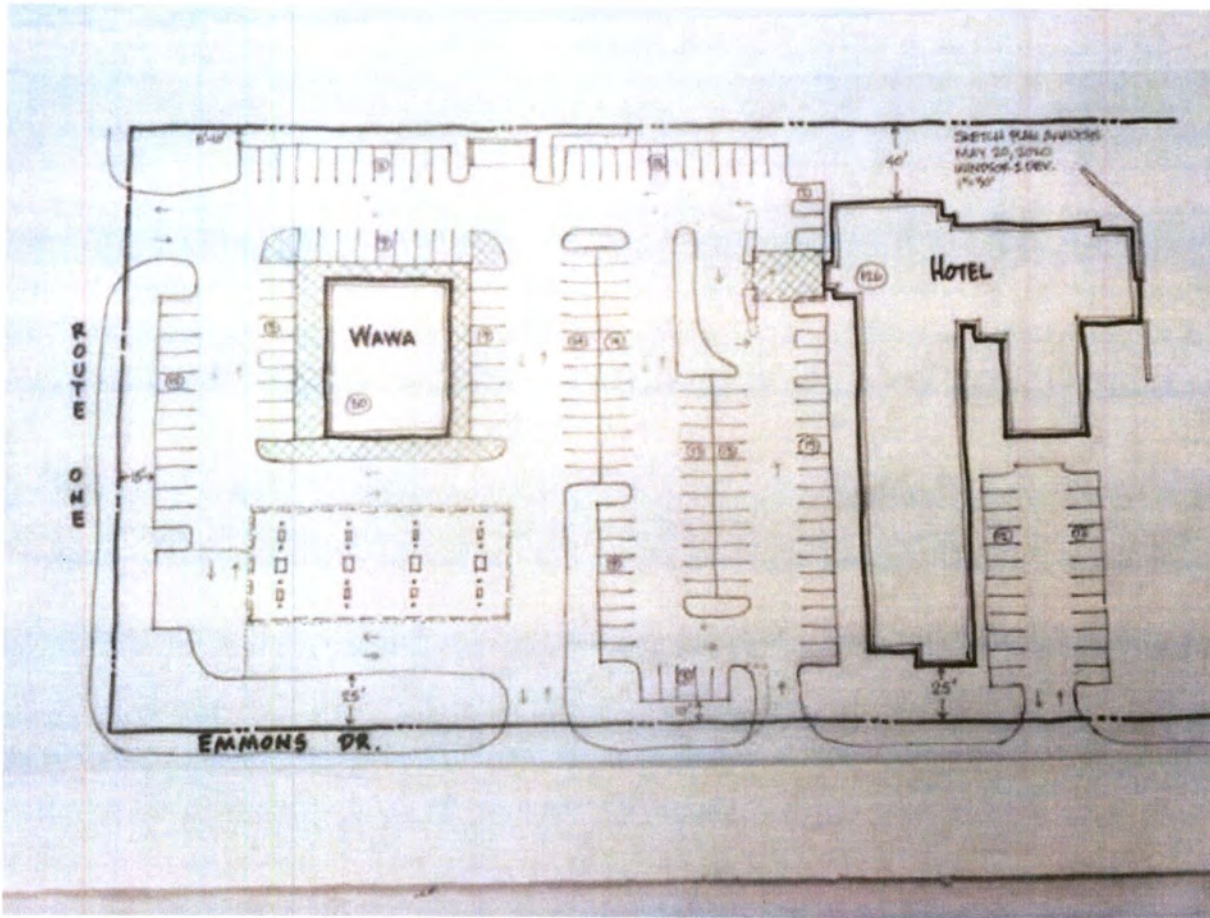
- f. Windbreak or heavy screening standards are applicable for undersized landscape buffer areas. However, the landscape specified for heavy screening by Township code would not be practical for this application along the road frontages. The existing landscape between this site and the adjacent commercial center, to the south, does provide windbreak screening. The potential to make adjustments to the layout and achieve conforming, or more conforming buffers and filtered buffering should be examined.
 - g. The area established for landscape and the quantity of shade trees proposed for the parking area will not conform to Township code standards. An additional 17 shade trees are required. The potential to modify the layout to efficiently create less paved surfacing and more landscape area with a conforming quantity of shade trees, should be contemplated.
 - h. Township code indicates that sitting and outdoor eating open space areas shall be provided for commercial developments. Areas are proposed in association with the hotel but are not proposed for the Wawa. Some outdoor eating elements, such as picnic tables or benches and litter receptacles should be considered. Details for the materials and furnishings proposed for the outdoor hotel spaces should be provided.
 - i. Township code requires that building entrances, plazas, exterior malls and nodes shall receive detailed pedestrian scale landscape architectural treatments. Details for the hotel entrance should be provided. As previously noted the pedestrian spaces around the Wawa should be examined relative to this Township standard.
 - j. The landscape plan planting schedule should be amended to include plant sizing for height and spread, including the height of caliper trees. The planting plan should clearly delineate areas of turfgrass, meadow grass and mulch planting beds. The irrigation specification should clearly indicate that an automatic system will be implemented.
 - k. The location and screening of building utilities, meters, water meter hotbox, transformers, roof gutters, egress lights, and mechanical equipment must be addressed.
7. The potential for this project to incorporate "green" construction elements might positively mitigate some of the impacts of variance requests. The applicant should indicate if they have considered initiatives for this site such as:
- Utilization of porous pavements, recharge swales and/or rain gardens.
 - Utilization of energy efficient LED site and building lighting fixtures.
 - Specification of energy efficient HVAC and mechanical elements.
 - Specification of energy efficient windows and doors.
 - Incorporation or provision for the addition of solar panels on the buildings and/or canopy.
 - Incorporation of building materials supplied from local sources.
 - Interaction with alternative transportation modes such as busses.
 - Incorporation of electric vehicle charging stations.

