

**MOUNT POCONO BOROUGH PLANNING COMMISSION  
REGULAR MEETING AGENDA  
Wednesday, May 18, 2022 – 7:00 PM**

**LOCATION: Borough Building located at 1361 Pocono Blvd, Mount Pocono**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**  
\_\_\_\_ M. Penn, \_\_\_\_ P. Bucco, \_\_\_\_ R. Dorkoski, \_\_\_\_ A. M. Harris, \_\_\_\_ D. Staples, \_\_\_\_ E. Melbert,  
\_\_\_\_ T. Cramer, \_\_\_\_ C. Connor, \_\_\_\_ C. Niclaus, \_\_\_\_ A. Wilkinson, \_\_\_\_ D. Jackowski
- 4. Preliminary Announcements**
- 5. Consider Approval of Minutes –**
  - a. Re-Organization & Regular Meeting Minutes – April 20, 2022
- 6. Unfinished Business**
  - a. Popeye’s Land Development Plan
- 7. New Business – None**
- 8. Project Updates**
- 9. Liaison Reports**
  - a. Borough Council
  - b. Zoning Hearing Board
- 10. Public Participation**
- 11. Adjournment**

**MOUNT POCONO PLANNING COMMISSION  
RE-ORGANIZATION & REGULAR MEETING MINUTES  
WEDNESDAY, APRIL 20, 2022  
7:00 P.M.**

The Planning Commission Re-Organization meeting was opened at 7:05 P.M. with the following members present: Commissioners M. Penn; P. Bucco; A. Harris; D. Staples; T. Cramer; and, R. Dorkoski via Google Meet. Also, present were Borough Engineer C. Niclaus; and, Zoning/ Codes Enforcement Officer A. Wilkinson,

Commissioner E. Melbert and Borough Manager J. Walker were absent.

Pledge of Allegiance was said by all.

**RE-ORGANIZATION**

**Nominations** – Mr. M. Penn noted that normally the Solicitor would ask for nominations and with no objections from the Solicitor, Mr. M. Penn asked for nominations for Chairman of the Planning Commission.

Commissioner P. Bucco nominated Michael Penn as Chairman of the Planning Commission for 2021. Commissioner T. Cramer seconded. There being no other nominations, the nominations closed for Planning Commission Chairman. Motion carried unanimously.

Chairman M. Penn asked for nominations for Planning Commission Vice Chair. Commissioner T. Cramer moved to nominate Patty Bucco as Vice Chair. Commissioner A. Harris seconded, and asked if there were any more nominations for this position. There being none, motion carried unanimously.

Vice Chair P. Bucco moved to appoint Commissioner A. Harris as the Borough Council Liaison. Commissioner T. Cramer seconded. Motion carried unanimously.

Vice Chair P. Bucco moved to appoint Zoning Officer A. Wilkinson as the Zoning Hearing Board Liaison. Commissioner A. Harris seconded. Motion carried unanimously.

**PRELIMINARY ANNOUNCEMENTS** – None

**APPROVAL OF MINUTES** – Vice Chair P. Bucco moved to accept the Regular Meeting minutes of Wednesday; December 15, 2021, as presented. Commissioner A. Harris seconded. Motion carried unanimously.

**UNFINISHED BUSINESS**

**Bizio – Minor Subdivision & Land Development Plans** – Chairman M. Penn noted that this project was before them informally as there wasn't a quorum at that time. He asked Ms. Nancy Peterson with RKR Hess, who was representing the Applicant, to give a recap for the sake of the new members. She explained that this project consists of three (3) parcels that are situated on SR 196, where the deli which will stay and be extended with the residential property SR 611 would be demolished for a parking lot. During the recap it was noted by Ms. N. Peterson that the PennDOT review was received today. She also noted that they had received a response from the Fire Department who had no objections to the project. She requested relief from the preparation of the Environmental Impact Study (EIS). Borough Engineer C. Niclaus responded that the site is not environmentally sensitive. The Applicant did request waivers which Borough Engineer C. Niclaus supported all of the waivers requested. Upon reviewing the waiver requests, the Planning Commission made the following motions:

Vice Chair P. Bucco moved to recommend to Borough Council Bizio Minor Subdivision Plan with conditional approval the Bizio Minor Subdivision Plan pending satisfaction of the Borough Engineer's review letter. Commissioner D. Staples seconded. Motion carried unanimously.

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Commissioner T. Cramer moved to recommend to Borough Council to accept the following waiver request:

*Subdivision and Land Development Ordinance (SALDO) Section: 187-48(P)*

*Clear Sight Triangle*

*Waiver Request:*

*The property is uniquely configured being fronted on three sides by PennDOT roads (SR 611 and SR 196). The driveway will be located on the short spur of SR 196 with controlled stop sign intersections in both directions along the spur. The sight triangle/distance requirements at the driveway will be controlled by PennDOT.*

*A waiver is requested from the Borough's clear sight triangle requirements.*

Commissioner D. Staples seconded. Motion carried unanimously.

Commissioner D. Staples moved to recommend to Borough Council to accept the following waiver request:

*Subdivision and Land Development Ordinance (SALDO) Section: 187-48(Q)(8)*

*Minimum distance from non-residential driveway to nearest intersecting street right of way – Arterial – 300 ft.*

*Waiver Request:*

*The property is unique as it is located between SR 611 and SR 196 with right of ways along 3 sides of the property. At the PennDOT Scoping Meeting, PennDOT indicated that access to the property would be limited to the SR 196 spur as shown on the land development plans. The distance between the nearest right of way lines for SR 611 & SR 196 is +/-122 ft.*

*A waiver is requested to allow the driveway to be closer than 300 ft. to the nearest right of way lines.*

Vice Chair P. Bucco seconded. Motion carried unanimously.

Vice Chair P. Bucco moved to recommend to Borough Council to accept the following waiver request:

*Subdivision and Land Development Ordinance (SALDO) Section: 187-62.1.B(4)*

*Parking stalls – a minimum of 10 feet by 20 feet*

*Waiver Request:*

*The property is unique as it is located between SR 611 and SR 196 with right of ways along 3 sides of the property. The property when combined will be approximately 0.6 acres. A minimum length of 18' for the parking space and a parking space width of 9.5'. This size parking space is adequate for the vehicles proposed to access the site and will allow the parking lot to be configured to maintain the required 20' parking lot buffer along SR 0611 and reduces the impervious area for the site. Parking spaces with the 20' length will be provided in the spaces along the rear property line.*

*A waiver is requested to allow a parking space with a minimum width of 9.5 feet and a minimum length of 18'.*

Commissioner T. Cramer seconded. Motion carried unanimously.

Vice Chair P. Bucco moved to recommend to Borough Council to accept the following waiver request:

*Stormwater Management Ordinance (SWMO) Section: 179-16.A*

*The height of embankment must provide a minimum of 1 foot of freeboard above the maximum pool elevation, computed when the facility functions for the one-hundred-year proposed conditions inflow.*

*Waiver Request: Basins C and D are provided to meet the release rate reductions required by the Stormwater Management Ordinance. Basin C is only 2-feet deep and captures runoff from a small upslope drainage area consisting of mostly pervious surface. In addition, the water surface elevation (WSE) in Basin C is approximately 1.2-feet and provides approximately 0.8-feet of freeboard during the 100-year design storm. Likewise, a majority of Basin D is only 2.4-feet deep and captures upslope offsite runoff from the PennDOT ROW. In addition, the water surface elevation (WSE) in Basin D is approximately 1.7-feet and provides approximately 0.7-feet of freeboard during the 100-year design storm. Given the SR 196 spur downslope of the proposed development, required sidewalk along the property frontage and inverts of the existing stormwater conveyance system, it is not practical to*

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*modify the basins to accommodate this requirement. Therefore, we are requesting a waiver from providing the required freeboard in this ordinance section.*

Commissioner T. Cramer seconded. Motion carried unanimously.

Commissioner D. Staples moved to recommend to Borough Council to accept the following waiver request:

*Stormwater Management Ordinance (SWMO) Section: 179-13.A.1.(c) and 179-13.A.2*

*179-13.A.1.(c) - Site specific infiltration tests shall be run at the level of the proposed infiltration surface and shall be in accordance with ASTM Guide No. D5126 to determine the appropriate hydraulic conductivity rate.*

*179-13.A.2 - A minimum depth of 24 inches shall be maintained between the bottom of the infiltration BMP and the limiting zone of the soil.*

*Waiver Request: Three (3) soil probes were performed along the downhill side of the existing property. These test pits were dug to a depth of 11-feet with no limiting zone encountered. The infiltration tests were performed at depths of 78" (TP1), 90" (TP2) and 72" (TP3). In order to meet the infiltration requirement of the stormwater management ordinance, a sub-surface infiltration facility (Basin B) is proposed. Basin B is proposed with a bottom elevation at 1832.50. TP1 is located within the proposed limits of Basin B.*

*179-13.A.1.(c) - Although, the bottom of Basin B only provides approximately 1.3-feet of separation from the soil probe bottom, no limiting zone was encountered. In addition, it is not anticipated that a limiting zone will be encountered within the next 0.7-feet given the soil horizons found in TP1. Therefore, we are requesting a waiver from providing a minimum depth of 24 inches between the bottom of the infiltration BMP and the limiting zone of the soil.*

*179-13.A.2 - The soil probe depth at TP1 was down to approximate elevation 1831.2 while the infiltration test was performed at approximate elevation 1835.70. However, given the soil probe results showed a consistent soil horizon from depths of 72" down to the bottom, it is reasonable to assume the infiltration rates would be consistent throughout the soil horizon. Therefore, we are requesting a waiver from providing an infiltration test at the level of the proposed infiltration surface.*

Vice Chair P. Bucco seconded. Motion carried unanimously.

