

Prepared by the Court

FILED

SEP 28 2022

ATLANTIC COUNTY
LAW DIVISION

DENNIS 47 DEVELOPERS, LLC,

Plaintiff,

v.

DENNIS TOWNSHIP LAND USE BOARD,

Defendant.

SUPERIOR COURT OF NEW JERSEY
CAPE MAY COUNTY
LAW DIVISION

DOCKET NO: CPM-L-442-21

Civil Action

ORDER & FINAL JUDGMENT



THIS MATTER, having been brought before the Court by way of an action in lieu of prerogative writ; and Stephen R. Nehmad, Esquire of the firm Nehmad Davis & Goldstein, P.C., having appeared on behalf of Plaintiff; and Jon D. Batastini, Esquire of the firm Garrett & Batastini, P.A., having appeared on behalf of Defendant; and the Court having reviewed carefully each Party's previously filed pleadings and having carefully reviewed the transcripts and full record of the proceedings conducted below before Defendant, Dennis Township Land Use Board; and for the reasons more fully set forth in the Memorandum of Decision issued on this same date; and for good cause shown;

IT IS on this 28th day of AUGUST 2022; ORDERED and ADJUDGED as follows:

1. The Defendant's July 22, 2021 denial of Plaintiff's application for a use variance pursuant to the provisions of N.J.S.A. 40:55D-70d(2), bulk variances pursuant to the provisions of N.J.S.A. 40:55D-70c and design waivers pursuant to the ordinances of the Township of Dennis in connection with Plaintiff's application to develop a 2.36+/- acre portion of the real property that is designated on the tax map of Dennis Township in Cape May County as Block 64, Lot 30, commonly known as 1089 NJ-47, with a Wawa retail convenience store and gas station under a free-standing canopy, all as more particularly set forth in Defendant's memorializing resolution CLUB 2021-14, was an arbitrary, capricious, unreasonable, and unlawful application of its land use powers under N.J.S.A. 40:55D-1, et. seq. and said decision be, and hereby is, reversed.

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2. The Defendant's July 22, 2021 denial of Plaintiff's application for preliminary and final major site plan approval, in connection with Plaintiff's application to develop a 2.36+/- acre portion of the real property that is designated on the tax map of Dennis Township in Cape May County as Block 64, Lot 30, commonly known as 1089 NJ-47, with a Wawa retail convenience store and gas station under a free-standing canopy, all as more particularly set forth in Defendant's memorializing resolution CLUB 2021-14, was an arbitrary, capricious, unreasonable, and unlawful application of its land use powers under N.J.S.A. 40:55D-1, et. seq. and said decision be, and hereby is, reversed.
3. The Defendant's July 22, 2021 denial of Plaintiff's application for minor subdivision approval, in connection with Plaintiff's application to develop a 2.36+/- acre portion of the real property that is designated on the tax map of Dennis Township in Cape May County as Block 64, Lot 30, commonly known as 1089 NJ-47, with a Wawa retail convenience store and gas station under a free-standing canopy, all as more particularly set forth in Defendant's memorializing resolution CLUB 2021-14, was an arbitrary, capricious, unreasonable, and unlawful application of its land use powers under N.J.S.A. 40:55D-1, et. seq. and said decision be, and hereby is, reversed.
4. For the reasons more fully set forth in the accompanying Memorandum of Decision, in lieu of remanding this matter to the Defendant land use board for further proceedings, the Court retains jurisdiction over Plaintiff's land use application that was the subject of this action in lieu of a prerogative writ and grants Plaintiff's application to develop a 2.36+/- acre portion of the real property that is designated on the tax map of Dennis Township in Cape May County as Block 64, Lot 30, commonly known as 1089 NJ-47, with a Wawa retail convenience store and gas station under a free-standing canopy which grant of approval shall be deemed to specifically include the following:
 - a. A use variance pursuant to the provisions of N.J.S.A. 40:55D-70d(2), all bulk variances pursuant to the provisions of N.J.S.A. 40:55D-70c for which Plaintiff applied and all design waivers pursuant to the ordinances of the Township of Dennis for which Plaintiff applied;
 - b. Minor subdivision approval pursuant to Dennis Township Ordinance §165-1, et. seq., and N.J.S.A. 40:55D-47 to create a 2.36+/- acre lot from Block 64, Lot 30 upon which the aforementioned Wawa retail convenience store and gas station

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under a free-standing canopy will be developed in accordance with the plans and drawings that Plaintiff submitted to Defendant land use board; and

- c. Preliminary and final major site plan approval so as to allow a 2.36+/- acre portion of the real property that is designated on the tax map of Dennis Township in Cape May County as Block 64, Lot 30, commonly known as 1089 NJ-47, with a Wawa retail convenience store and gas station under a free-standing canopy in accordance with the plans and drawings that Plaintiff submitted to Defendant land use board.
5. Count 3 of Plaintiff's Complaint, having been rendered moot by this Order and Final Judgment, is dismissed without prejudice. The dismissal shall be deemed to be with prejudice upon the time for an appeal expiring without an appeal having been filed. In the event of an appeal of this Order and Final Judgment then the dismissal shall remain without prejudice abiding a final resolution of the appeal.
6. This Order and Final Judgment shall be electronically filed via e-courts thereby ensuring prompt service upon all counsel of record



MICHAEL J. BLEE, A.J.S.C.



FILED

SEP 28 2022

**ATLANTIC COUNTY
LAW DIVISION**

**NOT FOR PUBLICATION WITHOUT
THE APPROVAL OF THE COMMITTEE ON OPINIONS**

The Honorable Michael J. Blee, A.J.S.C.

1201 Bacharach Boulevard
Atlantic City, NJ 08401-4527
(609) 402-0100

MEMORANDUM OF DECISION

TO: Stephen R. Nehmad, Esq.
4030 Ocean Heights Ave.
Egg Harbor Township, NJ 08234
On Behalf of the Plaintiffs

Jon D. Batastini, Esq.
3318A Simpson Ave.
Ocean City, NJ 08226
On Behalf of Defendants

RE: DENNIS 47 DEVELOPERS, LLC V.
DENNIS TOWNSHIP LAND USE
BOARD

DOCKET NO. CPM-L-442-21

NATURE OF MOTION(S): Action in Lieu of Prerogative Writ

SUBMISSIONS BY PLAINTIFF AND DEFENDANT:

1. ON JUNE 8, 2022, PLAINTIFF FILED A TRIAL BRIEF.
2. ON AUGUST 8, 2022, DEFENDANT FILED A BRIEF IN OPPOSITION.
3. ON AUGUST 15, 2022, PLAINTIFF FILED A REPLY BRIEF.
4. ON SEPTEMBER 26, 2022, ORAL ARGUMENT WAS CONDUCTED.

HAVING CAREFULLY REVIEWED THE MOVING PAPERS, AND HAVING CONSIDERED ORAL ARGUMENT, I HAVE RULED ON THE ABOVE CAPTIONED MOTION(S) AS FOLLOWS:

Requested Relief

This matter comes before the Court by way of a Complaint in Lieu of Prerogative Writ filed by Dennis 47 Developers, LLC ("Plaintiff") on November 3, 2021. Plaintiff challenges the Dennis Township Land Use Board's denial of its application for use variance relief pursuant to N.J.S.A. 40:55D-70d(1), preliminary and final major site plan approval, and "c" variance relief pursuant to N.J.S.A. 40:55D-70c for bulk standards to develop a full-service Wawa convenience store with a gas station on Route 47.

Parties Contentions

Plaintiff's Motion

1. The Board's Denial of Plaintiff's Application must be Overturned Because its Decision was in all Regards Arbitrary, Capricious, and Unreasonable

Plaintiff argues that the evidence that was presented to the Board satisfied the predicate positive criteria for the Use Variance. Plaintiff argues that there are three categories of circumstances in which the special reasons for a use variance may be found. Plaintiff argues this case falls within the third reason, where the proposed use would serve the general welfare because the site is "particularly suitable for the proposed use" is where this case falls into. Smart SMR of New York, Inc. v. Fairlawn Bd. Of Adj., 152 N.J. 309, 323 (1998). Plaintiff argues the application before the Board clearly demonstrated that the general welfare and safety of the public would be served because Plaintiff's site is particularly suited to Plaintiff's proposed use.

Further, Plaintiff contends that as to the negative criteria, outlined in N.J.S.A. 40:55D-70, that the applicant is required to present, with an enhanced quality of proof, both the requested variance "can be granted without substantial detriment to the public good" and that the granting of the variance "will not substantially impair the purpose and intent of the zone plan and zoning ordinance." N.J.S.A. 40:55D-70d; Medici, supra, 107 N.J. at 21; Sicca, supra, 127 N.J. at 156. Plaintiff argues that in this case, Plaintiff presented to the Board evidence that was substantial, credible, completely uncontroverted and which overwhelmingly satisfied both the positive and negative criteria for the requested variance.

2. The Court should exercise original jurisdiction and grant plaintiff the approvals that it sought because a remand to the board would be an exercise in futility

Plaintiff contends that the Board's resolution provided a lengthy summary of the testimonial evidence that was presented by Plaintiff's expert witnesses but reciting the testimony

should not be used as a substitute for findings regarding that testimony. Plaintiff argues the Board made no findings relative to the credibility of Plaintiff's witnesses. Plaintiff contends the Board made no findings as to whether the opinions of the experts were accepted as and, if so, why they were accepted or rejected. Moreover, Plaintiff contends that the Board made no findings as to whether the opinions of the experts were rejected, and if so, why they were rejected. Plaintiff contends the Board completely failed to consider the evidence that was presented and, as a result, its decision was arbitrary, capricious and unreasonable. Plaintiff argues the Board's reluctance to consider the evidence that was presented during the course of two hearings was so compelling that one should conclude the Board's actions in that regard were intentional and deliberate.