This review is based on the information received to date, additional comments may be provided if new information is received.

C: Board Secretary
Board Professionals
Applicant

MEMORANDUM

To: W.W. Z.B.
From: Dan Dobromilsky, LLA/PP/LTE
Re: ZB 19-06
Date: September 15, 2020





SURINDER S. ARORA, PE
President

ARORA and ASSOCIATES, P.C.


Consulting Engineers

Princeton Pike Corporate Center
1200 Lenox Drive, Suite 200, Lawrenceville, NJ 08648
(609) 844-1111 • Fax (609) 844-9799
www.arorapc.com

MEMORANDUM

DATE: September 16, 2020

TO: West Windsor Township Zoning Board of Adjustment

FROM: Jeffrey A. L'Amoreaux, P.E., Traffic Consultant


SUBJECT: Windsor 1 Developers, LLC
Preliminary and Final Major Site Plan, Minor Subdivision and Variances
Comment Review Memo #2
ZB19-06
3499 US Route 1
Block 7, Lot 59
West Windsor Township, Mercer County, New Jersey

We are in receipt of the following information for review pertaining to applications for Preliminary and Final Major Site Plan approval, Minor Subdivision approval and variances for a proposed Wawa food market and vehicle fueling pumps, and a proposed Hyatt House hotel to be located along US Route 1 southbound at Emmons Drive:

- One set of Site Plans titled "Preliminary and Final Site Plan & Minor Subdivision" (23 sheets) prepared by Dynamic Engineering Consultants, P.C., dated January 6, 2020, last revised August 5, 2020
- One copy of the Hyatt House Hotel front entrance rendering, prepared by Horten Architecture & Design, dated August 4, 2020
- One sealed copy of Wawa Gas Canopy and Trash Compound elevations and illustrations for Store #8447, prepared by Andrew Dorin, Architect, dated October 22, 2019
- One sealed copy of Wawa Store elevations and illustrations for Store #8447, prepared by Andrew Dorin, Architect, dated December 9, 2019
- One transmittal letter from Stephen R. Nehmad, Esq. to Barbara Watson of West Windsor Township, dated August 18, 2020
- The following West Windsor Township applications, completed by the applicant:
 - Development Application Control Number ZB19-06, executed February 12, 2020

- Zoning Board of Adjustment Checklist, undated
 - Application to West Windsor Zoning Board of Adjustment, executed and undated
 - Site Plan Checklist, completed and undated
 - Subdivision Checklist, completed and undated
 - Request for Bulk Variance, completed and undated
 - Request for “D” Variances, completed and undated
- One copy of an Application Letter prepared by Nehmad, Perillo, Davis & Goldstein dated January 31, 2020
 - One copy of a response letter from Matthew Sharo, P.E., P.P. and Ryan MacNeill of Dynamic Engineering Consultants, PC, to Barbara Watson, Zoning Board Secretary, dated August 13, 2020
 - One copy of traffic counts for Meadow Road and Canal Pointe Boulevard, dated September 2019, conducted by Dynamic Traffic, LLC
 - One copy of traffic volume figures (total of 12), undated, prepared by Dynamic Traffic, LLC
 - One copy each of a Minor Subdivision Approval, Site Plan Approval for Wawa, and Site Plan Approval for Hyatt, all dated April 3, 2020 from Leslie R. Floyd, Planning Director for Mercer County, to Matthew Sharo, PE, PP of Dynamic Engineering Consultants, PC
 - One copy of a Staff Report issued by the Delaware and Raritan Canal Commission, dated June 11, 2020.
 - One copy of a Soil Erosion and Sediment Control Plan Certification from the Mercer County Soil Conservation District, dated June 4, 2020
 - Copies of four New Jersey Police Crash Investigation Reports for incidents near the intersection of Emmons Drive and Wheeler Way
 - Copies of Synchro 10 roadway capacity analysis reports, dated July 7, 2020.

For the purposes of this memorandum, US Route 1 is oriented to the north and south, and the proposed project is situated along the southbound side of US Route 1, also known as Brunswick Pike, on the southwest corner of the intersection with Emmons Drive. US Route 1 is divided at the Emmons Drive intersection; there is no access to or from northbound US Route 1. The property is bounded by Emmons Drive to the north, US Route 1 to the east, a shopping plaza (Windsor Green Shopping Center) containing Marshall's and Whole Foods to the south, and a driveway to the same shopping plaza to the west. Across Emmons Drive from the site is a Pep Boys automotive supply store and repair facility. Across the western shopping center driveway from the site is A-1 Limousine services. The project site is currently occupied by a hotel containing a restaurant – The Palmer Inn and The Anjappar Indian Bar and Grill.