Commissioner T. Cramer moved to recommend to Borough Council the Bizio Land Development Plan with conditional approval, pending Borough Engineer's review letter recommendations and PennDOT's input on sidewalks. Vice Chair P. Bucco seconded. Motion carried unanimously.

Let it be noted that the Applicant provided an extension of review time to June 8, 2022.

**NEW BUSINESS**

**Rezoning for 94 Winona Road** – Mr. Khaleem Mohammed was in attendance requesting the Planning Commission to consider rezoning his property at 94 Winona Road from a R-1 to a R-2 Zoning District, as he would like use this property as a short-term-rental (STR).

After some discussion, Commissioner A. Harris moved to recommend to Borough Council not to approve the rezoning of 94 Winona Road from a R-1 to R2 Zoning District due to concern of spot zoning and setting a precedent in the Borough. Vice Chair P. Bucco seconded. Commissioner D. Staples was on the fence regarding this request. However, the motion carried unanimously.

**3360 SR 904 – STR Conditional Use** – Mr. Jean Costa who was in attendance, explained the purpose of his request. He noted that this would be a STR with three (3) units in the building. He also noted that his parents would be living in one of the units and would be on-site in case of any concerns with the renters.

Zoning Officer A. Wilkinson stated that this property is in a C-2 Zoning District and a conditional use is required to proceed with the Planning Commission to potentially recommend conditions to Borough Council prior to the Conditional Use Hearing which is scheduled for Tuesday, May 3, 2022, at 6:00 P.M.

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Commissioner A. Harris moved to recommend the 3360 SR 904 STR to Borough Council with the following conditions to be part of the conditional use: trash must be secured; the minimum age of the renter must be 21 years of age; and, existing mature landscaping buffer to remain. Vice Chair P. Bucco seconded. Motion carried unanimously.

**Popeye's Land Development Plan** – Due to a lack of quorum to accept the Popeye's Land Development Plan, Vice Chair P. Bucco moved to retroactively accept this plan from March 16, 2022. Commissioner T. Cramer seconded. Motion carried unanimously.

Let it be noted that Mr. Richard Roseberry of Colliers Engineering & Design was in attendance representing the Applicant. He stated that this project is designed to Popeye's standards and a letter from the Fire Department was received and that there was no objection with this project.

Commissioner R. Dorkoski had the following concerns: curb radius at end of drive-through; and, existing island obstruction.

Borough Engineer C. Niclaus brought up emergency access connection to the adjacent property.

Commissioner T. Cramer moved to recommend to Borough Council to accept waiver request **(1) Waiver from §187-29.D3 and §189-50 to not provide information on wetlands due to the site is an existing shopping center, with notations of no impacts.** Vice Chair P. Bucco seconded. Borough Engineer C. Niclaus stated that he had no issue with this waiver request, however, the Applicant needs to note on the plans that the Borough is not held for any responsibility with regards to wetlands of this plan. Motion carried unanimously.

Vice Chair P. Bucco moved to recommend to Borough Council to accept waiver request **(2) Waiver is requested from §187-30.A, to not provide an existing resource and site analysis plan due to the site is an existing shopping center.** Commissioner T. Cramer seconded. Motion carried unanimously.

Vice Chair P. Bucco moved to recommend to Borough Council to accept waiver request **(3) Waiver is requested from §187-30.B, to provide a Final Resource and Impact and Conservation Plan due to the site is an existing shopping center.** Commissioner T. Cramer seconded. Commissioner D. Staples stepped out of the meeting during this time. Motion carried 5 – 0.

Vice Chair P. Bucco moved to recommend to Borough Council to accept waiver request **(4) Waiver from §187-17 to process the application for both Preliminary and Final Land Development approval, due to the scope of the improvements.** Commissioner T. Cramer seconded. Commissioner D. Staples stepped out of the meeting during this time. Motion carried 5 – 0.

The following waiver request was not recommended: **(5) Waiver is requested from §187-61 to not provide the recreational facility fee due to the scope of the improvements.**

Vice Chair P. Bucco moved to recommend to Borough Council to accept waiver request **(6) Partial Waiver from §187-48 W. and X., to not provide curb along the property frontage, and to no provide sidewalk along the entire property frontage, as Route 940 does not have a curb along the project frontage and adding curbing would impact the existing drainage patterns. The applicant is proposing sidewalk along the project frontage with sidewalk connection to the pad site. Oak Street sidewalk is not provided, as the street has minimal grass areas to install a sidewalk and a drainage swale, and steep slopes exist along the Oak Street frontage.** Commissioner T. Cramer seconded. Motion carried unanimously.

Commissioner A. Harris moved to recommend to Borough Council to accept waiver request **(7) Waiver from §187-56.G.2.f. to provide 2.5" caliper trees in lieu of the 4" caliper trees due to the difficulty to install large trees with the large caliper size and associated root-ball. The industry standard is 2.5".** Vice Chair P. Bucco seconded. Motion carried unanimously.

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Waiver requests (8) through (11) were discussed and Borough Engineer C. Niclaus would like to see units installed elsewhere on the site. It was suggested that the Applicant come back with specific locations.

Vice Chair P. Bucco moved to recommend to Borough Council to accept waiver request *(12) Waiver is requested from §187-62.2, to propose light levels in excess of 0.1 foot candles off the property. The site lighting has been pointed inward of the site and shields are proposed to reduce glare and off-site impacts. The light poles have been located as far from the property line as is possible while still providing adequate lighting of the site. Light levels of 0.3 foot candles are proposed off-site of the norther and western property line (i.e. Route 940 and adjacent commercial site).* Commissioner T. Cramer seconded. Motion carried unanimously.

Vice Chair P. Bucco moved to recommend to Borough Council waiver request *(13) Waiver is requested from §179-16.A, to propose less than the required 1 ft. of freeboard above the maximum pool elevation of the 100-year storm event. The proposed underground stormwater basin has a large footprint, but is shallow due to connection constraints into the existing storm sewer. The proposed underground basin proposes 0.11 ft. of freeboard for the 100-year storm event.* Commissioner D. Staples seconded. Motion carried unanimously.

Borough Engineer C. Niclaus stated that he had no issues with the waivers requested excluding waiver requests (8) through (11).

Commissioner A. Harris moved to table the Popeye's Land Development Plan to resolve landscaping matters. Commissioner D. Staples seconded. Motion carried unanimously.

**2021 Planning Commission Annual Report** – Chairman M. Penn reviewed this report pointing out that the Planning Commission had nine (9) regular meetings, increased the Commission from five (5) members to seven (7) members, accepted two (2) new members, considered proposed dog park from the Park & Recreation Board, reviewed a number of submissions and made recommendations to Borough Council.

Commissioner D. Staples moved to approve the 2021 Planning Commission Annual Report and forward to Borough Council. Vice Chair P. Bucco seconded. Motion carried unanimously.

**LIAISON REPORTS**

**Borough Council** – Commissioner A. Harris stated that Borough Council is considering that the Planning Commission be reduced from seven (7) members down to five (5) members.

**Zoning Hearing Board** – Commissioner A. Harris noted that Borough Council received a letter of interest from Fran O'Boyle to be on the Zoning Hearing Board (ZHB). Zoning Officer A. Wilkinson stated that Popeye's went in front of the ZHB to consider their project as a Special Exception. She noted that the hearing is scheduled to continue on April 26, 2022.

**PUBLIC PARTICIPATION** – None

There being no public participation and no further business coming before the Planning Commission, Vice Chair P. Bucco moved to adjourn at 9:12 P.M. Commissioner A. Harris seconded. Motion carried unanimously.

Transcribed by,

Diana Jackowski  
Administrative Assistant



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RECEIVED  
MAY 17 2022  
MT. POCONO BOROUGH

May 16, 2022  
Project #313618.015

Planning Commission  
Mount Pocono Borough  
1361 Pocono Boulevard  
Mount Pocono, PA 18344

Dear Planning Commission Members:

**RE: POPEYE'S RESTAURANT LAND DEVELOPMENT PLAN**  
Mount Pocono Borough, Monroe County, Pennsylvania  
Technical Review 2

**Materials Submitted for Review**

1. Preliminary and Final LD Plan Set, Sheets 1 - 22, dated 5/4/22, prepared by Colliers Engineering and Design, Inc (CED)
2. Engineer Response letter, dated 5/9/22, prepared by CED
3. Drainage Plan application, dated 5/4/22.
4. Special Exception Decision, dated 4/26/22
5. Waiver Request letter, dated 5/4/22, prepared by CED
6. Consumptive Use Tracking Report
7. PC Stormwater Management report, revised May 2022, prepared by CED
8. Fire Department review email, dated 4/5/22
9. Certificate of Non-Conformance, dated 3/10/22
10. Traffic Engineer Response letter, dated 5/9/22
11. Traffic Impact Study, revised 5/9/22

The project proposes a 2,350 square foot fast food restaurant located in the Mount Pocono Plaza Shopping Center located on the south side of Route 940 bordering the intersection of Oak Street to the east and opposite the intersection of Industrial Park Drive at the main driveway, bearing the tax map parcels 10/111456, 10/13/2/2-1C and 10/13/2/2-2C. The applicant proposes to add a free-standing restaurant site with new parking, a loading area and trash enclosure on the west side of the Shopping Center in an undeveloped area. The subject lots include 19.58 acres in area and are not differentiated on the overall plan. The lots are within the C-2 Commercial - General Zoning District.