Plaintiff contends given the Board's failure to consider the evidence that was presented, Plaintiff requests the Court exercise original jurisdiction to decide the matter in the first instance and in doing so in light of the evidence in support of the approvals that were sought.

Lastly, Plaintiff contends that in the event that the Court decides that rather than exercising original jurisdiction it would be more appropriate to remand the matter to the Board, the Plaintiff urges the Court to do so with instructions to the Board that it grant the Plaintiff the use variance sought along with subdivision approval and preliminary and final site approval.

Defendants' Opposition

The Board argues that the denial was not arbitrary, capricious or unreasonable because their decision was based on the specific ordinance language that gas stations are not permitted in the zone, the traffic pattern for ingress and egress, the disruption of Route 47 for construction, and a lack of oversized vehicle parking.

The Board argues that the positive criteria is not satisfied because the record does not support that the site is well fitted due to traffic and parking concerns. Moreover, the Board argues that the record does not establish that Plaintiff's proposal would fill a need in the general community nor does it address whether there are other viable locations such that the Board's decision is arbitrary, capricious or unreasonable.

The Board further argues that the record shows that the Applicant could not meet the special reasons for a use variance or the negative criteria. The Board argues that Plaintiff could not meet the standards for a use variance pursuant to N.J.S.A. 40:55D-70 despite the changes to the traffic flow of Route 47. The Board's decision was based on the Board members' local knowledge that there would be an increase in traffic, changes in the ingress and egress pattern on to Route 47 resulting in less exit points and no traffic light, parking congestion for larger vehicles, the non-permitted gas station use that is specifically identified as not permitted, and the environmental concerns of the junkyard that would remain in use.

The Board asserts that its decision was also based on the significant roadway construction that is required to safely handle a 50% increase in traffic to the site, the oversized vehicle access to the site, and the probability of these vehicles parking on the side of the road and obstructing the safe flow of traffic along Route 47. The Board determined that the likelihood of oversized vehicles idling on the shoulder of the road goes against the purpose of the MLUL, specifically that it is intended to "...discourage locations and routes which result in congestion..." N.J.S.A. 40:55D-2.

The Board argues that, in the event the Court finds the Board lacked findings of fact, this matter should be remanded so that the Board can clarify its findings.

Plaintiff's Reply

Plaintiff argues that the impairment of sound zoning cannot be a basis for the Board's denial as the granting of this variance would hide the visual blight and visually abate a junkyard use which is impairing sound zoning. Plaintiff argues that the use variance will advance, rather than impair, the purpose of sound zoning because the proposed use is almost directly aligned with the array of uses permitted in the underlying zoning district.

Plaintiff further argues that there is no competent evidence, other than mere speculation, that could support the Board's findings that the proposed use would impose a "major traffic hazard," have insufficient parking, or that tractor trailers would park on the side of Route 47. Plaintiff argues that their two traffic engineers testified that the proposed traffic improvements would enhance safety rather than degrade it and that the Zoning Board's engineer did not dispute the conclusions of Plaintiff's traffic engineers. Plaintiff argues that the proposed site access would provide for safe and efficient vehicular movements in accordance with all ordinance and industry standards and would enhance traffic safety for the subject site as well as the other properties along this section of Route 47. Plaintiff contends that the traffic experts' testimony was based on traffic impact studies conducted by analyzing traffic accident history and traffic counts during peak summer periods.

Plaintiff further argues that its application exceeds the number of parking spaces required for normal patron vehicles and its revised plan added spaces for four to six oversized vehicles for the retail store. Plaintiff argues that there is no basis for the Board's concern that oversized vehicles would park on Route 47, which is the case at the retail-only Wawa across the street, because the four to six oversized parking spaces this proposed Wawa adds are more than adequate to handle the anticipated demand. Plaintiff argues that its licensed Planner testified that the site was

particularly suited for the proposed use and that several purposes of the NJMLU would be advanced through the grant of the variance.

Plaintiff argues that there was no basis for the Board to deny the credibility of Plaintiff's traffic engineering and planning experts' opinions.

Material Facts and Procedural History

Plaintiff seeks to build the proposed Wawa on the property located at 1089 NJ-47 in Dennis Township, Block 64, Lot 30, on the Dennis Township Tax Map (from herein "Property"). The Property consists of 11.93 acres with approximately 660 feet of frontage along Route 47. The Property is currently occupied by a non-conforming junk/salvage yard extending from a portion of the Route 47 frontage to the rear of the site. The Property also includes a welding/fabrication business, sign business, and awning business which all operate in various buildings along the Route 47 frontage. The remainder of the property is largely surrounded by forest and wetlands to the south, west and northwest, except for additional commercial operations immediately to the north/northwest which also front on Route 47. Directly across Route 47 from the Property is a parcel that is developed with a Wawa retail convenience store without retail fuel sales.

The Property is located within the VC – Village Commercial Zoning District. The permitted uses in the VC Zone include general retail in single use buildings not larger than 5,000 square feet. Code of the Township of Dennis § 185-17. Automobile repair and service stations, including gas stations, are not permitted VC Zones.

1. Application

On or about February 12, 2021, Plaintiff filed a land development application (from herein "Application") with the Dennis Township Land Use Board (from herein "Board") seeking approval

to subdivide and develop a 2.36-acre portion of the Property with a new 5,585 square foot Wawa retail store and fueling station containing eight (8) fuel dispensers and sixteen (16) fueling positions under a free-standing canopy.

Plaintiff's plan of development was to place the Wawa store in the front of the lot and the gas station in the back portion of the lot in order to provide for an aesthetic enhancement to the property from Route 47. Plaintiff also proposed to undertake systematic roadway improvements along Route 47 by creating a two-way center left turn lane along the center stretch of Route 47 between Petersburg Road and Main Street to help alleviate roadway congestion and associated vehicular accidents. This endeavor would also widen the roadway itself.

Plaintiff's application sought the various forms of relief as follows:

1. A "use" variance pursuant to N.J.S.A. 40:55D-70(d)(1) to permit a 2.36 +/- acre portion of the Property to be developed with a Wawa retail convenience store with fueling facilities under a free-standing canopy.
2. Minor subdivision approval to create an approximately 2.36-acre parcel upon which the proposed Wawa would be developed; and
3. Preliminary and final major site plan approval for the development of Wawa together with associated and related site improvements.

The Application also requested several bulk "c" variances pursuant to N.J.S.A 40:55D-70(c) all of which were subsumed into the use variance relief as a matter of law.

2. The April 22, 2021, Hearing

The Application was publicly heard before the Board on April 22, 2021. Upon the close of public comment, Plaintiff requested the Board carry the Application to another hearing date to give Plaintiff an opportunity to consider the comments and concerns of the Board that had been voiced during the hearing. The Board granted the request and reconvened on July 22, 2021, at which time the hearing proceeded to a conclusion.

Plaintiff presented testimony of five (5) expert witnesses at the April 22, 2021, hearing: Plaintiff's project civil engineer, Matthew Sharo, P.E., Plaintiff's architect, Stephen Fortwangler, R.A., Plaintiff's professional traffic engineer, Justin Taylor, P.E., Wawa's real estate project engineer, Kristin Ritz, and Plaintiff's professional planner, John McDonough, P.P. The Board accepted Plaintiff's witnesses as experts in their respective fields. 1T11:10-12, 1T47:23-25, 1T50:6-9, 1T58:16-18, 1T79:25-1T80:2.

a. Plaintiff's Project Civil Engineer, Matthew Sharo, P.E.

Matthew Sharo, P.E., testified that Plaintiff's application included a request for subdivision approval to create a new lot that is 2.356 acres for the new Wawa and that the existing businesses on the property would occupy the remaining 9.575 acres. 1T14:14-1T15:23. Mr. Sharo also discussed the planned stormwater management system, utilities and the septic system. He testified that the fuel dispensing facilities would be located toward the front of the Property beneath a canopy and the number of parking spaces to be provided (fifty-four parking spaces) would exceed the ordinance requirement (twenty-eight parking spaces). 1T19:17-23. Mr. Sharo further testified that Plaintiff's landscape plan includes adding 265 shrubs, evergreens, grass, and plants. He testified that there would be twenty-eight (28) new evergreen trees planted along the front of the site to block headlight glare from vehicles parked while getting fuel and around the trash enclosure to screen the enclosure as well. 1T20:3-1T21:2. Mr. Sharo further opined that, in his opinion, "with the new buildings, the new landscaping, there will definitely be an increase in aesthetics from the Route 47 corridor." 1T27:4-6.

Mr. Sharo stated that the application for the proposed site plan met the local requirements for preliminary and final site plan approval. Mr. Sharo testified that this would improve the aesthetics of Route 47. Mr. Sharo also described to the Board the bulk variances that were

implicated by the Application. Mr. Sharo testified that he believed the Applications met the local requirements for preliminary and final site plan approval. The project architect followed, opining that all of the architectural aspects of the project were compatible and complementary of one another.

b. Plaintiff's Traffic Engineer, Justin Taylor, P.E., and Professional Planner, John McDonough

Plaintiff's engineer, Justin Taylor, P.E., and Professional Planner, John McDonough, P.P. testified at the April Board hearing, in which Mr. Taylor discussed the roadway improvements needed for the Application. Mr. Taylor opined that Plaintiff's proposal to make systematic roadway improvements would not only support better traffic flow to and from the proposed Wawa but would also provide relief from traffic congestion in the area. Mr. McDonough provided testimony in support of the use variance to permit the development of the Property with the proposed Wawa. At the conclusion of the April Board hearing, some Board Members stated their concerns regarding traffic and parking. The Board then granted the request for Plaintiff to have another hearing to consider the comments that were voiced during the hearing and provide more detailed responses.