The project proposes the construction of a free-standing 5,585 SF Wawa convenience store and 16 vehicle fueling positions and a separate four-story 120-room Hyatt House hotel. The Wawa store will be closest to the corner of US Route 1 and Emmons Drive, and the Hyatt House hotel will be located about 200 feet to the west. The project is located in the B-2 zone, where convenience stores are permitted by right, and as of August 17, 2020 vehicle fueling and hotels are also permitted uses, whereas prior to that date, they were conditional uses.

This proposed development will be served by a right-in/right-out driveway from/to southbound US Route 1, and three full-access driveways along Emmons Drive. No direct vehicular connection is proposed to the adjacent shopping plaza (Windsor Green) containing Marshall's and Whole Foods, among other retail uses. Currently, the uses on the project site are served by a single full-movement driveway along Emmons Drive, and a right-in/right-out driveway along US Route 1.

Parking is proposed for 50 spaces around the Wawa convenience store, not including the sixteen fueling positions. Two of the 50 parking spaces are to be designated as handicap-accessible and another two are for use by customers using the air inflation pump. At the Hyatt House hotel, 126 parking spaces are proposed with six proposed as handicap-accessible.

We have completed our review of the above-referenced documentation and offer the following comments for the Board's consideration. Our original comments from our May 26, 2020 memorandum remain in this memorandum, and our new comments, based on Dynamic Engineering Consultants, PC's August 13, 2020 response letter, are presented in italics. (The point-by-point response letter submitted by Dynamic is appreciated.)

General Comments

1. The applicant is proposing three driveways accessing Emmons Drive, over the course of approximately 325 feet. Section 200-29.I.(1)(f) of the Township Code states:

“Where two or more driveways connect a single site to any one road, a minimum clear distance of 200 feet measured along the right-of-way line shall separate the closest edges of any two such driveways. Where such development fronts on an arterial street, access to parking and service areas, where practicable, shall be provided by a single access to the arterial street.”

The driveways do not appear to conform to this provision of the code as they are each within 200 feet of each other (approximately 95' and 110', respectively). On Sheet 3 of the project plans, under General Notes, item 12D, the applicant designates this section of the code as “not applicable”. We do not understand this interpretation, and the applicant will need to justify the assertion. It appears to us that adherence to this section of the Township Code may have far-reaching implications for the site layout as it is now proposed.

It is our opinion that neither the intent nor the spirit of the Code is satisfied through the proposed Emmons Drive access road provisions.

Four access points between US Route 1 and the Windsor Green driveway access would be in place, a total distance of approximately 800', metrics that are not in keeping with current day access management provisions.

It is recommended that the consolidation of some of these access points be pursued.

It appears that one or at most two access points can be provided to accommodate the Wawa/hotel uses so that the spacing provisions contained in the above-referenced Code section can be achieved.

Modifying the site's proposed access provisions should include eliminating the two-way dead-end aisle behind the hotel.

Comment partially satisfied. The Applicant will request a waiver to allow the two hotel lot driveways.

2. North of the proposed project, US Route 1 has its curb lane designated as a right-turn-only lane. The applicant should verify with the New Jersey Department of Transportation (NJDOT) if this designation is going to remain as-is or be extended to the south along the property frontage. We recognize this is an access matter under NJDOT's jurisdiction, but never-the-less an important access consideration regarding access into Emmons Drive as well as access into Wawa's US Route 1 access.

Comment open. The applicant's engineer has yet to offer evidence that they contacted the NJDOT to resolve the question posed in our earlier memorandum.

3. The proposed Wawa development is projected to produce 464 driveway movements (232 in, 232 out) during the morning peak hour. This is consistent with our observations at other Wawa sites in the Greater Philadelphia area. This amount of traffic equals one driveway movement slightly more frequently than every eight seconds.

Wawa sites of a similar nature include in their traffic flows trucks with trailers (e.g. landscaping crews or utility crews) which do not maneuver with the same efficiency as passenger cars and which present on-site parking problems. Provisions for these types of vehicles are to be provided. On-street parking is not an option.

Because the Wawa convenience store and the land uses in the Windsor Green shopping center typically experience non-coincident peak hours, an interconnection would benefit the overall driveway and roadway system. Specifically, the intersection of the Windsor Center shopping center driveway with Emmons Drive (near A-1 Limousine) experiences lunchtime and evening peak congestion. In our professional opinion, an interconnection between Wawa and Windsor Green will allow for optimal use of all driveways by motorists throughout the day. An interconnection between the properties could be constructed as an extension of the Windsor Green property's access aisle currently behind Wendy's restaurant, entering the site near the Wawa trash enclosure.

It is noted that a pedestrian connection is proposed between the subject site and Windsor Green.

Also, commentary is to be provided regarding the availability of diesel fuel on this site and, if it is, how will tractor trailer use be restricted?

