



## MEMORANDUM

### Clarke Caton Hintz

Architecture  
Planning  
Landscape Architecture

100 Barrack Street  
Trenton NJ 08608  
clarkecatonhintz.com  
Tel: 609 883 8383  
Fax: 609 883 4044

To: Montgomery Township Zoning Board of Adjustment

From: Michael Sullivan, ASLA, AICP  
Emily Goldman, PP, AICP

Re: **Montgomery 206 Realty (Dunkin')**  
**Conditional Use + Amended Preliminary and Final Site Plan**  
Route 206 & Route 518  
Block 28005, Lot 64  
HC Highway Commercial District

Date: August 13, 2021

### 1. Project & Site Description

1.1. **Nature of Application.** The applicant is seeking amended preliminary and final site plan approval for construction of an 1,823 square foot Dunkin' Donuts restaurant, including a drive-through facility, on a 0.52 - acre property. The property (Block 28005, Lot 64) is located in the Highway Commercial district at the northwest quadrant of the NJSH Route 206 and County Route 518 intersection.

**Variances for Conditional Use Standards Necessary.** The site plan, along with variances for deviations from standards relating to a conditional use (drive-through), was approved in 2015. The current plan amendment reflects substantial changes to the site's configuration of vehicular access necessitated by review of the County and NJDOT. These changes are reflected in the placement of the building, driveways, signs, drive-through window locations, retaining walls and plantings. The degree to which the plans represent changes in vehicular access and screening of drive-through elements (both of which constitute standards relating to this conditional use) suggests that the Board of Adjustment should consider, anew, variances from those standards. Therefore, beyond the amendment to the site plan, and the other variance relief required, variances from these conditional use standards appears necessary pursuant to 40:55D-70.d(3).

1.2. In addition to the proposed building, the applicant is proposing 16 off-street parking spaces. The drive-through facility includes two (2) ordering lanes with stacking for 16 vehicles, which merge to a single window, and a vehicular bypass

John Hatch, FAIA  
George Hibbs, AIA  
Brian Slaugh, AICP  
Michael Sullivan, AICP  
Michael Hanrahan, AIA  
Mary Beth Lonergan, AICP



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lane. The project also includes menu boards, lighting, landscaping, retaining walls, and sidewalks.

- 1.3. Site access is proposed as a right turn only from State Route 206 and a left and right turn in from County Route 518. Egress from the site will be from a right turn only onto County Route 518. One-way circulation is proposed for the site.
- 1.4. Right-of-way dedication will be provided at the corner of Routes 206 and 518 and along the Route 518 frontage. The dedication area is 392 square feet and it will reduce the lot area from 0.5197 to 0.5107 acres.
- 1.5. The proposed building is 1½ story, side-gabled, three-bay facade fiber cement lap siding structure. The main entrance is at the central bay and is emphasized by a gable and a cupola. The northerly bay includes large windows and the southerly bay includes a large false window with opaque glass on the front façade and dormer windows above. There is a stone or masonry water table, and the roof is charcoal black asphalt shingle. The north elevation has a relatively large window set towards the front of the building while the south elevation has a drive-through window towards the center of the facade. At the rear of the proposed structure, there is a flat roof with a “screening fence” for roof-top equipment. The main entrance and drive-through window shaded by metal canopies with exterior illumination.
- 1.6. All existing improvements are proposed for removal. The site was formerly used as a retail gasoline dispenser/ automobile service station and is currently occupied by a small building, concrete pad and pump islands. The gas pumps and underground storage tanks associated with the prior use were removed in 2004. NJDEP issued a No Further Action (NFA) letter on August 1, 2006, which indicates no further site remediation is necessary. The applicant is also proposing to eliminate the existing vehicle access to the adjacent restaurant’s parking lot.
- 1.7. All existing vegetation is proposed for removal. The existing vegetation includes mature trees at the rear of the site, limited cultivated plants from the former use,



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and a variety of herbaceous and woody species established after closing of the former use – many of which are invasive. According to the documentation provided, the site contains no freshwater wetlands or transition areas, flood hazard areas, steep slopes or critical wildlife habitat.

- 1.8. The site is entirely surrounded by nonresidential uses in the HC district. West of the site, along County Route 518, is a commercial building, with residential and agricultural uses located further west along Route 518. North of the site, along Route 206 is the Tiger's Tale, a full service restaurant/bar with the Village Walk shopping center further north. East of the site, directly across Route 206 is a Wawa convenience store with additional commercial uses leading to the historic village of Rocky Hill. South of the site, directly across Route 518 is an Amboy Bank with the approved Montgomery Promenade beyond.



Aerial Location Map

## 2. Project History

- 2.1. Pursuant to Resolution No. 06-2015, dated September 22, 2015, the Zoning Board approved a conditional use variance and preliminary and final site plan approval



with bulk variances and design exceptions for an 1,880 square foot Dunkin' Donuts restaurant with a drive-through.

- 2.2. The following bulk variances were previously approved by the Board:
- Sec. 16-4.12(d) lot area
  - Sec. 16-4.12(d) rear yard setback
  - Sec. 16-4.12(d) impervious cover
  - Sec. 16-4.12(d) lot width
  - Sec. 16-4.12(e)(5)(a) visual breaks
  - Sec. 16-4.12(e)(5)(b) wall offsets
  - Sec. 16-4.12(e)(5)(c) street frontage design
  - Sec. 16-4.12(e)(5)(d) side and rear façades
  - Sec. 16-4.12(e)(6)(b) roof treatment
  - Sec. 16-4.12(e)(6)(c) articulated cornice
  - Sec. 16-4.12(e)(7)(b) window design
  - Sec. 16-4.12(e)(8)(b) mechanical equipment
  - Sec. 16-4.12(f)(1) cross access
  - Sec. 16-4.12(f)(3) landscape area
  - Sec. 16-4.12(f)(4)(a) parking setback to any street
  - Sec. 16-4.12(f)(5) parking setback to any other property line
  - Sec. 16-4.12(f)(5) driveway setback to any street or any other property line
  - Sec. 16-4.12(f)(5) other structures setback to any street or any other property line
  - Sec. 16-4.12(h) loading space
  - Sec. 16-4.12(i) menu board signs
- 2.3. The Board also previously approved a design exception from Section 16-5.4(b)(2)(c) illumination levels.
- 2.4. The Board's approval was subject to no left turn onto County Route 518 and the installation of ADA-compliant sidewalks along the Route 518 and Route 206 frontages.
- 2.5. On November 6, 2015, Montgomery 206 Realty filed a Complaint in Lieu of Prerogative Writs challenging the Board's no left-turn condition. Judge Miller allowed the parties to carry the matter pending the New Jersey Department of Transportation ("NJDOT") review of Montgomery 206 Realty's application for a Major Access Permit (the "Access Application").



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- 2.6. On June 8, 2016, Montgomery 206 Realty submitted a pre-application plan to NJDOT to request a meeting. At the pre-application meeting, Montgomery 206 Realty was informed that Montgomery Promenade was constructing a jug handle to allow travelers along Route 206 southbound to make a turn onto County Route 518; thereby eliminating the need for a left turn movement out of the Montgomery 206 Realty property to Route 206. Montgomery 206 Realty was also told by Richard Dube, the former Director of NJDOT Major Access Permits, since Montgomery Promenade had posted bonds for the construction of the Promenade, the NJDOT would analyze the Route 206/Route 518 intersection “as though those improvements had been constructed”, consistent with NJDOT regulations.
- 2.7. Montgomery 206 Realty submitted the Access Application to NJDOT on August 18, 2016. NJDOT requested additional information on September 22, 2016 in order to deem the application complete. Montgomery 206 Realty submitted the additional information on September 26, 2016 and the application was deemed complete on September 28, 2016.
- 2.8. On December 8, 2016, Montgomery 206 Realty received a letter from NJDOT stating the Access Application cannot be approved unless significant revisions are made to the plan. Montgomery 206 Realty received additional comments from NJDOT on August 30, 2017 seeking further significant revisions. Montgomery 206 Realty submitted revised plans in response to the NJDOT comments on May 18, 2018.
- 2.9. On October 4, 2018, NJDOT issued a review memo that indicated that the Division of Major Access Permits will not approve any capacity analysis that reflects improvements not started or completed by another access project. The NJDOT memo also indicated that a letter from Somerset County allowing a left turn from Route 518 onto the subject site shall be provided.
- 2.10. Montgomery 206 Realty met with NJDOT on November 7, 2018 at which point the NJDOT states that the Montgomery Promenade roadway improvements must be installed which is a reversal of the NJDOT’s prior position.
- 2.11. On December 19, 2018, the NJDOT issued a letter that stated if Montgomery 206 Realty wants to open before the Montgomery Promenade roadway improvements are completed, the plans must be revised to recognize the existing roadway system.



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- 2.12. On February 10, 2020, Montgomery 206 Realty submitted revised plans to NJDOT. On August 10, 2020, NJDOT indicated approval was possible with an ingress only driveway from Route 206.
- 2.13. As a result, the applicant has submitted this application for amended preliminary and final site plan approval.

### 3. Use and Bulk Standards

3.1. **Permitted Uses.** The application is in compliance. The HC district, pursuant to §16-4.12(a), permits a variety of uses, including but not limited to retail sales, banks, restaurants and shopping centers. As such, the proposed restaurant is a permitted principal use. However, the proposed drive-through facility is a conditional use pursuant to §16-4.12(b).

3.2. **Conditional Use Standards for Drive-Through Facilities.** *The plans exhibit substantial changes to the vehicular circulation and access and the plantings/buffering. It appears that these changes require a renewed consideration of the previously granted d(3) conditional use variance, specifically as it relates to the consideration of direct highway access and the degree to which drive-through elements are visually-screened through plantings.* Section 6-6.1(m) identifies four (4) conditions for a restaurant drive-through window. The application does not comply with three out of these four conditions. Variances are required pursuant to NJSA 40:55D-70.d(3). Each of these conditions, and the applications level of compliance, is identified below.

a) *A drive-through window for a restaurant shall be permitted only if the subject restaurant is part of a shopping center or is otherwise associated with a shopping center with direct vehicular access thereto;*

The proposed restaurant still is not part of a shopping center and therefore does not meet this condition. The Board previously granted variance relief for this standard. *No additional relief is required.*

b) *A drive-through window for a restaurant shall be permitted only if the subject restaurant does not have direct driveway vehicular access to a public street;*

The proposed restaurant will still have direct driveway vehicular access to Routes 206 and 518; however, the configurations of the direct access have changed since the prior approval. The Board previously granted variance relief for this standard to allow “right-in/right-out” driveway from Route



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206 and a “full ingress/right-out” driveway from Route 518. The amended application has been updated based on comments from NJDOT such that there is a “right-in” driveway only on Route 206. This change also necessitates the site circulation to change to one-way circulation only. *The Board should examine these changes and their impacts in order to consider whether relief should be granted from this standard.*

- c) *A drive-through window for a restaurant, accompanying driveway, and associated signage shall be set back a minimum distance of five hundred (500) feet from any lands zoned for residential development;*

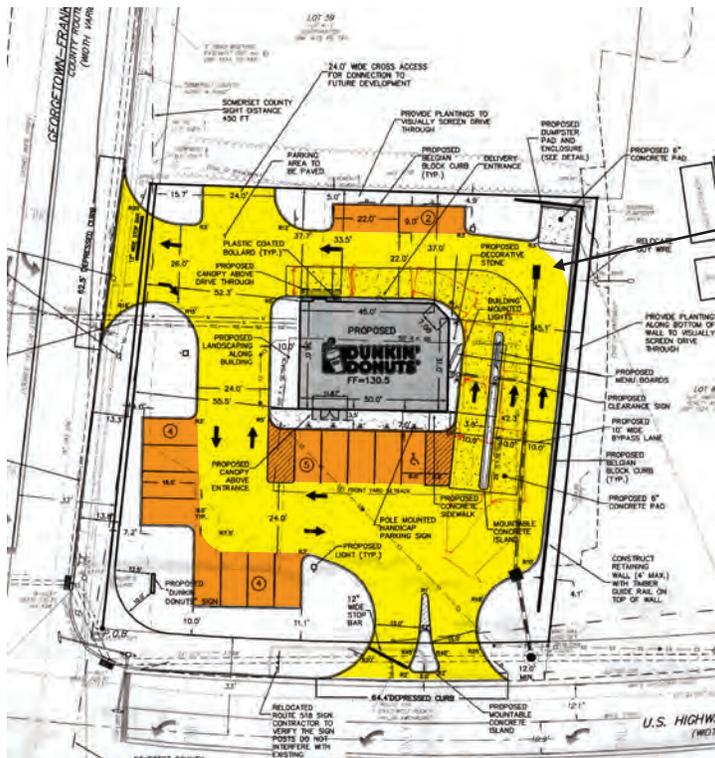
The site is more than 550 feet from the nearest residentially zoned lands.

- d) *A drive-through window for a restaurant and associated signage shall be provided landscaping to visually screen the window, signage and driveway from adjacent properties.*

While screening is proposed along the site’s boundaries, the drive-through window, signage and driveway will be visible from adjacent properties. The Board previously granted variance relief for this standard; however, the Landscape Plan has substantially changed since the prior approval.

The screening along the north lot line (Tiger’s Tale) is the same as previously approved, but despite continuing to show buffer plantings along there, the planting bed has been reduced to approximately two (2) feet in width. The plants shown to be located there (arborvitae) requires a larger planting bed, as its mature width will be 5-6 feet in diameter or more. Therefore, this planting area would not appear to sustain the plantings shown and would not provide screening as required.

The applicant has removed the approved buffer planting along the western lot line and the southern lot line. Instead, the applicant is proposing to extend the retaining wall and add a future driveway connection along the western lot line leaving room for a small planting bed adjacent to the trash enclosure and the Route 518 driveway only. This leaves no screening between the drive-through lanes (now a double lane in this area) and the western property line.

