

PRELIMINARY/FINAL MAJOR SITE PLAN
FEINBERG & MC BURNEY REALTY DEV.,LLC
PROPOSED CVS
FORMERLY OCCUPIED BY "THE RED LION"
HOOPER AVENUE & DRUM POINT ROAD

Block 552.01, Lots 18 and 19
Block 554, Lot 16
Zone: B-2
December 14, 2011

Resolution R-40-11
Application No. 2703-PSP-V-FSP-8/11

RESOLUTION OF APPROVAL
PLANNING BOARD, TOWNSHIP OF BRICK

WHEREAS, an application has been made by **Feinberg & McBurney Realty Development, LLC**, for approval of a preliminary and final major site plan application for **Block 552.01, Lots 18 and 19 and Block 554, Lot 16**, as set forth on the Tax Maps of the Township of Brick

WHEREAS, the Planning Board, after carefully considering the evidence presented by the applicant at special meeting of the Planning Board held on November 23, 2011, and considering the reports of its professional staff, hereby makes the following findings of fact:

1. The property is owned by Bottazzi's Red Lion Tavern, Inc, 2545 Old Hooper Rd., Brick, NJ.
2. The applicant has requested approval in accordance with the Ordinances of the Township of Brick.
3. The site in question is located in the B-2 zone, at the northeast corner of Drum Point Road and Hooper Avenue. The site consists of 2.43 acres and is fully developed and occupied by the Red Lion Restaurant, a two-story frame dwelling, a one-and-one-half-story masonry garage, a detached freezer and a lot with 97 parking spaces.
4. The applicant is requesting approval of a preliminary and final major site plan, variances and design waivers from the Brick Township Land Use and Development Regulations for the purpose of constructing a 14,600 square-foot one-story building for a CVS Pharmacy with a drive-through, associated parking areas, access drives, drainage facilities, site lighting, landscaping and signage.

The following variances are requested:

Parking:	73 spaces required; 70 proposed
Parking/Berming:	3-foot berm required for spaces adjacent to a R.O.W.; none proposed
Signage:	Monument type sign permitted; pylon type sign proposed (<i>withdrawn</i>)
Signage:	Electric message board proposed; not permitted (<i>withdrawn</i>)
Signage/Informational:	2 sf. permitted; 3 2.5 sf to 4.2 sf signs proposed
Signage/Identification:	Ground sign shall not exceed 40 sf. in area; 44.6 sf. proposed
Signage/Identification:	Ground sign shall not exceed a height of 12'; 15' proposed
Signage/Identification:	1 Wall sign permitted per frontage; 8 proposed (3 on Drum Point Rd. side, 4 on Hooper Ave. side and 4 on drive-thru)
Buffer:	75' required between commercial and residential uses; 10.8' proposed

File 2
App
App AH
App Eng
PB AH
PB Eng
Zoning
Tax A
Eng

The applicant is also requesting design waivers as follows:

Landscaping Area: 5' wide required along three sides of trash enclosure; none proposed
Trash enclosure: Must be separated from adjacent parking area or access drive by concrete curbing; no curbing proposed

Curbed Island Planter: Width of 7.5' required; 2' +/- proposed
Landscape Islands: Required in lot with greater than 20 parking spaces; none proposed

5. The board engineer, Wayne R. McVicar, P.E., P.P., C.M.E., of Remington & Vernick, prepared a report to the Board dated November 3, 2011. The board landscape engineer, Joseph M. Petrongolo, C.L.A., R.L.A., P.P., of Remington & Vernick, prepared a report to the Board dated October 19, 2011. The board traffic engineer, Michael Angelastro, Ph.D., P.E., C.M.E., PTOE, of Remington & Vernick, prepared a report dated October 25, 2011. The Township Planner, Michael P. Fowler, AICP/PP, prepared report dated November 18, 2011. The Brick Bureau of Fire Safety prepared a report dated September 19, 2011. The Brick Police Department prepared a report dated September 27, 2011. The Environmental Commission prepared a report dated September 29, 2011. The Architectural Review Committee prepared a report dated November 10, 2011. The Assistant Township Engineer, Elissa C. Commis, prepared a report dated September 23, 2011. The Shade Tree Commission prepared a report dated October 25, 2011.

The Board hereby adopts the findings in the above-mentioned reports and incorporates the reports in this Resolution by reference.

The applicant was represented by Richard Stanzione, Esq., of Toms River, NJ. The applicant's engineer is Doug Grysko, P.E., of Dynamic Engineering, Lake Como, NJ. The applicant's traffic engineer is Gary W. Dean, P.E., of Martinsville, NJ. The applicant's architect is Robert Gehr, AIA, of Larson Design Group, Williamsport, PA.

The applicant presented the testimony of its professional engineer, Doug Grysko, P.E. Mr. Grysko testified as to the existing site conditions and the reasoning from an engineering perspective for the requested variances and design waivers.

The testimony of the applicant's traffic engineer, Gary W. Dean, P.E., was entered into the record. Mr. Dean testified as to the adequacy of the proposed parking and circulation.