Based upon our review, the following **revised (bold)** comments are offered for the purpose of technical review by the Planning Commission:

### Zoning Ordinance Review

1. A Take-Out restaurant is a Permitted Use in the C-2 zone. A Drive-In Stand/Use is a Special Exception. The drive-thru provision of the restaurant is consistent with the definition of the Drive-In Stand/Use. **A Special Exception Decision shows approval of the application. Addressed.**
2. Impervious coverage has been noted to include all improvements per a 1989 record plan that has not been built. **A copy of the Non-Conformance Certificate has been provided. Addressed.**
3. All new uses shall be required to obtain a Highway Occupancy Permit (HOP) from the Borough or PennDOT, as the case may be. In the case of a change in use or the expansion of an existing use, the Borough shall require the applicant to obtain a HOP or a revised highway occupancy permit (215-22.H(3)). **Condition of Approval.**
4. Landscaping and buffers will be required per SALDO Chapter 187 (215-35C). A Waiver Request has been submitted. **Addressed.**
5. A Traffic Impact Study (TIS) is required for 50 trip ends peak hour or 500 trip ends per day (215-41). **A TIS has been submitted and reviewed as acceptable subject to PennDOT approval. Condition.**
6. Non-conformities are listed for new areas of the project based on the original project as-built conditions that are over five years old (215-59.C). **A copy of the Non-Conformance Certificate has been provided. Addressed.**
7. The fire department should be consulted on the suitability of circulation for the site, emergency access from the Taco Bell side of the project and the sizing of the fire truck. **Addressed.**

The above comments are informational only. The Zoning Officer shall be the jurisdictional entity on Zoning requirements.

### Subdivision and Land Development Ordinance (SALDO)

1. A waiver request has been submitted to process the application for both Preliminary and Final Land Development approval (187-17). I have no objection to this request. **The Planning Commission has reviewed this request and made a recommendation to Borough Council for consideration of approval.**
2. A waiver request has been submitted to not provide information on wetlands due to the disturbed nature of the project area (187-29.D.3 & 187-59). **The Planning Commission has reviewed this request and made a recommendation to Borough Council for consideration of approval.**
3. An Existing Resources & Site Analysis Plan and a Final Resource Impact and Conservation Plan are required(187-30.A&B). A waiver request has been submitted for each citing developed conditions of the site. The waiver justification is reasonable given the pre-existing parking conditions and unique lot configuration. **The Planning Commission has reviewed this request and made a recommendation to Borough Council for consideration of approval.**
4. Utility and drainage easements, including ownership and maintenance responsibility are needed (187-30.C(2)(d)). **The stormwater easement should allow for the provisions of the required Stormwater Maintenance Agreement as attached.**
5. A note should be added to the plan stating: *All lots shown on this plan are subject to the rules and regulations contained in the Borough of Mount Pocono Zoning Ordinance. (187-30.C (2)(h)).* **Addressed.**



6. A note should be added to the plan stating: *Highway occupancy permits are required for access to roads under the jurisdiction of the Pennsylvania Department of Transportation pursuant to the State Highway Law (P.L. 1242, No. 428, § 420) (187-30.C (3)(c)).*  
**Addressed.**
7. A note should be added to the plan stating: *The developer and/or the lot purchaser(s) assumes full responsibility for obtaining any local, state, and federal permits and/or approvals relating to wetlands. Approval by the Borough Council shall not in any manner be construed to be an approval of compliance with statutes or regulations relating to wetlands. The Borough of Mount Pocono shall have no liability or responsibility for the same to the developer or purchaser(s). (187-30.C (3)(d)).* **Addressed.**
8. A note should be added to the plan stating: *Common facilities and development improvements shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development. (187-30.C (3)(g)).* **Not addressed.**
9. A scoping meeting was held with PennDOT. If a Highway Occupancy Permit is required, it should be provided (187-30.D(8) & 187-62.1.H(3)). **Condition.**
10. The Soil erosion and sedimentation control plan shall be approved by the Monroe County Conservation District (187-30.D (9)). **Condition.**
11. As-Built plans will be required after construction. The cost of as-built plans should be included in the Development Agreement and Cost Opinion (187-33.1 and 187-37).  
**Condition.**
12. An Improvements Construction Guarantee is required (187-34 and 187-37). **Condition.**
13. Sidewalk has been proposed along the front of the property along Route 940. The provision of sidewalks should be discussed (187-48 X & 187-55, Ord. 3 of 2011). A waiver request has been submitted for relief from providing some sidewalks and all curbing. **The Planning Commission has reviewed this request and made a recommendation to Borough Council for consideration of approval.**
14. The developer shall provide to the satisfaction of the Council, and prior to final plan approval, evidence of the provision for the succession of ownership and responsibility for maintenance of development improvements (187-40). **Condition.**
15. A Land Development Improvements Agreement is required (187-42). **Condition.**
16. Monuments and Markers will be needed for missing lot corners (187-49). **Condition.**
17. Stormwater and Drainage Control has been provided (187-50). See Stormwater Management Ordinance comments section. Maintenance of stormwater control facilities applies. **Addressed.**
18. Soil Erosion and sedimentation controls have been provided (187-51). All soil erosion and sedimentation control plans shall meet the specifications of and shall be approved by the Monroe County Conservation District. **Condition.**
19. Water needs should be coordinated with the PAWC (187-52). A response email from PAWC indicates that a Water Data Sheet Package should be submitted. **Condition.**
20. Sewage needs should be coordinated with the MPMA (187-53). **A Request for Planning Exemption mailer was submitted to the Borough. The MPMA must first review the submitted Letter of Serviceability request and flow documentation before a municipal representative can sign the Exemption mailer. Condition.**
21. Landscaping is required per 187-56. A Landscape Plan has been submitted and partial waivers have been requested. **The revised Landscape Plan lists Ordinance compliance including required trees that did not fit in specified areas but have been proposed in**

**other areas of the development. The Planning Commission should review this request (waivers 7 – 10, 5/4/22) and make a recommendation to Borough Council for consideration of approval, for which I have no objection.**

22. A traffic signal maintenance agreement will be applicable (187-58). **Not addressed.**
23. A recreation facility fee is applicable for this project (187-61, Res #8 2017). **Condition.**
24. Lighting has been provided (187-62.2). A waiver has been requested for minor exceedances in the adjacent Taco Bell landscape area and Route 940 for which the travel way is set far back of the exceedance area. **The Planning Commission has reviewed this request and made a recommendation to Borough Council for consideration of approval.**

### **Stormwater Management Ordinance**

1. A 1.0 foot freeboard is required for all stormwater facilities (179-16.A). A waiver would be appropriate for the specific conditions of this project if requested. *A waiver request has been submitted with reasonable justification.* **The Planning Commission has reviewed this request and made a recommendation to Borough Council for consideration of approval.**
2. A blanket stormwater easement is recommended for the site in the form of a note on the Site Plan (179-16.F). **The stormwater easement should allow for the provisions of the required Stormwater Maintenance Agreement as attached.**
3. A Consumptive Use Tracking Report has not been submitted (179-18 & 179-21.A(6)). **Addressed.**
4. A note for maintenance of stormwater facilities should be added including the existing stormwater basin that accepts flows from the proposed system. It is recommended that the applicant provide a visual inspection report that assesses existing conditions and assures the Borough it is in a suitable condition to accept the proposed flows (179-21.B(24)). It is my understanding that the Borough had to install downstream conveyance piping just a few years ago from this basin. A recent comment was received in the Borough office: Planet Fitness Basin: The fence is knocked over allowing children to enter and tumble in; if needed, remove debris from trash rack; remove sediment from inlet; replace rock filter. **The stormwater maintenance note should allow for the provisions of the required Stormwater Maintenance Agreement as attached.**
5. A plan note should be added acknowledging that any significant revision to the approved drainage plan must be approved by the municipality and that a revised E&S Plan must be submitted to the conservation district for a determination of adequacy (179-21.B(24)). **Addressed.**
6. The following certification should be added to the plan: *"I, (Design Engineer), on this date (date of signature); hereby certify that the drainage plan meets all design standards and criteria of the Brodhead/Tobyhanna Watershed Act 167 Stormwater Management Ordinance."* (179-21.B(25)). **The certification needs to be executed. Condition.**
7. An Operation and Maintenance Plan for the Stormwater facilities should be provided (179-21.C(f)). **There are no proposed inspection scope items or timeframes post construction.**
8. The E&S Plan shall be reviewed by the county conservation district and found adequate to meet the requirements of PA DEP's Chapter 102 regulations prior to municipal approval of the drainage plan (179-23.C). **Condition.**
9. A Schedule of Inspections is required (179-26). The Borough should be given 24 hours' notice of the completion of the excavation for the infiltration beds for witnessing the conditions being inspected by the Developer. **If the applicant is only proposing one**

**inspection for the entire project, it is recommended that the Borough include interim inspections in the Stormwater Agreement.**

10. A Municipal Stormwater maintenance agreement and fund will be required (179-31 & 32). **Condition, See attached. The Borough should advise the required fee.**
11. A Drainage Plan application is required with the appropriate fee (App C and 179-27). **Addressed.**

**Traffic Comments**

1. **The comments from the Traffic review letter of May 16, 2022 have been addressed. A TIS has been submitted and reviewed as acceptable subject to PennDOT approval. Condition.**
2. **Traffic circulation should be discussed for the main drive access right turn entry. Signage should be added to the plan.**

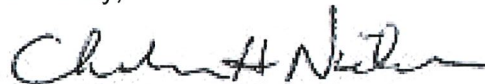
**General Comments**

1. Please note that the plans are not signed by the owner, as well as Certification blocks. **Condition.**
2. There is no provision for emergency access as established by the adjacent development and a lighting pole has been proposed in an area that may interfere with the location of emergency access connection as well as landscaping. **Addressed.**

These comments are made with the understanding that all features are accurately displayed on the submitted plans and that they comply with all current laws, regulations, and currently acceptable professional land surveying and engineering practices. Other comments may be added as additional information becomes available or should changes occur.

Please do not hesitate to contact me at our office (272-200-2012) if you should have any questions regarding this letter.

Sincerely,



Charles Niclaus, PE  
Borough Engineer  
Barry Isett & Associates, Inc.

