

GENERAL REEXAMINATION OF THE MASTER PLAN  
WILLINGBORO TOWNSHIP  
Burlington County, New Jersey

March 29, 2018

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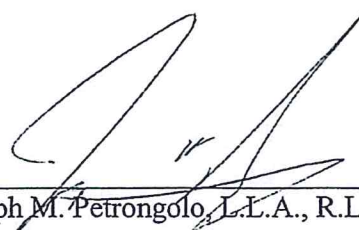
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## I. INTRODUCTION

Willingboro Township is a suburb of Philadelphia, Pennsylvania, located in the Philadelphia-Camden-Wilmington (PA-NJ-DE-MD) Metropolitan Statistical Area (MSA) with over 6 million people. According to the U.S. Census, the Township's population peak was in 1970 with just over 43,000. In 2010, the Township had a population of 31,629, representing a 9% decline from 2000 and a 26% decline from 1970. Willingboro has easy access to I-295, the New Jersey Turnpike and other major state highways. Willingboro is largely built-out and with few vacant lands available for development most, new development will be redevelopment.

Pursuant to Section 40:55D-89 of the Municipal Land Use Law, at least once every ten years municipal master plans and development regulations are to reexamined for the purpose of determining continued viability and a need for amendment. Considerations should be given to the emergence of land use issues and external influences such as statutory mandates which may impact the underlying bases of the master plan. The reexamination is intended to result in the articulation of planning policy issues which need to be addressed to ensure that the municipality's preeminent planning policy document, which serves as the foundation for development regulation, has continued applicability. Parenthetically, failure to undertake the periodic reexamination constitutes under the law a rebuttable presumption that the development regulations are no longer reasonable.

In accordance with the above citation, the reexamination is to address:

- a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
- d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
- e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C. 40A:12-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality. (L. 1975, c. 291, s. 76; amended 1980, c. 146, s. 6; 1985, c. 516, s. 18; 1987, c. 102, s. 29; 1992, c. 79, s. 50.)



The Willingboro Township Reexamination dated March 2006, herein examined, consists of the following: 1) Reviews of Past Conditions, 2) Changing Conditions 3) Changing Assumptions and Objectives 4) Specific Recommendations, and 5) Redevelopment Plans. While the 2006 Reexamination was based on the Township's 1997 Master Plan which included only elements regarding Housing and Land Use, it is important to note that the goals and objectives section discussed additional topics such as open space, commercial development, landscaping, historic preservation, and community facilities. The last time a full master plan, including a wide range of topic elements, was completed was in 1990.

Since the time of initial adoption, the Township's 1990 Master Plan has been amended three times, in 1997, 2008 and 2015. The principle goals of the 1997 Master Plan amendment were to 1) set up the possibility for the Route 130 Redevelopment Plan, 2) discuss senior housing and the Township's need, and 3) address issues regarding underutilized school facilities. The 2008 and 2015 amendments were strictly updates to the Township's Housing Element as a direct result of changes in the State's affordable housing process.

With respect to format, this reexamination report addresses in the same sequence the elements outlined within subsections "a" through "e" of the above mentioned Municipal Land Use Law citation.

## II. REEXAMINATION REPORT FINDINGS

### a. *The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.*

The statutory charge for this aspect of the reexamination is to identify problems and objectives identified in the most recent reexamination. As this is the second reexamination of the 1997 Master Plan, the charge then becomes one of establishing, from the 2006 Reexamination, specific problems to the extent discussed or, in the alternative, to the extent which can be deduced from the language of the goals and objectives. Specific problems as identified in the 2006 Reexamination are summarized and outlined:

#### 1. Major problems existing at the time of the 2006 Reexamination.

- (a) **Route 130 Corridor** – Declining population has led to distressed and vacant properties.
- (b) **Senior Citizen Housing** – Lack of regulations specifically setting aside housing types for seniors and the aging population.



- (c) **Left Over Business Lots** – Corner lots which are too small in size for modern business and unsuitable for housing due to shallowness, remain undeveloped.
- (d) **Home Occupations** – Township Ordinance permits numerous professional home occupations that may no longer be appropriate in residential zoning districts. Additionally, there is a lack of performance criteria sufficient to place a limit on the type and extent of professional activity permitted.
- (e) **Commercial Design Standards** - Outdated development standards relating to design, landscaping, traffic control, etc.

2. **Major objectives as identified in the 2006 Reexamination.** The 2006 Reexamination carried forward the specific goals and objectives as stated in the 1997 Master Plan, determining which no longer applied. The following goals and objectives describe various facets and policies for articulating the community's vision and are presented as they were in the 2006 Reexamination:

- (a) Objectives relating to Open Space:

Open space for conservation and recreation purposes should be enhanced through public and private efforts. The remaining natural feature in the Township should be preserved which provide active and passive recreational facilities and open space pedestrian linkages.

- (i) Encourage pedestrian and bicycle connections, through zoning options if necessary, between parks and other open space
- (ii) Use planning techniques to encourage private open space on remaining vacant, underutilized, or redevelopment sites. When possible public amenities should be provided.
- (iii) Maintain the quality of existing parks and open space, providing for such amenities as adequate parking and easy access to promote their use.
- (iv) Retain the parkway “greenbelts” that enhance the visual quality and original intention of the road system.
- (v) The traditional integration of municipal and school district open space should be continued.
- (vi) Consider, where appropriate, bikeway extensions to open space and community facilities.

(b) Objectives relating to Housing:

Maintain the quality of the Township's housing stock as a strategy for neighborhood preservation. Create opportunities for the development of varied housing types to meet the needs of young couples, families, single parents, empty nester couples and senior citizens.

- (i) Facilitate, at the Township, level, rehabilitation, upgrading (including minor additions) and façade improvements of housing through a streamlined approval process which eliminates unnecessary regulator procedures.
- (ii) Make available grant and loan assistance, through existing and future County, State and Federal programs, to low and moderate-income households to enable the low cost rehabilitation of their units.
- (iii) Consider "in-law" additions to dwelling units to enable senior citizens to live with family members in the community through a conditional use process to be established in the Zoning ordinance.

(c) Objectives relating to Commercial Development:

Promote the rehabilitation and redevelopment of commercial land uses made obsolete by changing economic and social factors.

- (i) Maintain an appropriate amount of commercial/retail to adequately service the Township.
- (ii) Redevelop underutilized commercial facilities to provide services more marketable to Township residents.
- (iii) Develop vacant commercial property, if necessary, to augment the commercial/retail stock of the Township.
- (iv) Encourage better development and redevelopment of shopping centers through increased landscaping standards, controlled parking areas, and design guidelines.
- (v) Evaluate the sign ordinance for its impact on business and revise if necessary
- (vi) Analyze the retail market to determine the need for different commercial/retail services and offices.