Comment partially satisfied. We understand that tractor trailers will be restricted by Wawa fueling personnel. We still recommend that the applicant consider construction of an interconnection to the Windsor Green shopping center, and provide evidence of a good faith effort to do so, based upon transportation engineering principles as stated in the book "Transportation and Land Development, 2nd Edition" published by the Institute of Transportation Engineers. On page 8-5, the book states "Provide unified parking and circulation with adjacent compatible land uses whenever possible."

4. We are concerned about the level of congestion which could occur at the Emmons Drive entrance. Motorists entering the site could face some indecision in the throat of the entrance as they search to find an open fueling position, prohibiting other motorists from entering and exiting the site causing potential congestion on Emmons Drive and within the throat area.

In order to mitigate potential operational problems at the Wawa's first internal intersection off of Emmons Drive, it is recommended that a "deeper" throat area be provided for this site driveway access.

Another point to note is the proximity of parking to this access point/throat area. This parking is to occur along a major access road for the site that will transport a fairly large volume of traffic associated with the Wawa operation and, to a lesser extent, hotel traffic.

It is recommended that the parking be removed (10 spaces) along the west side of the main circulation aisle between the first internal site intersection and a proposed landscaped island to the south of it.

These 10 spaces are to be used for hotel employee parking. Eliminating these spaces and relocating these spaces elsewhere on-site will eliminate the proposed Employee Parking signs from being installed in an unprotected space.

Comment open. We respectfully disagree with the applicant's traffic engineer's professional opinion that the Emmons Drive driveway will experience moderate use. In our opinion, it will experience heavy use, based on the character of US Route 1. Route 1, for all intents and purposes, operates much like an expressway, given its nearby full interchanges with Meadow and Quakerbridge Roads. Although a driveway will be provided to US Route 1, in our opinion, many motorists will avoid it if they can, simply because of the "hassle" of decelerating from using Route 1. Therefore, we asked the question of whether NJDOT is planning to extend the right lane "right turn only" status to the south of the site (see comment 2.)

We encourage the applicant to arrange for extension of the right lane/right-turn restriction south well past the site, as that will promote smoother deceleration and acceleration from and onto Route 1. Absent that designation, we believe that Wawa motorists will avoid using Route 1 whenever possible, and use Wheeler Way and Emmons Drive instead, and disproportionately concentrate traffic at the Emmons Drive driveway. This is another reason we advocate for interconnection to Windsor Green shopping center – to thin the concentration of traffic on municipal roads.

5. The intersections of Emmons Drive/Windsor Green Shopping Center Driveway and Wheeler Way/Meadow Road/Canal Pointe Boulevard are to be included in the Traffic Impact Study. PDF versions of Synchro analyses, and SimTraffic video capture files of each intersection should be provided for our review.

It is anticipated that these two additional study locations (with local roads) could experience an appreciable increase in traffic. Additional commentary is provided in the following items.

Comment partially satisfied. The applicant's engineer has stated that because the Windsor Green Driveway and Emmons Drive is related to a private driveway, it is outside the scope of services of their traffic study. Regardless of public or private status, our personal direct observations of the intersection in question reveal substantial queuing on the Windsor Green Driveway approach, and its proximity to Wheeler Way (250 feet) results in bona fide congestion during weekday evening peak hours. Part of the reason for our discussion in item 4, above, regarding the hassle factor of using Route 1 is evidenced by the heavy use of the back entrance to Windsor Green. Perhaps designation of the right lane along Route 1 in front of Windsor Green and the proposed Wawa would be of benefit by reducing traffic using rear entrances. At any rate, we recommend the applicant study and address this issue, and as previously requested, contact NJDOT about extending the right lane/right turn only designation along Route 1.

Capacity analysis of Wheeler Way/Meadow Road/Canal Pointe Boulevard is forecasted to provide acceptable performance based on information provided by the applicant's traffic engineering consultant.

6. The Woodstone 443-apartment residential development is now under construction on the west side of Wheeler Way near the Princeton Theological Seminary housing. Traffic from Woodstone was accounted for in the Traffic Impact Analysis on page six, by including it in a one percent per year background growth rate, as the study indicates that there were "no other developments in the vicinity of the site that have been approved but not yet constructed that are identified as significant traffic generators." We believe this may be an incorrect assumption by the applicant. Woodstone was approved by the West Windsor Township Planning Board on June 18, 2018, however, traffic counts for the Wawa/hotel project were conducted in the Fall, 2019. It is recommended that all traffic analyses include traffic from Woodstone as "add-on" traffic volumes, not as part of the 1% background traffic growth.

Comment satisfied, based on information provided by the applicant's traffic engineer. Levels of service are not expected to change appreciably, in this analysis, due to addition of Woodstone traffic.

7. Notwithstanding the validity of traffic counts and future projections, the intersection of Emmons Drive and Wheeler Way was included in the Traffic Impact Study and is expected to operate with Levels of Service of "C" or better. However, we recommend the applicant examine the operation with an all-way STOP configuration and examine eight-hour warrants for all-way STOP control. The applicant should consider Section 2B.07 Multi-Way Stop Applications of the MUTCD, which under Options, states:

“An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection.”