The applicant's architect, Robert Gehr, A.I.A., also testified. Mr. Gehr testified as to the proposed floor plan and the proposed exterior building materials.

William Masters, Jr., P.P., the applicant's professional planner, testified that the proposed site plan serves to eliminate many of the existing non-conforming conditions that exist at the site. Mr. Masters testified as to the industry standard is for 60 parking spaces, while the township ordinance requires 70. Mr. Masters opined that, since portions of the square footage of the building is dedicated to storage of stock and a pharmacy and not all square footage is dedicated to retail sales, the request for a variance to allow only 68 spaces is justified.

The testimony supported the applicant's contention that the proposed major site plan, variances and design waivers are keeping with the area and neighborhood. The testimony of the applicant's professionals/experts support of the applicant's contention that the granting of the application with variances and design waivers would in no way be detrimental to the public good.

The Brick Township Planning Board concurs with most of the representations of the applicant's professional, **with the following exceptions:** a) the board finds that there is a need for three-foot berming along both frontages of the site (as required by ordinance); b) the boards finds that there is a need for two landscape islands to be provided in the rows of parking spaces on the west side of the building.

WHEREAS, the Planning Board has determined that the applicant should be granted the requested relief for the following reasons:

1. The applicant sustained its burden to justify its contention that the major site plan, certain of the requested variances and the design waivers would not be detrimental to the public good, nor would it substantially impair the intent of the zoning ordinances or Master Plan.
2. The board agrees that the granting of the application will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan, Master Plan, and Zoning Ordinances of the Township of Brick.
3. The positive criteria outweigh the negative, if any.
4. Members of the public testified at the hearing. Their comments have been taken into consideration by this board in rendering this decision.
5. The safety and well being of the immediate area will not be adversely affected by the proposed major site plan, *certain of the requested variances*, and design waivers.
6. The application is in substantial compliance with the Zone Plan, and will not unduly impact upon the neighborhood scheme.
7. The applicant has withdrawn its request for a variance for an electric message board on the freestanding sign and for a pylon sign in lieu of a monument sign.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Planning Board that the application is hereby approved subject to the following conditions:

1. The applicant must submit proof of payment of all currently due taxes to the Brick Township Planning Board.
2. The applicant must post all bonds and guaranties as required and recommended by this Board and the Township Board Engineer. Moreover, the applicant must post all required engineering inspection fees.
3. All representations and statements made by the applicant, as well as applicant's representatives and witnesses, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an expressed condition of this Board's actions in approving the subject application. Any misstatement or misrepresentation, whether by mistake or change in circumstance, shall be deemed a breach of this condition of approval and shall subject this application to further review of this Board's own motion.
4. In the event the Planning Board determines that it reasonably relied upon any misstatement or misrepresentation, then and in that event, any approvals previously given may be rescinded and any improvements at the time in place on the premises in question shall not be in compliance with the ordinances of the Township of Brick.

5. The applicant must comply with all conditions as contained in the Board Engineer's Report dated November 3, 2011, and the Township Planner's Review dated November 18, 2011.

6. No building permit shall be issued until the Board Secretary confirms that the Planning Board professional fees have been paid in full. In the event a building permit is issued and there are outstanding Planning Board professional fees, a stop work order will be filed against the applicant/contractor until all professional fees have been paid.

7. In the event there is an *existing* violation, the applicant shall have thirty (30) days from the date the Notice of Decision was published to correct the violation. Failure to correct the existing violation within the time proscribed will result in the issuance of a summons.

8. The applicant must comply with all conditions outlined in Schedule A attached hereto.

9. The applicant shall obtain any other local, state and other regulatory approvals as may be required.

10. **All variances are approved with the exception of a variance for the required berming along both frontages and a variance for the required two landscape islands in the rows of parking spaces on the west side of the building. These variances are denied.**

11. **The applicant shall install berming on both frontages, as required by ordinance.**

12. **The applicant shall install ONE landscape island** in the rows of parking spaces on the west side of the building. The applicant agreed and is required to confer with the board landscape architect to revise the landscape plan. In the event this causes a loss of parking spaces, a variances is granted to reduce the parking spaces.

13. A 15-foot landscaped buffer shall be provided where possible and agreed upon between the B-2 zone and the residential use and additional evergreen plants should be planted along the residential property line to improve the proposed buffer and reduce the impact of the project on the adjacent residential uses. The applicant must confer and work with the board professionals to address this issue related to the site buffer.

14. The applicant is granted relief to provide a curbed island planters of only 2 feet, whereas 7.5 feet is required adjacent to the Drum Point Road entrance.

15. Planting specification #11 should be revised to match planting on #5 on the landscape plan.

16. A waiver has been granted from the required to plant one shade tree and three shrubs in the landscape islands.

17. The applicant must comply with the board landscape architect's report of October 19, 2011.

18. The applicant must install a monument-type sign and it shall not exceed a height of 12 feet.

19. The applicant shall provide an ADA compliant ramp at the intersection of the two streets. A design detail of the ramp for this specific intersection shall be provided. The design detail must comply with county requirements.