- (vii) Recognize existing professional uses in residential areas but discourage additional conversion of residences for such activities that intensify the use of property. Allow limited use of residential property for business purposes that does not intensify the overall use of the land. Establish criteria for limited home occupations and home professional offices to minimize any adverse impacts on the neighborhood.
- (viii) Establish a process to examine proposed development by means of a pre-application conference with appropriate staff and consultants to improve the quality of submissions and reduce the length of time for approval.

(d) Objectives relating to Landscaping:

Revise landscaping regulations for commercial and residential uses to improve standards to reflect best practices.

- (i) Decrease visibility and extent of impervious surfaces, by landscaping and screening existing paved surfaces, large impervious surfaces and parking lots.
- (ii) Improve the streetscape in redeveloping and vacant areas by requiring street trees on all collector and arterial roads.
- (iii) Assess the adequacy and health of existing street trees and prepare a street tree planting.
- (iv) Utilizing the prepared community-wide tree survey, assess the adequacy and health of existing street trees and prepare a street tree-planting program.
- (v) Issue standards for adequate buffers between incompatible uses.
- (vi) Consider enhanced signage and landscaping at major entrances to the Township.

(e) Objectives relating to Historic Preservation:

Pursue the nomination of Willingboro to the State Register of Historic Places because of its unique characteristics as a planned suburban community.

- (i) Adopt a Historic Preservation Element of the Master Plan to support the Establishment of Historic districts and landmarks.



- (ii) Assess the advisability of becoming a Certified Local government through the state Historic Preservation Office.
- (iii) Establish design standards to encourage development in Willingboro to be compatible to the style and scale of existing buildings.

(f) Objectives relating to Community Facilities:

Plan adequately for the timely provisions of new community facilities, or the reuse of community facilities which are no longer needed because of demographic factors or obsolescence.

- (i) Active and passive recreation facilities should be reviewed in relationship to the demographics characteristics of the Township.
- (ii) The adequacy of public safety, consisting of police, fire, and emergency services, should be examined.

(h) Objectives relating to Land Use:

Foster a well-balanced, diverse community with a mix of residential housing types, institutional, commercial, and limited industrial uses along with ample open space and public facilities. The land use plan and development regulation are designed to minimize land use conflicts and to reduce adverse impacts of development regulations are designed to minimize land use conflicts and to reduce adverse impacts of development on other activities in the Township.

- (i) Improve the quality of life for Willingboro residents, persons who work in the municipality and visitors by following the principles of the Master Plan and its implementation through the land development ordinance.
- (ii) Preserve undeveloped open space and promote the visual enjoyment of the land.
- (iii) Direct new development and redevelopment to places in relation to their transportation and environmental capacities
- (iv) Provide continuity with previous planning documents.
- (v) Reduce blighting influences through improved standards for commercial development.
- (vi) Discourage the introduction of incompatible land uses.

- (vii) Evaluate the need for other types of senior citizen housing and potential locations.
- (viii) Determine traffic circulation improvements as necessary
- (ix) Review the provisions for public utilities including potable water, sanitary sewer, solid waste disposal, and recycling.
- (x) Discourage development on vacant small key parcels, especially corner lots, for the enhancement of the Township's visual quality. Review the feasibility of Green Acres funding for acquisition.
- (xi) Develop criteria for Planning Board review on change of use applications.
- (xii) Establish policy on the installation of sidewalks for public access.

***b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.***

**1. Major problems existing at the time of the 2006 Reexamination.**

Except for underutilized school sites, the 2006 Reexamination determined that all problems indicated in the 1997 Master Plan were still areas of concern. Since the 2006 Reexamination, the Township has continued to acquire left over business lots and no longer considers them to be an issue.

- (a) **Route 130 Corridor** – Route 130 is a major north/south highway and the primary commercial corridor within the Township. Mirroring the Township's slow 40 years of population decline, the corridor has experienced business attrition. Other municipalities along this corridor, and other older highways, such as Route 18 and Route 22 in central and north Jersey, respectively have struggled to find redevelopment solutions for obsolescent land uses. The need to revitalize and redevelop Route 130 is hardly an issue unique to Willingboro.

While redevelopment is still a major Township priority, in recent years conditions have gradually improved. The successful redevelopment of Willingboro Plaza into the Willingboro Town Center has been followed by the 2012 construction of the Avery Townhome Apartments on a vacant parcel (Block 5.01, Lot 13) located at the corner of Route 130 and Pennypacker Drive. In September of 2017, the Village Mall/Grand Marketplace property (Block 2, Lot 7.01) went up for auction and the Township is hopeful redevelopment of the site will finally commence. The Delaware Valley Regional Planning Commission's (DVRPC) Municipal



Data Navigator projects that in 2020 the Township may begin to see slight population growth.

While population growth and the construction of the Avery Townhome Apartments (Block 5.01, Lot 13) is a sign of improving conditions along Route 130, more is needed. Even with these developments, there is still approximately 60 acres of land along the corridor that is either vacant or distressed . The Township should review older documents, such as the 1997 Route 130/Delaware River Corridor Strategic Plan produced by Burlington County to confirm if any guidelines are still applicable. Considerations should be given to amending the Route 130 Redevelopment Plan so that a clearly defined vision can be provided. As the Township considers Route 130 redevelopment, future amendments to the redevelopment area should consider market conditions and clearly indicate and prioritize desired uses.

- (b) **Senior Citizen Housing** – While housing markets across the country saw a softening after the latest economic recession, indicators are finally pointing towards a resurgence in residential construction. As construction starts increase, the Township should continue to look for creative ways to increase the availability of senior housing.

The Township’s population age 65 and older has grown from 12.9% in 2000 to 16.8% in 2016. The Township currently allows for a total of two senior housing developments, the Doreatha D. Campbell Senior Housing site located at 55 Sunset Road and vacant site (Block 11.01/Lot 14) permitted to be developed as 42 single family senior units. Considering the built-out nature of the Township and its aging population, the Township and members of the Planning Board consider the need to address additional senior housing options to be an ongoing issue. The Township should continue to investigate accessory apartments, Elder Cottage Housing Opportunity (ECHO) housing opportunities<sup>1</sup> and consider permissions for additional senior housing.

- (c) **Left Over Business Lots** – When Levitt & Sons originally laid out a design for Willingboro, they intended for certain corner lots to be developed as commercial properties. While some of these lots developed as either convenience stores or gasoline filling stations, due to changes in modern business requirements, many remained undeveloped. While the Township has made it a priority to purchase parcels and convert them to open space, it should be noted that many of the lots could accommodate additional programing. Lots could be redesigned to include playgrounds, athletic facilities, dog parks, tot lots, community gardens or additional community gathering space.

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<sup>1</sup> ECHO housing is a small temporary housing unit that is generally installed in a backyard to accommodate older adult relatives.