1500 JFK Boulevard  
Suite 222  
Philadelphia, PA 19102  
Main: 877 627 3772



May 4, 2022

VIA HAND DELIVERY

Joshua Walker, Borough Manager  
Mount Pocono Borough  
1361 Pocono Boulevard, Suite 100  
Mount Pocono, PA 18344

RECEIVED  
MAY 09 2022  
MT. POCONO BOROUGH

**Proposed Popeye's Restaurant**  
**Mount Pocono Borough, Monroe County, PA**  
**Colliers Engineering & Design Project No. 21005261A**

Dear Joshua, Regarding the above referenced project, below please find a list of the requested Waivers:

**LIST OF REQUESTED WAIVERS**

1. Waiver from §187-29.D.3 and §189-59 to not provide information on wetlands due to the site is an existing shopping center.
2. Waiver is requested from §187-30.A, to not provide an existing resource and site analysis plan due to the site is an existing shopping center.
3. Waiver is requested from 187-30.B, to not provide a Final Resource and Impact and Conservation Plan due to the site is an existing shopping center.
4. Waiver from §187-17 to process the application for both Preliminary and Final Land Development approval, due to the scope of the improvements.
5. Partial Waiver from §187-48 W. and X., to not provide curb along the property frontage, and to not provide sidewalk along the entire property frontage, as Route 940 does not have curb along the project frontage and adding curbing would impact the existing drainage patterns. The applicant is proposing sidewalk along the project frontage with sidewalk connection to the pad site. Oak Street sidewalk is not provided, as the street has minimal grass areas to install a sidewalk and a drainage swale, and steep slopes exist along the Oak Street frontage.
6. Waiver from §187-56.G.2.f. to provide 2.5" caliper trees in lieu of the 4" caliper trees due to the difficulty to install large trees with the large caliper size and associated root-ball. The industry standard is 2.5".
7. Partial Waiver is requested from §187-56.C(2)(f), to not provide the required 8 ft wide planting strip and the associated plantings, due to the nature of retrofitting the development within an existing shopping center. The balance of trees have been provided within the overall shopping center as indicated in the plans.
8. Waiver is requested from §187-56.D, to not provide the required street trees. An existing non-conformity determination for the parking setback was provided by the Borough. Therefore, there is not enough space to plant the required trees. Furthermore, there are overhead wires along the project frontage restricting the placement of the street trees in the right of way. The balance of trees have been provided within the overall shopping center as indicated in the plans.
9. Partial Waiver is requested from §187-56.F, to not provide all of the required trees in the front yard buffer. An existing non-conformity determination for the parking setback was provided by the Borough. Therefore, there is not enough space to plant the required trees. 6 canopy trees, 6 ornamental trees and 6 evergreen trees are required. 2 canopy trees, 4 ornamental trees and 5 evergreen trees are proposed. Additional shrubs have been provided over the requirement of this section. The balance of trees have been provided within the overall shopping center as indicated in the plans.
10. Partial Waiver is requested from §187-56.F, to not provide the required trees in the side yard buffer. There are overhead wires along the western property line restricting the placement of the street trees. This has reduced total trees that can be planted in the side yard buffer. 4 canopy trees, 4 ornamental trees and 4 evergreen trees are required. 0 canopy trees, 3 ornamental trees and 5 evergreen trees are proposed. An additional evergreen tree is proposed above the requirement of this section. Note, the adjacent property abutting this lot line is a commercial development. The balance of trees have been provided within the overall shopping center as indicated in the plans.

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11. Waiver is requested from §187-62.2, to propose light levels in excess of 0.1 foot candles off the property. The site lighting has been pointed inward of the site and shields are proposed to reduce glare and off-site impacts. The light poles have been located as far from the property line as is possible while still providing adequate lighting of the site. Light levels of 0.3 foot candles are proposed off-site of the northern and western property line (i.e. Route 940 and adjacent commercial site)
12. Waiver is requested from §179-16.A, to propose less than the required 1 ft of freeboard above the maximum pool elevation of the 100-year storm event. The proposed underground stormwater basin has a large footprint, but is shallow due to connection constraints into the existing storm sewer. The proposed underground basin proposes 0.11 ft of freeboard for the 100-year storm event.

If you should have any questions, or require additional information, please do not hesitate to contact this office.

Sincerely, Colliers Engineering & Design



Rhett Chiliberti, PE  
Geographic Discipline Leader

cc: Pablo Medeiros, Jason Lazar, Marc Wolfe Esq.,  
File/correspondence

1500 JFK Boulevard  
Suite 222  
Philadelphia, PA 19102  
Main: 877 627 3772



May 9, 2022

Joshua Walker, Borough Manager  
Mount Pocono Borough  
1361 Pocono Boulevard, Suite 100  
Mount Pocono, PA 18344

RECEIVED  
MAY 09 2022  
MT. POCONO BOROUGH

**Proposed Popeye's Restaurant  
Mount Pocono Plaza Shopping Center  
3236 PA-940 Mount Pocono Borough, PA  
Colliers Engineering & Design Project No. 20005261A**

Dear Joshua,

In response to the comments dated April 18<sup>th</sup>, 2022 relative to referenced project, attached please find the following items (our responses are provided in **bold**):

- Four (4) copies of the Stormwater Report, last revised May 2022
- Four (4) copies of the Certificate of Non-conformance, dated 3/10/22.
- Four (4) copies of the Fire Department Approval email, dated 4/5/22.
- Four (4) copies of the Waiver List, dated 5/4/22.
- Four (4) copies of the Preliminary and Final Land Development Plan Set, dated 2/18/22, last revised 5/4/22
- Four (4) copies of the Special Exception Approval, dated 4/27/22
- Four (4) copies of the PAWC Water Data Sheet Package
- Four (4) copies of the Consumptive Use Tracking Report
- Four (4) copies of the Drainage Plan Application

#### **Zoning Ordinance Review Comments**

1. A Take-Out restaurant is a Permitted Use in the C-2 zone. A Drive-In Stand/Use is a Special Exception. The drive-thru provision of the restaurant is consistent with the definition of the Drive-In Stand/Use. A Special Exception Request Letter was submitted with the application and the Zoning Hearing Board must approve the application.

**Response: The special exception was granted and the approval has been included with this submission. This approval has also been noted on the Cover sheet of the Land Development Plans.**

2. The three tax map parcels are not shown, and it is not known if any proposed improvements are impacting more than one of the parcels. The response letter and County GIS shows the proposed improvements to be on parcel no. 10.13.2.2-1c.

**Response: No action is required.**

3. Impervious coverage has been noted to include all improvements per a 1989 record plan that has not been built. A copy of the Non-conformance certificate should be provided for verification.

**Response: A copy of the Certificate of Non-conformance has been included with this submission.**

4. All new uses shall be required to obtain a Highway Occupancy Permit (HOP) from the Borough or PennDOT, as the case may be. In the case of a change in use or the expansion of an existing use, the Borough shall require the applicant to obtain a highway occupancy permit or a revised highway occupancy permit (215-22.H(3)). Sidewalk improvements in a PennDOT right-of-way also require permitting, but a revised plan indicates that the sidewalk will be within the site.

**Response: The applicant requests that the Highway Occupancy Permit (HOP) be conditioned on the Certificate of Occupancy, as the site has an existing HOP permit for the existing shopping center, with an existing signalized intersection and no new curb cuts. The applicant will obtain an updated HOP permit.**

5. Landscaping and buffers will be required per SALDO Chapter 187 (215-35C). A Waiver Request has been submitted.

**Response: Noted. A updated Waiver List has been included with this submission.**

6. The number of existing parking spaces shown matches the record 2017 Subdivision Plan for the Shopping Center. The proposed layout shows parking spaces will be added for the new use.

**Response: No action is required.**

7. A Traffic Impact Study (TIS) is required for 50 trip ends peak hour or 500 trip ends per day (215-41). A TIS has been submitted for review and a separate Traffic review letter has been completed.

**Response: The Traffic Review Letter was received and the response will be submitted via a separate cover.**

8. Non-conformities are listed for new areas of the project based on the original project as-built conditions that are over five years old (215-59.C). A copy of the Non-conformance Certificate should be provided.

**Response: A copy of the Certificate of Non-conformance has been included with this submission.**

9. The fire department should be consulted on the suitability of circulation for the site, emergency access from the Taco Bell side of the project and the sizing of the fire truck.

**Response: The fire department has been notified of the project and an approval email from the Fire Department has been included with this submission.**

The above comments are informational only. The Zoning Officer shall be the jurisdictional entity on Zoning requirements.

#### **Subdivision and Land Development Ordinance Comments**

10. A waiver request has been submitted to process the application for both Preliminary and Final Land Development approval (187-17). I have no objection to this request. **The Planning Commission should review this request and make a recommendation to Borough Council for consideration of approval.**

**Response: Noted.**

11. A waiver request has been submitted to not provide information on wetlands due to the disturbed nature of the project area (187-29.D.3 & 187-59). **The Planning Commission should review this request and make a recommendation to Borough Council for consideration of approval.**

**Response: Noted.**

12. An Existing Resources & Site Analysis Plan and a Final Resource Impact and Conservation Plan are required(187-30.A&B). A waiver request has been submitted for each citing developed conditions of the site. The waiver justification is reasonable given the pre-existing parking conditions and unique lot configuration. **The Planning Commission should review this request and make a recommendation to Borough Council for consideration of approval.**

**Response: Noted.**

13. Utility and drainage easements, including ownership and maintenance responsibility are needed (187-30.C(2)(d)). A blanket stormwater covenant could be added.