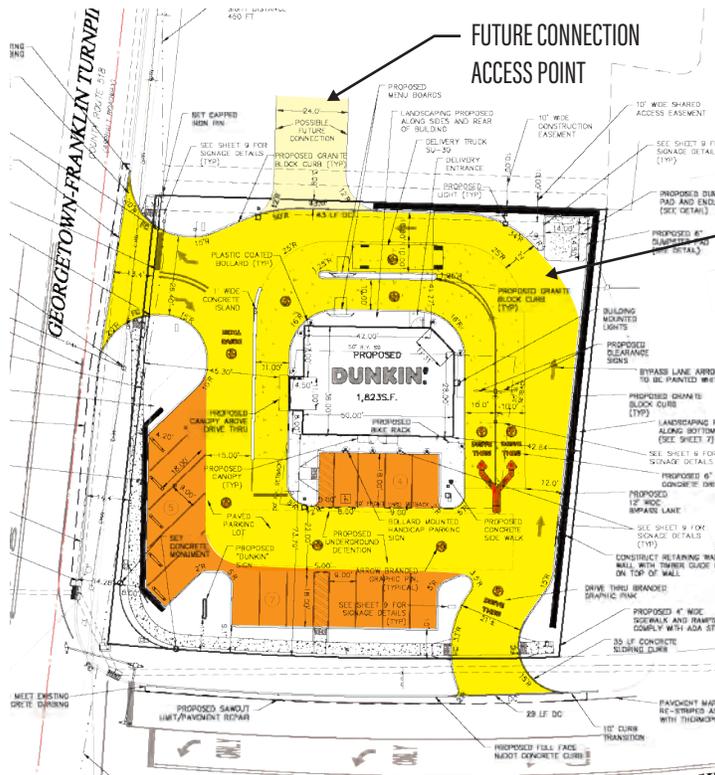


APPROVED CIRCULATION ROUTES

LEGEND

- VEHICLE ACCESS
- OFF-STREET PARKING

2015 APPROVED SITE PLAN



AMENDED CIRCULATION ROUTES

LEGEND

- VEHICLE ACCESS
- OFF-STREET PARKING

2021 PROPOSED SITE PLAN



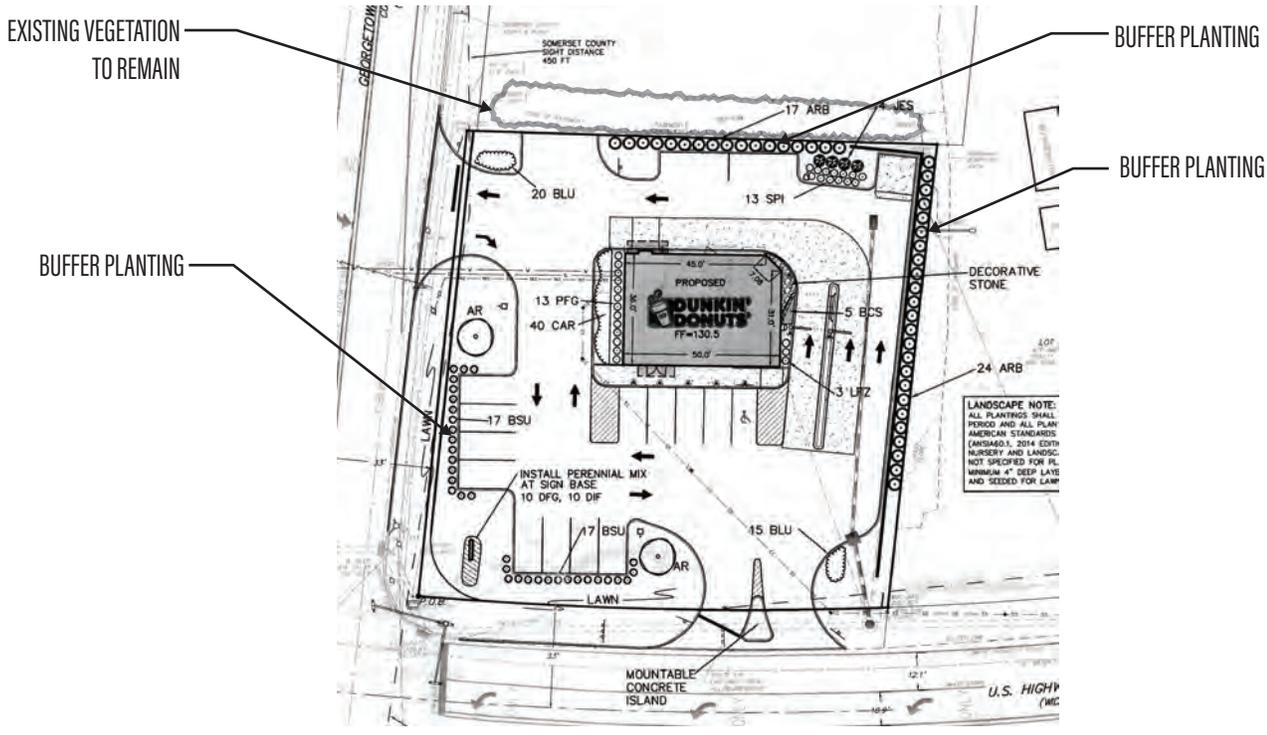
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MONTGOMERY 206 REALTY (DUNKIN')

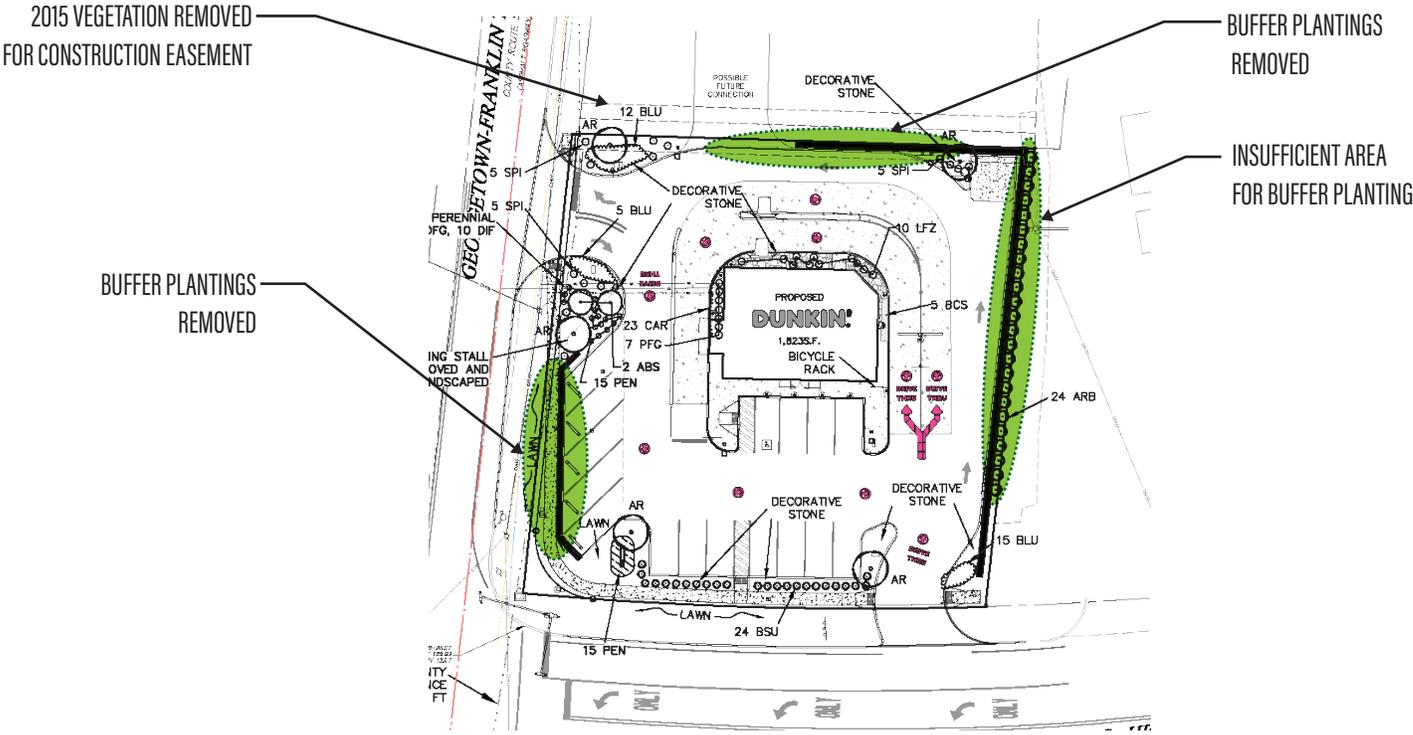
# Circulation & Parking Changes

LOCATION:  
Montgomery Township, Somerset County, New Jersey

DATE:  
August 2021



2015 APPROVED PLANTING PLAN



2021 PROPOSED PLANTING PLAN

# Plantings & Buffer Changes



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The 2015 plans indicated existing vegetation to be retained on adjacent lot 59 (western property line). The current plans indicate that a construction easement will be located in this location, necessitating removal of this existing vegetation, further diminishing the degree to which drive-through elements will be visually screened.

The applicant has also added a retaining wall along the southern lot line; thus removing the approved buffer planting.

Some additional plantings adjacent to the ingress drive from Route 518 have been added, but these are not sufficient to satisfy this standard. *The Board should examine these changes and their impacts in order to consider whether relief should be granted from this standard.*

- 3-3. **Area & Yard Requirements.** There are six (6) area and yard requirements that the proposal does not meet. The Board previously granted variance relief for one of the requirements; variance relief is necessary for five (5) nonconforming characteristics described in more detail below. See the following table for additional detail on the applicant’s compliance with the area and yard requirements for individual uses.

HC District Area & Yard Requirements: §16-4.12.d. (Individual Uses)							
	Required	Existing	Previously Approved		Proposed Amendment		Variance ?
			Pre ROW Dedication	Post ROW Dedication	Pre ROW Dedication	Post ROW Dedication	
<b>Min. Lot Area</b>	<b>1.0 ac</b>	<b>0.5197 ac.</b>	<b>0.5197 ac.</b>	<b>0.5107 ac.</b>	<b>0.5197 ac.</b>	<b>0.5107 ac.</b>	<b>Yes (1)</b>
<b>Min. Lot Frontage</b>	<b>150 ft.</b>	<b>150.16 ft.</b>	<b>150.16 ft.</b>	<b>148.16 ft.</b>	<b>150.16 ft.</b>	<b>143.46 ft.</b>	<b>Yes</b>
<b>Min. Lot Width</b>	<b>150 ft.</b>	<b>150.16 ft.</b>	<b>150.16 ft.</b>	<b>148.16 ft.</b>	<b>150.16 ft.</b>	<b>143.46 ft.</b>	<b>Yes</b>
Min. Lot Depth	150 ft.	151.59 ft.	151.59 ft.	151.59 ft.	151.68 ft.	151.68 ft.	No
<b>Min. Front Yard</b>	<b>50 ft.</b>	<b>61.55 ft.</b>	<b>54.3 ft.</b>	<b>52.3 ft.</b>	<b>47.2 ft.</b>	<b>45.3 ft.</b>	<b>Yes</b>
Min. Side Yard	25 ft.	38.5 ft.	42.3	42.3	44.7 ft.	42.84 ft.	No
<b>Min. Rear Yard</b>	<b>50 ft.</b>	<b>49.3 ft.</b>	<b>33.5 ft.</b>	<b>33.5 ft.</b>	<b>41.3 ft.</b>	<b>41.2 ft.</b>	<b>Yes</b>



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HC District Area & Yard Requirements: §16-4.12.d. (Individual Uses)							
	Required	Existing	Previously Approved		Proposed Amendment		Variance ?
			Pre ROW Dedication	Post ROW Dedication	Pre ROW Dedication	Post ROW Dedication	
<b>Max. Impervious Cover</b>	55%	73.1%	74.7%	77.9%	82.9%	84.4%	Yes
Max. Building Height	30 ft.	<30 ft.	29.1 ft.	29.1 ft.	28 ft.	28 ft.	No
Max. Floor Area Ratio	0.20	0.063	0.08	0.09	0.081	0.082	No

(1) Variance relief previously granted pursuant to Resolution No. 06-2015

- 3-4. **Lot Frontage and Lot Width.** *Variance relief is required.* The Board previously granted variance relief for a lot frontage and lot width of 148.16 feet. The applicant is not proposing a lot frontage and lot width of 143.46 feet; thus increasing the intensity of relief needed.
  
- 3-5. **Front Yard Setback.** *Variance relief is required.* Section 16-4.12(d) requires a minimum front yard setback of 50 feet. The amended site plan has reduced the building setback from 52.3 feet to 45.3 feet from County Route 518.
  
- 3-6. **Rear Yard Setback.** *Variance relief is required.* Section 16-4.12(d) requires a minimum rear yard setback of 50 feet. The Board previously granted variance relief for a rear yard setback of 33.5 feet. The proposed application increases the rear yard setback to 41.2 feet; however, it still results in a substandard condition. Despite reducing the amount of relief required, the applicant still requires variance relief.
  
- 3-7. **Impervious Cover.** *Variance relief is required.* The Board previously approved variance relief for an impervious cover of 77.9%. The applicant is not proposing an impervious cover of 84.4%. The deviation from the maximum permitted impervious cover is substantial as 55% is the maximum permitted. The proposed impervious cover is 11.3% greater than the existing condition of 73.1%.



#### 4. Parking, Loading & Circulation

- 4.1. **Cross Access.** Pursuant to Resolution No. 06-2015 the Board previously granted variance relief for this non-conformance. Section 16-4.12(f)(1) states driveways providing vehicular access between adjacent properties shall be required, where feasible. The applicant is still proposing to eliminate access to the lot north of the site (Tiger's Tale), which has



its vehicular/parking/loading access abutting the subject property. Pursuant to Condition C of Resolution No. 06-2015, the applicant will work with the owner of Lot 59 to establish a mutually agreeable access point for an interconnected driveway. The *Site Plans* identify a possible future connection to Lot 59.