From the on-going Woodstone project, the Traffic Impact Study recommended that the existing Stop control be removed from the two Wheeler Way approaches and placed on the Emmons Drive approaches. In conjunction with this, the recommendation was also made to provide a channelized Yield-control westbound right turn movement from Emmons Drive onto Wheeler Way northbound.

This traffic control provision should also be studied in light of the additional traffic to be placed into this intersection by the proposed project.

The applicant’s traffic engineer is to provide a recommendation regarding the appropriate traffic control for the intersection.

Comment satisfied. The applicant’s traffic engineer has conducted an analysis as requested and has offered a recommendation that the STOP control at Wheeler Way and Emmons Drive remain as is, with STOP signs posted on the Wheeler Way approaches. We concur with their analysis.

8. The directional distribution of new site-generated traffic should be reviewed. Our experience indicates that more traffic may use Emmons Drive and Wheeler Way (connecting to Meadow Road and Canal Pointe Boulevard) than the Traffic Impact Study cites. Motorists familiar with the area will tend to use these local roadways as a “back entrance” to Wawa rather than use US Route 1. Traffic patterns from the existing Windsor Green shopping center should be used as a guide to determine the traffic effects on the collector roadway system to the site’s west and north (especially along Canal Pointe Boulevard).

In particular, traffic with a northerly and westerly orientation from/to Princeton and the residential area along Canal Pointe Boulevard would be inclined to use Canal Pointe Boulevard and Alexander Road.

Comment open. See discussion in items 3, 4 and 5, above.

9. The applicant is to acknowledge a commitment to provide its fair-share, off-tract financial contribution to the Township’s Roadway Improvement Program, or actual off-tract improvements as identified by this project.

Comment satisfied. The applicant’s engineer has acknowledged same.

Site Plan Comments

10. Section 200-27.B.2 of the West Windsor Township ordinance requires six bicycle parking spaces on the Hyatt property, rather than four.

Comment satisfied.

11. Per section 200-27.D(2) of the West Windsor Township Code, the Hyatt House property requires a loading berth, which is not provided. A design waiver will be required by the Zoning Board of Adjustment if one cannot be provided.

The types and frequencies of deliveries associated with the hotel are to be provided along with the type of anticipated delivery vehicle.

Comment partially satisfied. The applicant will provide testimony and request a waiver from this requirement.

Sheet 5 – Site Plan

12. The NJDOT type of ADA curb ramp should be noted on each plan. The westernmost ramp on the site plan (along Emmons Drive) should be examined for conformance to ADA guidelines and modified if necessary. *Comment partially satisfied. The westernmost ramp still needs to be examined.*
13. The detectable warning surface on the southwest corner of Emmons Drive and US Route 1 should be considered for removal as there is no receiving sidewalk on the north side of Emmons Drive. *Comment satisfied. NJDOT has requested reconstruction of the related curb ramp.*
14. No Parking signs should be shown for installation along Emmons Drive on the project side. The appropriate sign detail should be shown in the plan set. *Comment partially satisfied. Although the applicant will allow the existing signs to remain on the Demolition Plan, we recommend applicant's engineer determine the number of signs needed by Title 39 and add the minimum number of signs necessary to be in conformance.*
15. Cross-hatched areas should be defined in the plan set details. They may be pavement markings. *Comment partially satisfied. We recommend using 24" wide epoxy stripes, 12' on center at 45 degrees, like NJDOT gore striping. Use white markings; see comment 31.*
16. No thermoplastic pavement marking materials should be used on concrete. Thermoplastic won't adhere to concrete over the long term. The applicant should consider using epoxy materials instead on concrete. Thermoplastic markings are acceptable on asphalt pavement. The general "rule-of-thumb" is to use thermoplastic materials for transverse markings and epoxy paint for longitudinal striping. *Comment satisfied.*
17. Signing indicating No Parking Loading Zone should be placed on the Wawa building. Sign details should be included in the plan set appropriately. *Comment satisfied.*
18. Stop bars should not be striped unless required by NJDOT in areas under their jurisdiction, and at the Emmons Drive access driveways. *Comment satisfied.*