**Response: The utility and drainage easement has been shown on the site plan, sheet 4. The ownership and maintenance responsibility is noted as plan note #16 on this sheet as well.**

14. A note should be added to the plan stating: *All lots shown on this plan are subject to the rules and regulations contained in the Borough of Mount Pocono Zoning Ordinance. (187-30.C (2)(h).*

**Response: This note has been added to Sheet 4, Note #13**

15. A note should be added to the plan stating: *Highway occupancy permits are required for access to roads under the jurisdiction of the Pennsylvania Department of Transportation pursuant to the State Highway Law (P.L. 1242, No. 428, § 420) (187-30.C (3)(c).*

**Response: This note has been added to Sheet 4, Note #14**

16. A note should be added to the plan stating: *The developer and/or the lot purchaser(s) assumes full responsibility for obtaining any local, state, and federal permits and/or approvals relating to wetlands. Approval by the Borough Council shall not in any manner be construed to be an approval of compliance with statutes or regulations relating to wetlands. The Borough of Mount Pocono shall have no liability or responsibility for the same to the developer or purchaser(s). (187-30.C (3)(d).*

**Response: This note has been added to Sheet 4, Note #15**

17. A note should be added to the plan stating: *Common facilities and development improvements shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development. (187-30.C (3)(g).*

**Response: Based on the definitions of "common facilities" and "common areas" as related to (187-30.C (3)(g)) and SALDO 187-16, this note is limited to residential developments, not commercial developments. Therefore, this note has not been included on the plans.**

18. A scoping meeting was held with PennDOT. If a Highway Occupancy Permit is required, it should be provided (187-30.D(8) & 187-62.1.H(3)).

**Response: The applicant requests that the Highway Occupancy Permit (HOP) be conditioned on the Certificate of Occupancy, as the site has an existing HOP permit for the existing shopping center, with an existing signalized intersection and no new curb cuts. The applicant will obtain an updated HOP permit.**

19. The Soil erosion and sedimentation control plan shall be approved by the Monroe County Conservation District (187-30.D (9)).

**Response: A review letter was received from Monroe County Conservation District which provided minor comments. We are responding via a separate cover. We will forward a copy of approval upon receipt.**

20. As-Built plans will be required after construction. The cost of as-built plans should be included in the Development Agreement and Cost Opinion (187-33.1 and 187-37).

**Response: The cost of the as-built plans will be included in the Development Agreement and Cost Opinion.**

21. An Improvements Construction Guarantee is required (187-34 and 187-37).

**Response: The applicant will comply.**

22. Sidewalk has been proposed along the front of the property along Route 940. The provision of sidewalks should be discussed (187-48 X & 187-55, Ord. 3 of 2011). A waiver request has been submitted for relief from providing some sidewalks and all curbing. The area adjacent to the jughandle right-of-way provides a connection opportunity from the restaurant site to the south end of the new McDonald's public sidewalk through the same right-of-way. Ordinance 3 of 2011 provides for a separate system of sidewalks connecting the primary building entrance to other primary buildings' entrances and to public sidewalk. **This is a discussion item for the Planning Commission. I have no objection to the relief for curbing as presented.**

**Response: Noted.**

23. The developer shall provide to the satisfaction of the Council, and prior to final plan approval, evidence of the provision for the succession of ownership and responsibility for maintenance of development improvements (187-40).

**Response: The applicant will comply.**

24. A Land Development Improvements Agreement is required (187-42).

**Response: The applicant will comply.**

25. Monuments and Markers will be needed for missing lot corners (187-49).

**Response: Proposed Monuments and Markers have been clarified on Sheets 3 for the missing lot corners. Callouts have been added and the legend has been updated to show the proposed monuments and markers.**

26. Stormwater and Drainage Control has been provided (187-50). See Stormwater Management Ordinance comments section. Maintenance of stormwater control facilities applies.

**Response: Noted.**

27. Soil Erosion and sedimentation controls have been provided (187-51). All soil erosion and sedimentation control plans shall meet the specifications of and shall be approved by the Monroe County Conservation District.

**Response: A review letter was received from Monroe County Conservation District which included minor comments. We are responding via a separate cover. We will forward a copy of approval upon receipt.**

28. Water needs should be coordinated with the PAWC (187-52). A response email from PAWC indicates that a Water Data Sheet Package should be submitted. Testing requirements should be noted on the plans.

**Response: The applicant will comply. The PAWC Water Data Sheet Package was submitted as part of coordination with the PAWC. The submitted Water Data Sheet Package has been included with this submission. A note is provided for the contractor to follow PAWC testing requirements on Sheet 6. Note we are coordinating the testing specifics.**

29. Sewage needs should be coordinated with the MPMA (187-53). **A Request for Planning Exemption mailer was submitted to the Borough. The MPMA must first review the submitted Letter of Serviceability request and flow documentation before a municipal representative can sign the Exemption mailer.** Testing requirements should be noted on the plans.

**Response: A submission has been made to the MPMA and they are reviewing the Planning Exemption mailer. A copy of the Exemption mailer will be forwarded to the municipality upon receipt of approval from MPMA. The MPMA testing requirements are listed on sheet 6.**

30. Landscaping is required per 187-56. A Landscape Plan has been submitted and a partial waiver has been requested. **A revised Landscape Plan has also been submitted along with an Exhibit Plan that shows the adjacent landscaping and emergency access. The revised Landscape Plan lists Ordinance compliance and the Applicant should be prepared to discuss the waiver requests with specific reference to the differences. The justification is mainly that it won't fit in the areas of non-conforming setbacks but there are numerous adjacent areas in the development where additional landscaping would fit. I would support the waiver request for tree sizes.**

**Response: The additional trees have been planted in the grass strip along the former PennDOT jughandle on the overall property to compensate for trees unable to fit within the proposed improvement area. Refer to the landscape plan, sheet 7. An updated Waiver List has been included with this submission.**

31. A traffic signal maintenance agreement will be applicable (187-58).

**Response: The applicant is not currently in a maintenance agreement for the traffic signal and does not propose to be added to the current maintenance agreement. PennDOT currently maintains the signal.**

32. A recreation facility fee is applicable for this project (187-61, Res #8 2017). A waiver is requested. **The Planning Commission should review this request and make a recommendation to Borough Council for consideration of approval. The POSH Properties project had a similar situation where a later phase of the project was presented.**

**Response: This waiver request has been removed. The applicant will comply. A recreation facility fee calculated at \$6,350.25 for the new impervious surface proposed within the project improvement area. This is the additional impervious area provided compared to the existing conditions.**

33. Lighting has been provided (187-62.2). A waiver has been requested for minor exceedances in the adjacent Taco Bell landscape area and Route 940 for which the travelway is set far back of the exceedance area. **The Planning Commission should review this request and make a recommendation to Borough Council for consideration of approval.**

**Response: Noted.**

### Stormwater Management Ordinance

1. One of the infiltration areas had a water seep at 24" but was attributed to snowpile melt runoff. During excavation of the infiltration bed of test pit 2, which was closest to Rt. 940, the sidewall of the excavation should confirm no seeps (179-13). Since neither of the other two infiltration tests had this seep, this should not be cause for concern.

**Response: Noted.**

2. A 1.0 ft. freeboard is required for all stormwater facilities (179-16.A). A waiver would be appropriate for the specific conditions of this project if requested. *A waiver request has been submitted with reasonable justification. **The Planning Commission should review this request and make a recommendation to Borough Council for consideration of approval, for which I have no objection.***

**Response: This waiver has been requested. An updated Waiver List has been included with this submission.**

3. A blanket stormwater easement is recommended for the site in the form of a note on the Site Plan (179-16.F).

**Response: A utility, drainage, and stormwater easement is shown on Sheet 4.**

4. A Consumptive Use Tracking Report has not been submitted (179-18 & 179-21.A(6)).

**Response: The Consumptive Use Tracking Report has been included with this submission.**

5. A note for maintenance of stormwater facilities should be added including the existing stormwater basin that accepts flows from the proposed system. It is recommended that the applicant provide a visual inspection report that assesses existing conditions and assures the Borough it is in a suitable condition to accept the proposed flows (179-21.B(24)). It is my understanding that the Borough had to install downstream conveyance piping just a few years ago from this basin.

**Response: The existing stormwater basin #1 was visually inspected on 5/2/22. It appears to be in working condition and is able to accept the existing inflow, especially with the proposed pad site providing their own stormwater management system. A note has been provided in the Sequence of Construction #1.E on Sheet 9 for the existing stormwater basin to be inspected and outlet structure to be cleaned out prior to and after construction.**

6. A plan note should be added acknowledging that any significant revision to the approved drainage plan must be approved by the municipality and that a revised E&S Plan must be submitted to the conservation district for a determination of adequacy (179-21.B(24)).

**Response: A note has been provided accordingly on Sheet 5, note #30.**

7. The following certification should be added to the plan: "*I, (Design Engineer), on this date (date of signature); hereby certify that the drainage plan meets all design standards and criteria of the Brodhead/Tobyhanna Watershed Act 167 Stormwater Management Ordinance.*" (179-21.B(25)).

**Response: A certification block has been provided accordingly on Sheet 5.**

8. An Operation and Maintenance Plan for the Stormwater facilities should be provided (179-21.C(f)).

**Response: Operation and Maintenance Plan notes have been provided accordingly on Sheet 21 for the Stormwater Facilities. This sheet has been additionally labeled as the Operations and Maintenance Plan.**

9. The E & S Plan shall be reviewed by the county conservation district and found adequate to meet the requirements of PA DEP's Chapter 102 regulations prior to municipal approval of the drainage plan (179-23.C).

**Response: A review letter was received from Monroe County Conservation District. We are responding via a separate cover. We will forward a copy of approval upon receipt.**

10. A Schedule of Inspections is required (179-26). The Borough should be given 24 hours' notice of the completion of the excavation for the infiltration beds for witnessing the conditions being inspected by the Developer.

**Response: A note has been provided accordingly in the Sequence of Construction #17.A on Sheet 9.**

11. A Municipal Stormwater maintenance agreement and fund will be required (179-31 & 32).

**Response: Noted. The applicant will comply**

12. A Drainage Plan application is required with the appropriate fee (App C and 179-27).

**Response: The Drainage Plan Application has been completed and included with this submission. Please confirm the required fee. The fee will be submitted via a separate cover.**

### General Comments

1. Please note that the plans are not signed by the owner, the title block references Heidenberg Properties and the deed references Mt Pocono LLC. The plans should include legal interest information, including the name and title of the LLC officer.