- 4.2. **Parking Setback to any Street Line.** Variance relief is required. Section 16-4.12(f)(5), requires a 25-foot setback from the street line for parking, loading, driveways and all other structures. Furthermore, these setback areas shall be planted. The Board previously granted variance relief for parking 4 feet from Route 518 and 10 feet along Route 206 whereas the applicant is now proposing setbacks of 4.2 feet and 9.1 feet, respectively. While the applicant is improving the situation along Route 518; they are intensifying the situation along Route 206. Therefore, new variance relief is required.
- 4.3. **Structure Setback to any Lot Line.** Variance relief is required. Section 16-4.12(f)(5), requires a 15-foot setback from the property line for parking, loading, driveways and all other structures. Furthermore, these setback areas shall be planted. The parking, drive aisle, and retaining walls also violate these setback requirements. The Board previously granted variance relief for retaining walls, the structures closet to the north and west property lines, with setbacks of 4.1 feet and approximately one (1) foot, respectively. The applicant is now proposing retaining walls along the south, north and west property lines with setbacks of approximately 4 feet, 2.15 feet and zero feet, respectively. The applicant is intensifying the situation along all three lot lines. Therefore, new variance relief is required.



- 4.4. **Off-Street Parking.** The applicant is proposing 16 off-street parking spaces. The number of spaces greatly exceeds the minimum required parking pursuant to Section 16-4.12(g)(2). This section requires one (1) parking space to be provided for each three (3) seats. At 17 proposed seats, six (6) parking spaces are required.

The provision of 10 additional parking spaces, above and beyond what is required seems illogical in the face of a) the request for a variance for impervious coverage b) the degree to which the site may be overburdened by the function of the drive-through facility and c) the constricted parking lot conditions wherein trucks would have to operate. Furthermore, the applicant cannot meet the landscape area, buffer, tree planting, street tree, and parking lot planting requirements due to the excessive parking. Given these circumstances, a reduction in the number of off-street parking spaces would contribute toward a more compliant and better functioning site configuration.

- 4.5. **Loading Space.** Pursuant to Resolution No. 06-2015 the Board previously granted variance relief for this non-conformance. Section 16-4.12(h)(1) requires one (1) loading space to be provided at the side or rear of the building. No loading space is proposed.
- 4.6. **Drive-through Stacking.** The proposal includes the space needed to stack 16 vehicles within the drive-through lanes. Adequacy of the proposed stacking capacity is, in part, dependent on the ability of motorists to exit the drive-through after their purchase. Since the site has a one-way direction of flow with the only exit on Route 518, the applicant should discuss the adequacy of the proposed stacking capacity. Additional comments are deferred to the Board Engineer.
- 4.7. **Bike Rack.** The applicant has added a bike rack to the plans pursuant to Condition I of Resolution No. 06-2015. The proposed style of bike rack is not the easiest style to lock bikes to. This office recommends the applicant change the style of the bike rack to a series of five (5) upside-down u-brackets.

## 5. Landscape Design and Plantings

The applicant is proposing to over-park the property; thus reducing the applicant's ability to comply with the Township's landscape area, buffers, tree planting, street tree, and parking lot planting requirements. The following includes a review of basic dimensional regulations; however, the technical review of plantings is deferred to the Board Landscape Architect.



- 5.1. **Landscape Area.** *Variance relief is required.* Section 16-4.12(f)(3) requires a minimum of 45% of a lot to be planted with grass, shrubs, and trees. The Board previously granted relief for a minimum of 22.1% of the lot landscaped. The application requires new relief from this item as the proposed impervious cover is 84.4%. The exact area of “landscape” should be provided to the Board so that the deviation from the standard may be assessed in terms of the criteria for granting such relief.
- 5.2. **Tree Planting.** *A design exception is required.* Section 16-5.6(d)(3) requires “a minimum of fourteen (14) trees per acre shall be planted on nonresidential tracts. Any trees provided to meet the required street tree and/or buffer requirement shall not be counted towards the minimum tree requirement”. At 0.5107 acres after the right-of-way dedication, this section requires a total of 7 (0.5107 x 14 = 7.15) trees to be planted on the site. The applicant is proposing 2 shade trees on site that are not street trees.
- 5.3. **Street Trees.** *A design exception is required.* Section 16-5.6(d)(15) requires street trees at 50 foot intervals. The applicant has proposed three trees, one along the Route 206 frontage and two along the Route 518 frontage. The proposed parking setbacks prevent compliance with this item and as such, relief is necessary.
- 5.4. **Parking Lot Plantings.** *A design exception is required.* Section 16-5.8(a)(3) requires an area equivalent to one (1) parking space planted for every 30 vehicle spaces. The planted area(s) shall consist of approximately half having shrubs no higher than three (3) feet and the other half having trees with branches no lower than seven (7) feet. Additionally, the planted areas shall be distributed across the site and shall break the view of parked vehicles. At 16 proposed parking spaces, the applicant must provide one (1) of these planted spaces. The parking spaces are distributed within three (3) locations on the site comprised of five (5) spaces along the southern lot line, seven (7) spaces along the eastern lot line and four (4) spaces directly adjacent to the proposed building. While a shade tree and freestanding sign are proposed between the spaces along the lot lines to visually break the view of the parked cars; the equivalent of one (1) parking space of plantings has not been provided.



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## 6. Lighting

- 6.1. **Light Fixtures.** The application is in compliance. The applicant is proposing light fixtures with an 18.89-foot height, which meets the maximum height specified in Section 16-5.4(b)(2)(a).
- 1.1. **Light Fixture Design. Additional information is required.** Section 16-5.4(b)(2)(b) requires “non-glare lights with ‘cut-off’ shields”. The applicant is proposing LED roadway luminaires that are non-glare, but not full cutoff for light fixture types. The applicant should provide testimony and catalog cut sheets to demonstrate compliance with Section 16-5.4(b)(2)(b) that requires “non-glare lights” with “cut-off” shields and to otherwise validate the proposed lighting plan. Catalog cut sheets should also be provided for any wall mounted and site lighting fixtures on or adjacent to the building.
- 6.2. **Light Intensity. Pursuant to Resolution No. 06-2015 the Board previously granted design exception relief for this non-conformance.** Section 16-5.4(b)(2)(c) states “the light intensity provided at ground level shall be indicated in footcandles on the submitted plans for each light fixture and shall average not less than ... three-tenths (0.3) footcandles elsewhere in the area to be illuminated, and shall average, in any case, not more than one (1.0) footcandle throughout the area to be illuminated.” The Illumination Summary on Sheet 8 indicates an average of 1.1 footcandles within the parking lot and 0.2 footcandles at the property line.
- 6.3. **Uniformity. Additional information is required.** While the Township ordinance does not address uniformity, it is recommended that the lighting plan be revised to provide more uniform light distribution. The lighting plan should meet the uniformity recommendations of the Illuminating Engineering Society of North America (IESNA) for maintained illuminance values for “basic” parking lots. These standards include a maximum / minimum uniformity ratio of 20:1. The lighting plans indicate a maximum / minimum uniformity ratio of 102.0:1; the applicant should confirm this figure.
- 6.4. **Lighting Control. Additional information is required.** Section 16-5.4(b)(2)(d) states “except for any lighting determined by the Planning Board to be necessary and/or advisable for security purposes, all other lighting is to be controlled by circuit timers so that the lights are automatically turned off after business hours.” Lighting Note #8 on Sheet 8 indicates outdoor illumination shall be on from dusk to dawn utilizing photometric controls based on operating hours. The applicant should provide



testimony indicating if all site lighting will be on from dusk to dawn or only certain lights for security purposes.

- 6.5. **Sign Illumination.** *Additional information is required.* Section 16-5.4(d)(6)(b) requires the “lights to be focused directly and completely onto the sign face, with appropriate and necessary shielding on the top, sides, and if necessary, bottom of the fixture to prevent any sight of the light source from any street, sidewalk or neighboring property.” This section also limits exterior sign lighting to 100 watts and states mercury vapor lighting is prohibited. Furthermore, Section 16-5.4(d)(6)(c) limits sign lighting to a maximum of one (1) foot candle at a distance of two (2) feet from the sign surface. The sign details on Sheet 9 of the *Site Plans* indicates the freestanding sign and two of the wall mounted signs will be externally illuminated. Additionally, the menu sign details on Sheet A3.0 of the *Architectural Plans* indicate they will be illuminated by LED lights. The applicant should provide information on the proposed sign illumination. This information should include, but not limited to, specifications for the proposed fixtures and their compliance with applicable sections of the ordinance.

## 7. Building Design

- 7.1. **Building Entrance.** The application is in compliance. Section 16-4.12(e)(4) requires that building entrances be articulated using building elements and that any such element be compatible with the style, materials, etc. of the overall building. The main entrance of the proposed building is articulated with a canopy, a glass transom, and sidelights. In addition, the overall composition of the façade emphasizes the entrance with a gable and a roof-top cupola. Although the entrance door itself does not have much detail, the overall entrance articulation is in keeping with the character of the rest of the proposed structure and meets the intent of the standards.
- 7.2. **Visual Breaks.** *Pursuant to Resolution No. 06-2015 the Board previously granted design exception relief for this non-conformance.* Section 16-4.12(e)(5)(a) requires building exteriors to have vertical and/or horizontal offsets to create visual breaks along each façade. Similarly, Section 16-4.12(e)(5)(b) states building wall offsets, including projections such as balconies and canopies, recesses and changes in floor levels, shall be used to add architectural interest and variety. The entry gable provides some articulation at the front façade; however, the overall effect is quite flat. Extending the entry bay (the left bay) two (2) to four (4) feet beyond the front



plane of the building would eliminate the need for variance relief. The side elevations would also benefit from a projection at the line of the gables.

- 7.3. **Street Frontage Design.** Pursuant to Resolution No. 06-2015 the Board previously granted design exception relief for this non-conformance. Section 16-4.12(e)(5)(c) states buildings with more than one street frontage shall be designed to have a front façade facing each frontage, and where a building faces a driveway, the building shall also have a front façade facing the driveway. The proposed building has frontage on and is accessible from Route 206 and Route 518; however, only the façade facing Route 206 is designed as a front façade. The side facades, particularly the façade facing Route 518, would benefit from additional articulation, including projecting the gable (see item 7.2), a larger vent (perhaps round) at the peak of the gable and additional windows or other façade elements.
- 7.4. **Side & Rear Facades.** Pursuant to Resolution No. 06-2015 the Board previously granted design exception relief for this non-conformance. Section 16-4.12(e)(5)(d) requires the architectural treatment of the front facades to be continued in its major features around all visibly exposed sides of a building and Section 16-4.12(e)(5)(g) requires dormers, gables, windows, and other similar design features to be provided across a building façade. The side and rear facades are designed with the same colors and materials of the front façade (consistent with Section 16-4.12(e)(5)(e)). However, as noted above, the addition of a projecting gable, or other architectural feature on the side and rear facades would make the building more architecturally appealing.
- 7.5. **Building Materials.** The application is in compliance. Section 16-4.12(e)(5)(f) recommends natural materials, such as wood and masonry. The proposed building is largely fiber cement lap siding with a stone or masonry water table with a cap. This meets the intent of the requirement. Orange metal canopies are proposed over the main entrance and the drive-through window.
- 7.6. **Roof Treatment.** Pursuant to Resolution No. 06-2015 the Board previously granted design exception relief for this non-conformance. The applicant should confirm compliance with Section 16-4.12(e)(6)(b) and (c). These items require pitched roofs to have a minimum of five to twelve pitch, that all roofs shall provide overhanging eaves that extend a minimum of one foot beyond the building wall along all sides of the building, and that buildings with flat roofs have an articulated cornice that projects horizontally from the vertical wall. It appears that the proposed design meets these requirements; however, the applicant should confirm with testimony.



- 7.7. **Window Design.** Pursuant to Resolution No. 06-2015 the Board previously granted design exception relief for this non-conformance. Section 16-4.12(e)(7)(b) requires the first story façade of retail, office and restaurant buildings which face a street and/or has a pedestrian access shall have large pane display windows which occupy at least 75% of the first story façade. The Route 206 and Route 518 facades do not meet this guideline. The applicant should provide the percentage of openings on the front and side facades.

This section goes on to state the area of actual windows may be reduced by the Board in consideration of the needs of a particular use or for security purposes. However, where smaller windows are permitted, the design of the facade must include materials outlining the size of the windows equivalent to seventy-five (75%) percent of the first story facade, within which the permitted smaller windows can be located.

- 7.8. **Mechanical Equipment.** The application is in compliance. Section 16-4.12(e)(8)(b) requires mechanical equipment serving the building to be screened from public view. The southwest elevation on Sheet A2.0 of the *Architectural Plans* indicates the screen fence over the rear, flat roof does hide the roof-top equipment.

## 8. Signs

- 8.1. **Freestanding Sign.** One freestanding sign is proposed at the intersection of Routes 206 and 518. The freestanding sign is comprised of a cultured stone base and the business sign is placed on white fiber cement panel and externally illuminated. The sign area is 8.58 square feet and the height of the freestanding sign structure is 7 feet 8 inches. As such, the sign meets the area and height requirements in Section 16-4.12(i)(a). Additionally, the proposed sign's setback of 11 feet to the property line is conforming with Section 16-4.12(i)(a).
- 8.2. **Principal Wall Signs (Number).** The application is in compliance. Pursuant to Section 16-4.12(i)(b), one principal wall mounted sign is permitted. One principal wall mounted sign facing Route 206 is proposed.
- 8.3. **Principal Wall Signs (Area).** *Variance relief is required.* Pursuant to Section 16-4.12(i)(b), the size of the principal attached sign "shall not exceed ½ square foot of sign area per one linear foot of building façade fronting on a street ..., but in no case ... exceed 50 square feet in area." The area of the principal attached sign is 26.8 square



feet; whereas a maximum of 25 square feet (1/2 square feet x 50 linear feet = 25 square feet) is permitted along the Route 206 facade.

