

RESOLUTION NO. 2022-07

**NEW BRITAIN TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF NEW BRITAIN TOWNSHIP GRANTING PRELIMINARY/FINAL LAND DEVELOPMENT APPROVAL TO BUTLER PIKE PROPERTIES, LP, FOR THE LAND DEVELOPMENT PLANS FOR BUTLER PIKE PROPERTIES, LP, PREPARED BY HOLMES CUNNINGHAM, LLC, DATED NOVEMBER 30, 2021, CONSISTING OF 21 SHEETS, WHICH PROPOSE THE CONSTRUCTION OF TWO BUILDINGS FOR RESIDENTIAL AND COMMERCIAL PURPOSES.

WHEREAS, Butler Pike Properties, L.P. (the “Applicant”) has submitted an application for preliminary/final plan land development approval of a mixed-use land development that proposes the construction of two (2) buildings on a vacant lot (the “Project”), consisting of 7.27 acres, located on West Butler Avenue and denoted as Bucks County Tax Map Parcel #26-005-023 (the “Property”); and

WHEREAS, the proposal is reflected on a plan entitled “Land Development Application for Butler Pike Properties, LP”, prepared by Holmes Cunningham, LLC, dated November 30, 2021, consisting of 21 sheets (the “Plan”); and

WHEREAS, the New Britain Township Planning Commission reviewed the Plan at its February 22, 2022, meeting, and found the Plan to be in substantial compliance with the provisions of the Settlement Stipulation and Agreement approved by the Honorable Wallace H. Bateman, Jr., President Judge of the Court of Common Pleas of Bucks County, at Docket No. 2021-00629, on October 21, 2021.

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED, that the Board of Supervisors of New Britain Township hereby grants preliminary/final plan approval to the Project subject to Applicant’s compliance with the following conditions:

1. Applicant shall comply with all recommendations of the Gilmore and Associates Review Letter dated January 19, 2022, unless herein modified. A true and correct copy of this letter is attached hereto and incorporated herein as Exhibit “A.” (Township Code §22-403, §22-502)
2. Applicant shall comply with all recommendations of the Bucks County Planning Commission Review Letter dated January 18, 2022, except with regard to comment number 3. A true and correct copy of this letter is attached hereto and incorporated herein as Exhibit “B.” (Township Code §22-403, §22-502)

3. Applicant shall comply with all recommendations of the New Britain Township Fire Marshal review letter dated January 11, 2022, unless herein modified. A true and correct copy of this letter is attached hereto and incorporated herein as Exhibit "C." (Township Code §22-403, §22-502)
4. Applicant shall comply with the Settlement Stipulation and Agreement noted previously in this Resolution, which was approved by Order of Judge Wallach H. Bateman, Jr., President Judge, on October 21, 2021. A true and correct copy of the Settlement Stipulation and Agreement is attached hereto and incorporated herein as Exhibit "D."
5. If applicable, Applicant shall provide natural resource protection easements across the Property in accordance with the Township Zoning Ordinance. (Township Code §27-502.3, §27-505 & §27-2401.c)
6. Applicant shall construct all public improvements shown on the Plan at its sole cost and expense, including but not limited to, water and sewer facilities, stormwater facilities, street trees, roadway widening, installation of curbs and sidewalks, and roadway milling and overlay; or to the extent said improvements are referenced in the Settlement Stipulation and Agreement referenced previously.
7. Although noted in the Settlement Stipulation and Agreement, Applicant shall contribute to the Township the sum of \$185,000.00 as a fee in lieu of the required park and recreation improvements, with the understanding that (a) fifty percent (50%) of the total sum or \$92,500.00 shall be payable upon recording the final land development Plan; and (b) the balance of \$92,500.00 shall be payable upon issuance of the first occupancy permit for either building on the property. (Township Code §22-715)
8. Applicant shall execute the required Stormwater Maintenance Agreement in a form approved by the Township Solicitor. Applicant shall pay the required stormwater fee of \$1,522.50 (\$2.50 per linear foot of existing and proposed roads within the development) contemporaneously with execution of Development Agreements. (Township Code §22-712.13, §§26-151 - 164; Township Fee Resolution No. 2021-3)
9. Applicant shall pay the Stormwater BMP Maintenance Guarantee fee applied to all proposed BMPs installed within the Township for the timely installation, proper construction, and continued maintenance of such facilities by the owner of the subject property. The fee is 5% of the construction costs of all the BMPs proposed as a part of the Project, with a minimum fee of \$100.00, but not to exceed \$10,000.00. This fee will be determined by the Township Engineer once Applicant's Opinion of Probable Cost is reviewed and approved by the Township Engineer. (Township Code §22-712.13, §§26-151 - 164; Township Fee Resolution No. 2021-3)

10. Applicant shall obtain all required approvals from various agencies having jurisdiction over the Project, including, but not limited to: Pennsylvania Department of Environmental Protection (“DEP”) NPDES Permit, DEP Sewage Facilities Planning Module, Bucks County Health Department, Bucks County Conservation District E & S Permit, and Pennsylvania Department of Transportation Highway Occupancy Permit. (Township Code §22-406.1, §22-711, §22-720, §22-721, §22-905)
11. Prior to recording of Final Plans, if applicable, Applicant shall submit any condominium documents in a form approved by the Township Solicitor. (Township Code §22-406.1, §27-2703)
12. Applicant shall submit to the Township Engineer for review all necessary legal descriptions and construction cost estimates of the site improvements. (Township Code §22-406.1, §22-903, §22-904)
13. Applicant shall execute Development and Financial Security Agreements and all other development documents (including all necessary guarantees, agreements, easements, deeds, and declarations), all in a form and manner to be approved by the Township Solicitor; Applicant shall post sufficient financial security in a form acceptable to the Township; Applicant shall provide proof of sufficient insurance coverage to the Township. (Township Code §22-406.1)
14. Applicant shall execute all deeds of dedication, legal descriptions of rights-of-way, access easement descriptions, lot descriptions, notes, etc., all in a form and manner to be approved by the Township Solicitor. Descriptions for those areas of land specified on the Plans for dedication to the Township shall be submitted to the Township Engineer in a form suitable to the Engineer. These deeds shall be accompanied by title insurance to the benefit of the Township indicating that title to these areas is free and clear of all liens, encumbrances and restrictions that could adversely affect the use of these dedicated for roadways and other proper purposes. (Township Code §22-406.1)
15. Applicant shall pay all appropriate fees applicable to this Project including all outstanding bills from the Township’s professional consultants. (Township Code §22-406.1)
16. All documentation shall be executed prior to recording of Record Plans. (Township Code §22-406)
17. Applicant and its professionals shall execute, notarize, and seal the Final Record Plan. (Township Code §22-406.2)
18. Applicant shall comply with all other applicable Township, County, State, and Federal rules, regulations, codes, ordinances, and statutes, except to the extent any

Township rules, regulations, codes, or ordinances are modified in accordance with the terms of the Settlement Stipulation and Agreement. (Township Code §22-905)

20. Plans and project shall be ADA compliant.
21. A screen shall be constructed as an evergreen screen planted between the rear of the Property and the adjoining residential properties, which said evergreen screen shall be subject to the approval of the Township Engineer.
22. Applicant shall provide a Plan showing the off-site stormwater improvements proposed to be constructed by the Applicant, which shall meet the approval of the Township Engineer.
23. No trees shall be removed to facilitate construction of the trail to the rear of the property behind the parking lot, unless otherwise approved by the Township Engineer.
24. If the Township receives any complaints regarding lighting or sound after construction is completed, the Applicant shall adjust any lighting or buffering as recommended by the Township Engineer.

BE IT FURTHER RESOLVED, in response to Applicant's written request, the Board of Supervisors hereby grants waivers to the following sections of Chapter 22 of the Township Code (Subdivision and Land Development). The grant of these waivers is conditioned upon the Applicant meeting the following requirements, where noted:

- a. Section 22-202 – From providing a Community Impact Assessment Report.
- b. Section 22-705.3 – From undertaking roadway widening and associated improvements along the Butler Avenue frontage, subject to such improvements as may be required under the jurisdiction of the Pennsylvania Department of Transportation.
- c. Section 22-713.5.B(6) – From providing berm and screen plantings for a B7 Apartment Use, as to the Butler Avenue frontage only.
- d. Section 22-715 – From providing park and recreation land.
- e. Section 22-722 – From compliance with the Butler Avenue Overlay requirements other than those specifically required in paragraph 9 of the Settlement Stipulation and Agreement, or as shown on the Settlement Plan attached as Exhibit "A" to the Settlement Stipulation and Agreement.
- f. Section 22-711.4(c) – To permit grading within five (5) feet of the property line.

BE IT FURTHER RESOLVED, that Applicant shall make the following off-site improvements:

- a. Installation of a variable width (4 to 5 foot) sidewalk in compliance with Township and PennDOT standards along the frontage of Butler Avenue from the northern property line of the Property to the connection with existing sidewalk, including requisite ADA compliant ramps, generally as depicted on the Settlement Plan attached as Exhibit “A” to the Settlement Stipulation and Agreement.
- b. Installation of a variable width (4 to 5 foot) sidewalk in compliance with Township and PennDOT standards along the frontage of Butler Avenue from the southern property line of the Property to the connection with existing sidewalk, including requisite ADA compliant ramps, generally as depicted on the Settlement Plan attached as Exhibit “A” to the Settlement Stipulation and Agreement.