19. Striping is shown in the area of the air pump. Details (color, dimensions, stripe width) should be indicated. *Comment partially satisfied. Use white markings, see comment 31.*
20. The proposed traffic island at the US Route 1 access seems small. Industry standards' rule of thumb is 150 square feet minimum, 100 square feet absolute minimum. We recognize this is under NJDOT jurisdiction. *Comment satisfied. NJDOT's minimum square foot requirement is 75 square feet and 83 square feet are proposed.*
21. Along the southerly parking row for the Wawa site, 11 parking spaces are shown leading to a total site parking supply for Wawa of 51 spaces. This total will require one additional handicap-accessible space to be provided. *Comment satisfied. The total number of spaces has been revised to 50, which still meets ordinance requirements, and the outstanding space was converted to an accessible space.*
22. A ONE WAY right sign is recommended for installation on the "Jersey barrier" at the right-in/right-out exit on US Route 1. It's recognized that this matter is NJDOT's decision. *Comment satisfied. The applicant is not proposing a sign, in keeping with their observations of other areas along Route 1.*
23. STOP signs on the site should be limited to site driveway intersections with Emmons Drive and US Route 1. We recommend against "oversigning" the site. *Comment satisfied.*
24. Pavement markings should be limited to parking stalls, loading areas and required Americans with Disabilities Act (ADA) markings. Two-way drive aisle pavement marking arrows are not necessary. We recommend against "overmarking" the site. *Comment satisfied.*
25. Pursuant to Code Section 200-29M.(4), "hairpin" striping is to be used to designate parking spaces on-site. *Comment partially satisfied. Testimony will be provided in concert with a waiver request.*
26. All trees within sight triangles and within ten feet of paved areas should be limbed to a minimum height of seven feet. In similar locations plantings should not exceed three feet in height. These dimensions are necessary to maintain driver's eye height sight distance. This may be handled with a note appropriately placed in the plan set. *Comment satisfied.*
27. Trees should not be planted in areas of traffic signing. *Comment satisfied through addition of a note on the plan (Sheet 8.)*
28. A street tree is proposed in the sight triangle on Emmons Drive. Any such tree should be limbed to the minimum 7' height and also have their locations reviewed to avoid a "wall-appearing" obstruction to the access point sight triangles. *Comment satisfied through addition of a note on the plan (Sheet 8.)*
29. A Truck Turning Template is to be provided for a typical West Windsor Township fire truck. This template is to show access into and out of the site as well as through both the Wawa and the hotel sites. *Comment satisfied through furnishing of plan, recognizing that Township emergency officials may possibly conduct their own review.*

30. Trash provisions for the proposed hotel are to be shown/discussed. A Truck Turning Template for a refuse truck for the hotel site is to be provided. *Comment satisfied through furnishing of plan; applicant indicates that testimony will be provided.*
31. Parking stall stripes shall be white, not yellow, per the MUTCD, in Section 3B.19. Pavement markings/stripping on the site shall be installed in white except blue as required by the ADA for handicap parking stalls. *Comment open. Stall stripes are still designated as yellow.*
32. A No Left Turn sign is shown without a sign border; a border is to be added. *Comment satisfied.*
33. The A.D.A. Parking Sign on Bollard Detail is to be revised as follows:
- a) The Van Accessible Plaque is to be designated as R7-8P and shown with a size of 18" X 9".
 - b) The Penalty Plate is to be shown with a size of 10" X 12" and designated as "Penalty Plate". The R7-8P designation is to be removed.
- Comment satisfied.*
34. For the Accessible Parking Sign detail on the Wawa Construction Details (Sheet 15 of 19), the sign revisions are to be made to coincide with those described in Comment 33., a) and b) above. *Comment satisfied.*
35. Wherever Yield signs are to be installed, they are to be an MUTCD-compliant sign of 36" X 36" X 36". If these signs are not used, they are to be removed from Sheet 16 of 19, Wawa Construction Details. *Comment satisfied.*

This concludes our comments currently. Additional comments may be provided as the project moves forward.

CC's: Lisa Komjati
Sam Surtees
Ian Hill, P.E.
Tim Lynch
Chris Jepson, P.E.

Ed Schmierer, Esq.
Joseph Burgis, P.P., A.I.C.P.
David Novak, P.P., A.I.C.P.
Dan Dobromilsky, L.L.A., P.P., C.T.E.
Stephen R. Nehmad, Esq.

West Windsor Township Fire & Emergency Services

Memorandum

DATE: September 11, 2020
TO: Sam Surtees, Land Use Manager
FROM: Chief Timothy M. Lynch
REGARDING: ZB 19-06, Windsor 1 Developers, LLC – 2nd Review

OVERVIEW

The current application regards a one hundred twenty (120) room hotel, a 5,585 square foot convenience store (Wawa), and 16 pump fueling station.

ACCESS

- Further information needs to be provided regarding the parking lot layout to ensure compliance with Township Ordinance regarding fire apparatus turning radii for fire department emergency access. Although there is a plan addressing a fueling and delivery vehicle path for the convenience store, there is no information pertaining to access at the hotel site. **Applicant has provided a composite drawing showing a circulation plan for West Windsor fire apparatus. The drawing appears to show a requirement to overrun curbing in front of the hotel. We would ask the Township Engineer to evaluate this plan and determine compliance.**
- Applicant shall limit the number of trees in close proximity to the building, specifically in areas without direct street access, to allow access to higher floors by the fire department with ladders. **Applicants landscaping plan shows several large trees in the area of the hotel which may hinder firefighters from using ground ladders to access areas of the hotel without roadway access.**

WATER SUPPLY FOR FIRE PROTECTION

- Current plans presented only show one single pre-existing fire hydrant along Emmons Drive as the sole firefighting water supply source for the entire property. Additional hydrants would need to be located at the front entrance of the hotel, as well as along the Route 1 entrance to the convenience store. **Plans still only show existing hydrants and do not propose any additional hydrants. This one hydrant would not be adequate to provide fire protection water for this proposed site.**
- We request the installation of fire department standpipes in each stair tower of the hotel. The standpipes shall have 2 ½” national standard thread hose outlets on each stair tower



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floor landing. The standpipes shall be tied into the fire sprinkler piping so that there will only be one fire department connection.