- 8.4. **Secondary Wall Signs (Number)**. *Variance relief is required.* Pursuant to Section 16-4.12(i)(c), one secondary wall mounted sign is permitted on a corner lot. Two building mounted signs are proposed facing Route 518.
- 8.5. **Secondary Wall Signs (Sign Area)**. *Variance relief is required.* Pursuant to Section 16-4.12(i)(c), the size of the secondary attached sign for a corner lot “shall not exceed 1/2 square foot of sign area per one linear foot of building façade fronting on a street ..., but in no case ... exceed 20 square feet in area.” The southern façade is 36 linear feet; therefore, the maximum permitted sign area is 18 square feet (1/2 square feet x 36 linear feet = 18 square feet). One proposed sign is 12.5 square feet and the other is 17.6 square feet. As such, the applicant is proposing a total of 30.1 square feet of sign area on the southern façade.
- 8.6. **Wall Signs (Projection)**. *Additional information is required.* Section 16-5.13(d)(1) states attached signs shall not project more than six (6) inches from the building. The applicant should identify how far the wall signs will project from the building.
- 8.7. **Menu Board Signs**. *Pursuant to Resolution No. 06-2015 the Board previously granted variance relief for this non-conformance.* Two (2) menu boards are proposed along the north side of the building. Such signs are not permitted in the HC district and thus require variance relief.
- 8.8. **Animated Sign**. *Additional information is required.* Section 16-5.13(e)(1) prohibits animated, moving, fluttering and illusionary signs or rotating signs or signs using mechanical or electrical devices to revolve, flash or display movement, intermittent illumination or the illusion of movement. The menu sign detail on Sheet A3.0 of the Architectural Plans indicate the signs will have two digital menu boards. The applicant should provide testimony as to if the menu will change messages, have the ability to flash and display movement or have the ability to flash and display movement. If the menu signs will have the ability to do any of these features, then a d(1) use variance is required.
- 8.9. **Directional Signs**. *Variance relief is required.* Section 16-5.13(f)(6) permits information, directional and warning signs provided they do not exceed two (2) square feet in area. The front view of the “Dunkin” directional signage identified on Sheet 9 of the *Site Plans* are 2.93 square feet in area each. The applicant should



identify the area of the side view of the “Dunkin” directional signs. Based on the *Signage Plan*, there are four such directional signs proposed onsite.

## 9. Miscellaneous Site Plan Elements

- 9.1. **Trash Enclosure.** The proposed trash enclosure is located in the northeast corner of the site and will be visible from, both, Route 206 and Route 518. Three sides of the enclosure are split face CMU block and the gate is fypon lumber. The CMU block wall should match the stone or masonry water table of the principal building. The fypon lumber gate is not a durable material and is inconsistent with the site’s other proposed building materials. It should be replaced with a more durable material and the color should match the principal building.
- 9.2. **Fence and Wall Height. Variance relief is required.** Section 16-5.3(b) states “*on any lot in any district, no wall or fence shall be erected or altered so that said wall or fence shall be over four feet in height in side, rear and front yard areas...*” The proposed trash enclosure fence is 6.25 feet in height and the retaining walls have a maximum height of 7.5 feet in the northwest corner of the property.
- 9.3. **Retaining Walls (Materials).** The proposed retaining wall is composed of standard “keystone” modular block; the specific block type and the color are not specified. It is recommended that the retaining wall be composed of poured concrete with a veneer of brick or stone that is complementary to the color and materials of the principal building. This change will improve the site’s aesthetics, as block typically has a utilitarian appearance, and will greatly reduce the potential for settling and movement, which is not uncommon in modular block retaining walls. Ultimately, this office defers to the Board Engineer on the structural aspects of the retaining wall.
- 9.4. **Retailing Wall (Setback).** The retaining wall along the westerly property line appears to be located on the property line and approximately 2.15 feet from the northern property line. However, the detail of the retaining wall indicates that the compacted granular base extends beyond the exterior face of the retaining wall. The applicant should provide testimony as to if the compacted granular base will be located on Lot 59 and if more than a 10-foot-wide temporary construction easement is required for the owner of Lot 59. Similarly, a temporary construction easement has not been identified on Lot 62 to the north where one may be required due to the proximity of the retaining wall to the lot line. Additional



comments regarding the retaining wall setbacks from the north and west property lines is deferred to the Board Engineer.

- 9.5. **Noise.** The applicant should provide testimony and documentation on the anticipated sound from the drive-through facility. The additional information should indicate compliance with the State noise standards of 65 decibels at the property line of a commercial use or 50 decibels at the property line of a residential use (10pm to 7am).
- 9.6. **Headlight Glare.** The proposed drive-through will increase headlight glare at the Route 518 intersection. The applicant should provide testimony and any supporting documentation on how this additional glare will be mitigated.
- 9.7. **Soil Hauling.** *Additional information is necessary.* Section 16-5.6.c requires that *no soil shall be removed from or be imported to any site in excess of twenty (20) cubic yards per year without prior approval of the Board. For this purpose, a plan shall be submitted showing how the soil is to be distributed and stabilized including grading contours. If the soil is to be imported, a plan shall be submitted describing methodology and frequency of testing the soil to ensure its safe quality. The plan shall describe the size and number of vehicles that are proposed for hauling the removed or imported soil together with the hauling route.* The applicant should identify the amount of soil to be imported and/or removed from the site in order to construct the addition, as necessary.

## 10. Consideration of the “D” Variance

- 10.1. While this office defers to the Board attorney in advising the Board on the application of relevant variance criteria; this report identifies the “d” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “d” variance.
- 10.2. For variances from the standards pertaining to a conditional use, the findings in the case, *Coventry Square v. Westwood Zoning Board of Adjustment*, are relevant to the manner in which the application should be considered. Rather than focusing on the use, the Board should focus on the specific deviations from the standards in contemplating the application, since the use itself has already been considered conditionally acceptable in the creation of the zoning requirements. In *Coventry Square*, the court held that the burden carried by the applicant with respect to the



proofs set forth above is not as heavy as for that of a variance to allow a use that is not permitted in a particular zone. However, the burden of proof is not reduced to that required in a “C” variance situation.

10.3. Coventry Square also established the following methodology in the consideration of a conditional use variance:

- a) The applicant should demonstrate the subject property remains suitable for the proposed use, as configured on the site plan, in spite of the proposed deviations from the conditional use standards.
- b) The applicant should demonstrate that the proposed deviations from the standards would not result in substantial detriment to the public good.
- c) The applicant should demonstrate that the proposed deviations would not significantly impair the intents and purposes of the zone plan or zoning ordinance.

10.4. **Consideration of the Positive Criteria.** The Supreme Court, in the Coventry Square case, defined criteria tailored specifically for conditional uses. Specifically, the Court stated the following in relation to the special reasons,

*“We hold that proof of special reasons that must be adduced by an applicant for a “d” variance from one or more conditions imposed by ordinance in respect of a conditional use shall be proof sufficient to satisfy the board of adjustment that the site proposed for the conditional use, in the context of the applicant’s proposed site plan, continues to be an appropriate site for the conditional use notwithstanding the deviations from one or more conditions imposed by the ordinance. Thus a conditional-use variance applicant must show that the site will accommodate the problems associated with the use even though the proposal does not comply with the conditions the ordinance established to address those problems.” Emphasis added.*

- a) Following this logic, the Board should evaluate how the amended application for a drive-through facility for stand-alone use, rather than a use in a shopping center that is set back from the street, impacts access and on-site circulation. This should include adequacy of stacking and the ability of the drive-through to function properly given the proximity of the drive-through entrance’s and exit’s proximity to Routes 206 and 518, respectively. The undersized site area (.51 ac. versus the minimum lot area



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of 1.0 ac.) limits the ability to provide additional stacking or distance to surrounding roads.

Based on NJDOT comments, the Route 206 driveway was amended from a “right-in/right-out” driveway to a “right-in only” driveway. This change has caused the internal circulation to be one-way only since the only means of egress from the site is a “right-out” onto Route 518. Having the only means of egress from the site as a “right-out only” only Route 518 could lead to potential illegal left-turns onto Route 518 from vehicles exiting the site.

The NJDOT also requested additional stacking capacity. As a result, the drive-through lanes are now proposed along three sides of the building instead of the previously approved two sides. The amended drive-through has two stacking lanes along the north and west façades of the building leading to the menu signs/order station before merging into one lane along the south façade of the building for customers to pay and pick up their orders. These changes have caused further reductions to the already inadequate buffers on site.

- b) Additionally, the Board should consider the drive-through’s impact on the applicant’s proposed relief from the front yard setback (45.3’ vs. 50’), rear yard setback (41.2’ v. 50’), maximum impervious cover (84.4% v. 55%), and buffers (0’ v. 15’). The drive-through significantly contributes to all of these relief items. Consider, for example, that without the drive-through there would be no need for three (3) vehicle lanes to traverse the north and west sides of the building and two (2) vehicle lanes to traverse the south side of the building. This reduced circulation area would permit parking to be relocated to areas outside of the buffers and for an expansion of buffer areas and therefore a reduction in impervious cover and an increase in the front and rear yard setbacks.
- c) The Board should also consider the visual impact of the drive-through window, signs and additional headlight glare given its proximity to the street and neighboring properties. The limited site area (.51 ac. versus the minimum lot area of 1.0 ac.) constrains the ability to provide additional screening or otherwise reconfigure the drive-through to reduce its visibility. The amended plan has eliminated the buffer along the western lot line completely and has reduced the buffer along the northern lot line to approximately two feet in width. The plants shown to be located there



(arborvitae) requires a larger planting bed, as its mature width will be 5-6 feet in diameter or more. Therefore, this planting area would not appear to sustain the plantings shown and would not provide screening as required.

- 10.5. **Consideration of the Negative Criteria.** The Court went on to state the following in regard to the negative criteria,

*“In respect of the first prong of the negative criteria, that the variance can be granted “without substantial detriment to the public good,” N.J.S.A. 40:55D-70, the focus is on the effect on surrounding properties of the grant of the variance for the specific deviations from the conditions imposed by the ordinance. “The board of adjustment must evaluate the impact of the proposed [conditional] use variance upon the adjacent properties and determine whether or not it will cause such damage to the character of the neighborhood as to constitute ‘substantial detriment to the public good.’”...In respect of the second prong, that the variance will not “substantially impair the intent and purpose of the zone plan and zoning ordinance,” N.J.S.A. 40:55D-70(d), the board of adjustment must be satisfied that the grant of the conditional-use variance for the specific project at the designated site is reconcilable with the municipality’s legislative determination that the condition should be imposed on all conditional uses in that zoning district.” Emphasis added.*

- a) In its consideration of the negative criteria, the Board should consider any impact on the public health safety and welfare from the addition of the drive-through. Such impacts include access, on-site circulation, aesthetics and noise. See the “Master Plan Policy” section (Section 12 herein) for impact the drive-through will have on the intent and purpose of the zone plan and zoning ordinance.

## 11. Consideration of the “C” Variances

- 11.1. The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts.



11.2. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

11.3. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

## 12. Montgomery’s Relevant Land Use Policies

12.1. **Master Plan Goals.** The Township Master Plan includes several goals which are relevant to the Board’s consideration of this application. The following goals can be found on page 6 through 8 of the 2017 Master Plan Reexamination Report:

1. *The Development Plan of Montgomery Township should maintain the continuity of the Township's planning process and build upon and refine the past planning decisions of the municipality, consistent with present local and regional needs, desires and obligations.*



Redevelopment of a vacant property is consistent with this goal. Furthermore, the Board previously granted a use variance for the proposal for a drive-through.

*2. The identity of the Township as a totality and the integrity of individual neighborhood areas should be preserved, enhanced and created to the maximum extent possible.*

*4. The Development Plan should strive to prevent the homogenous spread of suburban development throughout the municipality. Specific areas of the Township should be designated for specific types of residential and non-residential development. The rural and country atmosphere which prevails throughout most of the municipality should be maintained.*

The proposal is located in an area suitable for nonresidential development; however, the extensive relief requested for the excessive impervious cover, undersized setbacks and buffers, as well as other items, are inconsistent with zoning and design standards set forth that are intended make the district unique from other parts of the Township.

*6. Between the two (2) nodes of concentrated development along Route 206, referred to as the Rocky Hill node and the Belle Mead node, the Development Plan should continue to prevent the evolution of strip commercial uses along Route 206.*

*8. The principal retail shopping facilities within the municipality should be provided within proximity to the two (2) nodes of concentrated residential development in order to avoid the proliferation of vehicular shopping trips.*

The proposal to redevelop this vacant property is within the Rocky Hill node.

### **13. Materials Reviewed**

- 13.1. *Montgomery Township Planning & Zoning Board Application* and related documents, dated July 19, 2013.
- 13.2. *Survey of Property*, 1 sheet, prepared by Ferriero Engineering, Inc., dated September 6, 2016.
- 13.3. *Amended Preliminary & Final Site Plans*, 13 sheets, prepared by Ferriero Engineering, Inc., dated February 25, 2021 and last revised May 20, 2021.



- 13.4. *Architectural Plans*, 4 sheets, prepared by GK&A Architects, PC, dated February 11, 2021 and last revised May 7, 2021.
- 13.5. *Rendering*, 1 sheet, prepared by GK&A Architects, PC, dated February 11, 2021 and last revised May 7, 2021.
- 13.6. *Project Description*, dated June 22, 2021.
- 13.7. *Resolution No. 06-2015*, dated September 22, 2015.
- 13.8. *Preliminary & Final Site Plans*, 12 sheets, prepared by Ferriero Engineering, Inc., dated December 23, 2014 and last revised June 8, 2015.