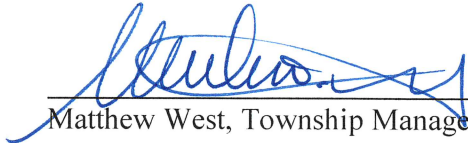
BE IT FINALLY RESOLVED, that the conditions of approval have been made known to Applicant, and this preliminary/final plan approval is to be deemed expressly contingent upon Applicant’s affirmative written acceptance of the said conditions on a form prescribed by the Township within 30 days of the approval of this Resolution. If an unconditional acceptance of the conditions is not received in writing by that date, the application for preliminary/final plan approval shall be deemed denied based upon Applicant’s failure to agree to and/or fulfill the said conditions.

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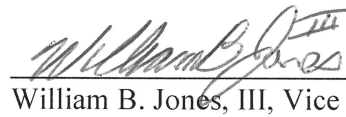
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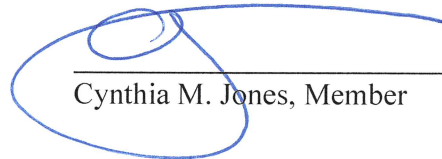
DULY ADOPTED this 2nd day of March, 2022, by the Board of Supervisors of New Britain Township, in lawful session duly assembled.

ATTEST:


Matthew West, Township Manager


Gregory T. Hood, Chairman


William B. Jones, III, Vice Chairman


Cynthia M. Jones, Member

MaryBeth McCabe, Esquire, Member

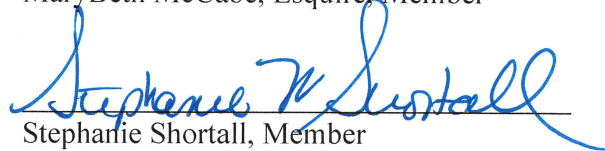

Stephanie Shortall, Member

EXHIBIT "A"



GILMORE & ASSOCIATES, INC.
ENGINEERING & CONSULTING SERVICES

January 19, 2022

File No. 19-04109

Matthew West, Township Manager
New Britain Township
207 Park Avenue
Chalfont, PA 18914

Reference: County Builders, Inc. - Preliminary LD Plan Review 1
West Butler Avenue
TMP # 26-005-023

Dear Matt:

Pursuant to your request, Gilmore & Associates, Inc. has reviewed the Preliminary Plan for the above-referenced project. Upon review by our office, we offer the following comments for consideration:

I. Submission

- A. Preliminary and Final Land Development Plans for Butler Avenue Property, as prepared by Holmes Cunningham, LLC, consisting of twenty-one (21) Sheets, dated November 30, 2021.
- B. Post Construction Stormwater Management Plan Narrative for Butler Avenue Property, as prepared by Holmes Cunningham, LLC, dated November 30, 2021.
- C. Traffic Impact Assessment for Proposed Mixed Use Development – Butler Avenue, as prepared by Heinrich & Klein Associates, Inc. dated November 29, 2021.
- D. New Britain Township Subdivision & Land Development Application dated December 7, 2021.
- E. Sewage Facilities Planning Module Mailer for Butler Avenue Mixed Use.

II. Reference Documentation

- A. Settlement Stipulation and Agreement between New Briatin Township Board of Supervisors and Butler Pike Properties, L.P., Land Use Appeal Docket No. 2021-00629 dated October 7, 2021.

III. General Information

The subject property, TMP #26-005-023, is a 7.27-acre parcel on the 400 block of West Butler Avenue (S.R.4202) within the Township's C-1 Commercial District and Butler Avenue Corridor Overlay District. The wooded lot is situated adjacent to C-1-zoned parcels to the north (Spatolas/Mavis Tire), RR/PRD-1 to the east (Highlands/Grey Friar), OP/SA-3 to the south (Chalfont Motor Lodge) and RR to the west (Cedar Hill single-famiy detached dwellings). The Applicant proposes I1 Medical Office, a By-Right Use, and B7 Apartment Use, which is not a permitted use within the C1 District. Related improvements include public water and sewer, 247 parking spaces, public green, fence with masonry piers and site trail. Stormwater management is proposed to be addressed with a Managed Release Concept basin at the rear of the property.

New Britain Township Board of Supervisors and Butler Pike Properties L.P. entered into a Settlement Stipulation and Agreement on October 7, 2021 which permitted the Apartment Use and included several variances and waivers.

65 East Butler Avenue | Suite 100 | New Britain, PA 18901 | Phone: 215-345-4330 | Fax: 215-345-8606

III. Review Comments

A. Stipulated Agreement

The Stipulated Agreement was based on the "Butler Avenue Property Settlement Plan, sheet CP-6", prepared by Holmes Cunningham Engineering, Inc, dated August 1, 2019, last revised, June 24, 2021 ("Settlement Plan"). Per #3 of the Stipulated Agreement, the Settlement Plan shall be deemed compliant with the Zoning Ordinance and the variances granted by the Zoning Hearing Board were confirmed and/or modified generally as follows:

- §27-300.a. – To permit more than one principal use and more than one principal structure.
- §27-3005.b.B7 - To permit the B7 Apartment Use to be developed on the Property.
- §27-1201. – To permit the B7 Apartment Use and the D1 Nursery School/Day-Care Center Use in the C-1 Commercial Zoning District.
- §27-2400.f.2. – To permit disturbance of up to 70% of woodlands on the Property with associated planting of replacement trees for disturbance beyond 60%.
- §27-2904.g.5 – To permit the paved area adjacent to the proposed buildings to be ten (10) feet from the abutting exterior walls.

We offer the following comments below related to the Stipulated agreement and Settlement Plan where the numbers referenced are as noted within the filed Stipulated Agreement:

1. Stipulated Agreement #5 – The Property Owner shall be entitled to land development approval for the residential and commercial development of the Property for the apartment and commercial use(s) upon the filing of a land development plan in substantial conformity with the "Settlement Plan". We note the following deviations from the "Settlement Plan":
 - a. Building B is shown as 11,500 SF on the Preliminary Plan as compared to the 8,000-SF building on the Settlement Plan. We note that the parking layout has been revised from the Settlement Plan to eliminate 10 spaces along the rear of Building B, as well as 2 spaces along the main access driveway. This results in 19 of the 66 parking spaces required for Building B being provided on the opposite side of the main access driveway.
 - b. The Stipulation #8 allows for additional commercial uses on the ground floor of the Apartment building, though no commercial uses appear to be proposed in Building A. Although not required, the BCPC recommends the applicant explore some amount of commercial spaces on the ground floor of Building A to create a more characteristic mixed-use-type development.
 - c. Based on the Apartment and Medical Office uses proposed, 206 spaces are required. The total number of parking spaces was reduced from 263 on the Settlement Plan to 247 spaces. The layout shall be revised to provide the number of parking spaces as depicted on the Settlement Plan.
 - d. The asphalt trail has been adjusted at the rear of the property through the woodlands and around the proposed stormwater facility.
 - e. The sidewalk adjacent to the two buildings were shown as 10 feet wide on the Settlement Plan, where now a 5-foot walkway is proposed. However, where parking stalls are proposed adjacent to a sidewalk or walkway, the minimum width of the sidewalk or walkway shall be increased to a minimum width of six feet. (§22-708.2.F)
2. Stipulated Agreement #9.a. – The plans depict the Butler Avenue Corridor Overlay District (BACOD) fencing as required. A Construction Detail shall be provided in accordance with §22-722.4.D.(7)(a).

3. Stipulated Agreement #9.d. – The Property Owner identifies the Public Green at the Butler Avenue frontage. However, SALDO §22-722.4.G requires green spaces to contain shrubs and trees, public benches, and some type of public amenity, such as gardens, sculptures, gazebos, or fountains. While the proposed Public Green provides 9 shade trees (3 Red Maple, 3 Sugar Maple, and 3 Scarlet Oak per Sheet 18 of 21), shrubs, benches and an amenity shall be provided as approved by the Board of Supervisors (Board).
4. Stipulated Agreement #10.a. – The plans depict the installation of a 5-foot sidewalk along the frontage of Butler Avenue from the northern and southern property lines of the Property, generally as depicted on the Settlement Plan. The proposed sidewalk along Butler Avenue shall extend through TMP# 26-5-23.2 and connect to the existing sidewalk on TMP# 26-5-23.3 to complete the accessible route in accordance with the Stipulated Agreement including all requisite curb ramps and Streetprint crosswalks in accordance with Township and PennDOT standards.
5. Stipulated Agreement #11 – The proposed development shall meet the requirements of the PADEP and New Britain Township Stormwater Management Ordinance, to the satisfaction of the Township Engineer. Comments related to compliance with the Township Stormwater Management Ordinance are provided herein.
6. Stipulated Agreement #12 – The proposed development shall meet the buffer yard requirements of the Zoning Ordinance and Township SALDO. The location of the 45-foot buffer yard shall be shown and labeled on the Record Plan for the medical office, while a 30-foot buffer yard is required for B7 Apartment Buildings. At the discretion of the Board of Supervisors, existing deciduous and coniferous trees larger than 2 inches in caliper and/or 6 feet in height located within a proposed buffer yard may be considered to meet the requirements of this section. The Applicant shall present the existing buffer trees to the Board for approval and it shall be determined if supplemental plantings are required. Every buffer yard shall be permanently protected by the placement of a conservation easement over it running with the land. (§§27-2803.a & e)
7. Stipulated Agreement #13 – The Plans shall note the following granted waivers from the provisions of the New Britain Township SALDO:
 - a. §22-505 – From providing a Community Impact Assessment Report.
 - b. §22-705.3 – From undertaking roadway widening and associated improvements along the Butler Avenue frontage, subject to such improvements as may be required under the jurisdiction of PennDOT.
 - c. §22-713.5.B(6) – From providing berm and screen plantings for a B7 Apartment Use, as to the Butler Avenue frontage only.
 - d. §22-715 – From providing park and recreation land.
 - e. §22-722 – From compliance with the Butler Avenue Overlay requirements other than those specifically required under [the Agreement] or as shown on the Settlement Plan.
8. Stipulated Agreement #15 – Additional disturbance beyond 60%, up to a maximum of 70% of the woodlands on the Property, shall be permitted, provided that the planting of replacement trees is provided for the additional disturbed area beyond 60%. The Resource Protection Calculations on Sheet 4 of 21 indicate that 31.1% of the woodlands is being protected which equates to 68.9% disturbance. Therefore, 8.9% of woodlands requires 66 replacement trees based on 0.33 acres at 200 trees per acre. We note that the the woodlands disturbance area does not consider trees that were certified as dead by an arborist. In addition, there are individual trees within the front yard that do not appear to be considered woodlands. Finally, the calculation does not include disturbance required for the perimeter asphalt trail as it's noted to be field located to avoid tree disturbance. We recommend a site meeting to determine if the existing, living trees have a continuous canopy and if the trail can be installed without disturbing the woodlands required to be protected.