MISCELLANEOUS

- The position of the fire department connection that supports the fire sprinkler system shall be at the front of the building.
- Applicant should be aware that under N.J.A.C. 5:70, 510.1 *Emergency Responder Radio Coverage* – “All new buildings shall have approved radio coverage for emergency responders within the building based upon existing coverage levels of the public safety communications systems of the jurisdiction at the exterior of the building.”
 - The applicant may be required by the construction official to conduct a radio signal strength survey of the building while under construction, and if deemed necessary a radio signal amplification system would need to be installed.
- Applicant is requesting a variance requiring a designated loading area for the proposed hotel. If granted, delivery vehicles would be required to park in the same zones which would be used for emergency vehicle access, delaying any emergency response.
- Proposed plans do not show a designated refuse disposal area for the hotel. This could lead to a build up of refuse materials in storage areas within the hotel, which would increase fire load and could cause a fire hazard.

CONCLUSION

- More information is needed before a conclusion can be formed.



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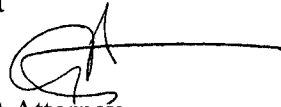
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MEMORANDUM

To: West Windsor Township Zoning Board of Adjustment

From: Edwin W. Schmierer, Esq.
West Windsor Township Zoning Board of Adjustment Attorney



Date: September 14, 2020

Re: Applicant: Windsor 1 Developers, LLC for Minor Subdivision Approval, Preliminary/Final Major Site Plan Approval, "d(4)" Floor Area Ratio Variance Relief, "d(6)" Height Variance Relief, "c" Variance Relief and Design Waiver Relief for the Development of a Hotel and Motor Vehicle Service Station/Convenience Store on U.S. Route 1 South near its Intersection with Emmons Drive (3499 U. S. Route 1; ZB19-06) (Revised)

The above application will be considered by the West Windsor Township Zoning Board of Adjustment at an in-person meeting on September 24, 2020.

The property that is the subject matter of the application is designated as Block 7, Lot 59 on the West Windsor Township Tax Map and commonly known as 3499 U.S. Route 1 (hereinafter referred to as the "Property"). The Property currently consists of 5.51 ± acres of land and is currently improved with a hotel and restaurant.

Following discussions with the Township staff, consultants, NJDOT and the West Windsor Township Council adopting Ordinance 2020-17 which took effect on August 17, 2020 concerning revisions to the B-2 Zoning District Standards, a revised application including revised plans by Dynamic Engineering dated August 5, 2020 have been submitted for your review and consideration.

Windsor 1 Developers, LLC (hereinafter referred to as the "Applicant") is the contract

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purchaser of the Property and proposes two separate uses on the property. In order to facilitate those uses, the first relief sought by the Applicant is a minor subdivision approval. If approved, the Property would be divided into two separate lots. One of the lots, containing 1.64 acres of land immediately adjacent to U.S. Route 1 South would contain a Wawa convenience store in conjunction with a gasoline service station. Prior to the adoption of Ordinance 2020-17, this proposed use was a conditional use triggering use variance relief for the Applicant. The new ordinance makes this a permitted use in the B-2 Zoning District. The second proposed lot which consists of 3.86 acres of land would be located beyond the Wawa convenience store and gasoline service station adjacent to Emmons Drive. This lot would contain the proposed 4-story hotel building and related improvements. A hotel is also now a permitted use in the B-2 Zone.

I. Wawa Proposal:

The Wawa convenience store would consist of an area 5,585 square feet. In front of the store, adjacent to the highway, would be four kiosks and eight fueling stations. The following variance relief is sought:

- A. Section 200-202G Maximum Improvement Coverage: Under the new ordinance, the maximum improvement coverage permitted is 55%. The Applicant seeks permission to develop this portion of the Property at 82.7%. A bulk variance, therefore, is required.

In addition, the Applicant seeks waiver relief from certain design standards including

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landscaping issues, screening parking areas and signage. A listing of these waivers or exceptions will be set forth in the Burgis Associates Planning Memorandum in detail.

II. Hotel Proposal:

In order to construct the proposed hotel, which is also a permitted use, the Applicant seeks the following variance relief:

- A. Section 200-202F Floor Area Ratio ("FAR"). Under the bulk regulations for the B-2 Zoning District, a maximum FAR for a multistory hotel is 0.35%. The Applicant's proposed hotel has an FAR of 0.45%. A d(4) use variance is required.
- B. Section 200-202I.(1) Maximum Building Height: The maximum height of a hotel is permitted to be four stories but not more than 55 feet. The hotel proposed by the Applicant has a total height of 61.33 feet. This includes a 13.08-foot architectural tower. The actual hotel building itself is 48.25 feet in height. A d(6) use variance is required.
- C. Section 200-202.B. Front Yard Setback: The minimum front yard setback required for the hotel is 125 feet. The hotel is proposed to be set back from Emmons Drive 11.10 feet. A bulk variance is required.