3. The July 22, 2021, Hearing

At the July 22, 2021, hearing, Wawa's real estate project engineer, Kristin Ritz, confirmed that Wawa's management considered all of the comments that the Board Members and members of the public made at the last Board meeting and had approved of all of the modifications now being presented. At the hearing Plaintiff's witnesses testified regarding the modifications that had been made to the site plan as a result of the comments given at the April Board hearing. Three significant site plan modifications were made. They were: 1) a downsizing of the Wawa building

and elimination of the rear entrance to the building; 2) reconfiguring the parking plan to include parking spaces for oversized vehicles along with two pull-through lanes for trucks and oversized vehicles; and 3) providing the Board with a choice of two different architectural styles for the canopy. These modifications were mainly described by Matthew Sharo, P.E. There were no objectors and no member of the public objected to the Application.

At the conclusion of the hearing, upon roll call vote, the Board voted to deny the Application by a vote of five "no" votes and two "yes" votes. Board members opined that the parking and increased traffic flow for cars, larger vehicles, and trucks onto and out of the site is insufficient and such conditions would cause more problems than currently exist at the site. The Board asserts that the limitation of one exit onto Route 47 in conjunction with the increased traffic expected into and out of the site would create a hazard. The Board discussed how gas stations and fueling stations are not permitted in this zone. The Board opined how the plan to create a smaller lot for the auto salvage portion of the property will increase the environmental stress and contamination on auto salvage portion of the newly subdivided lot post completion of this project.

4. The Resolution

On September 23, 2021, the Board adopted Resolution #CLUB 2021-14, memorializing the denial of Plaintiff's application. The Resolution noted the following:

The parking and increased traffic flow for cars, larger vehicles and trucks onto and out of the site is insufficient and such conditions would cause more problems than currently exists at the site.

The limitation of one exit onto Route 47 in conjunction with the increased traffic expected into and out of the site provides a hazard at this site.

Gas stations or fueling stations are not permitted in the zone.

The project incorporates two (2) non-conforming uses where only one (1) exists currently.

Creating a smaller lot for the auto salvage portion of the property will increase the environmental stress and contamination on auto salvage portion of the newly subdivided lot post completion of the project.

The Resolution also included the Board members comments that:

Only the Wawa site will be remediated from contaminants.

The Board liked the A frame for the canopy over the fueling station.

Only one exit is available for both fueling and retail customers and that is not sufficient.

Discussion

I. Standard of Review

The Superior Court's review of a zoning board's decision is deferential, and the factual determinations of a board are presumed to be valid. Grabowsky v. Twp. of Montclair, 221 N.J. 536, 551 (2015). Accordingly, a trial court must view the decision of the Board as presumptively correct. Rexon v. Bd. Of Adjustment of Haddonfield, 10 N.J. 1 (1952).

Zoning board's decisions and determinations are given deference by the court because local officials, rather than the courts, are thoroughly familiar with the community's characteristics and interests, are the proper representatives of its people, and are best equipped to initially rule on applications for a use variance. Ward v. Scott, 16 N.J. 16, 23 (1954). Fallone Props., L.L.C. v. Bethlehem Twp. Planning Bd., 369 N.J. Super. 552, 561 (App. Div. 2004) ("[P]lanning boards are granted wide latitude in the exercise of the delegated discretion due to their peculiar knowledge of local conditions. Indeed, local officials are thoroughly familiar with their communities' characteristics and interests and are best suited to make judgments concerning local zoning regulations."). While a court is "not bound by an agency's determination on a question of law, and the court's construction of an ordinance under review is de novo.... courts give deference to a

municipality's informal interpretation of its ordinances.” Fallone Props., L.L.C., 369 N.J. Super. at 561. Variances to allow new, nonconforming uses should be granted only sparingly and with great caution since they tend to impair sound zoning. Elco v. R.C. Maxwell Co., 292 N.J. Super. 118, 126 (App. Div. 1996).

A board’s decision is presumed to be valid so long as there is evidence in the record to support its determination. Lang v. Zoning Bd. of Adjustment, 160 N.J. 41, 58 (1999). That determination must be made on the basis of what was before the board and not on the basis of a trial de novo. Antonelli v. Planning Bd. of Waldwick, 79 N.J. Super. 433, 440-41 (App. Div. 1963). Despite this heavy burden, courts will grant relief where the board’s decision lacks a reasonable basis. Gerkin v. Village of Ridgewood, 17 N.J. Super. 472, 477 (App. Div. 1952). In the case of a denial of a variance, the plaintiff has the “heavy burden” of proving that the evidence presented to the board was so overwhelmingly in favor of the applicant that the board’s action can be said to be arbitrary, capricious or unreasonable. Med. Realty Assocs. v. Bd. of Adjustment of City of Summit, 228 N.J. Super. 226, 233 (App. Div. 1988). Kramer v. Bd. of Adjustment, 45 N.J. 268, 296 (1965) (While decisions of a zoning board of adjustment are afforded a rebuttable presumption of validity, the Court will set aside a local zoning determination when it is arbitrary, capricious or unreasonable).

The standard of review is whether the decision of the Township of Dennis Consolidated Land Use Board to deny Plaintiff’s application for variances and design waivers under N.J.S.A. 40:55D-70(c) and (d), preliminary and final major site plan approval under N.J.S.A. 40:55D-25(a)(2), and minor subdivision approval under Dennis Township Ordinance 165-1, et. seq., N.J.S.A. 40:55D-25(a)(2), and N.J.S.A. 40:55D-47 was arbitrary, unreasonable, or capricious. Pursuant to N.J.S.A. 40:55D-70(d) of the Municipal Land Use Law (MLUL), a board of

adjustment shall have the power to grant a variance “in particular cases for special reasons.” N.J.S.A. 40:55D-70(d)(1) allows a board to grant a “use variance” permitting a use of land that is otherwise prohibited by the local zoning ordinance. A use variance may only be granted upon a showing that the applicant has satisfied (1) the “Positive Criteria,” (2) that the variance would not cause a substantial detriment to the public good (the “Negative Criteria”), and (3) would not substantially impair the intent and purpose of the zone plan and zoning ordinance. N.J.S.A. 40:55D-70.

II. The Board’s decision was not supported by substantial credible evidence in the record and was arbitrary, capricious, and unreasonable

The Court’s limited review requires the Board to provide a clear statement on the record that its decision to deny Plaintiffs’ application was consistent with N.J.S.A. 40:55D-70. The Board must make factual findings on the record to support its determination that Plaintiff’s application did not satisfy the positive and negative criteria, and that it would substantially impair the intent and purpose of the zone plan and zoning ordinance if relief was granted. In determining whether the Board was arbitrary, capricious and unreasonable, this Court analyzes whether there was evidence in the record supporting the Board’s determination that Plaintiff did not overwhelmingly meet all three prerequisites to obtaining a use variance.

First, this Court analyzes the “Positive Criteria” put forth on the record below. The proposed Wawa is along a highway, would block the view of a junkyard, and is across the road from an existing Wawa that will be demolished and deed restricted. At the very first hearing, Plaintiff presented to the Board a plan by which their site would hold double the amount of required parking spaces, a host of environmental landscape additions, and that Plaintiff would personally

pay for systematic improvements to Route 47.¹ The Board's only expert testified that Wawa addressed almost all of his concerns, and upon the Board's expert requesting Plaintiff implement additional signage in the rear of the building, Plaintiff immediately acquiesced. 1T96:17-1T97:14. Nonetheless, the Board expressed legitimate concerns pertaining to traffic and oversized vehicles. Plaintiff requested a second hearing in order to address these concerns, which the Board granted. Subsequently, Plaintiff made substantial changes in conformance with the concerns raised by the Board and the public, and thereafter all members of the public as well as the Board's lone expert were seemingly satisfied. Consequently, Plaintiff satisfied the positive criteria because the site is particularly suitable for the proposed use and the record is devoid of any facts suggesting otherwise; it is especially noteworthy that no local residents spoke out against the location of the proposed site and that Plaintiff worked in good faith to remedy prior concerns.

Second, this Court analyzes the negative criteria put forth on the record below. This Court finds that the record contains no evidence suggesting that negative criteria existed such that there would be a substantial detriment to the public good. On the contrary, the only scientific study on record demonstrates that Plaintiff's improvements to Route 47 would likely halve the rate of traffic accidents on that stretch of highway. This Court gives great weight to the Board's traffic concerns and personal knowledge of their area, but the record overwhelmingly shows each concern of the Board being addressed by Plaintiff, with Plaintiff's solutions being factually undisputed. When the Board expressed concern for a lack of parking regarding oversized vehicles, Plaintiff amended its plan to include several oversized parking spaces. Upon the Board's concern regarding a potential increase in traffic accidents, Plaintiff committed to funding systematic roadway improvements as well as conducted a study showing how accidents on Route 47 would in fact be lessened as a result

¹ Subject to the approval of NJDOT, Wawa is willing to pay for what is estimated to be a costly roadway improvement project.

of said improvements. There is no contrary study on record, nor did the Board ever rebut the findings of Plaintiff's study. The Board's own experts took no issue with Plaintiff's solutions, and the Board brought forth no experts refuting the evidence that they were presented with.²

The Board, at least in part, believed that granting Plaintiff's proposal would substantially impair traffic due to the ingress and egress of the site. A portion of the Board's resolution noted that "The limitation of one exit onto Route 47...provides a hazard at this site." The resolution also included a Board member comment that "Only one exit is available for both fueling and retail customers and that is not sufficient." It is crucial to note that these facts which the resolution is based on are conceivably inaccurate. The proposed site has conceivably two points of ingress and two to three points of egress. The primary point of ingress is along on the north side along Route 47. The primary point of egress is also along the north side but contains two separate and widened lanes for egress. Notably, there is also a third point of ingress and egress at the rear portion of the site.