- (d) **Home Occupations** – Section 370-14 of the Township Ordinance specifically permits professions such as, physicians, dentists, chiropractors, chiropodists, optometrists, attorneys, ministers, accountants, psychologists, architects, engineers, musical instructors, marriage counselors and speech pathologists in residential districts. While some of these might be suitable in a residential setting, many, such as a medical office, are likely no longer appropriate. The Township now considers home occupation regulations to be reduced conditions and consideration should be given to ordinance revisions and updates.
- (e) **Commercial Design Standards** – As the Township continues to seek redevelopers, specifically along Route 130, the clear lack of design standards will become more apparent. The Township has yet to create a unified vision of how commercial areas, specifically Route 130, should be developed and improved. The Township should draft commercial development standards (architecture, landscaping, drainage, traffic, signage, etc.).

2. **Major policies and goals as identified in the 2006 Reexamination.**

All policies and goals as examined in the 2006 Reexamination remain viable. The Township should continue to implement these policies and goals while consolidating objectives, policies and goals into a more succinct and approachable format. The existing policies and goals, are presented as follows:

Policies

- (i) Strengthening and diversifying the economic composition of the Township are priorities. Opportunities for redeveloping vacant and underutilized commercial sites should be identified, and the mixing of compatible uses, should be explored. Upon identifying appropriate mixed uses for specific areas, innovative zoning in the form of overlay zones with conditions should be established.
- (ii) Capitalizing on the River Line light rail system is crucial. Strategies must be developed to leverage the light rail system as a way to expand economic development in the Township.
- (iii) Improving and enhancing the Township's waterfront are vital to revitalizing Willingboro. The undeveloped and underutilized areas along the waterfront must be studied for development potential, and strategies must be developed to capitalize on the waterfront as a way to enhance economic development in the Township. Public access to the waterfront should be maintained and enhanced.

- (iv) Enhancing the Township's gateways along Route 130 and nearby Interstate 295 is a priority. These gateways are tired and revitalization is needed. Plans for improving the gateways must be developed.
- (v) Improving inter-and intra-Township circulation is vital to the economic health of the Township. Inefficient and antiquated road intersections along Route 130 must be improved.
- (vi) Rehabilitating Willingboro's housing stock is a priority. The Township's small town character must be preserved.
- (vii) Clearing the Township from derelict properties is critical to improving neighborhoods. Strategies must be developed to rid the Township of such properties that create a negative perception of the community, particularly along Route 130 and Beverly-Rancocas Road that are major roadways through the community.
- (viii) Pursuing State funds and resources is important to implementing the various plans for improving and revitalizing the Township. In order to obtain State priority, the Township must capitalize on the "endorsed plan" status for the Route 130/Delaware River Corridor of which Willingboro is a part.
- (ix) Developing a vision for the future of Willingboro Township is absolutely vital. That vision should provide the guidance needed to prepare a new master plan, amend the zoning ordinance and direct the redevelopment plan. The vision should consider the policies, goals and objectives of this reexamination report.

## Goals

### Vision

- (i) Develop a consensus-based, comprehensive vision for the future of Willingboro Township, leveraging the work completed for the Route 130 visioning study.
- (ii) Solicit input from the public, including residents, various community organizations and associations, local businesses and local governmental agencies, in the development of the vision.
- (iii) Utilize the vision as the foundation for preparing a new master plan.

### Revitalization

- (i) Develop strategies to strengthen and diversify the Township's economic composition.
- (ii) Identify areas of the Township for mixed-use development.
- (iii) Evaluate all areas of the Township for development and redevelopment potential.
- (iv) Inventory vacant, derelict and underutilized properties in the Township.
- (v) Inventory all Township-owned properties.
- (vi) Develop strategies to rehabilitate the housing stock in the neighborhoods throughout the Township.
- (vii) Examine ways to capitalize on the light rail system that will serve the Township.
- (viii) Develop strategies for strengthening the new Willingboro Town Center as a "transit-oriented" center.
- (ix) Develop strategies for improving and enhancing the Township's waterfront.
- (x) Pursue State funds and resources to implement the plans for revitalizing the township; capitalize on the "endorsed plan" status for the Route 130/Delaware River Corridor of which Willingboro is a part.
- (xi) Develop and implement innovative zoning to promote revitalization of Route 130 and the underutilized shopping centers and strip development throughout the township.

### Community Preservation

- (i) Develop strategies for rehabilitating deteriorated housing stock.
- (ii) Develop strategies for clearing derelict properties and returning them to productive use.
- (iii) Pursue State funds for rehabilitating deteriorated buildings and dwelling in the Township.



- (iv) Plan for enhancing public access throughout the Township.

Land Use

- (i) Evaluate existing land use patterns and develop appropriate zoning that respects neighborhood residential densities and that can be used as an incentive for redeveloping areas along Route 130.
- (ii) Explore land uses and design guidelines that facilitate the revitalization of the Township's highway commercial district along Route 130 and the underutilized shopping centers and strip development throughout the Township.
- (iii) Investigate adaptive reuses of empty commercial and industrial building located throughout the Township. Flexible zoning should be created to allow for the reuse of the redevelopment of the commercial and industrial areas in the Township.
- (iv) Explore ways to facilitate the redevelopment of the Township's waterfront with a view towards a mix of public open space, residential and commercial development that includes recreational uses.

- c. *The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.*

1. **Approval of Redevelopment Areas**

While the Township has one redevelopment area along the entirety of Route 130, two (2) amendments, the fifth and sixth, have occurred since the 2006 Reexamination. The Fifth Amendment, adopted in 2007, allowed for the construction of an age-restricted residential development on Block 11.01, Lot 14, comprised of market rate and "affordable" units as defined under the Substantive Rules of the New Jersey Council on Affordable Housing for the Period Beginning on December 20, 2004 (N.J.A.C. 5:94-1 et. seq.) with said development being considered the second and last of two (2) senior citizen developments permitted under the Township of Willingboro Zoning Ordinance. The Sixth Amendment, adopted in 2008, allowed for the construction of a mixed use inclusionary development consisting of 450 dwelling units and a minimum of 35,000 square feet of commercial development on Block 5.01, Lots 5 and 13. Construction on either of these projects has yet to commence.

2. **Affordable Housing Rules**

In 2004, five (5) years after the end of the Second Round Substantive Rules of the New Jersey Council on Affordable Housing in 1999, the New Jersey Council on Affordable Housing (COAH) adopted the first version of the Third Round Substantive Rules. After various legal challenges to COAH regulations a 2010 Appellate Division decision directing COAH to use a methodology similar to those previously used in the First and Second Rounds (the decision did affirm certain Third Round Substantive Rules). COAH finally approved draft Third Round Substantive Rules in 2014 but deadlocked 3-3 in voting, thus failing to adopt the draft rules. The failure of COAH to adopt new regulations led to additional litigation and ultimately the Supreme Court's 2015 ruling now known as Mt. Laurel IV, which transferred review and approval responsibility from COAH to designated Mt. Laurel trial judges.