9. Stipulated Agreement #15.d. – The individual planting location and the specific species of each replacement tree shall be determined by the Township. The plans propose 34 Shade Trees and 32 Ornamental Trees for a total of 66 trees per Sheet 18 of 21. It shall be clarified which plantings are proposed to satisfy the tree replacement requirement and the Board shall approve the locations and species.
10. Stipulated Agreement #16 – The date of the Settlement Stipulation and conditions #3, #4, #6, #7, #8, #13 and #14 related to variances and waivers granted, approved zoning uses for Buildings A and B, and required fees which supercede the Township code, shall be noted on the plan.

B. Zoning Ordinance

We offer the following comments with respect to the New Britain Township Zoning Ordinance:

1. §27-201 – The ratio base site area is the area definition used to calculate the impervious and building areas for the site. It shall be clarified that the coverage calculations on Sheet 4 of 21 utilize the Ratio Base Site Area.
2. §27-1202.a – No use in the C-1 Commercial District shall exceed 35 feet in height, however, apartment buildings, Use B7, are permitted to be 40 feet. The proposed building heights and maximum permitted height shall be noted on the Record Plan, Sheet 4.
3. §27-1202.b – The front, side and rear yard setback lines shall be dimensioned and labeled on the Record Plan, Sheet 4. We note that apartment buildings have separate setback requirements for the B7 Use.
4. §27-2401.c – For subdivisions and land developments, deed restrictions meeting Township specifications must be placed in the deed for each site that has natural resource protection areas within its boundaries. The restrictions shall provide for the continuance of the resource protection areas. A natural resource easement shall be designated on the plan described by metes and bounds to protect the minimum 30% of existing woodlands to remain and an Agreement prepared by the Township Solicitor.
5. The Traffic Impact Assessment (TIA) states that there will be some increase in peak hour traffic delay due to the proposed uses, however, there will be no anticipated changes in levels of service to the noted intersections, with the exception of one Level of Service drop for Highland Drive. We offer the following comments related to the TIA:
 - a. §27-2501.a.1. – The TIA shall include the number of floors and a comprehensive description of the proposed Apartment building to verify that the correct land use was applied for the trip generation calculations.
 - b. §27-2501.a.6. – All roadways and/or intersections showing a level of service below C shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external roadway and intersection design and improvements and widenings, traffic signal installation and operation including signal timing, transit design improvements, and reduced intensities of use. All physical roadway improvements shall be shown in sketches. The recommended improvements for both roadways and transit shall include, for each improvement, the party responsible for the improvement, the cost and funding of the improvement and the completion date for the improvement.

- c. The TIA indicates turning lanes are warranted at the access driveway and two left-hand turning lanes are shown on the plans at the proposed entrance. A separate right deceleration lane is not noted to be warranted. In addition, the TIA indicates a two-way center left turn lane should be extended to the north and south of the "Low Volume Driveway". Given the other left-turn lanes in the vicinity, a center-turn lane should be considered and discussed with PennDOT from Schoolhouse Road to north of Cedar Hill Road. The HOP Plan shall be provided showing the extent of the proposed improvements as required by PennDOT, once determined.
 - d. We recommend the Applicant coordinate with Bucks County Transport regarding a designated Doylestown DART bus service stop at this development.
 - e. A Signage and Pavement Marking Plan along Butler Avenue indicating the calculated, proposed lane shift and taper lengths shall be provided. This may be deferred to the HOP phase, however, the proposed northbound striping approaching the access will need to be addressed.
6. §27-2600 – The location and details of any proposed signs for the medical office and apartment building shall be reviewed and approved by the Zoning Officer.
 7. §27-2901 – The Zoning Table shall be revised to list the number of required spaces for each use under the Required/Permitted column and the number of spaces proposed under the Proposed column.
 8. §27-2904.d.3 – Access driveways shall have a 6% maximum grade, except that the initial 20 feet from the edge of the cartway of a public street shall be a maximum of 3% grade. Based on the curb elevations on Sheet 7, it appears the initial 20 feet from the cartway may exceed 3%, while the remainder of the driveway has a slope of approximately 6.7 to 7.5%. The driveway grading shall be verified to clearly meet the minimum required driveway slopes.

C. Subdivision and Land Development Ordinance

We offer the following comments with respect to the current New Britain Township Subdivision and Land Development Ordinance:

1. §22-502.1.A.(3) – The property metes and bounds should be shown with a darker text for visibility on the Record Plan. In addition, the title line, legal and ultimate right-of-way lines, shall be clearly labeled on the Record Plan, as well as, the metes and bounds.
2. §22-502.1.A.(4) – Legal descriptions shall be submitted for the ultimate right-of-way to be dedicated to the Township (via easement), legal right-of-way to be dedicated to PennDOT, all defined easements such as biketrail and clear sight triangle easements, deed-restricted areas, such as open space or conservation easements, buffer yards, access easements, and offsite temporary construction easements. The plan shall include bearings and distances as necessary so the legal descriptions can be reviewed against the plan.
3. §22-502.1.B – A copy of the deed for the subject tract shall be submitted.
4. §22-502.1.B.(8) – The zoning classifications of the surrounding properties shall be noted on the Record Plan.
5. §22-502.1.B.(16) – Architectural sketches are encouraged to be submitted showing elevation, perspective, building materials and colors. We recommend the Applicant present renderings for the Board's review demonstrating architectural consistency between the materials, designs and styles used for the buildings, retaining walls, masonry piers/fencing, trash screens, etc.

6. §22-502.1.B.(20) – Plan notations regarding offers of dedication of public rights-of-way and improvements and plan notations for ownership and maintenance responsibilities of open space, public green, protected natural resources easements, stormwater management facilities, utilities, etc. shall be provided. The Record Plan shall include notations specifying the area between the title line and the legal to be dedicated to PennDOT and the area between the Legal and Ultimate right-of-way lines are to be dedicated to the Township.
7. §22-502.1.B.(21) – The recording certification shall be provided on the Record Plan for the Professional land surveyor.
8. §22-502.1.D.(10) – Contour lines measured at vertical intervals of two feet, as determined by an on-site field survey, not interpretation of United States Geologic Service (USGS) Maps, are required for the area within 100 feet of the tract. The plans shall indicate the benchmark elevation and the location and shall be based on the Chalfont-New Britain Township Joint Sewage Authority vertical datum. Additional topography shall be provided downstream of the level spreader, and as needed for any required emergency access or offsite improvements.
9. §22-502.1.I.(3) – Utility crossings for the water, sanitary sewer and storm pipe shall be shown on the profiles to verify adequate clearance between utility lines. Concrete encasements shall be provided as necessary.
10. §22-502.1.I.(4) – A centerline profile for the proposed access driveway shall be provided to the street intersection, showing elevations at ten-foot intervals, slope, ultimate right-way line and curb line and edge of pavement.
11. §22-502.1.J.(1) – The following comments related to the construction details shall be addressed:
 - a. The Trash Enclosure Detail shows the installation of the perimeter fence outside of the concrete pad. This would conflict with the adjacent parking spaces and curb. The detail shall be revised to clarify how the enclosure should be constructed in the proposed locations.
 - b. A detail shall be provided for the trash enclosure bollards, as applicable.
 - c. The plan includes a detail for a Vinyl Chain Link Fence. The plan shall clarify where this fence is proposed.
12. §22-704.2.A – Easements for single utility lines shall be a minimum of 20 feet. The Utility Plan shows the proposed sanitary sewer connection crossing through TMP# 26-5-23.2 to the existing manhole. In addition, the water line extends through TMP# 26-5-24 where it connects at an existing valve that appears to be within the Butler Avenue ultimate right-of-way. Both of these utility connections are between the legal and ultimate right-of-way for these adjacent properties. The Developer shall determine if the ultimate rights-of-way has been accepted for dedication or if easements will be required for the installation of these utilities across the adjacent properties.
13. §22-705. – The Applicant shall obtain a Highway Occupancy Permit (HOP) from PennDOT, for the access to Butler Avenue (SR4202). The Applicant shall copy the Township on all correspondence with PennDOT and extend an invitation to the Township for all meetings. Additionally, to facilitate the Township review of the HOP submission, the Applicant shall include Gilmore & Associates as an “Engineering Firm” on the permit application within the PennDOT ePermitting System. Though the Applicant received a waiver from road improvements, subject to PennDOT’s requirements, our office may have additional comments related to the HOP Plans once submitted. We recommend that a condition be placed on any Township Plan Approvals, that once approved, any significant changes to the plan as required by PennDOT or other outside agency be presented to the Board of Supervisors prior to construction.