#### 14. Applicant / Owner / Professionals

- 14.1. **Applicant / Owner**: Montgomery 206 Realty c/o Tony Nadar, 1714 Woodbridge Avenue, Edison, New Jersey. Email: tnadar18@gmail.com.
- 14.2. **Attorney**: Jeffrey B. Lehrer, Esq., 15 Mountain Boulevard, Warren, New Jersey 07059. Telephone: 908.757.7800 ext. 180. Facsimile: 908.757.8039.
- 14.3. **Engineer**: Paul Ferriero, PE, Ferriero Engineering, Inc. 180 Main Street, PO Box 571, Chester, New Jersey 07930. Telephone: 908.879.6209. Email: paul.ferriero@ferrieroengineering.com.
- 14.4. **Architect**: Cynthia Falls, AIA, GK&A Architects, 36 Arnes Avenue, Rutherford, New Jersey 07070. Telephone: 201.896.0333 ext. 18. Facsimile: 201.896.9469. Email: cfalls@gkanda.biz

#### 15. Summary

- 15.1. The applicant is seeking amended preliminary and final site plan approval for construction of an 1,823 square foot Dunkin' Donuts restaurant, including a drive-through facility, along with 16 off-street parking spaces, plantings, retaining walls, lighting, signs, and other associated improvements.



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- 15.2. Based on our initial review, the following variances and exceptions are required or may be required, depending on the additional information submitted by the applicant. The list is not exhaustive and may be augmented by analysis performed by other Board professionals.
- a) D Variances
    - §6-6.1(m) Drive-Through Conditional Use
  
  - b) C Variances
    - §16-4.12(d) Lot Frontage
    - §16-4.12(d) Lot Width
    - §16-4.12(d) Front Yard Setback
    - §16-4.12(d) Rear Yard Setback
    - §16-4.12(d) Impervious Cover
    - §16-4.12(f)(3) Landscape Area
    - §16-4.12(f)(5) Parking Setback to any Street Line
    - §16-4.12(f)(5) Structure Setback to any Property Line
    - §16-4.12(i)(b) Principal Attached Sign (Area)
    - §16-4.12(i)(c) Secondary Attached Sign (Number)
    - §16-4.12(i)(c) Secondary Attached Sign (Area)
    - §16-5.3(b) Fence and Wall Height
    - §16-5.13(f)(6) Directional Sign Area
  
  - c) Exceptions
    - §16-5.6(d)(3) Tree Planting
    - §16-5.6(d)(15) Street Trees
    - §16-5.8(a)(3) Parking Lot Plantings

Please do not hesitate to contact this office with any questions you may have.

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Christopher J. Noll, PE, CME, PP  
*President & CEO*

Barbara J. Fegley, AICP, PP  
*Sec./Treas. & Sr. Vice President*

William H. Kirchner, PE, CME, N-2  
*Vice President*



Rakesh R. Darji, PE, PP, CME, CFM, Vice President  
Harry R. Fox, NICET III, CPSI  
G. Jeffrey Hanson, PE, CME  
Joseph R. Hirsh, PE, CME, CPWM  
C. Jeremy Noll, PE, CME, CPWM  
Joseph P. Orsino, Jr. CET  
Marc H. Selover, LSRP, FG  
Benjamin R. Weller, PE, CME, CPWM, S-3, C-3

Memo To: Ms. Cheryl Chrusz, Planning Board Secretary  
Montgomery Township Zoning Board of Adjustment  
2261 Van Horne Road  
Route 206  
Belle Mead, NJ 08502

Date: August 14, 2021  
55163 00

From: Rakesh R. Darji, PE, PP, CME  
Environmental Resolutions, Inc.  
Zoning Board Engineer

RE: Montgomery 206 Realty – Dunkin’  
**Amended Preliminary and Final Site Plan**  
**Application #BA-04-21**  
**Engineering Review**  
Block 28005, Lot 4  
1276 US Highway 206  
Township of Montgomery, Somerset County

Our office has reviewed the documents submitted by the applicant for an Amended Site Plan application. The subject tract consists of Block 28005, Lot 4, comprising approximately 0.5107 acres (22,639 SF). The applicant, Montgomery 206 Realty, proposes to construct an 1,823 SF Dunkin’s drive thru restaurant on the referenced Block and Lot number. The property is located within the Highway Commercial (HC) zoning district. The site is located on a corner parcel at US Highway Route 206 and Georgetown Franklin Turnpike(County Route 518).

In addition to the restaurant, other proposed improvements include an asphalt parking lot, two (2) retaining walls, landscaping, lighting, concrete sidewalks, an underground detention system, signage, stormsewer and other site related improvements. In order to construct the proposed improvements, all existing site improvements are proposed to be demolished. This includes a one-story service station building, gas tanks, concrete slab, existing septic, and all utilities.

One way, “right-in” Only, turn access is provided along US Route 206. Right-turn in, right turn out access is provided along County Route 518.

The parcel has been subject to a prior site plan approval in 2015. The applicant had previously appeared before the Board of Adjustment and was granted a d(3) use variance and bulk variance relief as outlined below:

**Variations/design waivers granted in 2015:**

- §16-6.1m(1) – a d(3) use variance was granted to permit the applicant to have a drive thru window for a restaurant in a location not within a shopping center.
- §16-6.1m(2) – a d(3) use variance was granted to permit a drive thru window for a restaurant with direct driveway vehicular access to a public street.

- §16-4.12d – area and bulk requirements as follows:
  - Minimum lot area of 1 acre, where the proposed lot is 0.5107 acres
  - Minimum lot width and frontage of 150 FT, where the proposed width and frontage is 148.16 FT.
  - Min rear yard setback of 50 feet, where the proposed rear yard setback is 33.5 FT.
  - Max lot cover of 55%, where the proposed lot coverage is 77.9%.
- §16-4.12e.5.a – the front façade will have visual breaks in color and finishes.
- §16-4.12e.5.d – The front façade will be continued around all visibly exposed sides. The applicant has added stone finished to all sides of the building.
- §16-4.12.e.6.c – Decorative features were added to roof treatments.
- §16-4.12.e.7.b – Windows are to occupy 75% of the first story façade, the proposed is 42%.
- §16-4.12.f.5 – No parking is permitted within the first 25 FT adjacent to the lot line, where 3 FT is proposed along Georgetown Franklin Pike and 9.1 FT is proposed along US Highway 206.
- §16-4.12.h – A variance was granted to permit no loading areas where one is required.
- §16-4.12.i – A variance was granted to permit 1 free standing sign and 2 menu board signs where one freestanding sign is permitted.
- §16-5.4b – A design waiver was granted to permit an average 2.1 footcandles where no more than an average 1.0 foot candle is permitted.

The following information, submitted by the applicant in support of this application, has been reviewed by our office:

1. Montgomery Township Land Development Application, dated April 21, 2021.
2. Checklist, Preliminary Major Subdivision Plats and Preliminary Major Site Plan, undated.
3. Amended Preliminary and Final Site Plan, prepared by Ferriero Engineering, Inc., dated February 25, 2021, revised through May 20, 2021, consisting of the following:
  - a. Title Sheet, sheet 1 of 13.
  - b. Demolition Plan, sheet 2 of 13.
  - c. Site Plan, sheet 3 of 13.
  - d. Grading, Drainage and Utility Plan, sheet 4 of 13.
  - e. Sanitary and Storm Sewer Profiles, sheet 5 of 13.
  - f. Soil Erosion and Sediment Control Plan, sheet 6 of 13.
  - g. Landscape Plan, sheet 7 of 13.
  - h. Lighting Plan, sheet 8 of 13.
  - i. Signage Plan, sheet 9 of 13.
  - j. Circulation Plan, sheet 10 of 13.
  - k. Construction Details, sheet 11 of 13.
  - l. Construction Details, sheet 12 of 13.
  - m. Construction Details, sheet 13 of 13.
4. Architectural Plans, prepared by GK+A Architects, PC, dated May 7, 2021, revised to February 11, 2021, consisting of the following:
  - a. Proposed Floor Plan and Front Elevation, Signage Data, Finish Schedule, A-1.0.
  - b. Proposed Elevations, sheet A-2.0.
  - c. Building Sign Details, Site Details, sheet A-3.0.
  - d. Site and Sign Details, sheet A-4.0

5. Color Rendering, prepared by GK+A Architects, PC, dated May 7, 2021, revised to February 11, 2021.
6. Environmental Impact Statement, prepared by Ferriero Engineering, Inc., dated May 2021.
7. Stormwater Management Report, prepared by Shore Point Engineering, dated May 31, 2021, revised through July 7, 2021.
8. Stormwater Management Operations and Maintenance Manual, prepared by Shore Point Engineering, dated May 31, 2021.
9. Application to Delaware and Raritan Canal Commission, dated June 3, 2021.
10. Traffic Impact Statement, prepared by Dynamic Traffic, LLC., dated October 9, 2020.
11. Will Serve Letters, dated May 11, 2021 to include: Montgomery County Public Works, NJ American Water, PS&G, Comcast and Century Link.

**General Information**

Applicant: Montgomery 206 Realty, LLC  
1714 Woodbridge Avenue  
Edison, NJ 08817

Owner: Montgomery 206 Realty, LLC  
1714 Woodbridge Avenue  
Edison, NJ 08817

Engineer: Paul Ferriero, PE  
Ferriero Engineering, Inc.  
180 Main Street  
PO Box 571  
Chester, NJ 07930

Architect: Cynthia Falls, AIA  
GK&A Architects, PC  
36 Ames Avenue  
Rutherford, NJ 07020

Attorney: Jeffery B. Lehrer, Esq.  
15 Mountain Blvd.  
Warren, NJ 07059

**Zoning**

1. The zoning district of this parcel is Highway Commercial (HC), §16-7-12.
2. A restaurant is a permitted principal use in this zoning district. However, a drive-thru is a conditional use if the conditions of §16-6.1m are met.
3. Out office defers to the Board Planner and Board Attorney to determine if the conditions of Resolution #06-2015 (Application BA #07-2013) apply. Specifically, “R” of the Conditions of

Resolution state that the applicant shall apply for a construction permit within one year of the date of the resolution and if this period has passed, the approval and all relief granted shall automatically expire and become null and void.

4. Permitted accessory uses in accordance with §16-4.12b include off-street parking, fences/walls lighting, and signs.
5. Area, yard, and coverage requirements

**§16-4.12d – Highway Commercial**

	<b>Required</b>	<b>Existing</b>	<b>Approved (2015)</b>	<b>Proposed (2021)</b>	
Lot Area	1 acre	0.5197 acres	0.5107 acres	0.5107 acres	V (2015)
Min. Lot Frontage/Width	150 FT	150.16 FT	148.16 FT	143.46 FT**	V (2021)
Min Lot Depth	150 FT	151.68 FT	151.68 FT	151.68 FT	
Front Yard	50 FT	61.55 FT		45.3 FT	V (2021)
Rear Yard	50 FT	49.3 FT	33.5 FT	41.2 FT	V (2021)
Side Yard	25 FT	38.5 FT		42.8 FT	C
Max Building Height (§16-4.16.c.1)	2-1/2 stories / 30 feet	1 story	1 story	28 FT	C
Max Impervious Cover	55 %	73.1%	77.9%	84.4%	V (2021)
Max FAR	0.20	0.063	0.081	0.082	C

**\*\* This dimension is indicated in the zoning chart on the submitted plans. Our office is unable to resolve the difference between the existing and proposed condition. This should be clarified, resolved and plans updated.**

**Variances**

1. A d(3) conditional use variance may be required should it be determined that the timeline of the requirements of the prior resolution have expired.
2. From §16-4.12d which requires the minimum lot frontage and lot width to be 150 FT. A variance for minimum lot frontage of 148.16 FT was approved in 2015. The plans show that the lot frontage is now 143.46 FT. A bulk variance is required for the minimum lot frontage of 143.46 FT. **This dimension is indicated in the zoning chart on the submitted plans. Our office is unable to resolve the difference between the existing and proposed condition. This should be clarified, resolved and plans updated.**
3. From §16-4.12d which requires the minimum front yard setback to be 50 FT. The plans show that the front yard setback is proposed to be 45.3 FT. A bulk variance is required for the minimum front yard setback of 45.3 FT.
4. From §16-4.12d which requires the minimum rear yard setback to be 50 FT. A variance for minimum rear yard setback of 33.5 FT was approved in 2015. The plans show that the rear yard setback is proposed to be 41.2 FT. A bulk variance is required for the minimum rear yard setback of 41.2 FT.

5. From §16-4.12d which requires the maximum impervious coverage on the lot to be 55%. Relief had previous been granted for an impervious coverage of 77.9%. The plans show that the proposed impervious coverage is now 88.4%. This is a significant increase from what was previously approved. A variance will be required to permit a lot coverage of 88.4%.
6. From §16-4.12f.3 which requires 45% of the area of any lot to be landscaped with grass, shrubs, and trees. The applicant is proposing 12.9% of landscaped area. A bulk variance is required for the proposed landscape coverage of 12.9%.
7. From §16-4.12f.5 which requires that no parking area, loading area, driveway or other structure (except for approved access ways, signs and fencing) shall be permitted within the first 25 feet adjacent to any street line nor within the first 15 feet adjacent to any other property line, and such areas shall be planted and maintained in lawn area or ground cover. The following items will require a bulk variance from this section of the ordinance:
  - a. The parking area is 9.1 FT from US Highway Route 206 where 25 FT is required.
  - b. The parking area is 4.2 FT from County Route 518 where 25 FT is required.
  - c. A retaining wall is approximately 3 FT from the northern property line where 15 feet is required.
  - d. A retaining wall is approximately 0 FT from the western property line where 15 feet is required.
  - e. The trash enclosure is located approximately 3 FT from the western property line and 5 FT from the northern property line.
8. From §16-4.12h which requires a minimum of one loading space of 15 FT x 40 FT at the side or rear of the building. No loading space is provided. A bulk variance is required.
9. From §16-4.12i which discusses signs permitted in the Highway Commercial zoning district.
  - a. For corner lots, one additional attached sign is permitted for a principal use which faces the additional street provided that the sign shall not exceed ½ square foot of sign area per one linear foot of building façade frontage on said street. In no case shall the size of the sign exceed 20 SF in area. The southwest elevation, facing County Route 518 is proposed to have 2 signs totaling 30.08 SF.