The Board's environmental concerns are similarly unfounded and unsupported by the record. Plaintiff conducted an environmental impact study for the DEP which the DEP considered satisfactory. 1T46:5-13. Plaintiff proposed to undertake significant environmental cleanup measures on-site, including adding a septic system, which the site currently lacks. 1T16:15-17:18. This system is better than the standard septic system because it treats run-off water before discharging it. 1T17:6-15. Plaintiff's experts further testified that the containers built to hold fuel were not only made of high-quality materials, but that it would also include sophisticated alarm mechanisms that would immediately alert Plaintiff's Headquarters of any potential contamination issue. 1T37:8-38:3.

² This Court notes that the cost of an expert's testimony is borne by the Plaintiff, and thus there is no financial burden imposed on the Board in seeking their own expert in the field.

Third, this Court considers whether the intent and purpose of the zone plan would be substantially impaired by granting the variance. A focal point of contention is that Plaintiff's intend to build a "super Wawa" that sells gas, and a Dennis Township ordinance forbids such a use. However, that is in-part why Plaintiff seeks a variance, and such a non-conforming use is not fatal to Plaintiff's application so long as it does not "substantially impair" the intent and purpose of the zone plan.

Section 185-17 of the Dennis Township Zoning Ordinance allows for "appropriate" development in commercial zones so long as it is compatible with the historic and architectural character of the area. Plaintiff explicitly designed their facility to comport with Dennis Townships' historic and architectural character. The Board was given choices as to how the Wawa would look, and the Board's expert ultimately agreed that the building's aesthetics, even the portion that sells gas, conformed with the historic and architectural character of the area. 1T95:11-15.


Additionally, the reality of where Plaintiff's proposed building will stand is significant. Notwithstanding the fact "junkyards" are not specifically permitted or prohibited by Dennis Township ordinances, Plaintiff's brand-new building—built to the aesthetics that the Board requested and approved—will obstruct the public's view of a junkyard that is currently visible from the road. In addition to blocking blight, Plaintiff seeks to sell gas along a state highway, across the street from an old smaller Wawa that it will demolish and deed-restrict from similar use. Accordingly, this Court finds that granting the variance would not substantially impair the intent and purpose of the zone plan and zoning ordinance.

After reviewing the record below, this Court finds that the Board's determination was unsupported by any substantial evidence on the record, and that the Board's decision in fact contradicts the record since there was no objection to the application by the Board's expert or the

public. The weight of the evidence was substantially in favor of granting Plaintiff's application, and the Plaintiff satisfied all three factors necessary for a use variance under N.J.S.A. 40:55D-70. The record overwhelmingly shows that there is significant positive criteria, no substantial detriment to the public good, and no substantial impairment to the intent and purpose of the zone plan and zoning ordinance. Use variances are appropriate only in exceptional cases—certainly, an improved public roadway at no public cost and the likelihood of motor vehicle accidents decreased by fifty percent—is such a case.

Conclusion

For all the reasons stated herein, the Court holds that the Board's decision was not supported by substantial evidence, and that the Board's decision to deny Plaintiff's use variance was overwhelmingly arbitrary, capricious, and unreasonable. This Court hereby GRANTS Plaintiff's complaint in lieu of prerogative writ and exercises its original jurisdiction in ordering that Plaintiff's application for use variance relief pursuant to N.J.S.A. 40:55D-70d(1), preliminary and final major site plan approval, and "c" variance relief pursuant to N.J.S.A. 40:55D-70c for bulk standards be issued.



The Hon. Michael J. Blee, A.J.S.C.

Date of Decision: 

Jon D. Batastini, Esquire
Attorney ID 025972000
GARRETT & BATASTINI
A Professional Association
3318A Simpson Avenue
Ocean City, New Jersey 08226
(609) 399-0035



Attorney for Dennis Township Consolidated Land Use Board

Dennis Township Consolidated Land Use Board

RESOLUTION CLUB 2022-18

APPLICATION OF: Dennis 47 Developers, LLC

PROPERTY: Block 64, Lot 30 -1089 Route 47

WHEREAS, this Board adopted Resolution CLUB 2021 (the “Resolution”) which denied the application of Dennis 47 Developers, LLC (the “Applicant”) for specified land use approvals including, without limitation, a D-1 use variance, preliminary and final major site plan approval, minor subdivision approval and specified bulk variances, all as more specifically set forth in the Resolution; and

WHEREAS, Applicant timely filed a Complaint in Lieu of Prerogative Writs to the Superior Court of New Jersey, Cape May County, Law Division, challenging the denial of all of the land use approvals recited above and set forth in the Resolution; and

WHEREAS, the Honorable Michael J. Blee, A.J.S.C., pursuant to an Order dated September 28, 2022 reversed the denial of all of the land use approvals sought by Applicant and granted all of said approvals pursuant to the Court’s Order dated September 28, 2022, copy of which is attached hereto and made a part hereof as Exhibit “A” (3 pages); and

WHEREAS, no appeal has been taken from said Order and the Final Judgment issued by

Judge Blee attached as Exhibit "A"; and

WHEREAS, both Applicant and the Board believe it is in the public interest to have a written memorialization of the official action taken by the Court so that terms and conditions of the approvals can be determined.

NOW, THEREFORE, BE IT RESOLVED by the Dennis Township Consolidated Land Use Board at its meeting on December 22, 2022, that it recognizes the legal validity of the Court's Order dated September 28, 2022, a copy of which is attached as Exhibit "A", and determines that the approvals shall be and are hereby conditioned and contingent upon the following:

1. The Board's engineer, specifically J. Michael Fralinger, Jr., PE, CME, issued a report dated August 20, 2021. To the extent that report requests that plan revisions be made which do not negatively affect the legal validity of the land use approvals referenced in and issued by Judge Blee in Exhibit "A", Applicant shall revise the plans to address the items set forth in Mr. Fralinger's aforesaid report.
2. The access drive proposed between Lots A and B shall be the subject of a reciprocal easement agreement, the terms of which shall be reviewed and approved as to form in the reasonable opinion of the Board attorney and Board engineer.
3. The Applicant shall post engineering inspection fees and a performance guarantee in an amount as required by the New Jersey Municipal Land Use Law and in accordance with an engineer's cost estimate submitted to Mr. Fralinger for his reasonable review and approval.
4. The effective date of all approvals, as determined by the Court, and as supplemented by the conditions contained herein, shall be the date upon which this Board adopts this memorializing Resolution.

This Resolution is adopted on December 22, 2022, in supplementation of the Court's Order attached as Exhibit "A".

Dated: 12-22-22

Dennis Township Consolidated Land Use Board

/s/ K. J. Wells
Chairperson

/s/ [Signature]
Vice Chairperson

This is to certify that this is a true copy of a Resolution memorialized by the Dennis Township Consolidated Land Use Board at its regular meeting held on December 22, 2022. See attached for members voting.

Carla A. Coffey
Carla Coffee, Secretary

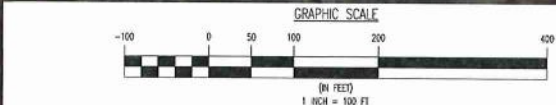
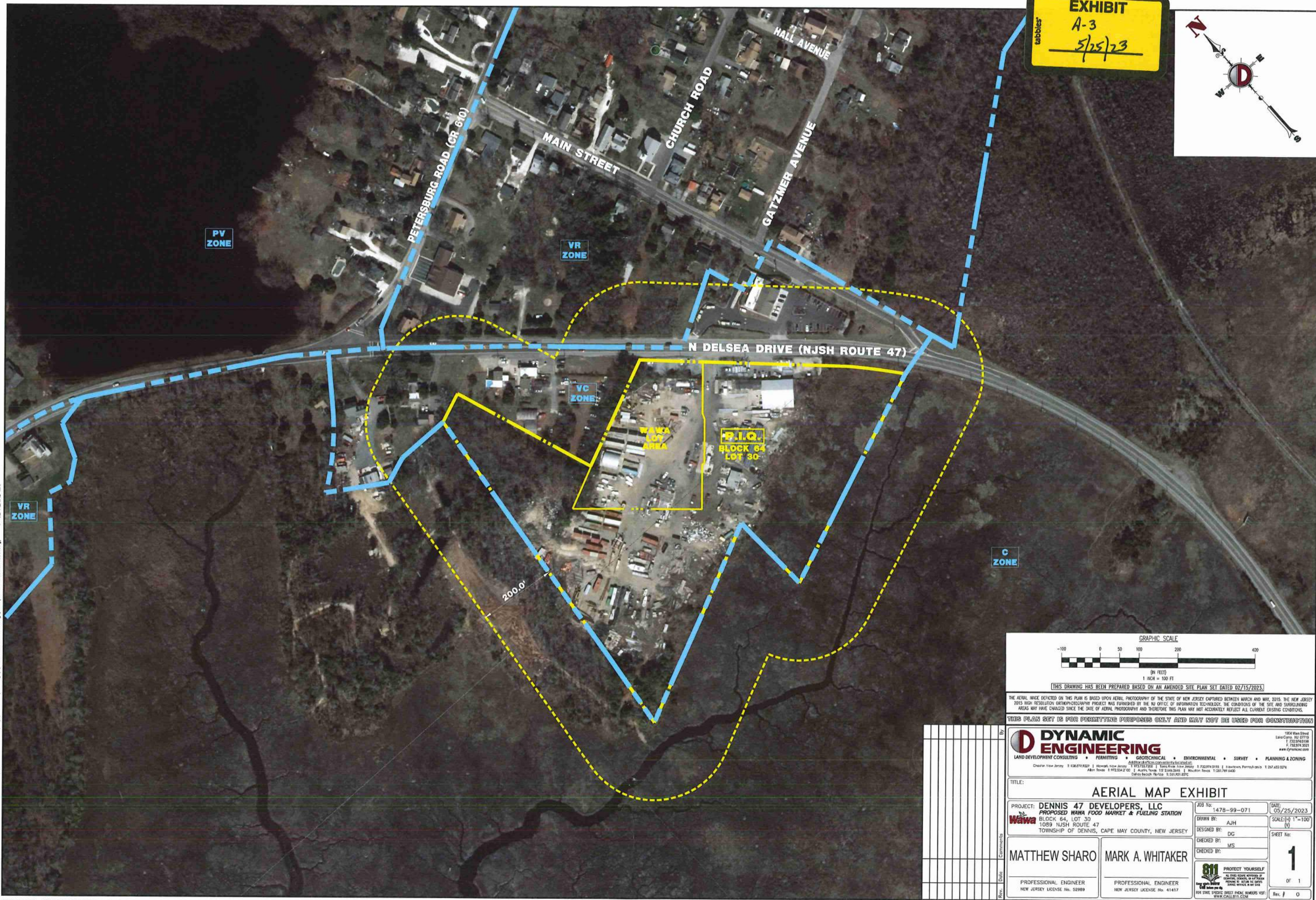
Hearing Date