14. §22-705.5.C & 13.H – A fifty-foot clear sight triangle must be provided for all driveways, measured from the point of intersection of the street right-of-way line and edge of the driveway. The site plan shall contain a notation that states that the applicant is required to maintain the area of the clear sight triangle and the Township has the right to enter and perform required maintenance in the area if deemed critical to public welfare pursuant to a Declaration of Covenants, Restrictions, and Conditions approved by the Board.
15. §22-705.6 – Minimum sight distances for stopping, passing and intersections shall comply with PennDOT standards. The required and available sight distance lines and measurements shall be shown on the plans.
16. §22-705.15.D. & §22-722 7.F.(3) – Proposed crosswalks shall have the brick red thermoplastic street imprinted with the herringbone pattern and a six-inch white line on either side. See attached details. Crosswalks on the adjacent properties shall be provided as well.
17. §22-706.2.C. – Sidewalks shall be located within a public right-of-way, public easement or common open space area. An easement should be provided for the entirety of the 5-foot-wide asphalt path through the site. In addition, easements shall be provided for the proposed public sidewalk on the adjacent properties unless it can be confirmed that the sidewalks are proposed within the public right-of-way or existing easement.
18. §22-706.3.B – All curbs and sidewalks shall provide access in accordance with accessibility guidelines. The PennDOT Curb Ramp detail provided on Sheet 5 does not appear to be applicable. The Detailed Grading Plan of the crosswalks and accessible ramps shall include additional spot elevations for the sidewalk showing a maximum 2% slope at all landing and turning areas.
19. §22-706.3.G – The extent of the detectable warning surface shall also be shown. A note specifying all curb ramps shall be provided with "brick red" detectable warning surfaces or other approved contrasting color shall be added to the detail.
20. §22-707.B.(4) – The maximum center-line grade for pedestrian walkways and recreational trails shall not exceed 8%. Based on the proposed contours, it appears the asphalt trail exceeds an 8% slope where it enters and exits the woodlands area. The grading of the trail shall be revised to 8% or less.
21. §22-707.C – The Asphalt Trail detail on Sheet 5 shall be revised to specify 2 ½ inches of 9.5mm Superpave wearing course.
22. §22-708.6.B – The grade of parking areas shall be a maximum of 5% and a minimum of 1%. The parking area behind Building B and a portion of the center aisle behind Building A have slopes which exceed 5%. The parking lot grading shall be revised as necessary to meet this requirement.
23. §22-708.6.H – Stop signs and stop bars shall be provided as necessary throughout the parking area where crosswalks are proposed and at the end of parking aisles where they intersect the main access drive. In addition, the location of all accessible parking signs shall be shown on the Record Plan.
24. §22-710.2 & 3 - All comments from the Fire Marshal's review dated January 11, 2022 shall be addressed related to fire lanes, emergency site and building access, water service, etc. Adequate access shall be provided to the Fire Marshal's satisfaction.
25. §22-711 – The following comments related to the grading design/plan shall be addressed:

- a. Detailed grading shall be provided for the proposed driveway crossings on the adjacent properties to demonstrate accessibility.
 - b. Additional spot elevations shall be provided along the driveway around the eastern corner on Building A to clarify the high point grade break.
 - c. Spot elevations shall be provided at the corners of the rear parking lot along the NW curblines.
 - d. An additional spot elevation shall be provided at the southern corner of the parking area between Buildings A and B.
 - e. The TC/BC spot elevation of 393.85 at the southern corner of Building A indicates a depressed curb and appears to be incorrect. This spot elevation shall be revised as necessary.
 - f. The inlet locations shall be provided on the Grading Plan to verify the proposed slopes to the inlets.
26. §22-711.2 – The following comments related to erosion controls shall be addressed:
- a. Prior to the installation of the parking lot curb, sediment from disturbance on the northeastern half of the site will bypass the sediment basin and runoff to the rear of the site. Measures shall be provided where necessary to direct the sediment runoff towards the sediment trap until the curb is constructed.
 - b. Additional silt sock shall be provided at the following locations:
 - 1) On the downslope side of the northern retaining wall to prevent sediment runoff onto the adjacent property.
 - 2) Along the southern property line where grading for the proposed asphalt trail will result in sediment runoff onto the adjacent property.
 - 3) Downslope of the disturbance between the parking lot and the asphalt trail to protect the area of woodlands to remain.
 - 4) Downslope of the disturbance from the sidewalk installation on the adjacent properties.
 - c. Erosion control matting shall be provided for the 3:1 slopes on the low end of the northern retaining wall.
 - d. The type of erosion control matting on the downslope side of the level spreader shall be specified.
27. §22-711.4.A – Retaining wall specifications, calculations and design details shall be approved by the Township Engineer prior to final plan approval by the Township. Design plans, specifications and details, signed and sealed by a licensed professional engineer, shall be provided. Wall style, finish and color shall be coordinated with proposed building architecture.
- In addition, the asphalt walkway is directly adjacent to the retaining wall along the southern side of the site. Fall protection fence or railing is required to be installed where there is a 30-inch or greater vertical change. A detail shall be provided for any required fence while insuring the minimum walkway width is maintained.
28. §22-711.4.C – The top or bottom edge of slopes shall be a minimum of 5 feet from property lines in order to permit normal rounding of the edge without encroaching onto the abutting property. The proposed grading and retaining wall construction will require disturbance within 5 feet of the adjacent properties. Further, improvements are required along Butler Avenue on adjacent properties. The grading shall be revised, however, if a waiver is granted, the Developer shall obtain temporary construction easements as necessary to allow access for the proposed grading and improvements.

29. §§22-712.2.B & F – The Applicant shall install stormwater management facilities, on- and offsite, as necessary to convey stormwater runoff along or through the property to a natural outfall, such as a watercourse, drainage swale, storm sewer, or other drainage facilities. If an applicant concentrates or redirects stormwater runoff to discharge at another location on the property, the applicant is responsible for constructing an adequate channel or storm sewer system on downstream properties until a natural outfall is reached. A natural outfall shall have sufficient capacity to receive stormwater without deterioration of the facility and without adversely affecting property in the watershed. Though a level spreader is proposed, there has been a history of drainage complaints in the area. Additional information shall be provided to demonstrate the downstream properties receiving stormwater runoff from the site are not adversely impacted.
30. §22-712.3.G – The calculations for the 10 minute time of concentration used for Proposed PR1 shall be provided in the PCSM Plan Narrative. We note that the time of concentration path for Proposed PR1 shown on the Post Development Drainage Area Map does not appear consistent with the proposed storm sewer layout.
31. §22-712.4.G – All basin outlet pipes shall be watertight reinforced concrete having "O-Ring" joints. The plan shall specify O-ring RCP for the pipe between the basin outlet structure and the level spreader.
32. §22-712.4.H – The spillway elevation on the Basin Spillway Detail on Sheet 17 shall be coordinated with the spot elevations shown on the plans and report.
33. §22-712.4.L – The inlet grate shall only be used as an emergency outflow and the grate elevation shall be equal to or higher than the one-hundred-year water surface elevation, but at least six inches below the emergency spillway elevation. The outlet structure grate elevation of 384.42 is lower than the 100-year water elevation of 384.66. The outlet structure shall be revised to provide a grate elevation equal to or higher than the 100-year water surface elevation.
34. §22-712.4.N – Detention basins shall be installed before the construction of any buildings or site improvements, unless otherwise approved by the Board and the Bucks County Conservation District. A preliminary basin as-built plan must be submitted and approved by the Township Engineer prior to beginning any building construction to confirm that the constructed volumes are in accordance with the design plans. A note requiring this shall be included on the record plan and in the sequence of construction.
35. §§22-712.6 & 8 – The following comments related to the storm structures shall be addressed:
 - a. The inverts of the roof drain connections should be included for the inlet construction.
 - b. The plan and profiles shall specify the type of inlet and inlet top.
 - c. Cleanouts shall be provided for the basin underdrain and the level spreader distribution pipe.
36. §§22-712.6.E & 712.12 – At least one inlet shall be required at the curb tangent on the upstream side of all access drive intersections with public roadways. A culvert or storm sewer shall be provided for all access drives.
37. §22-712.8.B – A Type "DW" endwall shall be provided at the termination of all storm sewer systems. DW endwalls shall be provided at the outlet pipes into the basin.
38. §22-712.13.C.(1) – The BMP Maintenance Plan on Sheet 17 shall be revised as necessary to clarify the ownership and maintenance responsibilities of the stormwater management facilities and storm sewer conveyance system.
39. §22-712.13.D. – A fee is required to maintain the stormwater management facilities located within public right-of-way or any easement owned by the Township.
40. §22-713. – The following issues related to the Landscape Plan should be addressed:

- a. There are multiple locations where proposed plantings are in close proximity to underground utilities. We recommend a minimum distance of 10 feet be provided between proposed plantings and utilities.
 - b. The Plant Schedule provided on Sheet 18 of 21 Landscape Plan indicates a quantity of 90 Scallywag Holly, whereas the plan shows 97. The plan and schedule shall be coordinated.
 - c. The Golden Rain Tree species shall be replaced with an alternate species due to this being on the DCNR invasive plant "Watch" list.
41. §22-713.3.D. – The placement of light standards shall be coordinated with the landscape plan to avoid conflicts. We recommend a minimum distance of 10 feet be provided between proposed plantings and light fixtures. For instance, it appears that a proposed tree in the Public Green area is in close proximity to a proposed light fixture.
 42. §22-713.5.B.(1) – One deciduous or evergreen shrub shall be planted every five feet along the perimeter of the parking area. We note that 16 shrubs are required along the southern property boundary and 16 shrubs are provided, whereas the proposed spacing does not provide an effective buffer due to a 20-foot gap in the plantings. Shrubs shall be placed five feet on center in a continuous hedge.
 43. §22-713.5.B.(2) – This section requires, at a minimum, a 6-foot wooden shadow-box fence with a staggered row of evergreen trees be provided at 10-foot spacings to screen from trash areas. We note that the Trash Enclosure Detail provided on Sheet 5 of 21 Site Construction Details indicates that a board on board fence OR a black vinyl chain link fence with privacy slats will be utilized. The proposed screening shall be provide in accordance with the Ordinance and clarified and detailed on Sheet 5 of 21, Site Construction Details.
 44. §§22-714.2 & 7 – Pedestrian scaled lighting shall be positioned along on-site walks and trails such that lighting levels along them maintain a consistent 0.2 footcandle. No lighting is proposed along the front of Building B, within the public green, and the associated walkway is not adequately illuminated. Lighting shall be provided for the areas and walkways open to the general public and multifamily residents.
 45. §22-714.4.B. – Light standards shall be a maximum of 20 feet in height, and have a concrete base raised 30 inches above finished grade. The Light Pole Foundation Detail on Sheet 20 notes that the foundation for fixture 'B' extends 30 inches above finished pavement. This shall also be specified for fixture 'A' which is directly behind the curb and could be damaged by vehicles pulling into the adjacent parking spaces.
 46. §22-714.4.C. – Light standards shall be located in planting islands or planting strips within parking areas, not installed directly on the parking area surface. Several of the light standards at the rear of Buildings A and B are located directly on the parking surface and shall be relocated.
 47. §22-714.7. – The Statistics chart provided on Sheet 19 of 21 Lighting Plan indicates a Max/Min ratio of 21.5:1 and a Avg/Min ratio of 7.5:1 for the Main Parking Area. Current IES guidelines recommend a Max/Min ratio no greater than 20:1 and the Township of New Britain Subdivision and Land Development Ordinance specifies a Avg/Min ratio no greater than 4:1. Lighting shall be revised to comply with current recommended guidelines and Ordinance.
 48. §22-716.2.C. – Concrete monuments shall be shown on the Record Plan at the intersections of the Ultimate right-of-way with the property lines and at any changes in direction.
 49. §22-718 – Correspondence shall be submitted from North Wales Water Authority indicating that they have adequate water supply to service the proposed apartment building and medical office. In addition, approval and service agreements shall be provided for the proposed connections.

50. §22-720 – We note that a Sewage Planning Module Application Mailer has been submitted. Unless DEP indicates a full Planning Module is not required, a completed PADEP Sewage Facilities Planning Module shall accompany the subsequent preliminary plan application. Prior to submitting the planning module to the Township for approval, the planning module shall have been executed by the applicant, responsible engineer, CNBJSA, Department of Health and Bucks County Planning Commission. A Sewage Facilities Planning Module shall be approved by the Township, Authority, and PADEP prior to final plan approval by the Township. A copy of the “Will-Serve” letter and approved sewer agreement, shall be submitted to the Township and our office prior to plan recording.
51. §22-905.1.A - The Applicant is responsible for any other required reviews, approvals, permits, etc. (i.e., BCPC, BCCD, PADEP, PennDOT, CNBJSA, Fire Marshal, North Wales Water Authority, Aqua, Township Road Opening Permit, etc.) as applicable.

D. Stormwater Management Ordinance

The design uses the Managed Release Concept (MRC) for the stormwater facility which impounds the 1.2-inch/2-hour storm for vegetation, filters the runoff through a soil media, infiltrates into undisturbed soils to the extent possible, with stormwater released through an underdrain.

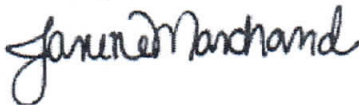
1. §26-123.2 – The proposed design utilizes the MRC developed by PADEP to meet the volume control requirement which is permitted for situations where infiltration is infeasible. We note that the proposed managed release concept is subject to PADEP approval.
2. §26-123.C.(6) – A soils evaluation of the project site shall be required to determine the suitability of infiltration facilities. All regulated activities are required to perform a detailed soils evaluation by a qualified design professional which at minimum address soil permeability, depth to bedrock, and subgrade stability. The PCSM report notes that infiltration tests were not conducted based on the soil maps. A soils evaluation must still be completed to verify infiltration is not feasible before proposing to use the managed release concept. In addition, test pits shall be completed to determine the depth to restrictive features, such as bedrock or groundwater which could effect the design and constructability of the managed release concept basin.
3. §26-125.2 & §22-712.3.B – Stormwater runoff peak discharges from all development sites with a drainage area greater than one acre shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil Cover Complex Method. The peak rates provided in the PCSM report were calculated using the Dekalb Rational Method. Based on a disturbance area of 6.35 acres, the peak rates shall be calculated using the SCS method. We defer review of the remaining analysis until the stormwater report is updated to utilize the correct method.
4. §26-162.3.D – A statement, signed by the facility owner, acknowledging that the stormwater facilities and BMPs are fixtures that can be altered or removed only after approval by the municipality, shall be added to the plan.
5. §26-164.1 – The Applicant shall sign an Operation and Maintenance (O&M) agreement with the municipality covering all stormwater and storm sewer facilities and BMPs that are to be privately owned. The O&M agreement shall be transferred with transfer of ownership and shall be prepared by the Township Solicitor.
6. §26-165.2 – The owner must provide the municipal easements to perform inspections and maintenance for stormwater runoff conveyance, detention, etc. We recommend a blanket easement be provided via a note on the plan and within the O&M Agreement.

7. Township Resolution #2022-03 – The Applicant will be required to pay a fee for the proposed onsite BMP to provide a financial guarantee for the timely installation, proper construction and continued maintenance by the owner of the subject property. The fee shall be 5% of the total construction cost of the proposed BMP. The Applicant's professional shall submit a cost estimate once the design is finalized.

Considering the extent of the required plan revisions identified in this letter, we may have additional comments upon resubmission by the Applicant and upon review of the final plan requirements. In order to help expedite the review process of the resubmission of the plan, the Applicant shall submit a response letter which addresses each of the above comments. Changes that have been made to the application that are unrelated to the review comments shall also be identified in the response letter.

If you have any questions regarding the above, please contact this office.

Sincerely,



Janene Marchand, P.E.,
Gilmore & Associates, Inc.

JM/tw/sl

Attachments (Streetprint Crosswalk Detail)

cc: Michael Walsh, Assistant Manager
Ryan Gehman, Assistant Planning and Zoning Officer
Randy Teschner, Fire Marshall
Peter Nelson, Esq., Grim, Biehn & Thatcher
Kevin Reilly, County Builders, Inc., Applicant
Kellie A. McGowan, Eastburn and Gray
Robert T. Cunningham, P.E., Holmes Cunningham, LLC.
John Schmidt, CNBTJSA
Robert C. Bender, North Wales Water Authority
Craig D. Kennard, P.E., C.O.O, Gilmore & Associates, Inc.
Damon Drummond, P.E., Gilmore & Associates, Inc.

EXHIBIT “B”



The Almshouse Neshaminy Manor Center 1260 Almshouse Road
Doylestown, Pennsylvania 18901 215.345.3400 FAX 215.345.3886
E-mail: planningcommission@buckscounty.org

PLANNING COMMISSION:
Tom Tosti, *Chairman*
Richard Donovan, *Vice Chairman*
Thomas J. Jennings, Esq., *Secretary*

James J. Keenan
James E. Miller, Jr.
David R. Nyman
Judith J. Reiss
Edward J. Tokmajian
Walter S. Wydro

Evan J. Stone
Executive Director

MEMORANDUM

To: New Britain Township Board of Supervisors
New Britain Township Planning Commission

From: Staff of the Bucks County Planning Commission

Date: January 18, 2022

Subject: BCPC #9134-C
Preliminary Plan of Land Development for Butler Avenue Mixed Use
TMP #26-5-23
Applicant: Butler Pike Properties, LP
Owner: Same
Plan Dated: November 30, 2021
Date Received: December 22, 2021

This proposal has been reviewed by the Bucks County Planning Commission professional staff, which prepared the following comments in accordance with the Pennsylvania Municipalities Planning Code (Section 502).

GENERAL INFORMATION

Proposal: Construct two structures on a 7.27-acre lot. The first structure (Building A) has a proposed footprint of 27,120 square feet and includes 70 apartment units. The second structure (Building B) has a proposed footprint of 11,500 square feet and includes a medical office. Both structures are proposed to be served by public water and public sewer.

Location: Along the northwest side of West Butler Avenue, approximately 800 feet northeast of its intersection with Schoolhouse Road.

Zoning: The C-1 Commercial District does not permit Use B7 Apartment. The C-1 District permits Use I1 Medical Office on lots of at least 1 acre with minimum yards of 40 feet, 15 feet, and 30 feet, for front, side, and rear yards, respectively.