A bulk variance is required for the number of signs (3 signs, one on the US 206 façade and 2 on the County Route 518 façade).

A bulk variance is required for sign area. The signs on the 2<sup>nd</sup> façade total 30.08 SF where 20 SF is permitted.

**Design Waivers**

10. From §16-5.3(b) states that no wall or fence shall be erected over four feet high in height in the side, rear and front yard areas.
  - a. The wall for the proposed trash enclosure is 6.25 feet high. A design waiver will be required.
  - b. The proposed retaining wall has a maximum height of 7.5 feet. A design waiver will be required.
11. From §16-5.4b.2(c) which requires an average footcandle of 1.0 throughout the area to be illuminated. The plans depicted the average FC is 1.1 for the parking lot. A design waiver will be required.

12. From §16-5.13f.5 discusses information, direction and warning signs. These types of signs are permitted, provided they do not exceed 2 SF in area and do not display any type of advertising. The applicant is proposing on-site directional signs that are 2.75 SF in area. A design waiver will be required.
13. §16-2.1. states that parking spaces should be 9 FT x 20 FT. The plans depict parking spaces of 9 FT x 18 FT. The definition also states that the length may be reduced to 18 FT should there be sufficient overhang that will not impact any sidewalk or landscaping. The angled spaces along County Route 518 appear to comply. The seven (7) spaces along US Highway Route 206 will interfere with the landscaping. The four spaces fronting the building are limited by proposed bollards. A design waiver will be required.

**General**

1. §16-5.6c states that no soil is to be removed or imported to the site in excess of 20 CY without prior approval of the Planning Board. Note 41 of the Demolition Plan states that approximately 820 CY of soil will be imported.
2. The applicant is proposing a Right-of-Way dedication to Somerset County. The legal description of the ROW should be provided to the Board professionals for review.
3. All soil erosion and sediment control measures should be removed from the demolition plan and shown on the Soil Erosion and Sediment Control Plan.
4. Groundwater monitoring wells are located throughout the property. The applicant should testify as to what measures will be taken to ensure the integrity of the monitoring wells through construction and once the project has been completed. The monitoring wells should be depicted and labeled on the site plan and grading plan. In addition, a note should be added to the plan making the contractor aware of the wells and provide any guidance necessary to ensure that these remain functioning as designed.
5. The demolition plan shows an existing septic tank to be removed. Notes should be added to indicate what measures should be taken to ensure the tank is removed safely and in accordance with local and state guidelines.
6. There is a lot of information on the site plan and grading/utility plans with very similar line weights. It is our recommendation that the details be moved to the Construction Details and the scale be enlarged for these plans. The applicant’s engineer should consider employing variations in line weights, line types and shading to differentiate and highlight the depiction and labeling of the various features of the site.
7. As this site is a former Fueling Station, the applicant should provide brief testimony regarding the status of any environmental remediation activity on the property and the level of anticipated activity (long term monitoring, sampling etc.) in the future.

**Architectural Plans**

8. Sheets one and two state 1 of 3; there are 4 sheets in the plan set.
9. The drawing date in the title block is May 2021; the revision date is February 2021. This should be reviewed and clarified, and the plans revised.

10. Sheet 2, elevation #1 indicates that is along Route US 206. This elevation is facing Lot 59, not the roadway. Future submission should be revised.
11. The Pylon Sign depicted on sheet A4.0 is a monument sign in the Site Plan. This should be revised so that the plans are consistent.

**Site Plan**

12. All setbacks should be labeled on the plan. This includes the setback for the retaining walls and trash enclosure.
13. Block and Lot numbers should be shown on the site plan for the project site and the adjacent properties.
14. It appears that there is a setback (4.2 FT) for the retaining wall along County Route 518. The label should be clearly defined.
15. It is unclear what the purpose of the “1 parking space area dedicated to landscaping” is in reference to.
16. The callout for the 4 FT proposed fence atop the retaining wall along County Route 518 should be clarified. It appears that the fence extends beyond the length of the wall. The plan should be revised to depict the limits of the proposed fence.
17. There is a reference to a possible future connection. It appears the applicant is proposing this location in accordance with §16-4.12.f1 which states: where feasible, driveways providing vehicular access between adjacent properties shall be permitted and required with appropriate cross easements. Should the board act favorably on this application, the board should consider the means by which applicants for the future development of the adjoining parcel may avail themselves of the right to construct this future connection.
18. We defer to the Montgomery Township Fire Marshal for further comment and final disposition regarding fire lanes and any other fire safety issues.
19. The proposed bollards not containing a sign should be labeled. Or a symbol for a sign should be added to the bollards at the front of the building.
20. In accordance with §16-5.3c, it appears that a sight triangle easement with Somerset County will be required for the sight triangle depicted at the driveway access on County Route 518. The easement should be identified on the plans and provided to the County for review.
21. The proposed 4 FT sidewalk along Rt. 206 should extend to the property line.
22. A public access easement will be required for the sidewalk along County Route 518 and US Highway Route 206 which is located within the property lines.
23. The double line at the entrance from County Route 518 should be identified and labeled.
24. The applicant should consider striping a crosswalk in front drive aisle to complete the pedestrian connection from Route 206 to the proposed building.

25. It is recommended that a “do not block the box” pavement marking be added to the plan at the entrance to the drive thru lanes.

### **Grading & Drainage**

26. The accessible route from the ADA space to the building should be depicted on the plan. Provide additional spot grades and directional arrows.
27. The flush curb at the accessible space ramp should be depicted.
28. The applicant should review the area of the entrance to the proposed building. It appears that the proper ADA clearance may not be achieved between the bollards and the threshold when accounting for the door-swing.
29. Clean-outs for both storm and sanitary piping should be provided at all change of direction locations.
30. All clean-out labels (both sanitary and storm sewer) should include the inverts of the pipes.
31. It does not appear there is depressed curb at the rear entrance to facilitate deliveries or trash removal to the dumpster. Flush curb should be provided for ease of movement.
32. The Underground Detention System states that MH-2 and MH-4 are 7’ Precast Concrete Manholes; the Grading, Drainage and Utility plans states MH-2 and MH-3 are 6’ diameter. Clarify the size of the structure and revise the plans accordingly.
33. Soil test pit locations should be shown on the plan.
34. The applicant is proposing retaining walls as a part of this project. A temporary construction easement is shown on the plan for the portion of the wall along the western property line. The easement should be in place prior to the final signature of all plans.
35. The applicant should discuss the constructability of the wall along the northern property line shared with Tiger’s Tale. There is approximately 2 feet between the wall and the property line. A temporary construction easement may be required. This easement, if necessary, should be in place prior to the final signature of all plans.
36. The extents of the wall drainage is unclear. This should be depicted on the plan and cleanouts provided at any change of direction.
37. Final retaining design and calculations, prepared by a qualified licensed engineer, will be required to be reviewed and approved as part of the resolution compliance review process and NOT deferred to time of construction.

### **Utilities**

38. The profile for the sanitary sewer should also depict the wall drainage pipe crossing in addition to the roof drains shown.

39. A private sanitary sewer lateral is proposed to be installed within the NJ DOT right of way. A specific approval to install a private sewer lateral in the state Right-of-Way should be obtained from NJ DOT and provided to as a condition of any approval granted by the Board.
40. The applicant will require specific approval from the Township Utility Department for the sanitary sewer capacity. At this time, the township has stated there is no capacity within the collection system.
41. It is noted that upgrades to an existing pump station, which would receive sewer flow from the subject property, are currently being performed by developers of two (2) on-going projects within the Township. The upgrades are limited to the capacity required for said projects. The applicant should discuss the pump station upgrades with the developers and coordinate proposed additional capacity at the pump station.
42. The applicant proposes a 4” sewer lateral on site which is increased in size to an 8” “lateral” as it enters the state ROW. The 8” line runs +/- 240 feet in the Rt. 206 ROW to an existing line which crosses Rt. 206. The plans depict a reducer at change in pipe diameter, a bell joint at change in pipe material and clean outs at changes in direction. It is noted that the an 8” sanitary line is regarded as a main and should be proposed to have manholes at changes size, direction and pipe material.
43. The applicant proposes a direct connection between in the proposed 8” line to the existing line which crosses Rt. 206. The sanitary sewer lateral should be connected to the existing sanitary manhole in front of Tiger’s Tale.
44. Our office has concerns with the constructability of the sanitary line with its proximity to the existing storm sewer line along US Route 206.
45. The proposed sanitary line is approximately 2 feet from the property line of the Tiger’s Tale. Any construction easements that may be required shall be in place prior to final signatures of plans.
46. There is an existing 20’ wide sanitary sewer easement. The applicant is not to perform any work within this easement.

### **Stormwater**

47. The Township’s stormwater management ordinance defines a major project as the disturbance of one or more acres of land since February 2, 2004, or the disturbance of ½ or more acres of land on or after March 2, 2021, in addition to the creation of impervious surface. This project proposed to disturb 0.61 acres which meets the criteria for a “major development” for the purposes of stormwater management and must comply Township of Montgomery Ordinance §16-5.2. In addition, the applicant shall meet the Montgomery Township requirements for stormwater quantity, recharge and quality standards as provided in §16-5.2.c1 and §16-5.2.c2. The applicant is directed to review the requirements of the revised ordinance and updated the stormwater management report as applicable.

The project must, therefore, meet the following requirements:

- a. Address the rate and volume of runoff from the project site. This may be done in one of three ways as outlined in NJAC 7:8:
    - i. Reduce the peak rate of runoff from the project area by 50%, 25%, and 20% for the 2-year, 10-year, and 100-year storms, respectively; or
    - ii. Demonstrate that the rate of runoff for the project is not increased from the pre-developed condition at any point along the post-developed condition hydrograph; or
    - iii. Demonstrate that the peak rate of runoff is not increased and that the increase in volume and variation in timing will not have an adverse downstream impact.
    - ***The applicant has provided, in tabular form, a chart depicting the pre- and post-development peak rates of runoff. The rates indicate that the site does NOT comply with the quantity requirement.***
  - b. Reduce the Total Suspended Solids (TSS) loading in stormwater by 80% for new impervious.
    - ***The applicant has referenced a section of the Montgomery Township Stormwater Ordinance that is no longer applicable. (The township stormwater ordinance was updated 12-17-2020 and this application was submitted after the updated).***
    - ***The applicant states that the use of a Stormfilter Chamber will achieve the 80% TSS removal rate for the new impervious surface. The Stormfilter will collect runoff from a portion of the driveway/parking area prior to the runoff entering the proposed underground detention basin.***
  - c. Demonstrate that the amount of groundwater recharge in the post-developed condition is equal to or greater than the pre-developed.
    - ***The applicant should provide groundwater recharge calculations.***
  - d. Compliance with the above requirements shall be accomplished with use of Green Infrastructure and Low Impact Development Techniques.
    - ***The implementation of green infrastructure is not addressed by the applicant.***
48. The applicant should provide testimony regarding how green infrastructure will be incorporated into this project.
49. It is noted that the MTD proposed by the applicant is not considered a green infrastructure strategy.

50. No soil or ground water information is provided for the proposed underground basin. Soil testing performed in accordance with the requirements of the NJDEP Stormwater Best Management Practices Manual (BMP) should be provided.
51. The graphs provided in Appendix F of the Stormwater Management Report should be re-printed for clarity. In addition, verify pipe sizes and lengths. Revise the report and/or plans accordingly.
52. The Times of Concentration (Tc) shown for the various drainage sheds on the Post Development drainage area map are 10 minutes. Per NJDEP guidance, assumed minimum Tc’s should not be used. Rather, Tc calculations should be provided for each drainage shed in the existing and proposed conditions.
53. The pre- and post-construction drainage maps should depict both pervious and impervious totals for all drainage areas.
54. Regular and effective maintenance is crucial to ensure effected performance of the stormwater management measures. The applicant has submitted a stormwater maintenance report for review and approval. We have the following general comments:
  - a. The stormwater management maintenance plan and any future revisions should be recorded upon the deed of record for the property. This deed restriction should be prepared and forwarded to the Township Engineer for review and approval and should require the owner to maintain stormwater facilities in a manner satisfactory to the Township. The following restrictions should be incorporated.
    - i. The deed restriction should provide that in the event that the responsible party fails in its maintenance obligation, the Township has the right, but not the obligation, to enter upon the property to perform the necessary maintenance at the responsible party’s expense.
    - ii. The deed restriction should provide that maintenance is required and must be documented. Completed checklists must be sent to the Township by December 31 annually, but if an item or items is/are identified as “urgent”, the checklist must be shared with the Township immediately.
  - b. The report must be reviewed and approved by our office prior to signature of final plans. In addition, the Designated Inspectors List must be completed prior to signatures of the final site plan.
  - c. The final report should include the final grading, utility, and associated storm details plan in the appendix.
  - d. Add a separate checklist for the pipe and inlet network and detention basin. The author should consider the layout of the maintenance checklists from an end-user point-of-view. Each checklist should be unique to the components identified as a Basin and included in the title of each checklist. Each checklist (inspection and

preventative maintenance) should have a proposed schedule along with a key map of where the pertinent items are in the development so that it can be utilized on its own, separate from the report.

- i. Add a header or footer on each checklist that it should be photocopied for use.
  - ii. Add a note that the completed checklists must be sent to the Township at least annually, but if an item or items is/are identified as “urgent”, the checklist must be shared with the Township immediately.
  - iii. The items outlined in the NJ BMP Manual Chapter 9.4 Maintenance section should be included in the O&M Manual.
  - iv. Inspection and maintenance of the downspouts from the building should be included in the checklist(s).
  - v. Ongoing maintenance (lawn cutting, etc.) should be combined and have bullet items that would outline a scope to a landscaping company, assuming that several companies would be utilized over the years. It would not seem user-friendly for a landscaper to check several boxes for grass cutting for one basin.
- e. Include maintenance steps/specific checklists for the Stormfilter by Contech.

