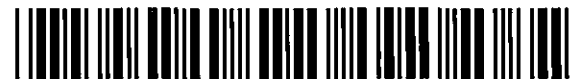


BRICK, TOWNSHIP
OF
(PLANNING AND ZONING DEPT.)



LDS BR-PZ 10603933

R-9-03

BRICK TOWNSHIP PLANNING BOARD
PRELIMINARY AND FINAL SITE PLAN APPROVAL

RESOLUTION R - 9 -03

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Case No. PB-2393-PSP-V-FSP-11/01

January 8, 2003

WHEREAS, KRISPY KREME/T.G.I. FRIDAY'S, having a mailing address of c/o Freedom Rings LLC, 900 Carpenter Crossing Building 31, Folcroft, PA 19032 (applicant/lease purchaser of Lot 11 Krispy Kreme site) and D & J. Realty Corporation, Dover Mall, Rt. 166 & 37, Toms River, NJ 08753 (Applicant/Owner of Lot 11 & Lot 12, T.G.I.F. Site), has applied to the Brick Township Planning Board for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46, 50, 51, 60, and 70; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been furnished and determined to be in proper order; and

WHEREAS, a public hearing was held on November 13, 2002, and December 11, 2002 at the Municipal Building, at which time testimony and exhibits were presented on behalf of the applicant, and all interested parties having been heard; and

WHEREAS, the Board makes the following factual findings and findings of law:

1. This property is known and designated as Block 672, Lots 11 & 12 on the Municipal Tax Map.
2. The property is located in the B-3 Highway Development Zone.
3. Applicant had originally planned construction of a 6600 square foot restaurant use building. Property fronts on the NJ Highway Route 70 East and Chambers Bridge Road. After extensive discussion with applicant and Board's

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professionals, applicant agreed to modify their proposal in a number of respects. Further, applicant was initially unsure what restaurant/tenant would utilize proposed building on Lot II. The Planning Board Engineer's Report of February 26, 2002, is comprised of some ten pages of recommended changes and requests for further information. The present plan which the applicant has submitted before the Board is the result of these modifications and changes. By the time of the hearing dates in November and December 2002, it was determined that Krispy Kreme Doughnuts would be the proposed tenant, and the original application was reduced to a 4,570 square foot Krispy Kreme restaurant with a drive-through.

Applicant, Krispy Kreme, testified through Rocco Fiorentino, who was identified as one of the owners of Freedom Rings LLC, the corporate entity developing Krispy Kreme's real estate holdings in the Southeast Pennsylvania, Delaware and New Jersey region. Mr. Fiorentino recited that Krispy Kreme has been in existence for about sixty-five years, but only in the last five years, has expanded outside the southeastern United States.

It is well-documented that Krispy Kreme has a large and devoted following, and Mr. Fiorentino advised he was very proud to announce that this subject Brick Township site would be the first Krispy Kreme restaurant located in the State of New Jersey. Mr. Fiorentino went on to describe the routine operation of a Krispy Kreme Restaurant. He testified that the restaurant lobby would be open from 5 a.m. to 11 p.m. everyday -- but that it was intended that the drive-through would be open 24 hours. He further stated that Krispy Kreme is very proud of its product -- but intentionally has a limited menu -- just varieties

of doughnuts and milk, juice, soda and coffee. However, that limited menu – together with the efficiency of the baking operation – means the waiting time at its lobby or drive-through is significantly less than at other fast food restaurants.

Mr. Fioretino further recited that all the ingredients used for the making of the doughnuts are transported from Winston Salem, North Carolina, usually by tractor-trailer, with deliveries that are arranged to be made in the early-morning (1-2 a.m.) so as not to interfere with the restaurant's operation. Mr. Fiorentino went on to say that the restaurant's inside seating area could accommodate thirty people – and he anticipated three shifts of workers totaling approximately 18-30 people – with more available during the "grand opening" period.

Finally, Mr. Fiorentino testified that Krispy Kreme would only bake products for this store (together with this store's fundraising partnerships with many community, school and church groups). The store would not bake for other stores or outlets.

Applicant next presented the testimony of Timothy Lurie, P.E. of D.W. Smith Associates, PA as to the present plan and the many modifications and changes made, along with the need for the requested variances and design waivers. Mr. Lurie testified that the present configuration represents improvement over the existing situation, in that, even with the addition of the Krispy Kreme restaurant the parking, traffic circulation and access to/from site is delineated. Mr. Scott Kennel, of Orth-Rodgers Associates, (applicant's Traffic Engineer), then testified that the realignment of accessways to site from Rte. 70 and Chambers Bridge Road, together with a modification of the drive-thru towards the north, represent examples of the applicant's willingness to make this

application work successfully. Mr. Kennel further recited that, based on his calculations, and study of the site, the addition of the Krispy Kreme restaurant and the changes to the T.G.I. Friday's, will be able to handle the expected increased traffic volume as well as provide adequate parking. Board Traffic Engineer, Mark W. Kataryniak, P.E., P.T.O.E. analyzed additional information provided by applicant, and found that the site would adequately address the traffic and parking demands generated by the subject application.