The implication of this rule change is that municipalities may no longer wait for COAH to adopt Third Round Substantive Rules before preparing Third Round Housing Element and Fair Share Plans. Municipalities, if they wish to be protected from exclusionary zoning lawsuits, must now apply to the Court. These trial judges, tasked with reviewing municipal Housing Element and Fair Share Plans much in the same manner as COAH, grant municipalities whose plans are approved, a judgment of repose, the court equivalent of COAH's substantive certification. At present, most municipalities are either in litigation to determine their exact affordable housing obligation or have agreed with participating parties on a suitable obligation. Willingboro submitted the required documentation to the Courts, and continues to be legally compliant regarding protections from builder's remedy lawsuits. While documentation is presently under review, the Township will likely need to update and amend their Housing Element and Fair Share Plan in accordance with the Courts determination and Judgment of Repose.

3. **Local**

Analyses of current census conditions reveals the Township being affected by national economic trends. The 2011-2015 American Community Survey (ACS) estimate reveals that since the 1990 Census (see Figure 2), not only has the total number of housing units declined, but vacancy rates have increased while the population continues to decline. While Burlington County is still growing at the paltry rate of .1%<sup>2</sup>; over the last 28 years, Willingboro Township and the County have seen vacancy rates steadily increase to 7.2% and 7%<sup>3</sup>, respectively.

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<sup>2</sup> 2011-2015 and 2010-2014 ACS Estimates

<sup>3</sup> 2011-2015 ACS Estimates



**Figure 1: Population and Housing Changes**

	1990	2000	2015 Estimate	1990-2015 % Change
<b>Persons</b>	36,291	33,008	31,476	-13%
<b>Households</b>	11,026	10,713	10,386	-6%
<b>Median Housing Value</b>		\$133,883*	\$162,300	21%
<b>Housing Units</b>	11,236	11,124	11,197	0%
<b>Occupied</b>	11,044 (98.3%)	10,713 (96.3%)	10,386 (92.8%)	-6%
<b>Owner-Occupied</b>	10,340 (93.6%)	9,912 (92.5%)	8,613 (82.9%)	-17%
<b>Renter-Occupied</b>	704 (6.4)	801 (7.5%)	1,773 (17.1%)	152%
<b>Vacant</b>	192 (1.7%)	411 (3.7%)	811 (7.2%)	322%
<b>Persons per occupied unit</b>	3.29	3.07	2.81	-15%

Source: 1990 Census, 2000 Census, 2011-2015 American Community Survey

\*Adjusted for inflation. Indicated in 2015 dollars.

**Figure 2: Land Use by Acres**

	1990	2010	% Change
<b>Single Family</b>	2,290	2,235	-2%
<b>Multi Family</b>	67	159	139%
<b>Industrial</b>	55	39	-29%
<b>Transportation</b>	995	869	-13%
<b>Utility</b>	79	82	3%
<b>Commercial</b>	134	142	6%
<b>Community Services</b>	141	164	16%
<b>Recreation</b>	356	389	9%
<b>Agriculture</b>	26	14	-47%
<b>Wooded</b>	367	576	57%
<b>Vacant</b>	377	236	-37%
<b>Water</b>	321	266	-17%
<b>Total</b>	5,207	5,172	-1%

Source: DVRPC Municipal Data Navigator



As indicated in the figure above, between 1990 and 2000, DVRPC found that multi-family land uses increased 92 acres or an increase of 139%, while vacant land decreased 37% to 236 acres. These numbers reflect the reality of conditions in Willingboro, which is the challenge of trying to increase development while being built out and predominately residential.

**Figure 3: Building Permits Issued**

Year	2010	2011	2012	2013	2014	2015	2016	Avg.
<b>Building Permits Issued</b>	2	98	51	25	123	159	0	65

Source: NJDCA Construction Reporter, Building Permits, Yearly Summary Data, and Housing Units Authorized by Building Permits for New Construction

The number of housing units authorized by building permits is one of many economic indicators used nationally. The housing market is a sector that is considered an early indicator to changing economic conditions. Building permit data gathered from the New Jersey Department of Community Affairs (DCA) illustrates that on a year to year basis, permits for new construction have fluctuated greatly in the Township. While Willingboro has averaged 65 permits per year since 2010, the most dramatic decline in building activity was between its peak in 2015 and 2016. However, this data does not reveal housing starts that were initiated or completed.

### County, DVRPC, State

#### County

The 2014 Burlington County Bicycle Master Plan indicates a desire to have numerous primary bikeway corridors running through Willingboro. The main routes are planned along Beverly Road and Levitt Parkway and Charleston Road, from Edgewater Park Township to Westampton Township. The Township has indicated that transportation infrastructure generally works well. While the Township fully supports County wide efforts, complete street efforts are not a priority.

#### Delaware Valley Regional Planning Commission

The Transportation Improvement Program (TIP) is an agreed-upon list of specific priority projects required for the region to receive and spend federal transportation funds. It lists all projects that intend to use federal funds, along with non-federally

funded projects that are regionally significant. In addition to the more traditional highway and public transit projects, TIPs can also include bicycle, pedestrian, and freight-related projects. The 2018 Transportation Improvement Program identifies a roadway resurfacing project along Route 130, between Charleston Road/Cooper Street (CR 630) and Crafts Creek in Florence Township.

#### State

- On January 18, 2010, New Jersey enacted a law which allowed residents suffering from certain debilitating and life-threatening illnesses to use and possess medical marijuana with a doctor's recommendation. New Jersey is the 14th state to permit the use of marijuana for medical purposes.
- On April 22, 2010, New Jersey enacted a law which exempted solar panels from impervious surface or impervious cover designations. It mandates that NJDEP shall not include solar panels in calculations of impervious surface or impervious cover or agricultural impervious cover and requires stormwater management plans and ordinances shall not be construed to prohibit solar panels to be constructed and installed on a site.
- On May 5, 2011, New Jersey enacted a law prohibiting the application of the judicially created Time of Decision rule to "applications for development". Specifically, the Time of Application Law provides "those development regulations which are in effect on the date of submission of an application for development shall govern the review of that application for development and any decision made with regard to that application for development".
- While the State Planning Act requires that the State Planning Commission to adopt a State Development & Redevelopment Plan every three (3) years, the last adopted State Plan was in 2001. On November 14, 2011 a Draft Final Plan was approved, but after nearly a year of public meetings, on November 19th, 2012, the State Planning Commission voted to postpone its vote on adoption of the State Strategic Plan in order to allow for additional comments on the revised Plan and to consider whether and how to address issues related to rebuilding after Hurricane Sandy.
- On August 7, 2013, New Jersey enacted a law implementing numerous changes to the Municipal Land Use Law with the stated purpose of "enabling municipalities the flexibility to offer alternatives to traditional development through the use of equitable and effective planning tools, including clustering, transferring development rights and lot size averaging in order to concentrate development in areas where growth can best be accommodated and maximized while preserving agricultural lands, open space and historic sites".



d. *The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.*

1. **Master Plan Recommendations** The current master plan, adopted by the planning board on April 14, 1997, consists of the following elements: Goals and Objectives, Land Use Plan and Housing Plan. The adopting resolution provided further that any previously adopted master plan element not modified shall be readopted (this included the Circulation Plan, Recreation and Community Facilities Plan and Conservation Plan). In 2008 and 2015, the Planning Board adopted amended Fair Share Plans to reflect Third Round Substantive Rules promulgated by the New Jersey Council on Affordable Housing (COAH) and as directed by the Courts.