#### **Basin Details**

55. The cross section of the basin should be revised to include the seasonal high-water table determined by the required testing.
56. Inspection ports should be provided for the underground detention basin.

#### **Landscape Plan**

57. §16-5.6d.2 requires a minimum of 14 trees per acre of gross tract be planted throughout the tract. The applicant will be required to provide 8 trees.
58. There is no landscaping proposed along the western property line.
59. The landscaping should be provided for the proposed signs.
60. We defer to the Board Landscape Architect and Board Planner for further comment and final disposition of the landscape plan comments offered herein.

#### **Lighting Plan**

61. If lighting is to be provided for the on-site directional signage it should be depicted on the plan.
62. At the right-turn in from County Route 518, the directional sign states “I” and “O” are the two signs at this location. The plans do not depict anything for the proposed “O” sign. The applicant should testify if the “O” is actually a blank sign.
63. We defer to the Board Planner and Landscape Architect for further comment and final disposition of the lighting plan comments offered herein.

#### **Circulation Plan**

64. The trucks exiting (WB-40 and SU-40) cross over to the inbound traffic lane at County Route 518.
65. Both of the vehicles mentioned above also cross over to the outer drive thru lane. This could limit circulation should the trucks arrive when the facility is open.
66. The height of the proposed menu board may pose a problem with the trucks shown in the circulation plans. The applicant should clarify that the height of the sign will not impact the trucks utilizing the bypass lane.

**Construction Details**

67. A detail for the parking lot striping should be provided. A note should be added that paint should be thermoplastic or long-life epoxy. In addition, the color and size of striping should be provided.
68. A detail for the stop bar should be provided. A note should be added that paint should be thermoplastic or long-life epoxy. In addition, the color and size of striping should be provided.
69. The note on the Engineered Retaining Wall Section should be revised to state that calculations and drawings to be provided prior to final signature of plans rather than at permit application.
70. A detail for the 4-foot fence on top of the retaining wall should be provided.
71. A detail for the curb at the drive thru should be provided.

**Outside Agency Approvals**

72. The applicant shall secure any, and all other approvals, licenses, and permits required by any other Board, agency, or entity having jurisdiction over the subject application or over the subject property, including but not limited to the following:
  - a. Delaware and Raritan Canal Commission
  - b. Somerset County Planning Board
  - c. Somerset County Soil Conservation District
  - d. NJDOT – Access and Utility
  - e. Montgomery Township Utilities
  - f. Any and all others necessary

**Administrative**

73. The applicant shall pay all taxes, fees and required escrow deposit which may be due and owing.
74. We reserve the opportunity to make further comments if additional information is presented.
75. All future resubmissions of the plans shall clearly indicate a revision date and be accompanied with a point-by-point response letter to the comments of the Board’s professional staff.

Should you or the applicant have any questions, please do not hesitate to contact this office.

RRD/mbs

cc: Montgomery 206 Realty, LLC, Applicant  
Jeffery B. Lehrer, Esq, Applicant’s Attorney  
Paul W. Ferriero, PE, Applicant’s Engineer, [paul.ferriero@ferrieroengineering.com](mailto:paul.ferriero@ferrieroengineering.com)  
Cynthia Falls, AIA, Applicant’s Architect, [cfalls@gkanda.biz](mailto:cfalls@gkanda.biz)  
Gina LaPlaca, Esq., Board Solicitor, [glaplaca@rclawnj.com](mailto:glaplaca@rclawnj.com)  
Joseph Fishinger, PE, PP, PTOE, Board Traffic Engineer, [JFishinger@bvengr.com](mailto:JFishinger@bvengr.com)  
Richard Bartolone, LLA, Board Landscape Architect, [rbartolone@optonline.net](mailto:rbartolone@optonline.net)  
Lori Savron, AICP, PP, Planning Director, [LSavron@twp.montgomery.nj.us](mailto:LSavron@twp.montgomery.nj.us)  
Joseph Palmer, Township Zoning Officer, [jpalmer@twp.montgomery.nj.us](mailto:jpalmer@twp.montgomery.nj.us)  
Gail Smith, PE, CME, CFM, Township Engineer, [gsmith@twp.montgomery.nj.us](mailto:gsmith@twp.montgomery.nj.us)



**Bright View Engineering**  
*Moving you forward*

June 10, 2021

**VIA (E-MAIL CChrusz@twp.montgomery.nj.us))**

Ms. Cheryl Chrusz  
Administrative Assistant  
Montgomery Township Planning Board  
2261 Van Horne Road (Route 206)  
Belle Mead, New Jersey, 08502

**Re: Amended Preliminary & Final Site Plan  
Block 28005 Lot 64  
Dunkin  
Bright View Project No.: 212751**

Dear Ms. Chrusz:

Bright View Engineering has had the opportunity to review the following documentation with regard to the above referenced project:

- “Amended Preliminary and Final Site Plan, Dunkin’ ” prepared by Ferriero Engineering, Inc., revised May 20, 2021, 13 sheets
- Architectural plans entitled “Proposed Dunkin’ ” prepared by gk+a Architects, PC, revised February 11, 2021, 4 sheets
- “Traffic Impact Assessment, Proposed Dunkin’ Restaurant” prepared by Dynamic Traffic, dated October 9, 2020.

With regard to the above referenced documents, Bright View Engineering offers the following comments. This is the first review conducted by Bright View Engineering.

### **Site Plan**

- 1) It is this office’s understanding that Somerset County requires channelizing islands at driveways to County roadways where turn prohibitions are instituted. Additional information / testimony should be provided regarding the status the project with Somerset County. Specifically, this office is concerned that large vehicle circulation will be compromised if a channelizing island is required.
- 2) The site plan includes branded pavement markings for directional markings on site. Such markings are not MUTCD compliant and shall not be in lieu of MUTCD compliant pavement markings.

651 Old Mount Pleasant Avenue, Suite 100  
Livingston, New Jersey 07039

T: (973) 228-0999 F: (201) 753-3904  
BrightViewEngineering.com

PO Box 99  
Roseland, NJ 07068



- 3) Additional information is recommended regarding the design of the ADA ramp opposite the handicap parking space in front of the site. It does not appear that the configuration as designed will be ADA compliant.
- 4) This office recommends MUTCD compliant one-way and do not enter signage be incorporated into the site plan at the US 206 driveway and on site as appropriate.
- 5) Pedestrian appropriate signing and striping should be included at the site driveways. For instance, painted crosswalks should be included across both driveways.
- 6) A vehicle turning template for a fire truck shall be provided for the site. When preparing the requested turning path, please consider that the fire house most likely to respond to this site is located on CR 518 west of the site.
- 7) Clarification is required regarding the provided vehicle turning templates. The WB40 template provided appears to use an SU40 design vehicle. Also, there is a scaling discrepancy between the SU40 and WB40 figures. They are both marked at 20 scale, yet the building is shown at different sizes between the two figures.
- 8) The loading area shown on sheet 3 of the plan set indicates an approximately 30' long vehicle whereas the turning templates indicate a WB40 delivery vehicle. Please clarify the intended delivery vehicle and if a WB40 can stage in the area provided. Also, it appears the location of the delivery vehicle staging area is in conflict with the menu board overhang, as a delivery vehicle can be 13'6" high, whereas the menu board overhang is proposed to be approximately 10 feet high.
- 9) This office recommends an illustrative graphic be provided for the benefit of the board indicating where the 'Dunkin' directional signage will be located on site, recognizing custom signage must be reconciled with MUTCD compliant signage.
- 10) Additional information / testimony should be provided regarding the time and frequency of trash pickup and deliveries and how that compares to the proposed hours of operation.

### **Traffic Impact Study**

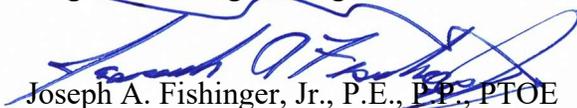
- 11) The parking table for the project indicates 16 spaces are provided whereas 5 are required. The ITE parking generation manual identifies an 85<sup>th</sup> percentile parking demand of 23 spaces for a drive through coffee shop of this size. Justification for the discrepancy between the proposed parking supply and the ITE projected parking demand is required.
- 12) The TIS states that 16 vehicles can be stored in the queueing area for the site. A queueing analysis indicating if the provided storage is sufficient shall be provided.
- 13) Additional information / testimony is required regarding internal site circulation, particularly the anticipated queue for vehicles exiting the site onto CR 518. This office is concerned if more than one vehicle is queued to exit the site, internal circulation will be compromised.
- 14) Additional information / testimony is required regarding the origins and destinations of vehicles to and from the site. For instance, how will pass-by vehicles traveling northbound on Route 206 return to Rt 206 northbound after exiting the site? Additional study locations may be appropriate depending on the identified routing.



- 15) Vehicles routinely queue past the site driveways on both US 206 and CR 518. Additional information / testimony should be provided how these queues affect internal site circulation and the ability of large wheelbase vehicles to access the site. This particularly important for large wheelbase vehicles entering the site from US 206, as according to the turning templates provided, they must make the right turn into the site from the dedicated left turn lane.
- 16) The applicant should confirm with the board clerk all of the approved developments which must be taken into account as part of the TIS. At a minimum, the recently approved Country Classics residential development located on US 206 northbound north of the site shall be included as a planned development.
- 17) The applicant's traffic engineer is encouraged to contact this office directly to discuss the trip distributions utilized in the traffic study. This office has concerns that the pass-by routing is not reflective of likely traffic patterns. For instance, zero pass-by traffic was assumed to come from the Rt 206 northbound traffic stream. Similarly, pass-by has not been applied to eastbound traffic on CR 518.
- 18) Additional commentary regarding the LOS analysis presented in the TIS will be provided once revisions to the trip distribution/ routing are addressed.

I trust this information will assist the board in its review of this application. If you have any questions, please feel free to contact me at 908-547-5045 or via email at [JFishinger@BVEngr.com](mailto:JFishinger@BVEngr.com).

Sincerely,  
Bright View Engineering



Joseph A. Fishinger, Jr., P.E., P.P., PTOE  
Director of Traffic Engineering

[https://bvengr.sharepoint.com/sites/bvengr/proj/212751-MongomeryDunkinDonuts/3-Correspondence/Review Letter 1.docx](https://bvengr.sharepoint.com/sites/bvengr/proj/212751-MongomeryDunkinDonuts/3-Correspondence/Review%20Letter%201.docx)

Memorandum

To: Montgomery Township Zoning Board of Adjustment  
From: Richard Bartolone  
Date: August 10, 2021  
Subject: Montgomery 206 Realty, LLC (Dunkin' Donuts)  
Case BA-04-21  
Block 28005, Lot 64  
Amended Preliminary and Final Site Plan

This office has reviewed the drawings prepared by Ferriero Engineering, Inc. dated 2/25/2021, revised 5/20/2021 for the above referenced application. The comments from the June 17, 2015 memorandum from this office have been satisfactorily addressed. The following comments are offered for your consideration.

1. The site redesign has lost the opportunity to buffer the view of the parked cars along Route 518. Where it does not interfere with the intersection sight triangle, please provide a visual screen (such as a 2½' tall solid fence on top of the retaining wall) to mitigate the view of the parked cars.
2. The redesign also lost the opportunity to mitigate the glare from the car headlights to the neighboring property to the west. Please provide a visual screen (similar to the one proposed along the Route 518 parking area) on top of the wall along the western property line.
3. Township Code Section 16-5.6d.3 requires 14 trees per acre for residential and non-residential development. Per the ordinance, the 0.52 acres requires the installation of 7 shade trees at 2-2 ½" caliper size. This ordinance can be accomplished by the increasing the size of the 5 proposed Red Maple trees to the Township minimum shade tree standard of 2- 2 ½" caliper and increasing the size of the Serviceberry trees to 10'-12' tall, multi-stem specimen.
4. Township Code Section 16-5.6.d.15 requires street trees at 50' intervals. The 150' of frontage on Route 206 and the 150' feet of frontage along Route 518 requires the installation of six (6) street trees (at 2- 2/1/2" caliper size). Due the intensity of the development, the installation of the required street trees is not possible. In lieu of the street tree installation, and in consideration of the impervious coverage/intensity of the proposed development, this office recommends this applicant make a monetary contribution to the Township shade tree fund of \$1,800 (\$300/ tree x 6 trees = \$1800).

cc: Paul Ferriero, P.E.