The proposed preliminary and final site plan is shown on plans entitled "Krispy Kreme Doughnuts/T.G.I. Friday's, Preliminary & Final Major Site Plan, Block 672, Lots 11 & 12, Tax Map Sheet 39, Township of Brick, Ocean County, New Jersey", dated September 23, 2002 last revised December 2, 2002 consisting of seven (7) sheets. as prepared by D.W. Smith Associates , LLC. The Parcel is 1.69 acres and within the B-3 Highway Development Zone. The store fronts on State Highway 70 East and Chambers Bridge Road. Lot 11 is the former location of the "Mr. Steak" restaurant, which is now vacant land. On that Lot 11, applicant has proposed construction of a 4570 square foot Krispy Kreme Restaurant with drive-thru. Lot 12 is currently developed with an existing T.G.I. Friday's Restaurant. On Lot 12, applicant proposes expansion of the southern seating area of 507 square feet, a foyer addition of 81 square feet and a dumpster expansion. Further, the existing parking lot is proposed to be expanded and reconstructed.

4. Birdsall Engineering, Inc., the Board's Engineer, prepared reports to the Board dated February 26, 2002; November 11, 2002 and December 9, 2002. The Board hereby adopts the findings in those reports and incorporates those documents into this resolution by reference.

5. Michael P. Fowler, Municipal Planner, prepared a report to the Board dated February 28, 2002; November 12, 2002 and December 10, 2002. The Board hereby adopts the findings in these reports and incorporates those documents into this resolution by reference.

6. Birdsall Engineering, Inc., Board Traffic Engineer, prepared a report to the Board dated November 11, 2002. The Board hereby adjusts the finds in that report and incorporates that document into this resolution by reference.

7. The Bureau of Fire Safety prepared reports to the Board dated October 23, 2002 and December 5, 2002. The Board hereby adopts the findings in those reports and incorporates that document into this resolution by reference.

8. The Traffic Safety Officer prepared a report to the Board dated December 21, 2002. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

9. The Shade Tree Commission prepared a report to the Board dated January 14, 2002. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

10. Applicant has sought variances for:

	<u>Required</u>	<u>Provided</u>	<u>Provided</u>
		<u>Lot 11 (Krispy Kreme)</u>	<u>Lot 12 (T.G.I. Friday's)</u>
Min. Lot Area	2 acres	1.08 acres (exist)	.612 (exist)
Min. Lot Depth	200 feet	104.5 feet (exist)	104.5 (exist)
Front Yard Setback	75 feet	20 feet	41.5 feet
Side Yard Setback	50 feet	46 feet	9.5 feet (exist)
Rear Yard Setback	30 feet	10 feet	0 feet
Min Landscaped Area	25%	18.5 %	9.5%
Max Impervious Area	65%	80%	90%
Max Bldg Coverage	25%	-	26%
Max Sign Area	50 s.f.	99.8 s.f.**	110 s.f.
Max Sign Setback	25 feet	0 feet	-

**originally 134.75 s.f.

11. Applicant has sought design waivers for:

- (a) Per 190-161B, parking facilities shall not be closer than twenty feet (20') to any street right-of-way line, or easement dedicated for roadway purposes whereas, the applicant intends to lease additional parking spaces within the right-of-way, providing a zero foot (0') setback. (Applicant's Engineer Timothy Lurie, P.E. testified that but, for DOT approval – many variances and waivers could be eliminated or reduced.)
- (b) Per 190-224. IC, screened refuse area shall not be located within any accessory setback area. The proposed refuse area map and ten-foot (10') side setback and a fifteen (15') foot rear setback, whereas a twenty-five (25') side setback and a fifty-foot (50') rear setback is required.

Each of these variances and design waivers may be granted as appropriate after testimony and applicant's significant revisions to his original proposed plan. Each of these variances and design waivers are of limited nature particularly given the applicants' concessions and improvements as well as the changes to the original plan, they do not do substantial detriment to the public good zone plan or zoning ordinance. With these circumstances, these variances and design waivers may be granted.