In 2008, N.J.S.A. 40:55D-28 (MLUL) was amended to provide for two new optional plan elements, the Educational Facilities Plan Element<sup>4</sup> and the Green Buildings and Environmental Sustainability Plan Element. The Township's 1997 Master Plan discussed educational facility needs in the Land Use Plan Element, and while educational facility planning is a concern of future land use planning, ultimately it is the Land Use Plan Element that provides the foundation for the implementation of measures for the accommodation of future educational facility needs. As such, there does not appear to be an overriding need for the preparation for this new optional plan element provided the land use plan element is sufficiently informed. The purpose of the Green Buildings and Environmental Sustainability Plan Element is to promote the efficient use of natural resources, the use of renewable energy systems, and consideration of the impact of buildings on the local, regional, and global environments. While the Township does not generally deal with issues of flooding, the Township, as adopted in a 2009 resolution, wishes to become more sustainable and achieve certification with Sustainable Jersey<sup>5</sup>. As such, the Township should consider the adoption of a Green Buildings and Environmental Sustainability Plan Element that will provide policy and form a foundation for future regulations regarding renewable energy, passive solar design, sustainable practices and the construction of green buildings.

Due in part to the age of the 1990 Master Plan, the 1997 Master Plan Amendment and 2006 Reexamination, there is a clear need to prepare a new comprehensive master plan which includes all elements relevant to the issues currently facing the Township.

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<sup>4</sup> The Educational Facilities Plan Element incorporates the purposes and goals of the "long-range facilities plan" required to be submitted to the Commissioner of Education by a school district pursuant to section 4 of P.L. 2000, c.72 (C.18A:7G-4).

<sup>5</sup> Sustainable Jersey is an organization that provides tools, training and financial incentives to support communities pursuing sustainability programs.



2. **Strengthen Economic Development.** In 2001, the Township created the Willingboro Economic Development Committee to establish a process for increased citizen involvement regarding the Township's economic future. Combining the functions of the Economic Development Committee and the Willingboro Development Corporation would not only strengthen the Township's commitment to revitalization but help streamline the process, provide direction to potential businesses and allow for coordinated marketing of the Township.

Combining these two entities does not necessarily mean the Township needs to hire additional staff, rather the roles of existing staff could be expanded. This recommendation is not to indicate that the County will no longer be a vitally important partner but will allow the Township to be more responsive in this competitive market and allow businesses access to a central partner. Interested parties need to know where to direct their business and the Township is best suited to provide that direction.

3. **Create a Business Improvement District.** The primary goal of a Business Improvement District (BID) is to grow business by managing the commercial corridor in ways that the municipality, the Burlington County Regional Chamber of Commerce or the Economic Development Committee cannot do. BIDs enable an organized response to problems and opportunities and can be partners for driving revitalization. BIDs can undertake commercial corridor inventories, develop market studies, investigate grant opportunities, recruit new businesses, develop business retention strategies and evaluate competing commercial corridors. While the BIDs' funding structure will need to be further investigated BIDs create partnerships between anchor institutions, small businesses and residents.
4. **Improve Community Engagement.** Consideration should be given to improving the Township's engagement strategy. To develop any comprehensive engagement strategy, the Township must involve stakeholders and know their role within the community as a user/beneficiary, adviser, decision maker or deliverer. Local community development networks, faith-based groups, residents and other support organizations should be involved in identifying community stakeholders, their interests/needs and how best to engage with them. It will be essential to utilize a range of mechanisms and avenues to facilitate participation.
5. **Veteran Housing.** Recognizing the unique needs of disabled veterans, flexible housing opportunities should be considered to support and provide for necessary housing accommodations and opportunities.
6. **Revise Master Plan Goals.** The Township should consider consolidating Master Plan goals into a more manageable and straight forward list. While the goals, objectives and policies indicated in the 2006 Reexamination and 1997 Master Plan are still generally applicable, the format and content could be consolidated and made more precise and approachable.

7. **Development Regulation Recommendations.** Development regulations adopted through September 9, 2016 generally allow for ease of administration and continue to meet the needs of the Township. Various changes as stated below should be considered:
- (a) **Promote Smart Growth and Sustainable Development.** Willingboro could benefit from more emphasis on the incorporation of smart growth planning and design. Creating compact development will not only esthetically enhance surrounding areas but will also allow for increased densities and new development. As with any proposed development it is important that the Township can point to a design standard or aspirational vision providing direction to an applicant while enhancing the resident experience.
  - (b) **Architectural/Layout Design Standards.** Current development regulations do not address architectural details. As the Township continues to redevelop, standards should be considered to indicate an aesthetic regarding building massing and details. These design standards could be in the form of zoning ordinance updates or a simple form-based code/design appendix. Design changes should address not only commercial buildings along Route 130 but activity in other zoning districts including residential development.
  - (c) **Veteran Housing.** Current development regulations address accessory housing; however, they do not address disabled veteran housing. Regulations should be developed to streamline the development process for disabled veterans seeking accessory housing units, housing additions or other affordable housing options to meet the unique needs and requirements of this population.
  - (d) **Noise Standards.** Consideration should given to improving *Chapter 231: Noise*, as it relates to residential uses and sound levels. Measures which should be considered, but not limited to, include an adjustment to hours of operation as it relates to a specific use, the inclusion of decibel standards (an expression of the relative loudness of sounds as perceived by the human ear) to reduce the impact on neighboring uses, an adjustment to the distance at which a noise is considered a nuisance and consistency with County and State standards.
  - (e) **Renewable Energy and Green Building.** Current development regulations do not fully address the generation and utilization of renewable energy or green building technology. Consider developing standards to



regulate passive solar design, production and utilization of renewable energy, and requirements relating to the construction of green buildings.