LAUREN A. WASILAUSKI  
Open Space Coordinator



PLANNING DEPARTMENT  
OPEN SPACE

Municipal Building  
2261 Van Horne Road (Route 206)  
Belle Mead, New Jersey 08502-0001  
Phone: (908) 359-8211  
Fax: (908) 359-2006

E-Mail:  
[lwasilauski@twp.montgomery.nj.us](mailto:lwasilauski@twp.montgomery.nj.us)

To: Montgomery Township Zoning Board  
From: Lauren A. Wasilauski, Open Space Coordinator  
Date: August 6, 2021  
Re: BA-04-21: Montgomery 206 Realty, Inc. (Block 28005, Lot 64)  
Proposed Dunkin Donuts  
1276 Van Horne Road, Skillman

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This office has reviewed the following materials and submits the comments below for the Board's consideration:

- "Amended Preliminary & Final Site Plan" prepared by Ferriero Engineering, Inc. (last revised May 20, 2021), 13 sheets
- Architectural drawings prepared by Gary Kliesch and Associate Architects (last revised 2/11/2021), 4 sheets
- Environmental Impact Statement prepared by Ferriero Engineering, Inc. (dated May 2021)

#### **A. Application overview**

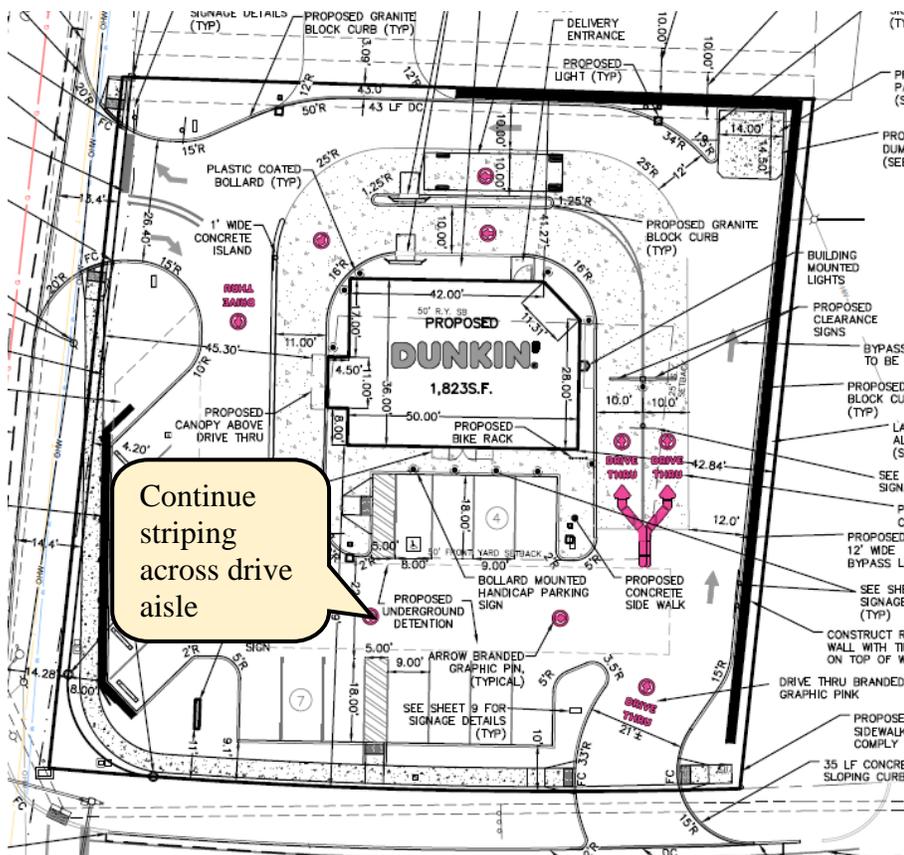
1. The property consists of 0.52 acres with an existing 1,400SF building at the northwest corner of the Route 206-Route 518 intersection. The property was last operated as a gas station.
2. The applicant proposes to demolish the existing building and construct a new Dunkin Donuts (1,823SF), parking for 16 vehicles and two drive-up lanes that can accommodate 16 vehicles.
3. An underground stormwater management system is proposed to handle stormwater runoff.
4. The project was previously considered by the Zoning Board of Adjustment as case BA-07-13, and the applicant is seeking an amended approval after working with NJDOT.
5. A number of variances and waivers are requested, including from Township Code Section 16-4.12d for lot coverage of proposed 84.4% (where 55% is permitted), and a waiver from 16-5.6d.15 for street trees at 50' intervals.

**B. Sidewalks & Pedestrian Circulation**

1. Sidewalks are required on all public streets per Code Section 16-5.14C:

*“Except for all local, rural collector and scenic collector roads in the MR District, sidewalks shall be provided along all existing streets upon which all residential and nonresidential developments abut, unless specifically waived in certain locations by the reviewing municipal agency based upon good cause shown by the applicant, such as, but not limited to, the existence or proposal of alternate linkages for pedestrian movement and/or where other improvements are proposed to better facilitate the movement of people between the development and adjacent lands;”*

2. The applicant has provided for a sidewalk along the Route 206 and Route 518 frontages. However, the sidewalk along the Route 206 frontage does not appear to extend all the way to the northerly property line. The sidewalk should be built to abut the property line.
3. A crossing for pedestrians has been provided from Route 206, through the parking area, and to the building entrance. However, the striping does not continue through the entirety of the parking area. Striping, textured or raised pavement, or some other indicator should be used to delineate a crossing for pedestrians and to alert drivers of this crossing. This office defers to the Township Traffic Engineer on what measure would be appropriate.



### C. Landscaping / Tree Planting

1. The applicant should provide testimony as to how many trees will be removed. It appears four (4) mature trees, as well as brush will be removed.
2. Shade Trees: The subject property is 0.52 acres. Township Code Section 16-5.6d.3 requires 14 trees per acre for residential and non-residential development. Per the ordinance calculation, 7 trees are required.
  - a. The applicant proposes one (1) shade tree (a red maple) according to the landscape chart on sheet 7. Six (6) additional shade trees are required to meet the ordinance requirement.
3. Street Trees: Street trees are required at 50' intervals per Township Code Section 16-5.6.d.15. The applicant has 150' of frontage on Route 206 and on Route 518, thus six (6) trees are required. The applicant proposes four (4) red maple (*Acer rubrum*), and requests a waiver from this requirement.
4. This office opposes any waiver of the street tree or shade tree requirements given the proposed lot coverage requested at 84.4%.
5. This office defers review of species and placement of all proposed plantings to the Board Landscape Architect.
  - a. Township Code Section 16-5.6d.5 requires native species.
6. Township Code Section 16-5.6d.10 requires a two (2) year guarantee on all plant materials. The note on sheet 7 satisfies this requirement.

### D. Lot Coverage / Impervious Coverage

1. While this office supports redevelopment of existing disturbed sites, and infill along the Route 206 corridor as sustainable development principles, the proposed lot coverage of 84.4% is an increase over the 78.5% that was previously requested/approved. The zoning regulations permit a maximum of 55% lot coverage.
2. A recent assessment (December 2020) of the Township by the Watershed Institute found that the Township has an overall total impervious coverage of 8.13%, which is equal to approximately 1,675 acres of coverage or almost 73 million square feet (<https://thewatershed.org/wp-content/uploads/2021/04/Montgomery-Township-ICA-Report.pdf>).
3. The Watershed's assessment estimates the impervious coverage in the Township generates 2,134.9 million gallons of stormwater runoff annually. The Township ranked 5<sup>th</sup> in terms of most stormwater runoff of the 16 municipalities examined.

4. The applicant should utilize green infrastructure techniques to manage stormwater onsite and/or reduce the amount of impervious coverage, such as by using pervious pavement.
  - a. Use of green infrastructure and planting more trees were two techniques recommended by The Watershed as ways to mitigate stormwater runoff.

**E. On-Site Amenities**

1. The applicant is proposing a bike rack; this office appreciates the inclusion of this amenity.
2. This office encourages the applicant to consider adding an electric vehicle car charging station, as our State and the nation works toward electrification of the passenger vehicle sector in order to reduce greenhouse gas emissions. PSE&G recently announced grant funding to install stations across their service area. Visit their website for more details: <https://psegpoweringprogress.com/electric-vehicles/>



**ENVIRONMENTAL COMMISSION**

Municipal Building  
2261 Van Horne Road (Route 206)  
Belle Mead, NJ 08502

Phone: (908) 359-8211

Fax: (908) 359-2006

To: Montgomery Township Zoning Board  
From: Montgomery Township Environmental Commission  
Re: Dunkin Donuts BA-04-21  
Date: August 12, 2021

A. Tree Planting and Landscaping

1. The Environmental Commission opposes the variances and waivers for lot coverage, landscaped area, street trees, and total tree planting. These items have consequences for the environment.
  - a. Should the applicant be unable to meet the tree planting requirement onsite, they may contribute to Montgomery's tree bank the equivalent of the number or shade trees that they cannot find space for. The trees will be planted in Montgomery parks or open space or as street trees on roads that lack them near to the site or in the same watershed.
2. Removal of the existing vegetation will have the benefit of removing some non-native invasive plants that are harmful, especially Tree of Heaven, which is used by the invasive spotted lanternfly for mating.
  - a. We recommend that the applicant employ the "hack-and-squirt" method to kill the Tree of Heaven, and watch closely for the root sprouts it can send up, strong enough to break through pavement.
3. We object to the characterization in your Environmental Impact Statement of the beautiful native Virginia Creeper as invasive. It is a valuable native vine, host plant for the Virginia Creeper sphinx moth, and the Achemon Sphinx moth. More than 35 species of birds eat its berries in fall. Its beautiful red fall color and blue berries (which aren't poisonous to humans) make it appreciated for landscaping, as a groundcover and on brick and stone buildings, from Princeton University to stately homes in England.
4. There are six other native species on the list of vegetation found onsite, many of which are beneficial as host plants and for pollinators. All of this vegetation, including the non-native vegetation, reduces stormwater and flooding through evapotranspiration and groundwater infiltration, provides some water quality

- improvement, and reduces the heat island effect. Even ragweed is a host plant for a native insect, *Euaresta bella*.
5. We commend the applicant for proposing to plant red maple, arborvitae, and serviceberry trees, and the native fetterbush is a good choice for a low-growing native shrub.
  6. We object to the use of stones, decorative or otherwise, in the landscaping, and we believe that low-growing native shrubs, flowers, and other native groundcovers would be preferable for mitigating all of the above effects of the reduced landscaped area.
    - a. For example, golden ragwort and lyre-leaf sage have proved to be effective native groundcovers in dry-ish, sunny or part shade, mulched areas, lyre-leaf sage reseeding quickly after being killed off by salt runoff, and the ragwort spreading freely by stolons or runners. If deer are expected at the site, they are both deer-resistant. If not, common blue violets would be appropriate, New Jersey's state flower.
    - b. Orange butterfly weed thrives in dry sunny spots, only declining when shaded out by taller neighbors.
    - c. Red and yellow eastern columbine thrive in part shade and poor soil.
    - d. We would particularly suggest that you add to the proposed daffodils around the trees on 518 to the excellent native combination of Virginia bluebells and Christmas fern. The bluebells die back around the same time as daffodils, just when the fern is sending up its fiddleheads, and it covers the area in green for the rest of the year after the flowers have died back and gone dormant until the following spring.
    - e. *Carex rosea* grows well in part shade and dry to moist conditions.
    - f. Lo-gro fragrant sumac would thrive in sunny places. All of these plants are native as well as deer-resistant.
  7. Non-native spirea, such as Anthony Waterer, is on the NJISST Do Not Plant list as an emerging invasive, and we prefer, despite its colorful flowers, that it no longer be planted.

## B. Lot coverage

1. Lot coverage and landscaped area variances cause many environmental problems.

2. We appreciate the applicant's offer to mitigate the stormwater quantity problem with underground detention and TSS solid removal. However, this design doesn't increase groundwater infiltration, reduce heavy metal, oil, grease, or gasoline contamination from the parking lot and drive aisles, or reduce the heat island effect from building, pavement, and stones.
3. Should the Board decide to approve the application, we recommend further native plantings in mitigation.

#### C. Energy Efficiency & Lighting

1. We recommend solar panels on the roof.
2. We suggest energy saving and water saving fixtures and appliances, including light fixtures.
3. We request that all on-site lighting be shielded, pointed downward, and as low as possible, in keeping with Montgomery's Dark Skies policy.
4. You might like to consider geothermal heating and cooling.
5. We request that you install charging stations, and the underground infrastructure to add more charging stations in future, should they be needed. This could be an excellent benefit for your employees.
6. We also request that you include "No Idling" signs on the drive aisles, informing drivers of the New Jersey state laws on idling vehicles.

#### D. Pedestrian and Bicycle Circulation and Accommodations

1. We thank you for including a sidewalk and a bicycle rack.
2. Will the entrances and exits be striped with crosswalks for pedestrians?

#### E. Traffic

1. We have some concerns about the effects of this application on traffic at this busy, high-accident intersection, but they must be left to NJDOT.

Shade Tree Committee



Municipal Building  
2261 Van Horne Road  
(Route 206)  
Belle Mead, NJ 08502  
Tel. (908) 359-8211  
Fax (908) 359-0970  
TDD (908) 359-8211

To: Zoning Board  
From: Shade Tree Committee  
Re: Montgomery 206 Realty, LLC  
Date: August 12, 2021

If the arborvitae plantings are regarded as buffer plantings and are therefore not counted as part of the requirement for 14 trees per acre, the Shade Tree Committee recommends that the applicant be required to donate funds to the "tree bank" to fulfill the 14 trees per acre requirement.

Funds should also be donated to the tree bank to compensate for planting fewer street trees than are required.

Disease-resistant boxwood shrubs or a different type of shrub should be planted given the vulnerability of boxwoods to fungal diseases.

**From:** Kristen Sargent  
**Sent:** Tuesday, July 27, 2021 12:14 PM  
**To:** Cheryl Chrusz <CChrusz@twp.montgomery.nj.us>  
**Subject:** BA-04-21

The Health Department has the following comments:

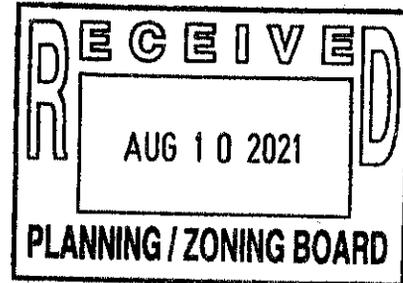
1. Prior to demolition, septic tank must be pumped and crushed. A permit from the Plumbing Subcode Official is required for this.
2. All monitoring wells must be abandoned by a licensed well driller. Local and State permits are required for this.

*Kristen Sargent, REHS*

Montgomery Township Health Department  
2261 Route 206  
Belle Mead, NJ 08502  
Phone (908)359-8211 ext 2250  
Fax (908)359-4308  
[ksargent@twp.montgomery.nj.us](mailto:ksargent@twp.montgomery.nj.us)

# Memo

**To:** Planning Board Attn: Cheryl Chrusz  
**From:** Sgt Andrew Perry *AP*  
**CC:** 21012415  
**Date:** August 9, 2021  
**Re:** Site Plan Review



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**Case:** BA-04-21  
**Block:** 28005  
**Lot(s):** 64  
**Applicant:** Montgomery 206 Realty, Inc.

The Montgomery Township Police Traffic Bureau has reviewed the submitted plans and has the following comments, requirements, and/or suggestions:

- No comments at this time.