Member Name	Position	Present	Absent	Motion	Second	Yea	Nay	Abstain
Daniel Walsh	Chair Class IV							
Joseph Chambers	Vice Chair Class IV							
David Watson	Class IV							
Harry Cowan	Class IV							
Les Frie	Class IV							
Chris Hope	Class IV							
Mayor's Designee Thomas McEvoy	Class I							
Scott Turner	Class III							
Robert Penrose	Class II/IV							
Carly Caprioni	Alt 1							
Elizabeth Martucci	Alt 2							

Resolution Date 12-22-22

Member Name	Position	Present	Absent	Motion	Second	Yea	Nay	Abstain
Daniel Walsh	Chair Class IV	✓				✓		
Joseph Chambers	Vice Chair Class IV	✓				✓		
David Watson	Class IV							
Harry Cowan	Class IV	✓		✓				
Les Frie	Class IV		✓					
Chris Hope	Class IV		✓					
Mayor's Designee Thomas McEvoy	Class I	✓				✓		
Scott Turner	Class III							
Robert Penrose	Class II/IV	✓				✓		
Carly Caprioni	Alt 1	✓				✓		
Elizabeth Martucci	Alt 2	✓			✓			

EXHIBIT
A-3
5/25/23



[THIS DRAWING HAS BEEN PREPARED BASED ON AN AMENDED SITE PLAN SET DATED 02/15/2023.]

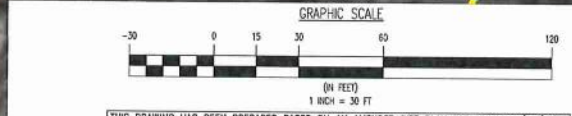
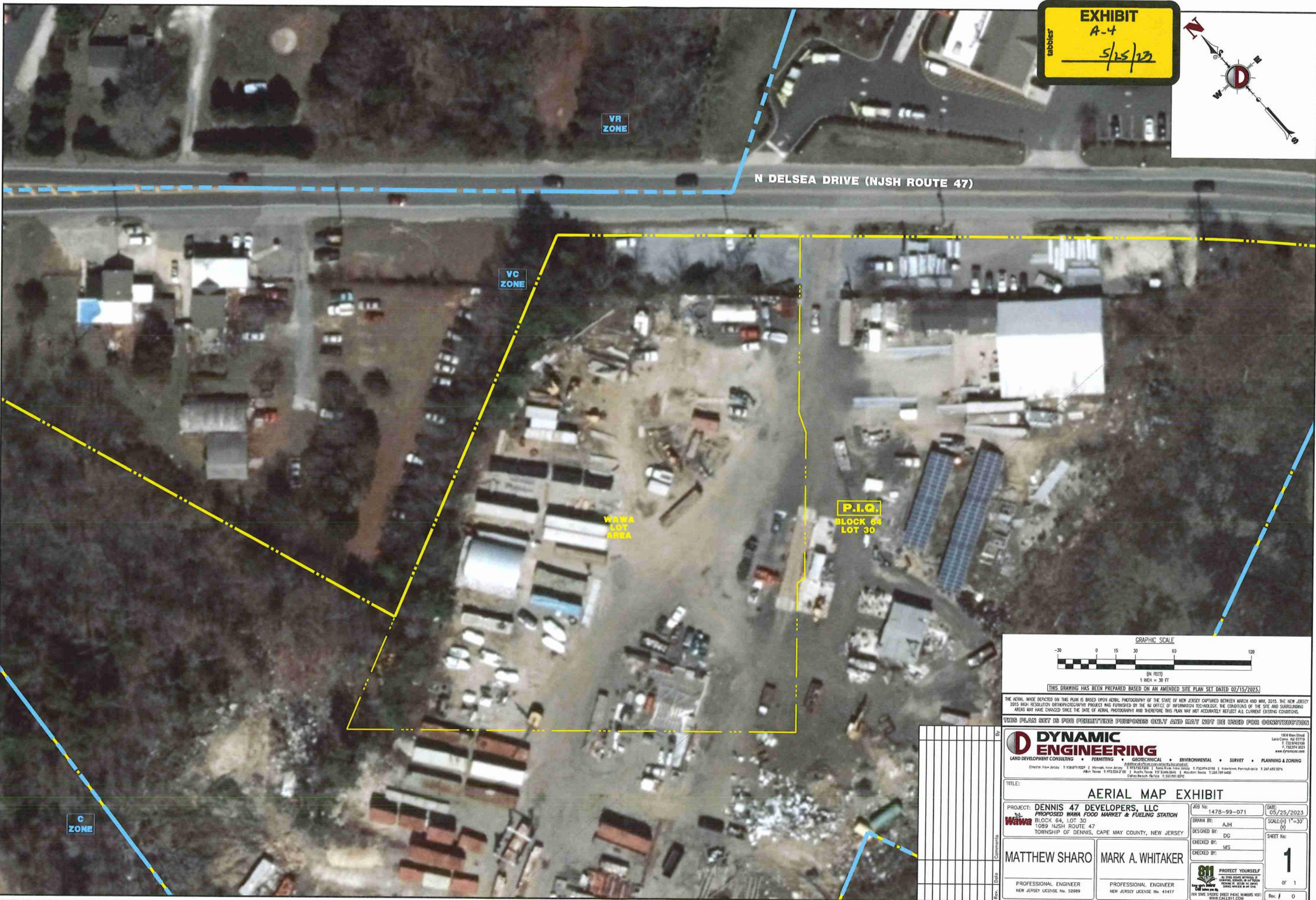
THE AERIAL MAP DEFECTED ON THIS PLAN IS BASED UPON AERIAL PHOTOGRAPHY OF THE STATE OF NEW JERSEY CAPTURED BETWEEN MARCH AND MAY, 2015. THE NEW JERSEY 2015 HIGH RESOLUTION AERIAL PHOTOGRAPHY PROJECT WAS FURNISHED BY THE NJ OFFICE OF INFORMATION TECHNOLOGY. THE CONDITIONS OF THE SITE AND SURROUNDING AREAS MAY HAVE CHANGED SINCE THE DATE OF AERIAL PHOTOGRAPHY AND THEREFORE THIS PLAN MAY NOT ACCURATELY REFLECT ALL CURRENT EXISTING CONDITIONS.

THIS PLAN SET IS FOR PERMITTING PURPOSES ONLY AND MAY NOT BE USED FOR CONSTRUCTION

DYNAMIC ENGINEERING LAND DEVELOPMENT CONSULTING • PERMITTING • GEOTECHNICAL • ENVIRONMENTAL • SURVEY • PLANNING & ZONING <small>1904 Main Street Lancaster, NJ 07719 T: 732.874.6156 F: 732.874.3021 www.dynanmic.com</small>	
TITLE: AERIAL MAP EXHIBIT	
PROJECT: DENNIS 47 DEVELOPERS, LLC PROPOSED WAWA FOOD MARKET & FUELING STATION BLOCK 64, LOT 30 1089 NJSH ROUTE 47 TOWNSHIP OF DENNIS, CAPE MAY COUNTY, NEW JERSEY	JOB No: 1478-99-071 DATE: 05/25/2023 SCALE: 1"=100' SHEET No: 1 0' 1'
DESIGNED BY: AJH CHECKED BY: DG MATTHEW SHARO PROFESSIONAL ENGINEER NEW JERSEY LICENSE No. 52989	DESIGNED BY: DG CHECKED BY: MS MARK A. WHITAKER PROFESSIONAL ENGINEER NEW JERSEY LICENSE No. 41417
<small>PROTECT YOURSELF No other agency approval or endorsement is required for the issuance of this plan set unless specifically stated otherwise. FOR STATE SPECIFIC BEST PRACTICES VISIT: WWW.CALL811.COM</small>	

Plotted: 05/16/23 - 11:50 AM, By: dshelton, Product: Ver. 24.2a (LMS Tech)
File: P:\DCEPC Projects\1478 Permount Realty\09-071 Dennis\Map\AerialMap.dwg, -----> 02 AERIAL MAP
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EXHIBIT
A-4
5/25/23



[THIS DRAWING HAS BEEN PREPARED BASED ON AN AMENDED SITE PLAN SET DATED 02/15/2023.]