- (f) **Inconsistent Regulation.** Land Use regulations should be examined for any inconsistency with the New Jersey Residential Site Improvement Standards N.J.A.C. 5:21-1 et seq. and for instances where regulations are inconsistent with other standards or ambiguous in order to clarify the intent and purpose of ordinances.
- (g) **Home Occupation and Professional Office.** Regulations regarding home occupations and professional offices should be revised to be more specific. Only appropriate uses should be permitted in specific districts, and specific occupations should be required to meet a set of performance standards.
- (h) **Principal Uses Per Lot.** Articles under *Section 370: Zoning*, do not indicate that land or premises may be used for only one use. This language is ambiguous to the extent that it allows for the assertion that more than one use may be permitted on a parcel. To avoid the assertion language should be refined to make clear the intent of the zoning ordinance.
- (i) **Definitions.** If additional classifications and standards are added to the Township Ordinance, the definition section should be updated accordingly. All verbiage which is not of a standard definition should be provided in applicable Ordinance definition sections.
- (j) **Applicability of the New Jersey Residential Site Improvement Standards (R.S.I.S.) N.J.A.C. 5-21-1 et seq.** Consideration should be given to extending R.S.I.S. applicability to nonresidential development to allow street design consistency relative to pavement specifications, sidewalk and curbing.
- (k) **Sign Ordinance.** The Sign Ordinance should be examined for continued viability and updated as necessary. Regulations should reflect the Township's desired esthetic and the reality of application approvals.
- (l) **Major/Minor Site Plan.** Sections 205-4 and 205-34 should be revised to clearly define major site plan and minor site plan and to clearly designate when a site plan would be considered a major or minor application.
- (m) **Maximum Parking.** Currently, the Township has a minimum parking requirement, whereas a maximum requirement should be considered. This will allow the Township to reduce impervious surfaces, stormwater runoff, and allow for increased site usability. Measures should be added for



reserve parking and an indication of steps needed to conditionally increase beyond the maximum.

- (n) **Marijuana Dispensaries.** In light of State legislation that permits the use of marijuana for medical purposes as well as potential consideration for other uses, Willingboro should explore various ways to regulate and address the appropriateness of site locations and design of marijuana dispensaries in a manner that promotes the public health, safety, and welfare of the Township.
  
- (o) **Landscaping and Green Stormwater Infrastructure (GSI).** Consideration should be given to the inclusion of additional landscaping standards regarding low impact design, native vegetation, and green stormwater infrastructure (GSI) concepts. The Township should consider partnering with the Willingboro Municipal Utilities Authority (WMUA) and DVRPC to develop strategies and implementing policies such as rain gardens, rain barrels, stormwater planters and porous pavement as cost effective ways to reduce.
  
- (p) **Rezoning.** This report recommends the following zoning adjustments:
  - 1) Consideration should be given to creating a park/open space zoning district. This district could include open space or recreational uses within the Township. Providing this zoning district will help provide clarity as to the Township's long-term goal regarding open space and if not currently under protection, provide conservation.
  - 2) Consideration should be given to creating an institutional zoning district. This district could include educational facilities, private and public, so that all such facilities are regulated in a uniform fashion. Providing this zoning district will help provide clarity and consistency moving forward, while avoiding variance applications and undue hardship. Should the use cease and become inactive, the zoning district will provide protections to the neighborhood that an appropriate use will replace it.
  - 3) Consideration should be given to allowing additional uses in various districts. Uses to consider include, but are not limited to, senior housing and accessory units.
  - 4) Consideration should be given to the creation of overlay zoning districts. Overlay zoning is a useful tool in transitional areas where the Township might consider allowing additional uses without having to revise existing zoning districts. Overlay districts can be

utilized for targeting specific sites, which currently might be underutilized due to zoning or general market conditions.

- e. *The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C. 40A:12-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality. (L. 1975, c. 291, s. 76; amended 1980, c. 146, s. 6; 1985, c. 516, s. 18; 1987, c. 102, s. 29; 1992, c. 79, s. 50.)*

The Township has employed redevelopment planning pursuant to the Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 et seq. as a mechanism to stimulate growth and has designated an area to be in need of redevelopment. This area is set forth below:

**The Route 130 Redevelopment Area** - The Township Council of the Township of Willingboro, by adoption of Ordinance 1998-4 of May 5, 1998, later amended by adoption of Ordinance 2003-1 of April 8, 2003 declared the easterly side of Route 130 extending northward from the Pennypacker Drive to the shared boundary with Burlington Township an area in need of redevelopment in accordance with the provisions of the New Jersey Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.), adopted a plan for the redevelopment of said area, and established standards for the B-1 Primary Business District, said standards being incorporated with the redevelopment plan.

Thereafter, Township Council authorized the Planning Board, under Resolution 2003-85, to study various parcels adjacent, and in close proximity to, the easterly segment of the Route 130 corridor extending south from Pennypacker Drive to the Rancocas Creek. Pursuant to the conduct of a public hearing and consideration of a report prepared by Remington and Vernick Engineers, dated July 2003 and titled "Preliminary Investigation and Redevelopment Plan, Willingboro Township, Burlington County, New Jersey, the board recommended that the parcels more specifically identified below be declared an area in need of redevelopment and further recommended adoption of the accompanying redevelopment plan. Acting on the Planning Board's recommendation, the Township Council, adopted Ordinance 2003-5, formally declaring the following parcels to be in need of redevelopment: Block 5.01, Lots 1, 2, 3, 4, 5, and 13; Block 8, Lots 1, 2.01, 2.02, 3.01, 3.02, and 4; Block 11.01, Lots 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 13.01, 13.02, and 14; Block 12, Lot 1; Block 13, Lots 2.01, 2.02, and 5; Block 14, Lots 1, 2, 3, and 4; Block 15, Lots 1, 2, 3, and 4, Block 35, Lot 1. This legislation resulted in the entirety of the Township's Route 130 frontage as being within a redevelopment zone and with some modification subject to the requirements established under the original redevelopment plan.

Pursuant to the Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 et seq., where redevelopment plans have been adopted which supersede existing development

recommendations, the Township zoning map has been amended to delineate all such areas.

### III. CONCLUSION

This reexamination report concludes that while the 1997 Master Plan and 2006 Reexamination remain viable documents for the advancement of planning policy necessary for the future arrangement of land within the Township, the Township should consider the preparation of a new comprehensive master plan to revise and consolidate the goals and objectives, and to create a unified document containing multiple elements which would help to guide the Township's future development. Elements for consideration in the new master plan should include: Goals and Objectives, Circulation Plan, Housing Plan, Land Use Plan, Recreation and Community Facilities Plan, Conservation Plan, and Green Building and Environmental Sustainability Plan. Additionally, while not critical, based on the 2006 Reexamination's reaffirming of goals, consideration should be taken towards the future inclusion of a Historic Preservation Plan.