**Response: The plan title block has been updated accordingly to reflect Mt. Pocono, LLC**

2. Although there are positive drainage grades across the site, there are some areas less than 1% slope. Generally, a 2% slope is recommended to avoid "birdbaths." There is no ordinance minimum, so this comment is just an observation.

**Response: Additional flow arrows have been noted to show the grading design and intent on Sheet 5. Generally speaking there are high points which provide positive drainage greater than 1%.**

3. There is no provision for emergency access as established by the adjacent development and a lighting pole has been proposed in an area that may interfere with the location of emergency access connection as well as landscaping. **The Planning Commission should review this discussion item and make a recommendation to Borough Council for consideration.**

**Response: The emergency access has been depicted on the plan Sheet 4. The light pole has been relocated and the lighting analysis has been updated. A gate is proposed for the emergency access and is noted on the plan. Also a detail is provided on the detail sheets.**

If you should have any questions, or require additional information, please do not hesitate to contact this office.

Sincerely,

Colliers Engineering & Design



Rhett Chiliberti, PE  
Geographic Discipline Leader

cc: Chuck Niclaus, P.E. w/ encl.  
Pablo Medeiros  
Marc Wolfe

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STORMWATER MANAGEMENT

179 Attachment 3

Borough of Mount Pocono

APPENDIX C

SAMPLE DRAINAGE PLAN APPLICATION AND FEE SCHEDULE

(To be attached to the "land subdivision plan or development plan review application or "minor land subdivision plan review application")

Application is hereby made for review of the Stormwater Management and Erosion and Sedimentation Control Plan and related data as submitted herewith in accordance with the Mount Pocono Borough Township Stormwater Management and Earth Disturbance Ordinance.

x Final Plan x Preliminary Plan Sketch Plan

Date of Submission 5/4/22 Submission No. 1

1. Name of subdivision or development Proposed Popeye's Restaurant

2. Name of Applicant Mt. Pocono, LLC Telephone No. 201-768-1300

(if corporation, list the corporation's name and the names of two officers of the corporation) Pablo Medeiros Officer 1 Officer 2

Address 234 Closter Dock Rd, Suite 2, Closter, NJ Zip 07624

Applicants interest in subdivision or development (if other than property owner give owners name and address)

3. Name of property owner Heidenberg Properties Telephone No. 201-768-1300

Address 234 Closter Dock Rd, Suite 2, Closter, NJ Zip 07624

4. Name of engineer or surveyor Rhett Chiliberti (Agent of Mt. Pocono, LLC) Telephone No. 445-444-7313

Address 2 Penn Center, 1500 JFK Blvd, Suite 222, Philadelphia PA Zip 19102

5. Type of subdivision or development proposed:

- Single-Family Lots Townhouses Commercial(Multi-Lot)
Two Family Lots Garden Apartments x Commercial (One-Lot)
Multi-Family Lots Mobile-Home Park Industrial (Multi-Lot)
Cluster Type Lots Campground Industrial (One-Lot)
Planned Residential Development Other

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MOUNT POCONO CODE

6. Lineal feet of new road proposed 0 L.F.
7. Area of proposed and existing conditions impervious area on entire tract.
- |                         |               |      |            |               |                    |
|-------------------------|---------------|------|------------|---------------|--------------------|
| a. Existing (to remain) | <u>5,551</u>  | S.F. | <u>0.7</u> | % of Property | (within site area) |
| b. Proposed             | <u>30,952</u> | S.F. | <u>3.6</u> | % of Property | (within site area) |
8. Stormwater
- a. Does the peak rate of runoff from proposed conditions exceed that flow which occurred for existing conditions for the designated design storm? No
- b. Design storm utilized (on-site conveyance systems) (24 hr.) 25-yr  
No. of Subarea 1  
Watershed Name Brodhead Creek
- Explain: \_\_\_\_\_  
\_\_\_\_\_
- c. Does the submission and/or district meet the release rate criteria for the applicable subarea? Yes, this submission meets the runoff rate requirements of B-2 Brodheads.
- d. Number of subarea(s) from Ordinance Appendix D of the Brodhead and McMichaels Creek Watershed Stormwater Management Plan. 1
- e. Type of proposed runoff control Underground infiltration basin
- f. Does the proposed stormwater control criteria meet the requirement/guidelines of the Stormwater Ordinances? Yes  
If not, what variances/waivers are requested? Waiver granted for less than 1 foot of freeboard.  
Reasons \_\_\_\_\_
- g. Does the plan meet the requirements of Article iii of the Stormwater Ordinances? Yes  
If not, what variances/waivers are requested? Waiver granted for less than 1 foot of freeboard.  
Reasons Why \_\_\_\_\_  
\_\_\_\_\_
- h. Was TR-55, June 1986 utilized in determining the time of concentration? Yes
- i. What hydrologic method was used in the stormwater computations? NRCS Soil-Cover-Complex Method

STORMWATER MANAGEMENT

- j. Is a hydraulic routing through the stormwater control structure submitted? Yes
- k. Is a construction schedule or staging attached? Yes (LD Plan - Sheet 10)
- l. Is a recommended maintenance program attached? Yes (LD Plan - Sheet 20)
- 9. Erosion and Sediment Pollution Control (E&S):
  - a. Has the stormwater management and E&S plan, supporting documentation and narrative been submitted to the Monroe County Conservation District? Yes
  - b. Total area of earth disturbance 42,452 S.F.
- 10. Wetlands
  - a. Have the wetlands been delineated by someone trained in wetland delineation? N/A
  - b. Have the wetland lines been verified by a state or federal permitting authority? N/A
  - c. Have the wetland lines been surveyed? N/A
  - d. Total acreage of wetland within the property N/A
  - e. Total acreage of wetland disturbed N/A
  - f. Supporting documentation N/A
- 11. Filing
  - a. Has the required fee been submitted? The required fee will be submitted under a separate cover.  
Amount TBD
  - b. Has the proposed schedule of construction inspection to be performed by the Applicant's engineer been submitted? No
  - c. Name of individual who will be making the inspections Applicant/owner
  - d. General comments about stormwater management at the development \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MOUNT POCONO CODE

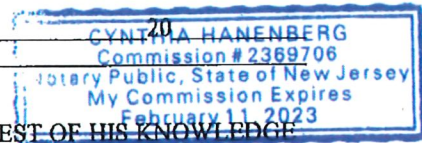
CERTIFICATE OF OWNERSHIP AND ACKNOWLEDGMENT OF APPLICATION:

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF MONROE

On this the 4 day of May, 2022, before me, the undersigned officer, personally appeared PASLO J. MEDINA who being duly sworn, according to law, deposes and says that MT. POCONO LLC owners of the property described in this application and that the application was made with \_\_\_\_\_ knowledge and/or direction and does hereby agree with the said application and to the submission of the same.

MT. POCONO LLC Property Owner

My Commission Expires 1/11/23  
Notary Public C. Hanenberg



THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF THE INFORMATION AND STATEMENTS GIVEN ABOVE ARE TRUE AND CORRECT.

SIGNATURE OF APPLICANT [Signature]



(Information Below This Line To Be Completed By The Municipality)

\_\_\_\_\_ (Name of) Municipality official submission receipt:

Date complete application received \_\_\_\_\_ Plan Number \_\_\_\_\_

Fees \_\_\_\_\_ date fees paid \_\_\_\_\_ received by \_\_\_\_\_

Official submission receipt date \_\_\_\_\_

Received by \_\_\_\_\_

\_\_\_\_\_ Municipality

STORMWATER MANAGEMENT

**Drainage Plan  
Proposed Schedule Of Fees**

Subdivision name Proposed Popeye's Restaurant Submittal No. \_\_\_\_\_

Owner Mt. Pocono, LLC Date 5/4/22

Engineer Rhett Chiliberti (Agent of Mt. Pocono, LLC)

1. Filing fee	\$ <u>TBD</u>
2. Land use	
2a. Subdivision, campgrounds, mobile home parks, and multi-family dwelling where the units are located in the same local watershed.	\$ <u>N/A</u>
2b. Multi-family dwelling where the designated open space is located in a different local watershed from the proposed units.	\$ <u>N/A</u>
2c. Commercial/industrial.	\$ <u>TBD</u>
3. Relative amount of earth disturbance	
3a. Residential	
road <500 l.f.	\$ <u>N/A</u>
road 500-2,640 l.f.	\$ <u>N/A</u>
road >2,640 l.f.	\$ <u>N/A</u>
3b. Commercial/industrial and other	
impervious area <3,500 s.f.	\$ <u>N/A</u>
impervious area 3,500-43,460 s.f.	\$ <u>TBD</u>
impervious area >43,560 s.f.	\$ <u>N/A</u>
4. Relative size of project	
4a. Total tract area	
<1 ac	\$ <u>TBD</u>
1-5 ac	\$ <u>N/A</u>
5-25 ac	
25-100 ac	\$ <u>N/A</u>
100-200 ac	\$ <u>N/A</u>
>200 ac	\$ <u>N/A</u>
5. Stormwater control measures	
5a. Detention basins & other controls which require a review of hydraulic routings (\$ per control).	\$ <u>N/A</u>
5b. Other control facilities which require storage volume calculations but no hydraulic routings. (\$ per control)	\$ <u>TBD</u>
6. Site inspection (\$ per inspection)	\$ <u>TBD</u>
Total	\$ <u>TBD</u>

All subsequent reviews shall be 1/4 the amount of the initial review fee unless a new application is required as per Section 406 of the stormwater ordinance. A new fee shall be submitted with each revision in accordance with this schedule.