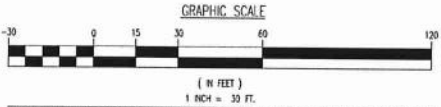
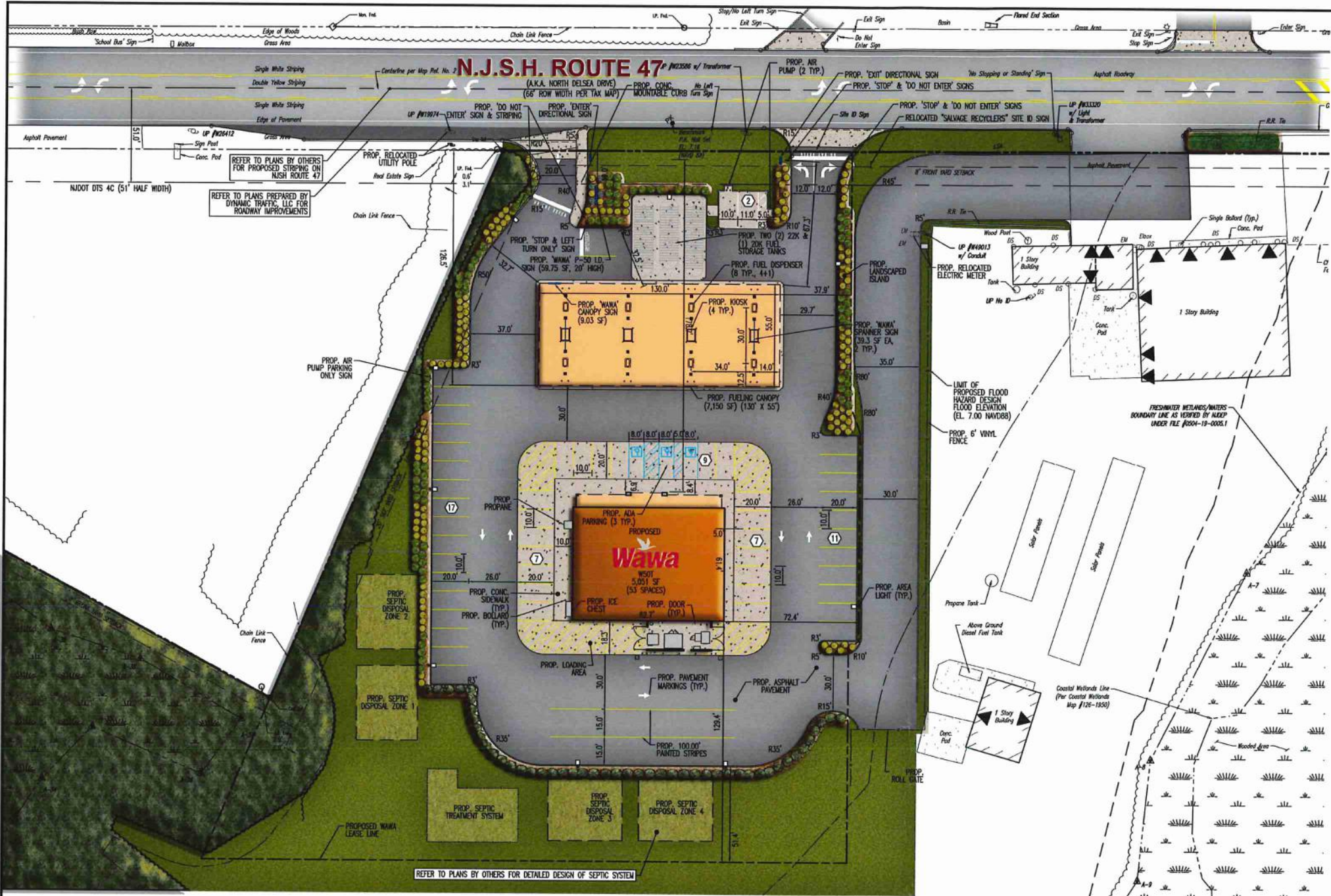
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TITLE: AERIAL MAP EXHIBIT	
PROJECT: DENNIS 47 DEVELOPERS, LLC PROPOSED WAWA FOOD MARKET & FUELING STATION BLOCK 64, LOT 30 1089 NJSH ROUTE 47 TOWNSHIP OF DENNIS, CAPE MAY COUNTY, NEW JERSEY	
JOB No: 1478-99-071	DATE: 05/25/2023
DRAWN BY: AJH	SCALE: (H) 1"=30' (V) N
DESIGNED BY: DG	SHEET No: 1
CHECKED BY: MS	OF 1
CHECKED BY:	Rev. # 0
MATTHEW SHARO PROFESSIONAL ENGINEER NEW JERSEY LICENSE No. 52989	MARK A. WHITAKER PROFESSIONAL ENGINEER NEW JERSEY LICENSE No. 41417
PROTECT YOURSELF NO THIS DRAWING WITHOUT A SEAL, SIGNATURE, OR PUNCH RECORD ID. BECAUSE TO VERIFY DATE, NUMBER, & NO. OF FOR YOUR SPECIFIC PROJECT, PLEASE VISIT: WWW.CALL811.COM	

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Copyright © 2023 - DYNAMIC ENGINEERING CONSULTANTS, PC - ALL RIGHTS RESERVED

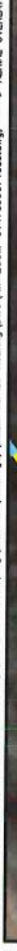
EXHIBIT
A-5
5/25/23

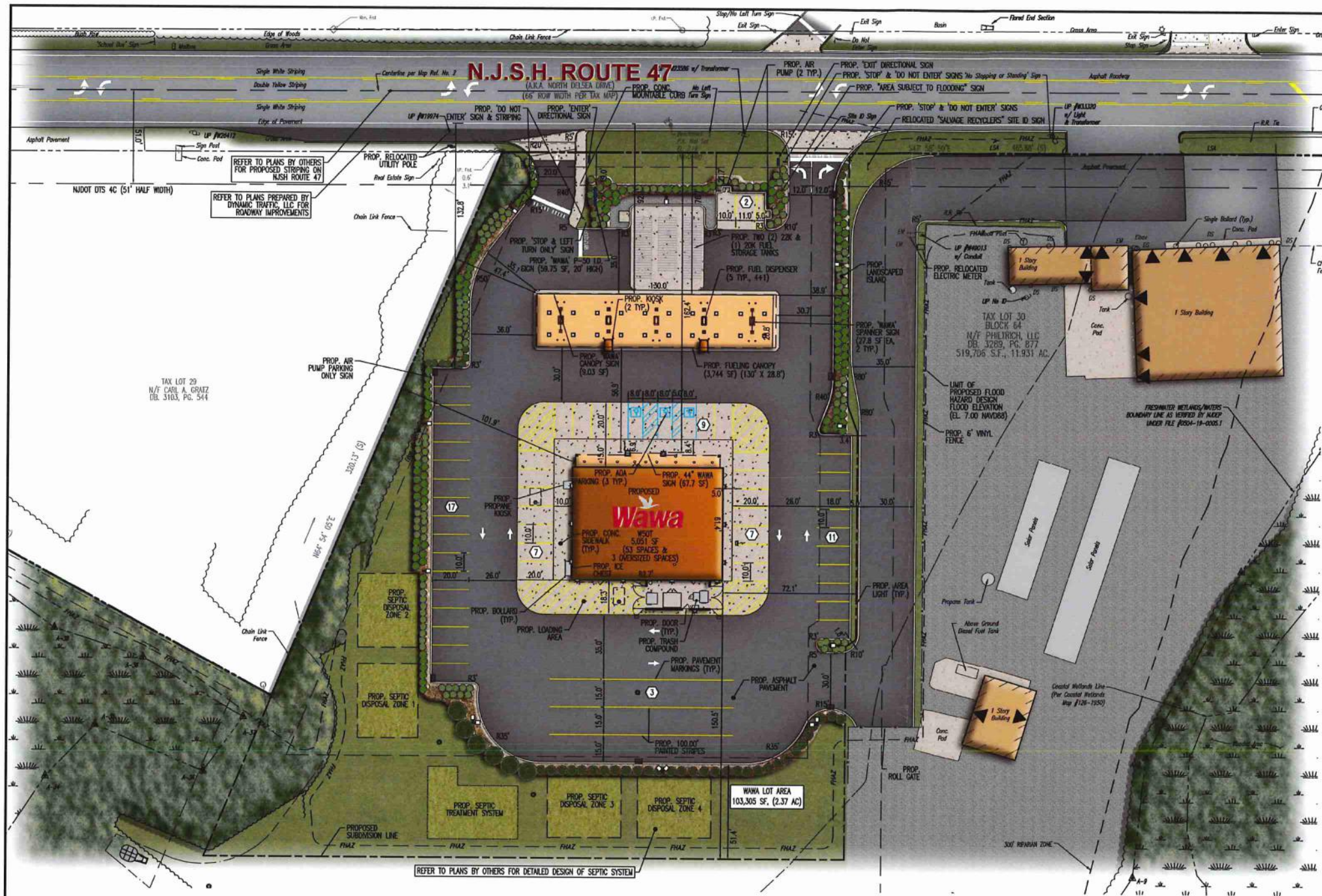


THIS DRAWING HAS BEEN PREPARED BASED ON A SITE PLAN EXHIBIT DATED 05/20/2021.