The site is subject to a Settlement Stipulation and Agreement dated October 7, 2021. The agreement includes land development terms and conditions pertaining to allowing more than one principal use and more than one principal structure on the site. Various terms and conditions are specified for amenities, off-site improvements, fee-in-lieu of recreation lands, and woodlands disturbance.

Present Use: Vacant



COMMENTS

1. **Settlement Stipulation and Agreement, Ground floor commercial**—The Settlement Stipulation and Agreement outlines the terms of agreement for the mixed-use development proposed on the site and requires substantial conformity with the plan entitled “Butler Avenue Property Settlement Plan, sheet CP-6,” which is included as Appendix “A” in the agreement. Paragraph 8. of the agreement states that a portion of the ground floor of Building A may also be used for commercial use. The proposed plan does not appear to include such a use for Building A.

Mixed-use development, in its truest sense, features multiple uses within the same structure. This configuration also better aligns with the idea that concentrated mixed-use development patterns can promote non-vehicular travel, and can serve as a foundation for placemaking, a strategy outlined in the DVRPC report *Butler Avenue Revitalization Strategies* (DVRPC, 2009). For this reason, we recommend the applicant explore the inclusion of some amount of commercial space on the ground floor of Building A.

2. **Granted waivers**—The Settlement Stipulation and Agreement indicates that the township and property owner agree that the applicant be entitled to the granting of waivers from the following subdivision and land development ordinance (SALDO) requirements:

Section 22-505

from providing a Community Impact Assessment Report

Section 22-705.3.

from undertaking roadway widening and associated improvements along the Butler Avenue frontage

Section 22-715

from providing park and recreation land

Section 22-722

from compliance with most of the Butler Avenue Overlay requirements

The final plan should note all granted waivers.

3. **Parking allotment**—The amount of parking spaces shown on the plan (247) does not match that which is shown as proposed within the zoning table (206). This discrepancy should be corrected.

Additionally, while we recognize that Section 27.2901 of the zoning ordinance specifies two parking spaces per dwelling unit for apartment units of 1 to 3 bedrooms, we are skeptical that this amount in its entirety is necessary. We recommend that consideration be given to reducing the amount of provided parking to align with a recent study published by the Delaware Valley Regional Planning Commission (DVRPC)¹. The study estimates vehicles per household in comparable communities to be 0.90 for Studio/1-bedroom apartments, 1.39 for 2-bedroom apartments, and 1.61 for 3-bedroom apartments. The area’s access to public transportation options (Doylestown DART and SEPTA Regional Rail) also supports an anticipated reduction in vehicle trip generation rates resulting from higher transit-accessibility. A reduction in parking area can also help reduce impervious coverage, optimize site development, and create more area for public space and amenities.

¹ Multifamily Housing Research Summary (DVRPC, October 2018).

https://www.dvrpc.org/SmartGrowth/Multifamily/pdf/DVPRC_Multifamily-Housing-Research-Summary.pdf

The zoning ordinance allows for the consideration of a conditional reduction in off-street parking under the process outlined in Section 27.2903.b. We strongly recommend the applicant and township consider the possibility of a reduction in parking area for the reasons mentioned above.

4. **Doylestown DART coordination**—We note that this site is situated along an existing service route of the Doylestown DART. The proposed residential and medical office uses will greatly benefit from this access to public transportation; however, to maximize the usage of this service, we recommend the applicant coordinate with Bucks County Transport, the agency that operates the DART. Specifically, we recommend seeking the provision of signage and a designated stop in front of this proposed development.
5. **Landscape plan**
 - a. **Registered landscape architect**—We recommend that the landscape plan be prepared, signed, and sealed by a registered landscape architect licensed in the state of Pennsylvania.
 - b. **Golden rain tree**—The plan proposes six golden rain trees (*Koelreuteria paniculata*) within the parking area. We note that this is a weak wooded tree and can create a significant amount of seed and leaf litter. Given the proposed location within a parking area, we recommend the applicant explore an alternative species.
 - c. **Oak trees**—As part of the overall landscaping for the site, the landscape plan proposes 24 oak trees consisting of white oaks, swamp white oaks, scarlet oaks, pin oaks, and shumard oaks. Oak trees, while typically a good native tree for plantings, are subject to bacterial leaf scorch which is an infectious chronic disease that is affecting several species of oaks in southeastern Pennsylvania.² Municipal officials should monitor planting plans to ensure that oaks are not overplanted, to avoid the risk of infection and eventual loss of these trees.
6. **Sewage facilities**—The applicant must submit a Sewage Facilities Planning Module Application Mailer to the Pennsylvania Department of Environmental Protection (PaDEP) to determine if an Act 537 Planning Module must be submitted for this proposed land development.

This review will be included in the Bucks County Planning Commission board materials for the February 2, 2022, meeting. It is not necessary for you to attend this meeting, but you are welcome to do so and to offer comments on the proposal to the BCPC board and staff.

In order that we may be more aware of your concerns, please send us a copy of all municipal decisions sent to this applicant.

JS:emh

cc: Kevin Reilly, Butler Pike Properties, LP (via email)
Robert Cunningham, PE, Holmes Cunningham Engineering (via email)
Janene Marchand, PE, Gilmore & Associates, Township Engineer (via email)
Matt West, Township Manager (via email)
Vince Volpe, Executive Director, Bucks County Transport (via email)
Lou White, Doylestown DART Committee (via email)

² <https://extension.psu.edu/bacterial-leaf-scorch>

EXHIBIT “C”



Township of New Britain

Office of Fire Marshal
Office of Code Enforcement

January 11, 2022

RE: Fire Marshal review Butler Avenue Property T.P. # 26005-023

Review By: Randal J. Teschner Fire Marshal, Code Enforcement Officer

The following is a list of items to be addressed:

1. A second Entrance needs to be added. This could be an emergency access located on the east end of property by Spatolas Pizza
2. There should be three hydrants added to plans (see map)
 - a. One west side of main drive
 - b. One west side of second entrance
 - c. One in rear of large building located on island main entrance drive
3. The water line on west butler should be 12 inches
4. Show all water services to building.
5. Supply a plan showing that ladder truck can make turns in the parking lot around the building.

EXHIBIT “D”

OBERMAYER REBMANN MAXWELL & HIPPEL LLP

By: Kellie A. McGowan, Esquire
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Daniel S. Lyons, Esquire
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(215) 606-0760

*Attorneys for Intervenor,
Butler Pike Properties, L.P.*

**In re: APPEAL OF THE NEW BRITAIN
TOWNSHIP BOARD OF SUPERVISORS
FROM THE BUTLER PIKE
PROPERTIES, L.P. DECISION OF THE
NEW BRITAIN TOWNSHIP ZONING
HEARING BOARD**

**LAND USE APPEAL
BUCKS COUNTY
COURT OF COMMON PLEAS
No. 2021-00629**

JOINT MOTION FOR ENTRY OF AGREED ORDER

Appellant, New Britain Township Board of Supervisors, by and through its solicitor Grim, Biehn & Thatcher, and Intervenor, Butler Pike Properties L.P., by and through its attorneys, Obermayer Rebmann Maxwell & Hippel LLP, hereby move your Honorable Court to approve the Settlement Stipulation and Agreement among Appellant and Intervenor, on the terms set forth in the Settlement Stipulation and Agreement, attached hereto and incorporated herein.

Respectfully submitted,

GRIM, BIEHN & THATCHER

Date: _____

By: _____

**OBERMAYER REBMANN
MAXWELL & HIPPEL LLP**

Date: _____

By: _____

EXHIBIT "A"

SETTLEMENT STIPULATION AND AGREEMENT

OBERMAYER REBMANN MAXWELL & HIPPEL LLP

By: Kellie A. McGowan, Esquire
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*Attorneys for Intervenor,
Butler Pike Properties, L.P.*

**In re: APPEAL OF THE NEW BRITAIN
TOWNSHIP BOARD OF SUPERVISORS
FROM THE BUTLER PIKE
PROPERTIES, L.P. DECISION OF THE
NEW BRITAIN TOWNSHIP ZONING
HEARING BOARD**

**LAND USE APPEAL
BUCKS COUNTY
COURT OF COMMON PLEAS**

No. 2021-00629

SETTLEMENT STIPULATION AND AGREEMENT

Intended to be legally bound, Appellant, New Britain Township Board of Supervisors (“*Township*”) and Intervenor, Butler Pike Properties L.P. (“*Property Owner*”) enter into this Settlement Stipulation and Agreement in resolution of the above-captioned action and as such, do hereby stipulate and agree as follows:

WITNESSETH

WHEREAS, Township initiated the instant action by filing an appeal from the decision of the New Britain Township Zoning Hearing Board (“*ZHB*”) granting zoning relief to Property Owner (“*Decision*”) to facilitate the development of the vacant property located at West Butler Avenue, New Britain Township, Bucks County, identified as Bucks County Tax Map Parcel No. 26-005-023 (“*Property*”) as and for a mixed use townhouse and commercial community; and

WHEREAS, the Decision provided Property Owner with the following specific relief from the provisions of the New Britain Township Zoning Ordinance (“**Zoning Ordinance**”): Section 27-300.a - to permit more than one principal use and more than one principal structure on the Property; Section 27-1201 - to permit the Use B5 Townhouse use in the C-1 Commercial Zoning District; Sections 27-305.B.B5.b.4 and 27-1202.b - to permit an impervious surface ratio of 50% on the Property; Section 27-2400.f.2. - to permit disturbance of 60% of woodlands on the Property and from complying with the associated tree replacement requirement; and Section 27-2904.g.5 - to permit the paved area adjacent to the proposed buildings to be one (1) foot from the abutting exterior walls; and

WHEREAS, previously in 2018, Property Owner approached Township with several proposals for the development of the Property, including a proposal for an integrated development consisting of commercial and multifamily apartment uses; and

WHEREAS, Township and Property Owner have continued discussions of the most suitable development of the Property considering the best interests of Township; and

WHEREAS, Property Owner has performed studies and investigations to confirm the condition of existing natural features on the Property, including woodlands, and has prepared an inventory of dead or dying trees in connection with those discussions; and

WHEREAS, Township and Property Owner have agreed upon the terms pursuant to which the Property Owner shall be entitled to land development approval for the development of the Property; and

WHEREAS, Township and Property Owner have approved the within Agreement to resolve the instant action.