III. Legal Standards:

- A. Use Variances: As indicated above, two use variances are required. For

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the d(4) FAR variance, the decision in Randolph Town Center v. Township of Randolph, 324 N.J. Super. 416 (App. Div. 1999) provides guidance to the Board. In order to gain approval for an FAR greater than that permitted by ordinance, the Applicant must satisfy the Board that the Property will accommodate any problems associated with a floor area greater than that permitted in the district. If the Applicant can demonstrate that a more intense use of the Property, as reflected by a Floor Area Ratio in excess of that permitted in the zone and the Property can still function properly, then this use variance relief can be granted. The other use variance is the d(6) height variance. Technically, the height of the proposed hotel is 61.33 feet whereas 55 feet is permitted. As indicated above, however, and as depicted on the Ben Horten Architectural Rendering of the Hyatt House Hotel, there is an architectural tower located on the corner of the building which undoubtedly holds mechanicals for the building which add 13.08 feet of height to the structure. The usual concern when a height use variance such as this one is sought is whether or not the additional height would have a detrimental impact on adjacent uses and deprive those uses of appropriate air and light circulation (see Jacoby v. Englewood Cliffs Zoning Board of Adjustment, 442 N.J. Super.

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450 (App. Div. 2015). As the rendering illustrates, this tower feature affects only a portion of the overall structure with the actual 4-story of hotel rooms below the 55-foot requirement.

Five affirmative votes by the Board are required to approve these use variance requests. The Applicant must satisfy the Board that there are "special reasons" to grant the requested relief and satisfy the "positive criteria." It is anticipated that the Applicant will seek to persuade the Board that allowing for the redevelopment of the Property satisfies one or more of the purposes of zoning under the Municipal Land Use Law ("MLUL") at N.J.S.A. 40:55D-2 (see Burbridge v. Mine Hill Tp., 117 N.J. 376 (1990)). Additionally, the Applicant must persuade the Board that granting the use variance relief sought or indeed the bulk variance relief referenced below, that the relief can be granted without substantial detriment to the public good. Under Medici v. BPR Co., 107 N.J. 1 (1987), the Court directs that in evaluating the negative criteria, the focus is on the impact that the proposed use and its mass would have on adjacent properties and for the Board to determine whether or not the Applicant's proposal would damage the character of the zoning district within which the Property is located.

I believe it is fair to say that governing body of the Township, by virtue of adoption of Ordinance 2020-17, was interested not only in expanding the size of the B-2 Zoning District but also encouraging the development of the two proposed uses being advanced by the Applicant by moving these uses into the permitted use section of the ordinance and no longer requiring the satisfaction of special conditional use standards. Moving in this direction was also supported by the West Windsor Township Planning Board as the drafters of the Master Plan when Ordinance

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2020-17 was endorsed and recommended by the Board to the Council on July 8, 2020.

- B. Bulk Variance: As indicated above, a bulk variance is sought for maximum improvement coverage for the proposed Wawa lot. The Board members are no doubt familiar with the current conditions on that portion of the Property whereupon the Applicant proposes constructing the Wawa and related facilities. The area is currently paved to support the existing hotel and restaurant use which will be replaced if the application is approved. To obtain the sought after relief, the Applicant will need to satisfy the positive and negative criteria set forth above. It is anticipated that for the c bulk variance, a c(2) argument will be advanced to the effect that granting the variance relief will advance the purposes of the B-2 zone and this deviation from the ordinance requirement can be granted since the benefits of deviating or varying this bulk standard outweighs any detriment to the other property owners in the B-2 zone and the public good.
- C. Minor Subdivision: Pursuant to Section 200-50 of the Land Use Ordinance ("LUO"), the Board must be satisfied that the Applicant requesting minor subdivision approval complies with the required sketch plat requirement.
- D. Preliminary/Final Major Site Plan Approval: Pursuant to Section 200-26 LUO, the Board likewise must be satisfied that the Applicant's site plan addresses all of the site plan design details with regard to landscaping, lighting, safe vehicular traffic movement, signage, etc.
- E. Design Exceptions: Pursuant to Section 200-7 LUO, with regard to the site plan

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application, the Board has the inherent authority to grant exceptions or waivers to the Applicant from specific site plan requirements if the Board is satisfied that the granting of the exception or waiver is reasonable within the general purpose and intent of the site plan ordinance.

The Applicant's development proposal basically involves the redevelopment of the Property. The Board must be satisfied that the intensity and scope of the overall development of both lots with the two proposed uses is appropriate within the B-2 zone and will not negatively impact surrounding, permitted uses.

cc: *(via Electronic Mail)*:
Samuel J. Surtees, Manager, West Windsor Land Use Division
Lisa Komjati, West Windsor Township Land Use Division
Ian Hill, PE, Van Cleef Engineering Associates, Consulting Civil Engineer
Christopher Jepson, PE, Van Cleef Engineering Associates, Environmental Engineer
Daniel Dobromilsky, LLA/PP/LTE, West Windsor Township Landscape Architect
James Kochenour, Arora & Associates, West Windsor Township Consulting Traffic Engineer
David Novak, PP/AICP, Burgis Associates, Township Consulting Planner
Stephen R. Nehmad, Esq., Nehmad Perillo Davis & Goldstein, Applicant's Attorney