STORMWATER MANAGEMENT

179 Attachment 6

Borough of Mount Pocono

APPENDIX F

CONSUMPTIVE USE TRACKING

Consumptive Use Tracking Report

RECEIVED

MAY 09 2022

MT. POCONO BOROUGH

PROJECT NAME: Proposed Popeye's MUNICIPALITY: Mount Pocono Borough

Type of Project: Residential [ ] Commercial [x] Institutional [ ]
Recreational/Seasonal [ ] Industrial [ ]

1. In which watershed is this project located? If more than one, identify the percentage of the project in each watershed. (See Figure x.x.)

- [ ] Appenzell
[ ] Brodhead - above Paradise
[x] Brodhead - below Paradise
[ ] Marshalls
[ ] McMichael
[ ] Paradise
[ ] Pocono

2. Water Source

[ ] On-Site Well [x] Central (source watershed: PAWC)
(utility company: PAWC)

3. Sewage Disposal

[N/A] Land Disposal [N/A] Stream Discharge

4. Stormwater

[ 2,579 cubic feet - 2,703 cubic feet ] / 1.6728 = -124 gallons/day
(Required Infiltration)\* (Proposed Infiltration) (Net Stormwater)

5. Water Use (Industrial projects must use project-specific data, not App. J or Table x.x.)

A. 31 (# of Units Proposed) x 109 gallons/unit/day = 3,379 gallons/day
(Value from App. J) (Gross Water Use)

B. 3,379 gallons/day x 0 (Table x.x Multiplier) = 0 gallons/day
(Gross Water Use) (Water Use)

6. Consumptive Use

-124 gallons/day + 0 gallons/day = -124 gallons/day
(Stormwater) (Water Use) (Consumptive Use)

\*Calculated per Section 304

MOUNT POCONO CODE

7. Example

10-Lot Subdivision with On-Site Wells and Central Sewage

Stormwater: -420 gal/day (calculated per Section 304)

Water Use: 10 units x 190 gal/unit/day = 1900 gal/day  
 1900 gal/day x 1.00 = 1900 gal/day

Consumptive Use: -420 gal/day + 1900 gal/day = 1480 gal/day

\*\*\*\*\*

Table x.x. Multipliers for Water Use Calculation (*Do not use for industrial projects.*)

		Central Out of Watershed	Central Within Watershed	On-Site Well
Sewage Disposal	Land Disposal	0	0.14	0.14
	Stream Discharge	0	1.00	1.00

Water Source

NOTES: A multiplier of 0 will result in a debit to the source watershed *by the reviewing entity*. A multiplier of 0.14, derived from the Pocono Creek Goal-Based Watershed Management Project, is designed to protect aquatic habitat during summer low flows. A multiplier of 1.00 assumes that water is not available to sustain aquatic base flows.

STORMWATER MANAGEMENT

WATER USE FOR CONSUMPTIVE USE TRACKING		
TYPE OF ESTABLISHMENT	UNIT	GALLONS/UNIT/DAY
<b>Residential</b>		
Hotels and motels	Room	100
Multiple family dwellings and apartments, including townhouses, duplexes and condominiums	Unit	400
Rooming houses	Room	200
Residential Subdivisions (On-Lot Sewage)	Single family residences	400*
+Residential Subdivisions (Central Sewage)	Single family residences	190
*For units of 3 bedrooms or less; for each bedroom	over 3, add 100 gallons	
<b>Commercial</b>		
Airline catering	Meal served	3
Airports - not including food	Passenger	5
Airports	Employee	10
>Barber shops	Chair	54.6
One licensed operator beauty shops	Station	200
>Bowling alleys	Alley	133
Bus service areas - not including food	Patron and employee	5
>Bus/rail depots	Square foot	3.33
>Car washes	Inside square foot	4.78
Country clubs - not including food	Patron and employee	30
>Drive-in restaurants	Car stall	109
Drive-in theaters - not including food	Space	10
Factories and plants exclusive of industrial wastes	Employee	35
Laundries, self-service	Washer	400
>Laundries, non self-service	Square foot	0.25
>Medical Offices	Square foot	0.62
Mobile home parks, independent	Space	400
Movie theaters - not including food	Auditorium seat	5
>Night clubs	Person served	1.33
>Office buildings	Square foot	0.19
Offices	Employee	10
Restaurants (toilet and kitchen wastes)	Patron	10
Restaurants (additional for bars and cocktail lounges)	Patron	2
Restaurants (kitchen and toilet wastes, single-service utensils)	Person	8.5
Restaurants (kitchen waste only, single-service utensils)	Patron	3
>Service stations	Inside square foot	3.33
Stores	Public toilet	400
Warehouses	Employee	35



MOUNT POCONO CODE

Work or construction camps (semipermanent) with flush Toilets	Employee	50
Work or construction camps (semipermanent) w/o flush Toilets	Employee	35
<b>TYPE OF ESTABLISHMENT</b>	<b>UNIT</b>	<b>GALLONS/UNIT/DAY</b>
<b>Institutional</b>		
Churches	Seat	3
Churches (additional kitchen waste)	Meal served	3
Churches (additional with paper service)	Meal served	1.5
Hospitals, with laundry	Bed space	300
Hospitals, without laundry	Bed space	220
Institutional food service	Meal	20
Institutions other than hospitals	Bed space	125
Schools, boarding	Resident	100
Schools, day (without cafeterias, gyms or showers)	Student & employee	15
Schools, day (with cafeterias, but no gyms or showers)	Student & employee	20
Schools, day (with cafeterias, gym and showers)	Student & employee	25
>YMCA/YWCA	Person	33.3
<b>Recreational and Seasonal</b>		
Camps, day (no meals served)	Person	10
Camps, hunting and summer residential (night and day) with limited plumbing including water-carried toilet wastes	Person	50
Campgrounds with individual sewer and water hookup	Space	100
Campgrounds with water hookup only and/or central comfort	Space	50
Station which includes water-carried toilet wastes		
Fairgrounds and parks, picnic - with bathhouses, showers and flush toilets	Person	15
Fairgrounds and parks, picnic - toilet wastes only	Person	5
Swimming pools and bathhouses	Person	10

NOTE: If type of establishment proposed is not listed or if more project specific values are available, supporting documentation must be provided.

SOURCE: PA Title 25§73.17. Sewage flows, unless otherwise indicated

> Crews, James E. and MaryAnn Miller, 1983. Forecasting Municipal and Industrial Water Use.

IWR Research Report 83R-3. U.S. Army Corps of Engineers, Fort Belvoir, Virginia.

+ Watershed Protection Advisory Committee Meeting #3 held at Monroe County Public Safety Center  
May 16, 2003.



## Mount Pocono Borough

Tel 570-839-8436  
Fax 570-839-0981

1361 Pocono Blvd., Suite 100  
Mount Pocono, PA 18344

[www.mountpocono-pa.gov](http://www.mountpocono-pa.gov)

March 10, 2022

MT. POCONO, LLC  
234 CLOSTER DOCK RD  
CLOSTER, NJ 07624

### VIA EMAIL & REGULAR MAIL

RE: CERTIFICATE OF NON-CONFORMANCE  
3236 ROUTE 940 (MT. POCONO PLAZA)  
PIN # 10635510468727C1

RECEIVED  
MAY 09 2022  
MT. POCONO BOROUGH

Dear Applicant,

In response to your application for Non-Conformance, received by the Borough on October 6, 2021, and supplemental response from your attorney, Mr. Marc Wolfe of Newman Williams, P.C. dated December 17, 2021, enclosed is my final determination on the matter.

Your original application requested Non-Conformance Consideration for the following items:

- 1) Impervious Coverage Allowance
- 2) Front Yard Buffer (Parking)
- 3) Drive-thru Restaurant

The assertion made by your attorney as part of your application is that the above-referenced items were "grandfathered" with the Borough's approval of the 1989 Site Plan for the Mt. Pocono Plaza Shopping Center, prepared by RKR Hess. Supplemental information, which included case law pertaining to abandonment of development rights, was provided by your attorney to address discussions and comments leading up to and immediately following the November Planning Commission meeting.

Based on the supplemental information provided within the December 17<sup>th</sup> letter and my investigation of available Borough files, I concur that there is no documentation that suggests that the owner/developer ever expressly or overtly abandoned their right to develop the property consistent with the approved plan. Furthermore, I concur that there is no documentation that supports that the Borough contacted the owner with respect to intent to abandon.

Since the approved plan included a call out for "Future Development-Lot #4" in the area you wish to proceed with developing, and presuming that the developed area will remain an integral part of the shopping center as stated in your application, the proposed fast-food restaurant w/ drive thru (aka Popeyes) can be considered a

continuation of the intent to develop the parcel to the full build-out condition consistent with the approved plan.

With regard to Item 1) Impervious Coverage- the specified amount for the entire Shopping Center per the approved plan is 679,453 SF impervious surface which equates to approximately 79.7%. The proposed coverage of 79.3%, does not increase the non-conformity and therefore is acceptable.

With regard to Item 2) Front Yard Buffer- the front yard parking buffer as established per the approved plan is 3 feet (on the north side of premises). The proposed buffer of 5 feet decreases the existing non-conformity, and therefore is acceptable.

With regard to Item 3) Drive-thru restaurant- Though the building footprint shown on the approved plan could be a restaurant use, neither the 1989 Site Plan, nor my investigation of subsequent revisions ever specifically addressed the matter of Drive-thru use for this particular area of "Future Development-Lot #4". It is my determination that your request for non-conformity for this item be denied. You will need to proceed with seeking Special Exception approval through the Borough Zoning Hearing Board. Separate application must be made on this matter.

Attached is the certification for the two items granted Non-Conformance protection. If you have any questions or concerns, please do not hesitate to contact me at (570) 839-8436 ext. 303 or via email at [zo@mountpocono-pa.gov](mailto:zo@mountpocono-pa.gov).