12. With the exception of the variances and the waivers granted hereinabove, the applicant has complied with the requirements of the site plan ordinance. The plan is consistent with the intent and purpose of the Master Plan and the Municipal Development Ordinance. Accordingly, the Board finds that the benefits of the proposed development outweigh any detriments, and the relief requested can be granted without substantial detriment to the public good and will

not substantially impair the intent and purpose of the Township Zoning Ordinance or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Township Planning Board on this 8th day of January, 2003, that this application be approved subject to the following conditions:

1. The applicant shall comply with all standard Planning Board conditions for preliminary site plan approval as set forth on Attachment 'A.'
2. The applicant shall comply with all representations and agreements made by the applicant or its attorney during the presentation of this case.
3. The applicant shall comply with the following paragraphs contained in the report of Birdsall Engineering, Inc., dated December 9, 2002, (and previous reports that have not been modified by the December 9, 2002 report) including: 4 (a), (b), 5(a)(b) 6, 7, 8, 9.
4. The applicant shall comply with the following comments contained in the report from Michael P. Fowler, Municipal Planner, dated December 10, 2002: IV. Comments: A (applicant will provide signage and elevations), B (applicant agreed to modify plan so as to permit the neon "Hot Krispy Kreme Doughnuts Now" light daily from 5 a.m. to 11 a.m. and 5 p.m. to 11 p.m. only. No other neon lighting is proposed or approved), C (Bollards not necessary per applicant's Engineer), D (Applicant agreed to pave gravel area to satisfaction of Board Engineer/Planner), E (applicant agreed to provide landscaping and berming opposite entrance drive to Krispy Kreme as a screen, further landscaped area to south end will contain shrubbery, with dwarf grasses, for drive-thru screening from drive-thru, to the satisfaction of Board's Engineer/Planner) F (applicant agreed to landscaping berms along Route 70 as opposed to landscaping berm adjacent to parking lots), G (applicant agreed to street

trees at Chambers Bridge Road entrance) H. (applicant agreed to modify plan to eliminate the two landscaped islands from the center of the two rows of 10 parking stalls in the Krispy Kreme parking field. Applicant agreed that additional parking was useful) I. (applicant agreed to add a stop bar at eastbound approach to intersection of Krispy Kreme drive-thru and entrance drive) J. (applicant advised there will be no outdoor seating area). K., L., M., N.

5. Applicant shall comply with the following comments contained in the report from Birdsall Engineering's Traffic Review of November 11, 2002, including:
A.(1) (2) (3) (4) (5) B. (1)(2)(3)(4)

6. The applicant shall comply with the comments contained in the report from the Bureau of Fire Safety dated October 23, 2002 and December 9, 2002.

7. The applicant shall comply with the comments contained in the report from the Traffic Safety Officer dated December 21, 2001.

8. The applicant shall comply with the comments contained in the report from the Shade Tree Commission dated January 14, 2002.

9. The applicant agreed to supply satisfactory cross-access agreements to the Board Engineer/Planner and Board Attorney to alleviate concerns as to parking and traffic circulation.

10. Applicant has agreed to screen mechanicals on roof on all four sides.

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MOVED BY: Mr. Scherer

SECONDED BY: Mrs. LaDuke

VOTING IN THE AFFIRMATIVE: Mr. Aiello, Mr. Kelly, Mrs. LaDuke,
Mr. Petoia, Mr. Reilly, Mr. Vespi, Mr. Scherer, Mr. Fredo

VOTING IN THE NEGATIVE: Mr. Dockery

INELIGIBLE TO VOTE:

ABSTAINING: Councilman Underwood

ABSENT: Mr. Higgins

CERTIFICATION

I, **JUDITH FOX NELSON**, Clerk of the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that the foregoing resolution was duly **ADOPTED** by the said Planning Board of the Township of Brick at a regular meeting held on the 8th day of January 2003.

IN WITNESS WHEREOF, I have set my hand this 13th day of January, 2003.


JUDITH FOX NELSON
Clerk of the Planning Board

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR SITE PLAN APPROVAL

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1. Applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the "Soil Erosion and Sediment Control Act."
2. All materials, methods of construction and details shall be in conformance with the current "Engineering Specifications and Construction Details" of the Township of Brick, which are on file in the office of the Township Engineer.
3. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Brick Township Planning Board for approval of that change.
4. Applicant shall submit this entire proposal for re-approval should there be any deviation from the terms and conditions of this Resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.
5. Applicant shall provide a statement from the Brick Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
6. Prior to the issuance of a construction permit, the applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.
7. Applicant shall post an inspection fund with the Township Clerk in an amount to be determined by the Township Engineer.
8. No soil shall be removed from the site without the written approval of the Township Council.
9. The applicant shall comply with all provisions and pay all fees established under Article VB (Mandatory Development Fees) of Chapter 190 of the Code of the Township of Brick.
10. For all residential uses the subdivider or site plan applicant shall provide for a trash receptacle.
11. In order to insure uniformity of trash receptacles and compatibility with the automatic trash collection system, all trash can receptacles required herein shall be obtained from the Township of Brick.
12. Applicant shall provide proof of application for Title NJSA 39:5 A-1 to the Planning Board.