NOW THEREFORE, the parties to this Agreement do, in recognition of the mutual covenants, terms, provisions, and understandings set forth in this Agreement, and in consideration therefore, intending to be legally bound, agree as follows:

1. This Agreement is made and entered into and among the undersigned parties to effect a full and final settlement between them in the Land Use Appeal filed in the Court of Common Pleas of Bucks County, Pennsylvania, at Docket No. 2021-0629.

2. In consideration of the legal and factual issues related to the instant action, as well as the burden and cost of continued litigation, the parties have determined and concluded that it is in the best interest of Township and Property Owner to settle and agree in the manner and upon the terms and conditions as set forth in this Agreement.

3. The Settlement Plan shall be deemed compliant with the Zoning Ordinance, and all the zoning relief granted by the ZHB is hereby specifically confirmed and/or modified as follows:

- a. Section 27-300.a - to permit more than one principal use and more than one principal structure on the Property.
- b. Section 27-305.b.B7 – to permit the B7 Apartment Use to be developed on the Property as depicted on the Settlement Plan (as defined hereinbelow).
- c. Section 27-1201 - to permit the B7 Apartment Use and the D1 Nursery School/Day-Care Center Use in the C-1 Commercial Zoning District.
- d. Section 27-2400.f.2. - to permit disturbance of up to 70% of woodlands on the Property and to not require the associated planting of replacement trees, subject to paragraph 15, hereinbelow.
- e. Section 27-2904.g.5 - to permit the paved area adjacent to the proposed buildings to be ten (10) feet from the abutting exterior walls.

4. Township and Property Owner agree that the Property shall not be developed as and for B5 Single-Family Attached Use (townhouses).

5. Township and Property Owner agree that Property Owner shall be entitled to land development approval for the residential and commercial development of the Property for the apartment and commercial uses upon the filing of a land development plan in substantial conformity with the attached plan entitled "Butler Avenue Property Settlement Plan, sheet CP-6", prepared by Holmes Cunningham Engineering, Inc, dated August 1, 2019, last revised, June 24, 2021 ("**Settlement Plan**"); said Settlement Plan attached hereto and incorporated herein as Exhibit "A".

6. Township and Property Owner agree that the building identified as "Building A" on the Settlement Plan shall be used as and for the A7 Apartment Use, together with residential amenities customarily incidental to the use, including, but not limited to, a fitness center facility, business center, and common areas.

7. Township and Property Owner agree that the building identified as "Building B" on the Settlement Plan shall be used solely for those commercial uses permitted by right in the C-1 Commercial Zoning District as of the date of this Stipulated Settlement Agreement, together with the potential D1 Nursery School/Day-Care Center Use. Said list of allowed uses is attached hereto and incorporated herein as Exhibit "B".

8. Township and Property Owner agree that a portion of ground floor of the building identified as "Building A" on the Settlement Plan may also be used for those commercial uses permitted by right in the C-1 Commercial Zoning District as of the date of this Stipulated Settlement Agreement as listed in the attached Exhibit "B".

9. Township and Property Owner agree that as a condition to land development approval, Property Owner shall provide the following amenities on the Property:

- a. Installation of a black aluminum decorative fence and shrubbery along the entirety of the Property's frontage on Butler Avenue in compliance with the Township Code's applicable requirements in section 22-722.D.(7)(a) for the Corridor Overlay District;
- b. Installation of a five (5) foot wide sidewalk for the length of the frontage of the Property on Butler Avenue;
- c. Installation of streetscape improvements, including, but not limited to, landscaping and street trees, in locations shown on the Settlement Plan in compliance with the Township Code's applicable requirements in section 22-722.4.C.(7)(a)-(d) for the Corridor Overlay District;
- d. Installation of a public green space at the Butler Avenue frontage, specifically in the size and location as depicted on the Settlement Plan in general compliance with the Township Code's applicable requirements in section 22-722.4.G for the Corridor Overlay District; and
- e. Installation of a five (5) foot wide macadam walking trail substantially in the location shown on the Settlement Plan;

10. Township and Property Owner agree that as a condition to the land development approval, Property Owner shall provide the following off-site improvements:

- a. Installation of a variable width (4 to 5 foot) sidewalk in compliance with Township and PennDOT standards along the frontage of Butler Avenue from the northern

property line of the Property to the connection with existing sidewalk, including requisite ADA compliant ramps, generally as depicted on the Settlement Plan; and

- b. Installation of a variable width (4 to 5 foot) sidewalk in compliance with Township and PennDOT standards along the frontage of Butler Avenue from the southern property line of the Property to the connection with existing sidewalk, including requisite ADA compliant ramps, generally as depicted on the Settlement Plan.

11. Township and Property Owner agree that the proposed development shall meet the requirements of the Pennsylvania Department of Environmental Protection and New Britain Township Stormwater Management Ordinance, to the satisfaction of the Township Engineer.

12. Township and Property Owner agree that the proposed development shall meet the buffer yard requirements of the Zoning Ordinance and Township Subdivision and Land Development Ordinance, except as set forth in paragraph 13.c, herein, as applied to the Butler Avenue frontage.

13. Township shall grant preliminary/final land development approval of the Settlement Plan within ninety (90) days of the date of application by Property Owner. Township and Property Owner agree that in connection with the land development approval, Property Owner shall be entitled to the grant of such waivers from the provisions of the New Britain Township Subdivision and Land Development Ordinance as are necessary to facilitate the development as generally shown on the Settlement Plan, including, but not limited to, the following:

- a. Section 22-505 – From providing a Community Impact Assessment Report.
- b. Section 22-705.3 – From undertaking roadway widening and associated improvements along the Butler Avenue frontage, subject to such improvements as

may be required under the jurisdiction of the Pennsylvania Department of Transportation.

- c. Section 22-713.5.B(6) – From providing berm and screen plantings for a B7 Apartment Use, as to the Butler Avenue frontage only.
- d. Section 22-715 – From providing park and recreation land.
- e. Section 22-722 – From compliance with the Butler Avenue Overlay requirements other than those specifically required under this Agreement in paragraph 9, hereinabove or as shown on the Settlement Plan.

14. Township and Property Owner agree that Property Owner shall be required to pay a fee-in-lieu of recreation in the maximum amount of \$185,000.00, pursuant to the current residential per-unit and commercial square footage requirements of the fee schedule of New Britain Township, which shall be payable as follows: (a) Fifty percent (50%) of the total sum, up to a maximum of \$92,500.00 shall be payable upon the recording of final land development plans; and (b) the balance shall be payable upon issuance of the first occupancy permit for either Building on the Property.

15. Township and Property Owner agree that disturbance of up to sixty percent (60%) of woodlands is permitted on the Property. Additional disturbance beyond sixty percent (60%), up to a maximum of seventy percent (70%) of the woodlands on the Property, shall be permitted, provided that the planting of replacement trees is provided for the additional disturbed area beyond sixty percent (60%). If the planting of replacement trees is not feasible on the Property in accordance with the Zoning Ordinance, as determined by the Township Engineer, the Property Owner shall pay a fee-in-lieu of such planting in the amount of \$50,000 per acre, or part thereof, of disturbed woodlands over sixty percent (60%).

16. Township and Property Owner agree that the terms of this Settlement Stipulation shall supersede directly inconsistent requirements of the Township Code.

17. If any party is found to be in default of any provision herein, the opposing party shall provide written notice of the default to the defaulting party and its counsel. If the defaulting party does not remedy the default within thirty (30) days of receipt of the written notice, the opposing party may file an action with the Court of Common Pleas in Bucks County.

18. If any action is brought by any party to enforce or to seek damages for breach of any provision of this Stipulation, the prevailing party in such action, if there is a prevailing party, shall be entitled to recover, in addition to the costs of suit, such reasonable attorneys' fees as a tribunal determining the action may award.

19. The whereas clauses set forth in the preamble of this Agreement are hereby incorporated into the terms of this Agreement. This Agreement constitutes the entire agreement among the parties with reference to the zoning relief granted to Property Owner and the future development of the Property, and any representations, oral or written, not contained herein are without effect.

20. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania. Any legal action arising out of this Agreement must be filed in the Court of Common Pleas of the County of Bucks.

21. This Agreement shall only be modified, amended, or terminated by a writing signed by all of the parties herein, their grantees, successors, or assigns.

22. The parties agree that neither this Agreement nor the furnishing of consideration in exchange for this Agreement shall be deemed or construed at any time for any purpose as a waiver by any party of any right or obligation under any statute, ordinance, rule, and/or regulation of any

kind. Moreover, forbearance by either party to exercise their rights under this Agreement in the event of any breach by the other party shall not be deemed or construed to be a waiver of any of non-breaching party's rights under this Agreement. No delay or omission by a party in the exercise of any right or remedy upon any breach by the other party shall impair such right or remedy or be construed as a waiver.