**NE Willingboro LLC / The Grand Marketplace  
Short-Term Trailer Storage Facility**

**Application for Minor Site Plan Approval, Waiver of Formal Site Plan Review, Conditional Use  
Variance Approval, Conditional Use Approval and Bulk Variance Approval**

**Block 2, Lot 7.01 / 4340 U.S. Route 130  
Township of Willingboro, Burlington County, New Jersey  
Our File No.: NOR163.001**

**Application Submission Checklist Item Waiver Request List**

The following is a list of the Application Checklist Submission Item Waivers being requested, and the reason(s) for each requested Checklist Submission Waivers, in connection with the above-captioned Application.

<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Reason(s) in Support of Submission Checklist Waiver Request</b>
9	Location of ponds, streams, rivers on site and off site	A submission waiver is requested since the proposed site improvements do not impact existing site impervious coverage or drainage conditions.
10	Location of wooded areas	No wooded areas are impacted by the proposed site improvements.
12	Environmental Impact Statement	The existing shopping center building and its site improvements not being removed in connection with this Application. No on-site environmentally sensitive areas are being impacted by the proposed site improvements.
21	Existing and proposed potable water and sanitary disposal facilities showing perc test	The site is currently served with water utility and sanitary sewer utility services.
24	Proposed soil erosion controls.	No soil disturbance is proposed as part of this Application.
32	Location of petroleum tanks	There are no petroleum tanks on the site.
34	Details of proposed off-site improvements	No off-site improvements proposed.
35	Proposed methods of demolition	No building demolition proposed.

**Application Addendum**

**NE Willingboro LLC / The Grand Marketplace**

**Short-Term Trailer Storage Facility**

**Application for Minor Site Plan Approval, Waiver of Formal Site Plan Review, Conditional Use Variance Approval, Conditional Use Approval and Bulk Variance Approval**

**Our File No.: NOR163.001**

**I. NATURE OF APPLICATION**

NE Willingboro LLC (the “Applicant”) the Township of Willingboro Zoning Board of Adjustment (the “Zoning Board”) grant Minor Site Plan Approval, Waiver of Formal Site Plan Review, Conditional Use Variance Approval, Conditional Use Approval and Bulk Variance Approval to allow for the development and operation of short-term commercial vehicle (trailer) parking and storage facility as a conditionally permitted use of the surface parking lot of an existing commercial property known as The Grand Marketplace, consisting of 28.8 +/- acres, located at 4340 U.S. Route 130, within a B-1 Primary Business Zoning District, the RZO Route 130 Redevelopment Zone Overlay Area, owned by the Applicant, and more particularly known as Block 2, Lot 7.01 on the Official Willingboro Township Tax Maps (the “Property”).

The proposed improvements for the Property, in connection with the short-term commercial vehicle parking and storage facility, include 190 trailer parking spaces, ten (10) employee parking spaces, one (1) security building and a security fence.

In addition to Minor Site Plan Approval, Waiver of Formal Site Plan Review and Conditional Use Approval, Applicant is requesting that the Zoning Board grant Conditional Use Variance Approval for relief from the Ordinance Section 155-3 to allow the installation of a security a fence (i) within in the front yard areas of the Property; and, (ii) that will have as many at least four, and as many as five, driveway entrance gates.

Applicant also requests that the Zoning Board grant Bulk Variance Approval to allow relief from the Ordinance Section 370 – 74.C.(2) site buffering requirements.

Consistent with Ordinance Section 370-82, the proposed short-term commercial vehicle (trailer) parking and storage facility is a conditionally-permitted use in the B-1 Zoning District in which the Property is located.

The proposed short-term commercial vehicle parking and storage facility is a permitted conditional use upon a determination that:

1. The proposed use in a specific location is necessary and convenient for the efficient parking and storage of vehicles, trucks, boats and non-motorized trailers and will in no way detract from the character of the neighborhood or area in which the use is to be located;
2. Adequate and attractive fences and other safety devices will be provided. All fences shall comply with the provisions of Chapter 155, Fences, of the Code of the Township of Willingboro and the Willingboro Township Fence Construction Code;
3. Sufficient landscaping, including trees and shrubs, will be provided and periodically maintained;
4. The parking and storage area or areas will be provided with either a gravel, crushed stone or all-weather pavement and suitable night lighting facilities shielded from view from adjoining streets and residential areas;
5. Parking and storage of all vehicles, trucks, boats and non-motorized trailers will be limited to those licensed or registered and in good repair;
6. The minimum lot area for a commercial parking or storage area shall be two acres; and
7. No driveway shall open onto a public street or road within 150 feet of an intersection of such street or road with another public street or road. In determining the suitability of proposed or existing driveways upon the site, the Board shall consider such factors as grade and site clearance; the number and pattern of driveways; the number, location and design of ingress and egress points; the volume of traffic which may be anticipated on the site and adjoining roads; and the condition and width of pavement of adjoining roads.



Also, to be a conditionally permitted use, the security fencing for the short-term commercial vehicle parking and storage facility short-term commercial vehicle parking and storage facility must address the Ordinance Section 155-3 requirements:

1. Fences shall be erected or constructed in the rear and/or side yard only as hereinafter provided and only after a permit for same has been obtained from the Township Department of Inspections.
2. For the rear and side yards, fences shall be erected on the boundary line.
3. No side yard fence shall be erected in front of an imaginary extension of the front building line.
4. For front yards, on the corner of the property, ornamental fences of not more than two sides, no one side of which is longer than 10 feet or higher than three feet, may be erected.
5. No fence shall have more than three gates, or, if the property fenced is a corner lot, then not more than four gates, not including any entrance through the dwelling. A fence on property having reverse frontage shall include a gate opening into the reverse frontage area.

## **II. CONDITIONAL USE APPROVAL**

Applicant's proposed short-term commercial vehicle parking and storage facility can address all of the Ordinance Section 370-82 conditional use criteria with the exception of the Ordinance Section 155-3 prohibition of front yard fences and the limitation of only three (3) gates.

Applicant will be prepared to present testimony to the Zoning Board that the proposed use of the Property is necessary and convenient for the efficient parking of non-motorized trailers used in connection with the transportation of goods for nearby e-commerce warehouse distribution facilities. It is anticipated that the proposed use will

not detract from the character of the neighborhood or area in which the Property is located.

Applicant proposes a security fence along the perimeter of the Property. Also, Applicant anticipates that it can utilize the existing site landscaping as part of the proposed facility.

The existing paved surface parking lot, with its existing night lighting, on the Property will be used for the short-term commercial vehicle parking and storage.

Only licensed, operable over-the-road trailers will be parked on the Property.

The Property is approximately 28.8 acres in size.

No driveways from the Property open on to a public street or roadway within 150 feet of an intersection.

Ordinance Section 155-3, as part of the Ordinance Section 370-82 conditional use criteria, does not allow front yard fences and allows only three gates. Since the proposed use will have a front yard fence, with at least four (4) gates, Applicant requires a Conditional Use Variance to develop the short-term commercial vehicle parking and storage facility.