THIS PLAN SET IS FOR PERMITTING PURPOSES ONLY AND MAY NOT BE USED FOR CONSTRUCTION.

DYNAMIC ENGINEERING LAND DEVELOPMENT CONSULTING • PERMITTING • GEOTECHNICAL • ENVIRONMENTAL • SURVEY • PLANNING & ZONING 1354 Main Street Lula, Georgia, NJ 07715 P: 732.574.6188 F: 732.574.3821 www.dyneng.com	
TITLE: SITE PLAN RENDERING	
PROJECT: DENNIS 47 DEVELOPERS, LLC PROPOSED WAWA FOOD MARKET & FUELING STATION BLOCK 64, LOT 30 1089 NJSH ROUTE 47 TOWNSHIP OF DENNIS, CAPE MAY COUNTY, NEW JERSEY	JOB No: 1478-99-071 DATE: 05/27/2021 SCALE: (H) 1"=30' (V) 1"=30'
DESIGNED BY: AJH CHECKED BY: MS DATE: 05/27/2021	SHEET No: 1 OF 1
MATTHEW SHARO PROFESSIONAL ENGINEER NEW JERSEY LICENSE No. 52889	MARK A. WHITAKER PROFESSIONAL ENGINEER NEW JERSEY LICENSE No. 41417
FOR STATE SPECIFIC DIRECT PHONE NUMBERS VISIT: WWW.CALL811.COM	



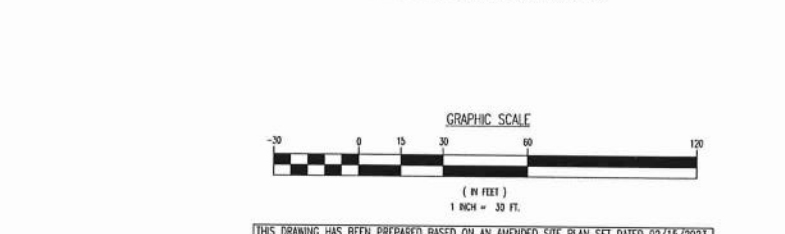


GENERAL NOTES

1. THIS PLAN HAS BEEN PREPARED BASED ON REFERENCE MAPS AND SURVEY DATA. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED.
2. APPLICANT: DENNIS 47 DEVELOPERS, LLC
3. OWNER: DENNIS 47 DEVELOPERS, LLC
4. PARCEL DATA: BLOCK 64, LOT 30
5. ZONE: VC (VILLAGE COMMERCIAL)
6. EXISTING USE: JUNKYARD (NON-PERMITTED USE) (1185-17.8)
7. PROPOSED USE: JUNKYARD (NON-PERMITTED USE) (1185-17.8)
8. SCHEDULE OF ZONING REQUIREMENTS (1185-ATTACHMENT 2)

ZONE REQUIREMENT	ZONE VC	EXISTING OVERALL	PROPOSED LOT B	PROPOSED WWA LOT A
MINIMUM LOT AREA	35,000 SF	519,706 SF	416,401 SF	103,305 SF
MINIMUM LOT WIDTH	100 FT	486.0 FT	344.8 FT	188.3 FT
MINIMUM LOT DEPTH	200 FT	688.8 FT	458.3 FT	382.6 FT
MINIMUM FRONT YARD SETBACK				
-BUILDING-TO-LOT	0 FT MIN, 8 FT MAX	47.5 FT (E)	48.3 FT (E)	78.7 FT (M)
-PARKING	50 FT	N/A	N/A	21.7 FT (M)
MINIMUM REAR YARD SETBACK	10 FT	N/A	N/A	N/A
-BUILDING-TO-LOT	35 FT	136.1 FT	136.1 FT	150.5 FT
-PARKING	10 FT	N/A	N/A	51.4 FT
MINIMUM SIDE YARD SETBACK	20 FT	135.0 FT	64.5 FT	28.9 FT
-BUILDING-TO-LOT	10 FT	N/A	N/A	1.8 FT (M)
MINIMUM SIDE YARD ENCHANCEMENT	10 FT	N/A	N/A	N/A
-BUILDING-TO-LOT	20 FT	176.1 FT (E)	176.1 FT (E)	56.9 FT (M)
MINIMUM BUILDING LENGTH	100 FT	80 FT	80 FT	130.0 FT (M)
MINIMUM BUILDING HEIGHT	2.5 STORIES/30 FT	< 2.5 STORIES/30 FT	< 2.5 STORIES/30 FT	1 STORY/32.75 FT (M)
MINIMUM BUILDING COVERAGE	35%	1.8% (8,576 SF)	2.1% (8,891 SF)	8.8% (8,795 SF)
MINIMUM IMPERVIOUS COVERAGE	60%	60.2% (1/- 317,886 SF) (E)	53.9% (1/- 224,700 SF)	62.1% (64,159 SF) (M)
MINIMUM FIRST FLOOR CEILING HEIGHT	10 FT	N/A	N/A	> 10 FT

9. PARKING REQUIREMENTS
10. LOADING REQUIREMENTS
11. EROSION REQUIREMENTS
12. BUFFER & LANDSCAPING REQUIREMENTS
13. FENCE, WALL AND TRASH RECEPTACLES REQUIREMENTS



[THIS DRAWING HAS BEEN PREPARED BASED ON AN AMENDED SITE PLAN SET DATED 02/15/2023.]

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THIS PLAN SET IS FOR PERMITTING PURPOSES ONLY AND MAY NOT BE USED FOR CONSTRUCTION

PROJECT: DENNIS 47 DEVELOPERS, LLC
PROPOSED WWA FOOD MARKET & FUELING STATION
BLOCK 64, LOT 30
TOWNSHIP OF DENNIS, CAPE MAY COUNTY, NEW JERSEY

JOB NO: 1478-99-071
DATE: 05/25/2023
DRAWN BY: ALH
DESIGNED BY: DG
CHECKED BY: MS
CREATED BY:

SCALE: (H) 1"=30' (V) 1"=10'
SHEET NO: 1
OF 1

MATTHEW SHARO
PROFESSIONAL ENGINEER
NEW JERSEY LICENSE NO. 52589

MARK A. WHITAKER
PROFESSIONAL ENGINEER
NEW JERSEY LICENSE NO. 41417

ADDITIONAL GENERAL NOTES

1. THE APPLICANT REQUESTS ANY AND ALL SUBMISSION MATTERS THAT ARE NOT SPECIFICALLY IDENTIFIED HEREIN BEING REVIEWED BY THE PUBLIC HEARING TO SUPPORT SAID SUBMISSION MATTERS.
2. PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE TO HAVE SURE THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED FOR CONSTRUCTION OF THE PROPOSED DEVELOPMENT.
3. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF THE LOCAL GOVERNING AUTHORITY.
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SIGNAGE TABLE