23. The person or persons signing on behalf of any party expressly represent and affirm, with respect to the party for whom he/she/they are signing the Agreement, that he/she/they have the authority to execute this Agreement on behalf of that party and to thereby bind that party.

24. The parties represent that they have had the opportunity to review the terms of this Stipulation and Order with their legal counsel, and they understand all of the terms, conditions, and obligations contained herein.

25. The parties agree that this Agreement may be executed in counterparts and desire that the terms set forth herein be approved as an Order of Court.

26. If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid, unenforceable, unconstitutional, or void, for any reason, only that provision shall be illegal, invalid, unenforceable, unconstitutional, or void and the remainder of this Agreement shall be in full force and effect.

27. The provisions of this Agreement shall survive the settlement contemplated hereunder.

[THIS SPACE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, Township and Property Owner have executed this Settlement Stipulation and Agreement with the intent to be legally bound.

New Britain Township Board of Supervisors, *Appellant*

By: _____
Gregory T. Hood
Chairman

ATTEST: _____
Matthew West, Manager

Butler Pike Properties, LP, *Intervenor*

By: _____
Name:
Title:

OBERMAYER REBMANN MAXWELL & HIPPEL LLP

By: Kellie A. McGowan, Esquire
Attorney I.D. No. 93460
Kellie.McGowan@obermayer.com
Daniel S. Lyons, Esquire
Attorney I.D. No. 325401
Daniel.Lyons@obermayer.com
10 S. Clinton Street, Suite 300
Doylestown, PA 18901
(215) 606-0760

*Attorneys for Intervenor,
Butler Pike Properties, L.P.*

**In re: APPEAL OF THE NEW BRITAIN
TOWNSHIP BOARD OF SUPERVISORS
FROM THE BUTLER PIKE
PROPERTIES, L.P. DECISION OF THE
NEW BRITAIN TOWNSHIP ZONING
HEARING BOARD**

LAND USE APPEAL

**BUCKS COUNTY
COURT OF COMMON PLEAS**

No. 2021-00629

CERTIFICATE OF SERVICE

I, Kellie A. McGowan, Esquire, do hereby certify that on the ____ day of _____ 2021, true and correct copies of the Motion for Entry of Agreed Order and the Stipulation and Agreement filed on behalf of Appellant and Intervenor were served via first class mail and/or the e-filing system upon all parties of record.

Date: _____

By: _____
Kellie A. McGowan

Exhibit "A"

Settlement Plan

HERNIMAN CONSULTING GROUP, LLC
 1501 18th Ave. Ste 104
 New Britain, PA 18901
 (717) 566-3300
 www.herniman.com

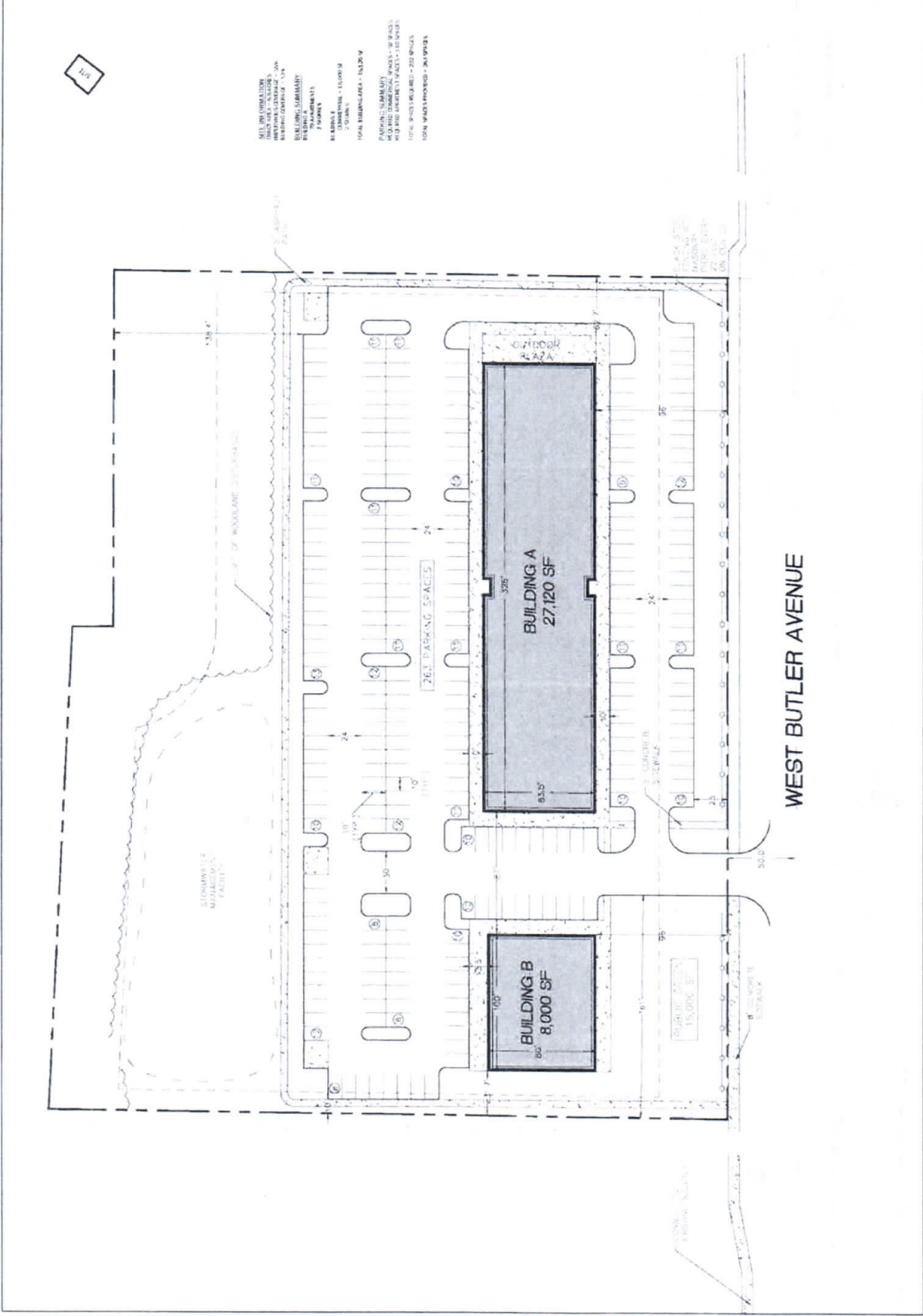


DATE: 07/13
 TIME: 10:00 AM
 PROJECT: BUTLER AVENUE PROPERTY
 DRAWING NO: CP-6

SETTLEMENT PLAN
 BUTLER AVENUE PROPERTY
 TWP # 26 006 003
 NEW BRITAIN TOWNSHIP, BUCKS COUNTY, PA
 PA 6076424
 ROBERT GUNNHAM P.E.

DATE	1/21/11
BY	RG
SCALE	1" = 40'
TITLE	SETTLEMENT PLAN
PROJECT	BUTLER AVENUE PROPERTY

Drawing No
CP-6



NOTES:
 1. SEE EXHIBIT A FOR SITE SPECIFIC INFORMATION.
 2. SEE EXHIBIT B FOR SITE SPECIFIC INFORMATION.
 3. SEE EXHIBIT C FOR SITE SPECIFIC INFORMATION.
 4. SEE EXHIBIT D FOR SITE SPECIFIC INFORMATION.
 5. SEE EXHIBIT E FOR SITE SPECIFIC INFORMATION.
 6. SEE EXHIBIT F FOR SITE SPECIFIC INFORMATION.
 7. SEE EXHIBIT G FOR SITE SPECIFIC INFORMATION.
 8. SEE EXHIBIT H FOR SITE SPECIFIC INFORMATION.
 9. SEE EXHIBIT I FOR SITE SPECIFIC INFORMATION.
 10. SEE EXHIBIT J FOR SITE SPECIFIC INFORMATION.

Exhibit "B"

List of Permitted Uses

LIST OF PERMITTED USES

A1	General Farming
A2	Crop Farming
A5	Commercial Forestry
A6	Nursery
A7	Garden Center
A8	Farm Support Facility
A11	Animal Hospital
D1	Nursery School/Day Care Center
D2	College, Primary or Secondary School
E1	Public Recreational Facility
E8	Library or Museum
I1	Medical Office
I2	Veterinary Office
I3	Professional Office
I4	Medical and Pharmaceutical Sales Office
J1	Retail Store
J3	Service Business
J4	Financial Establishments
J5	Funeral Home or Mortuary
J6	Eating Place
J7	Drive-In and Other Eating Place
J8	Tavern
J9	Indoor Entertainment
J10	Theater
J11	Indoor Athletic Club
J12	Amusement Hall or Arcade
J15	Hotel/Motel
J16	Guest House
J17	Repair Shop
J18	Laundry

J19	Service Station or Car Wash
J22	Automotive Accessories
J26	Dwelling in Combination
J27	Nonresidential Conversion
J28	Office Supplies and Equipment Sales and Services
J29	Package Delivery Services
J30	Photocopying Services
L	General Accessory Uses and Structures:
L1	Nonresidential Accessory Building
L3	Temporary Structure
L4	Temporary Community Event
L9	Off-Street Parking
L10	Sings