### **III. CONDITIONAL USE VARIANCE APPROVAL**

#### **a. Jurisdiction and Standard of Proof for Conditional Use Variance.**

As indicated above, the proposed short-term commercial vehicle parking and storage facility is permitted in the B-1 Zoning District, provided it satisfies the conditional use standards. New Jersey Municipal Land Use Law (the “MLUL”) and the Ordinance define a “conditional use” as:

a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.

N.J.S.A. 40:55D-3, Ordinance Section 370-11.

The MLUL provides that “[a] zoning ordinance may provide for conditional uses to be granted by the planning board according to definite specifications and standards which shall be clearly set forth with sufficient certainty and definiteness to enable the developer to know their limit and extent.” N.J.S.A. 40:55D-67(a). The MLUL provides that a zoning board of adjustment “shall have the power to... in particular cases for special reasons, grant a variance to allow departure from regulations... to permit... deviation from a specification or standard... pertaining solely to a conditional use.” N.J.S.A. 40:55D-70(d)(3). The Zoning Board has jurisdiction to grant Conditional Use Approval and “d(3)” Variance Approvals from the applicable Conditional Use Standards.

As to all “d” Variances, including “d(3)” Variances from Conditional Use Standards, the MLUL provides that:

*No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance...*

N.J.S.A. 40:55D-70(d). The first of two highlighted phrases above pertain to the so-called “positive criteria” or “special reasons” for the requested variance relief. The second pertains to the so-called “negative criteria ” for the requested variance relief. The Applicant must meet both MLUL standards.

**i. The Positive Criteria**

Typically, the applicant seeking Use Variance Approval must satisfy the positive criteria by showing that:

- (1) the proposed use is an inherently beneficial one; or



- (2) denial of the use variance would result in undue hardship; or
- (3) the proposed site would promote the general welfare in that it is particularly suited for the proposed use. Medici v. BRP Co., 107 N.J. 1 (1987).

This is the strictest burden of proof imposed under the MLUL. However, as to “d(3)” Variances from Conditional Use Standards, in Coventry Square v. Westwood Zoning Board of Adjustment, 138 N.J. 285 (1994), the New Jersey Supreme Court held that the heightened burden of proving the special reasons that is imposed upon applicants for Use Variance Approvals for *non-permitted uses*, is inappropriate in relation to applications for Variances from Conditional Use Standards. Instead, an applicant, who is unable to comply with Conditional Use Standards, need only justify the municipality’s continued permission for the Conditional Use, and the focus of the positive criteria should be limited to the impact of the deviation, and not to the impact of the use. The Applicant must provide:

proof sufficient to satisfy the board of adjustment that the site proposed for the conditional use, in the context of the applicant's proposed site plan, continues to be an appropriate site for the conditional use notwithstanding the deviations from one or more conditions imposed by the ordinance. Thus, a conditional-use variance applicant must show that the site will accommodate the problems associated with the use even though the proposal does not comply with the conditions the ordinance established to address those problems.

Coventry Square, 138 N.J. at 298-99. In other words, the Zoning Board must determine that the Property continues to be an appropriate location for the short-term commercial vehicle parking and storage facility, in spite of the inability to comply with the fence front yard or gate limitations.

**ii. The Negative Criteria**

As to the “negative criteria” that pertain to a Use Variance Application, the Zoning Board can only grant Use Variance Approval where there is no “substantial detriment to the public

good” and without “substantially impairing the intent and purpose of the zone plan and zoning ordinance.” N.J.S.A. 40:55D-70(d).

However, this standard is met in connection with Conditional Use Variances by a two prong analysis, as follows:

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

**b. Justification For Requested Conditional Use Standards Variance Relief**

**i. The Positive Criteria**

The Property can accommodate the development and operation of the proposed short-term commercial vehicle parking and storage facility despite the deviation from the conditional use standards. The short-term commercial vehicle parking and storage facility, and its proposed fence, will not adversely impact adjoining properties based on the Property configuration and its location on a State highway. Notwithstanding the requested Condition Use Variance, in the context of the Applicant’s proposed Site Plan, the Property is appropriate for the development of the proposed short-term commercial vehicle parking and storage area.

**ii. The Negative Criteria**

The short-term commercial vehicle parking and storage facility will present no substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. The impact on adjacent properties, if any, will be minimal because of (i) the location of the short-term commercial vehicle parking and storage facility on a State highway; and (ii) design of the Applicant's Site Plan that locates the proposed site improvements to the interior of the Property adjacent to the State highway. The development and operation of the short-term commercial vehicle parking and storage facility, that involves the repurposing of a portion of the existing Grand Marketplace shopping center and its related improvements on the Property, will have limited, if any, impact on adjacent properties and will not cause any damage to the character of the neighborhood.

**IV. BULK VARIANCE APPROVAL**

The Bulk Variance Approval requested by the Applicant is defined as a "c" Variance by the New Jersey Municipal Land Use Law ("MLUL"). N.J.S.A. 40:55D-70(c). Pursuant to the MLUL, and Ordinance Section 370-89.D.(3), the Zoning Board has the authority to grant "c" Variances in connection with its review and approval of applications such as this one.

Specifically, the Zoning Board has the power to:

"c. (2) Where in an application or appeal relating to a specific piece of property, the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance . . . " N.J.S.A. 40:55D-70(c)

To obtain the requested Bulk Variance for a specific piece of property, the Applicants must show the purposes of the MLUL will be advanced, the benefits derived from granting the requested variance will outweigh any detriment to neighboring properties, and the requested



variances will benefit the community since it represents a better zoning alternative for the Property. Kauffman v. Planning Board for Warren Township, 110 N.J. 551, 560 (1988).

Applicant requests that the Zoning Board grant Bulk Variance Approval to allow relief from the Ordinance Section 370 – 74.C.(2) site buffering requirements.

The grant of the Variance is reasonable and justifiable in this case, since the Applicants are able use the existing wooded areas and landscaping within the Property. By allowing the reduction of required site buffering, the purposes of the MLUL will be advanced since the Applicant's proposed design will allow for greater traffic circulation thereby promoting the public health safety and general welfare of the public (N.J.S.A. 40:55D-2a), and encourage the appropriate and efficient use of land (N.J.S.A. 40:55D-2m).

Based on the limited nature of the requested Variance, the grant of the requested relief should not result in any detriment to the neighboring properties.

For all of these reasons, and the reasons that will be provided by way of testimony at the public hearing on this Application, Approval of the requested Variance is reasonable and justified. Therefore, because the Applicant can justify meeting the criteria of N.J.S.A. 40:55D-7(C)(2), the Zoning Board has the power to and can grant this Variance.

**V. ADDITIONAL RELIEF**

The Applicants also request that the Zoning Board grant any and all other approvals, variances, submission waivers, design waivers, Ordinance interpretations, and/or other relief necessary to allow for the proposed development of the short-term commercial vehicle parking and storage facility on the Property.