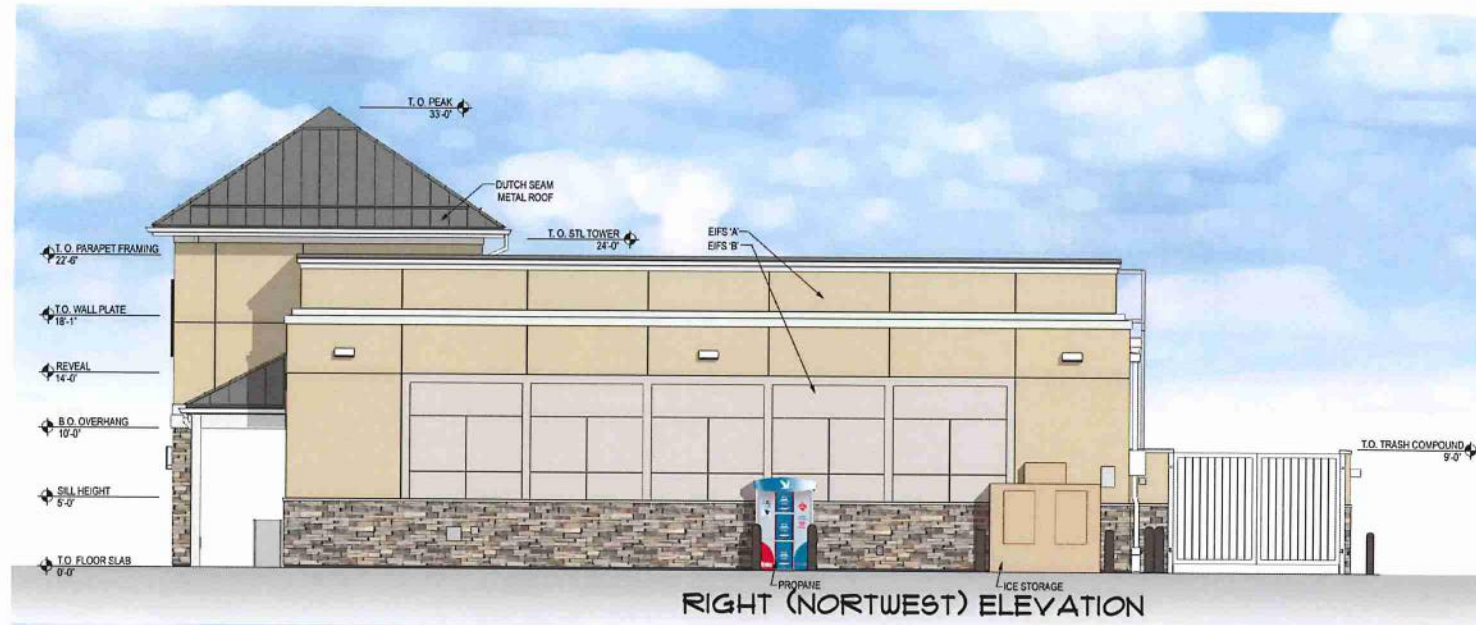
SGN	VC ZONE REQUIREMENTS	EXISTING	PROPOSED
FREESTANDING	NUMBER OF SIGNS:	2	ONE (1) PROPOSED WWA
	MAXIMUM SIGN AREA:	5.52 SF	106.5 SF
	MAXIMUM SIGN HEIGHT:	1.9 FT	27 FT
	MINIMUM SIGN SETBACK:	5.0 FT	16.5 FT
WALL MOUNTED	NUMBER OF SIGNS:	N/A	ONE (1)
	MAXIMUM SIGN AREA:	10 SF	67.5 SF (M)
	MAXIMUM HEIGHT:	BELOW THE 2ND STORY FLOOR LINE	FIRST STORY
	MINIMUM CLEARANCE:	8 FT	15.5 FT
DIRECTIONAL SIGN	NUMBER OF SIGNS:	N/A	NUMBER OF SIGNS:
	MAXIMUM SIGN AREA:	N/A	NUMBER OF SIGNS:
	MAXIMUM SIGN HEIGHT:	N/A	NUMBER OF SIGNS:
	MINIMUM SIGN SETBACK:	N/A	NUMBER OF SIGNS:
CANOPY SPANNER (SERVICE STATION)	NUMBER OF SPANNER SIGNS:	N/A	NUMBER OF SPANNER SIGNS:
	MAXIMUM SPANNER SIGN AREA:	N/A	NUMBER OF SPANNER SIGNS:
	MAXIMUM SPANNER SIGN HEIGHT:	N/A	NUMBER OF SPANNER SIGNS:
	MAXIMUM SPANNER SIGN SETBACK:	N/A	NUMBER OF SPANNER SIGNS:
CANOPY FACADE (SERVICE STATION)	NUMBER OF FACADE SIGNS:	N/A	NUMBER OF FACADE SIGNS:
	MAXIMUM FACADE SIGN AREA:	N/A	NUMBER OF FACADE SIGNS:
	MAXIMUM FACADE SIGN HEIGHT:	N/A	NUMBER OF FACADE SIGNS:
	MAXIMUM FACADE SIGN SETBACK:	N/A	NUMBER OF FACADE SIGNS:

ADDITIONAL GENERAL NOTES

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RIGHT (NORTHWEST) ELEVATION



FRONT (NORTHEAST) ELEVATION (RT. 47)

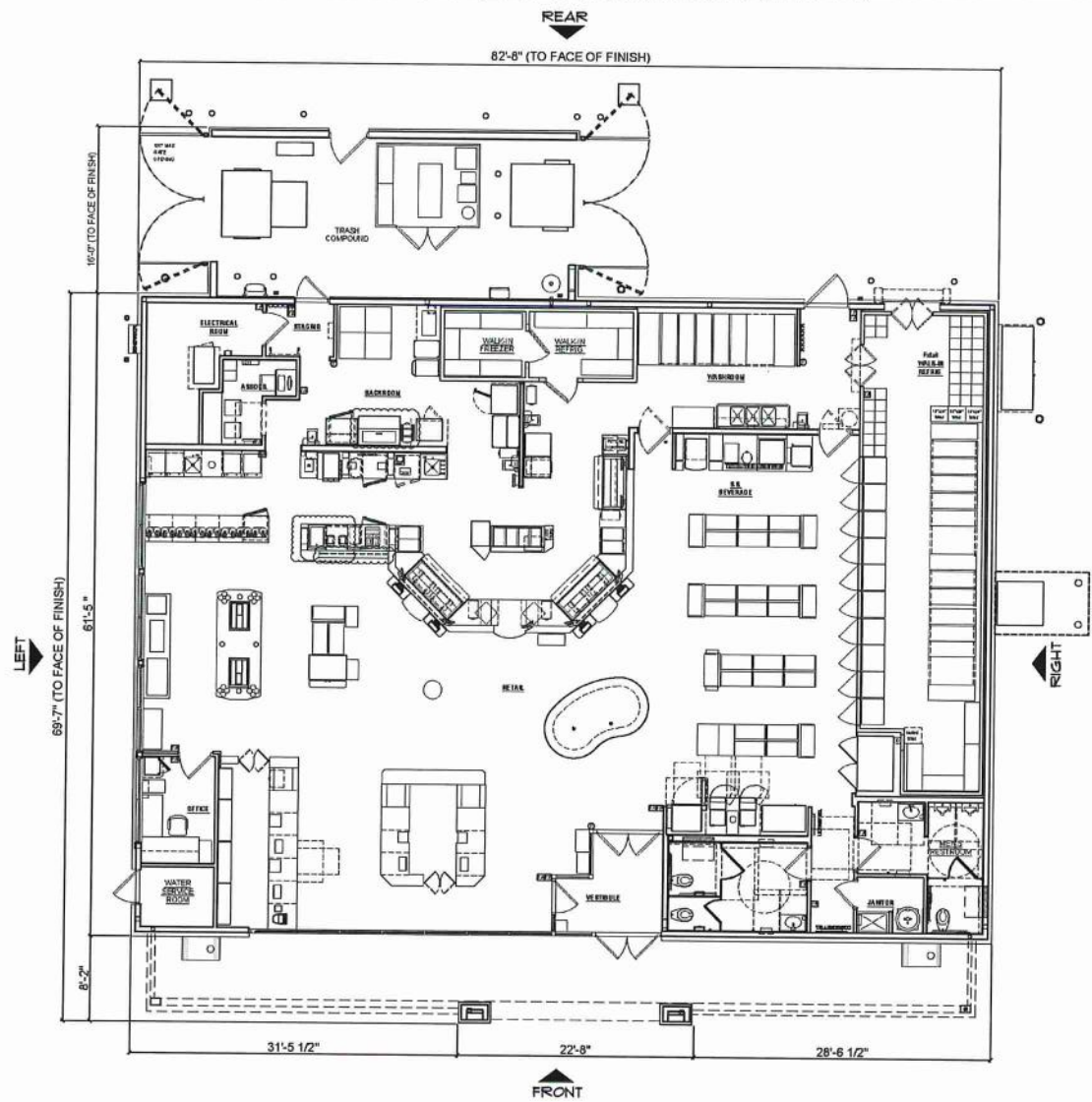


REAR (SOUTHWEST) ELEVATION



LEFT (SOUTHEAST) ELEVATION

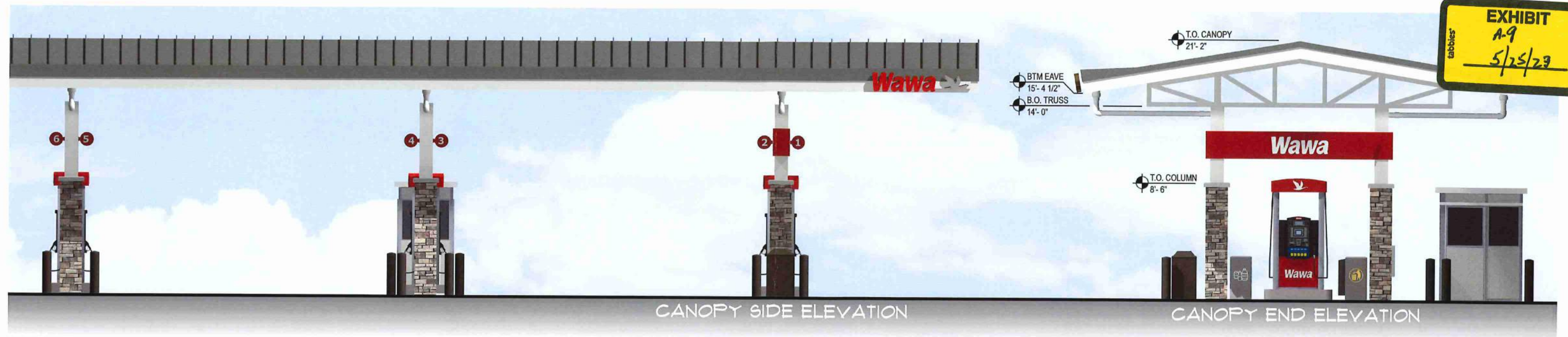
- | | |
|---|--|
| Roof/Parapet Cap
Atlas Aluminum Corp
Slate Grey | Gutters/Porch/Soffits
Atlas Aluminum Corp
Ascot White (10) |
| EIFS 'B'
Dryvit
Wawa021030 | EIFS 'A'
Dryvit
Wawa011030 |
| Trim / Fascia
White | Quality Stone
Ohio Drystack
Provence |
| Door / Frames
White | Ice Storage
SW2828
Colonial Revival Tan |



FLOOR PLAN

NOTE:
SIGNAGE IS SHOWN FOR REFERENCE ONLY
SEPARATE PERMIT REQUIRED

EXHIBIT
A-9
5/25/23
tabbies



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Stephen Fortwangler
Architect

2600 Maitland Center Parkway
Maitland, FL 32751
P: 407-661-9100
F: 407-661-9101
www.c-p.com

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