Sincerely,



Alexis Wilkinson  
Zoning Officer

Cc: Joshua Walker, Borough Manager (email), Marc Wolfe, Newman Williams (email), and file



# Mount Pocono Borough

1361 Pocono Blvd. Suite 100, Mt Pocono, PA 18344  
Ph: (570)839-9238 Fax: (570)839-0981

**2022NC01**

## ZONING PERMIT NON-CONFORMANCE CERTIFICATE NON-CONFORMING (LOT)- 3236 ROUTE (940)

MT. POCONO, LLC. APPLIED AND IS GRANTED NON-CONFORMANCE CERTIFICATION FOR IMPERVIOUS COVERAGE AND FRONT YARD PARKING BUFFER IN ACCORDANCE WITH THE APPROVED 1989 SITE PLAN, PREPARED BY RKR HESS. APPLICANT IS PURSUING COMPLETION OF "FUTURE PHASES" AS ANTICIPATED IN APPROVED PLAN. NO INCREASE TO NON-CONFORMITY IS PROPOSED.

<b>Location:</b>	<b>Individual Lot</b>	<b>Section:</b>	<b>Block:</b>	<b>Lot:</b>
	3236 ROUTE 940		PIN: 10635510468727C1	
	MT POCONO, PA 18344		Account: 10.13.2.2-1C	Zone: C-2
<b>Issued To:</b>	<b>MT POCONO LLC</b>			
<b>Issued On:</b>	<b>3/10/2022</b>	<b>Expires On:</b>		

### In Accordance With Ordinance Of Mount Pocono Borough

CERTIFICATE OF OCCUPANCY REQUIRED BEFORE OCCUPYING PREMISES  
Approval of all Federal, State & Local regulations having jurisdiction required.  
Copy of Final Approval of Septic System Issued by SEO required prior to applying for C of O (Where Applicable).  
Copy of Final Approval by the Mt Pocono Municipal Authority required prior to applying for C of O (Where Applicable).

\_\_\_\_\_  
Alexis Wilkinson, Zoning/Code Enforcement

**THIS MUST BE CONSPICUOUSLY DISPLAYED AT WORK SITE**



# Mount Pocono Borough

1361 Pocono Blvd. Suite 100, Mt Pocono, PA 18344  
Ph: (570)839-9238 Fax: (570)839-0981

## ZONING PERMIT

## NON-CONFORMANCE CERTIFICATE

Permit No.: 2022NC01  
Issue Date: 3/10/2022

Occupancy:   
Expire Date:

Purpose:   
Description: **NON-CONFORMING (LOT)- 3236 ROUTE (940)**  
MT. POCONO, LLC. APPLIED AND IS GRANTED NON-CONFORMANCE CERTIFICATION FOR IMPERVIOUS COVERAGE AND FRONT YARD PARKING BUFFER IN ACCORDANCE WITH THE APPROVED 1989 SITE PLAN, PREPARED BY RKR HESS. APPLICANT IS PURSUING COMPLETION OF "FUTURE PHASES" AS ANTICIPATED IN APPROVED PLAN. NO INCREASE TO NON-CONFORMITY IS PROPOSED.

Dwelling Units:

Est. Building Cost: \$0.00  
Improv. Fair Market Value: \$0.00

Type	Sub-Type	Date	Fee
Zoning Permit	zoning Permit	3/10/2022	\$120.00
Total Fees:			\$120.00

Parcel ID: 10635510468727C1  
Subdivision: Individual Lot  
Section:   
Lot:   
Address: 3236 ROUTE 940  
MT POCONO, PA 18344  
Applicant: MT POCONO LLC

Account: 10.13.2.2-1C  
Deed Owner: MT POCONO LLC  
Architect:   
Contractor:

## Edward Doyle

---

**From:** Logan Evans <logan@mtnlandscaping.com>  
**Sent:** Tuesday, April 05, 2022 11:00 AM  
**To:** Allyson Fuller  
**Cc:** Rhett Chiliberti; Edward Doyle; Dan Luddeni; Joshua Walker  
**Subject:** Re: Harbor Freight and Mt. Pocono Popeye's Fire Department Submission

This message originated from outside your organization

---

Allyson,

Popeye's is tight but that's typical. As far as Harbor Freight our concern is in the back. In the future ladder truck widths on a plan that don't factor the width with the outriggers deployed don't paint an accurate picture. Regardless of that even a non ladder truck without outriggers setup for a fire will likely prevent any other emergency vehicles from passing. Additionally my guess is if a delivery truck were at the dock and another one were waiting to get into the dock we would not be able to pass. My biggest concern is the loading dock for a future tenant. There is no chance that someone is going to parallel park a tractor plus a 53' trailer in the space shown on the plan. At best they'll get the trailer in there which means the truck will be in the road potentially blocking it. We're not in a position to tell you what you can or can't do but in the interest of public safety and preservation of property we must at least be on record stating the width and layout across the back is less than ideal.

Logan R. Evans, Chief  
PMVFC

Sent from my iPhone

RECEIVED  
MAY 09 2022  
MT. POCONO BOROUGH

On Apr 5, 2022, at 10:36 AM, Allyson Fuller <allyson.fuller@colliersengineering.com> wrote:

Hi Logan,

I hope all is well.

Following up on the voicemail I left regarding our submissions for Harbor Freight and Mt. Pocono Popeye's. Is there an estimated review time for these submissions?

Thank you,

Allyson

**Allyson Fuller**

Senior Administrative Assistant  
Philadelphia, Pennsylvania



# Mount Pocono Borough

---

Tel 570-839-8436  
Fax 570-839-0981

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## MEMO

RECEIVED  
MAY 09 2022  
MT. POCONO BOROUGH

**Date:** April 27, 2022

**To:** Pablo Medeiros (Heidenberg Properties) **VIA EMAIL & REGULAR MAIL**

**From:** Alexis Wilkinson, Mt. Pocono Zoning / Codes Enforcement *AW*

**RE:** Special Exception Decision (Mt. Pocono Plaza-Popeyes)- Drive-thru Stand

Please be advised that the Mount Pocono Borough Zoning Hearing Board closed the hearing for the above matter on April 26, 2022. Enclosed please find an executed copy of their Decision.

If you have any questions or require further information, please do not hesitate to contact me @ (570)839-8436 ext.303

Encl: ZHB Decision (4/26/22)

Cc: Joshua Walker, Borough Manager (email), Michael Gazza, ZHB Solicitor, and file

**The Zoning Hearing Board of the Borough of Mount Pocono  
Municipal Building  
Mount Pocono, Pennsylvania**

**In RE:** Application for a Special Exception by Mt. Pocono LLC under the Borough Zoning Code as follows: Section 215-16 to permit a Drive Through Stand.

**DECISION**

**FINDINGS OF FACT**

1. The applicant is Owner of the property bearing tax ID 10/13/2/2-1C, PIN 10635510468727, located at Pocono Summit Road, Route 940, Mount Pocono, Pennsylvania in the C-2 Zoning District (“Subject Property”) per applicant’s submitted plan.
2. Applicant’s application form was received by the Borough on February 23, 2022.
3. Public Notice of the hearing was advertised in the Pocono Record on March 14<sup>th</sup> and March 21<sup>st</sup> 2022 and the property was posted with a timely Notice.
4. The adjoining owners of the subject property were notified by certified mail.
5. No objectors appeared at the hearing.
6. The applicant seeks a Special Exception under the Borough Zoning Ordinance for the benefit of Popeyes restaurant to construct and operate a “Drive Through Stand”.
7. The Board received no comments from the Borough Planning Commission for the application for Special Exception under Ordinance 215-16 and therefore proceeded with a hearing under Borough Ordinance 215-111 C (2) d (2).
8. Applicant’s counsel recited the procedural history of the Development Plan and provided a description of the relief requested.
9. Applicant’s counsel recited that the restaurant portion of the structure was “by-right” under the ordinance and was subject to land development review by the borough planning commission and Borough Council.
10. The applicant demonstrated compliance with the standards and criteria outlined in section 215-111 of the ordinance.

**CONCLUSIONS OF LAW**

The Board finds that the Special Exception relief requested is permitted where the applicant has demonstrated compliance with the standards and criteria outlined in section 215-111 of the zoning ordinance.

The Board finds that the proposed use is in harmony with the purposes, goals and objectives and standards of the Borough Comprehensive plan and all other ordinances of the Borough. The Board finds that the proposed use is suitable in terms of the physical characteristics of the site. The proposed use will not result in substantial or undue adverse effects on adjacent property, the character of the neighborhood, traffic conditions, parking or other matters affecting the health, safety or general welfare. The proposed use will not impose an undue burden on any of the improvements, facilities, utilities and services of the Borough.



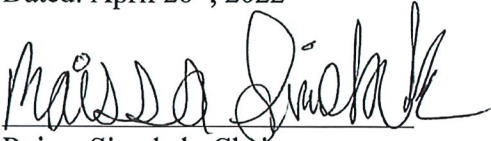
The requested relief is hereby granted and the applicant shall be permitted to install and operate a Drive Through Stand as depicted on the submitted plan.

### DISCUSSION

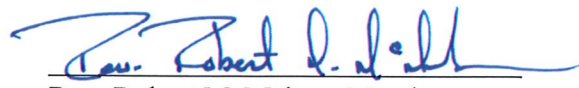
#### Criteria for Granting a Special Exception

The Mount Pocono zoning ordinance does not prescribe particular criteria for granting of a special exception for a Drive Through Stand, therefore the Board must base its analysis and decision on the standards and criteria for Special Exceptions outlined in Section 215-111 of the ordinance.

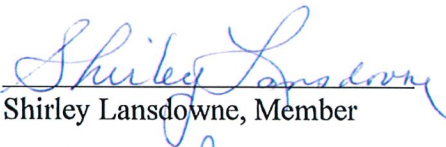
Dated: April 26<sup>th</sup>, 2022



Raissa Simchak, Chairperson



Rev. Robert McMahon, Member



Shirley Lansdowne, Member



Witnessed by

Michael V. Gazza, Solicitor