20. The median in the Hooper Avenue driveway shall provide handicap accessibility through the median.

21. Bumper curb stops shall be provided at each handicap parking space. Handicap parking signs shall be installed within 4' steel concrete-filled structural bollards.

22. The location of the proposed sidewalks shall be approved by the county engineer.

23. Pedestrian access to the CVS from the sidewalks along both frontages shall be provided. The location of the access shall be approved by the board professionals.

24. The applicant must grant the Township of Brick, if permitted by the County of Ocean, a variable width sidewalk easement for the sidewalk along the Drum Point Road frontage. The applicant must submit the proposed Easement to the Planning Board office for review by the Planning Board attorney and the Brick Township Planning Board Engineer. The Easement must include a reference to the application number, adoption date of the resolution and space for signature by the Planning Board Secretary. After the Easement has been submitted to and approved by the Planning Board Attorney and Engineer and signed by the Planning Board Secretary, the applicant must submit proof that the deed has been filed in the Ocean County Clerk's office.

25. The applicant must comply with the engineer's report of November 3, 2011, as it relates to lighting. All lighting at the site, with the exception of security lighting, shall be programmed to turn off one hour after closing. All lighting fixtures shall be equipped with house side shields. The applicant has agreed and will confer with the board professionals to reduce the lighting levels at the site. The proposed cornice lighting on the easterly façade of the building must be eliminated from the lighting plan.

26. The applicant must provide a monument-type sign in lieu of the originally proposed pylon-type sign.

27. A six-foot white vinyl buffer fence must be installed along the eastern property line and shall terminate at the rear corner of the building on Block 554, Lot 11.

28. The trash enclosure must be of the same white vinyl as the 6 foot buffer fence along the eastern property lines.

29. A timber guard rail and taller buffer trees (8-10 feet tall) shall be provided along the common property line with Block 554, Lot 6 and shall terminate at the rear corner of the building on Block 554, Lot 11.

30. The roof mechanicals shall be located in the center of the roof area and shielded by the elevated cornice.

31. At least one bike rack shall be provided at an agreed upon location.

32. The east and north ends of the drive aisles within the parking area shall be realigned so that they end evenly.

33. The concrete island at the northeast end of the R.O.W. of 25 parking stalls shall be curbed and landscaped. A left-turn arrow shall be added to the pavement in this location to direct motorists to the Hooper Avenue driveway.

34. No trash pick up from or deliveries to the site are permitted between 10:00 PM and 7:00 AM.

35. The applicant's attorney shall prepare a Deed of Consolidation for filing in the Ocean County Clerk's Office. The applicant must submit the proposed deed consolidating all the lots to the Planning Board office for review by the Planning Board attorney, Brick Township Engineer, and Brick Township Tax Assessor. The deed to consolidate the lots which comprise the subject tract must include the following language: *"The Grantor(s) hereby certifies that the foregoing description is in conformance with a lot consolidation/minor subdivision (Application No. 2703) approved by the Planning Board of the Township of Brick and memorialized in Resolution adopted on December 14, 2011.* The Deed of Consolidation shall contain a line for the signature of the Planning Board Secretary approving the deed. Once signed by the Planning Board Secretary, the applicant must present proof to the Planning Board that the deed has been filed in the Ocean County Clerk's office.

NOW, THEREFORE, BE IT RESOLVED, the application, limited to the terms and conditions as set forth more fully in the preamble of this Resolution, be and hereby is approved.

BE IT FURTHER RESOLVED that the Planning Board secretary shall cause notification of this favorable Resolution to be published in an official newspaper of the Brick Township within ten (10) days of the adoption of this resolution.

MOVED BY: Mr. Scott

SECONDED BY: Mr. Coakley

VOTING IN THE AFFIRMATIVE: Mr. Rappoccio, Mr. Palmieri, Mr. Coakley, Mr. Scott, Mr. Marra

VOTING IN THE NEGATIVE: Ms. Brennan, Mr. DiMatteo

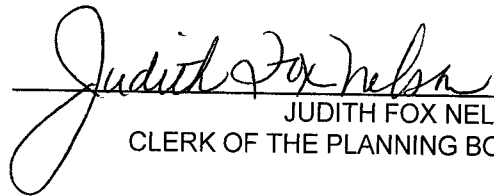
INELIGIBLE TO VOTE:

ABSTAINING: Councilman Toth, Mr. Beshears

ABSENT:

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 I am duly authorized to certify Resolutions. I certify that the foregoing Resolution was adopted by the Planning Board of the Township of Brick at a meeting held on the 14th day of December, 2011.


JUDITH FOX NELSON,
CLERK OF THE PLANNING BOARD

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR SITE PLAN APPROVAL

RESOLUTION R-40-11

PAGE 8

CASE NO.2703-PSP-V-FSP-8/11

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 VI (Mandatory Development Fees) of Chapter 245 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.