

**PENNINGTON BOROUGH**  
**30 North Main Street, Pennington, New Jersey 08534**  
**PLANNING/ZONING BOARD**  
**AGENDA TO THE EXTENT KNOWN**  
**November 13, 2024, 7:30 PM**  
**Regular Meeting**

The meeting connection information will be available on the Borough’s web site at [www.penningtonboro.org](http://www.penningtonboro.org) where instructions regarding the webinar will also be available. Documents will be available for viewing at the Pennington Borough Hall, 30 North Main Street. Members of the public may make comments during the public portion of the hearing. They may also be submitted by email to [planning@penningtonboro.org](mailto:planning@penningtonboro.org) or in written letter form and delivered to the Board at the Borough Hall, 30 North Main Street. **All advance comments must be received by 4:00 p.m. the day of the scheduled meeting. However, any comments concerning an application on the agenda can only be made by attending the hearing on the application and providing testimony at the hearing and cannot be submitted prior the meeting.**

OPENING STATEMENT: Adequate notice of this meeting has been posted in Borough Hall and sent to the officially designated newspapers: Hopewell Valley News and The Times of Trenton.

ROLL CALL:

Blackwell	Caminiti	Davy
Jackson	Kassler-Taub	O’Neill
Reilly	Stern	Tracy
Rex-Alt. #1	Upson-Alt. #2	

**I. OPEN TIME FOR PUBLIC ADDRESS FOR ITEMS NOT ON THE AGENDA**

**II. NEW BUSINESS**

- Recommended Ordinance Amendments
- Recommended by Council to Undertake a Preliminary Investigation to Determine Whether Block 205 Lot 22 be Considered as an Area of Redevelopment
- Recommended by Council to Ensure Consistency with Ordinance 2024-13- Stormwater Amendments
- Recommended by Council to Ensure Consistency with Ordinance 2024-14-Revisions to Historic Preservation Ordinance

**III. RESOLUTIONS FOR MEMORIALIZATION**

- Recommending that Block 201, Lots 6 and 7 Pennington Borough Tax Map be Declared An Area of Redevelopment

ROLL CALL:

Blackwell	Caminiti	Davy
Jackson	Kassler-Taub	O’Neill
Reilly	Stern	Tracy
Rex-Alt. #1	Upson-Alt. #2	

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- Application PB 24-002, Straube Center LLC, 106 West Franklin Avenue, Block 202, Lot 2, Preliminary and Final Site Plan Approval and Bulk C(1) Variances

**ROLL CALL:**

Blackwell	Caminiti	Davy
Jackson	Kassler-Taub	O'Neill
Reilly	Stern	Tracy
Rex-Alt. #1	Upson-Alt. #2	

- Amending 2024 Professional Services Contract for the Planning Board Planner

**ROLL CALL:**

Blackwell	Caminiti	Davy
Jackson	Kassler-Taub	O'Neill
Reilly	Stern	Tracy
Rex-Alt. #1	Upson-Alt. #2	

**IV. MASTER PLAN COMMITTEE UPDATE**

- Conditionally Approve the GBESE element (wasn't properly voted on at August 14<sup>th</sup>, 2024 meeting)

**Read:** "Upon review of the minutes of the July 15th Planning Board meeting and the associated meeting recording, the motion to conditionally adopt the Master Plan GBESE element was made by Andy Jackson and seconded by GP Caminiti but no vote was taken on approval. The discussion on the motion was sidetracked into a discussion of flooding at the junction of Eglantine Avenue and East Franklin Avenue following the visit of the remnants of Hurricane Debby and the vote was overlooked. A formal vote on the motion to approve will be taken at this meeting."

**V. MINUTES FOR APPROVAL**

- October 9, 2024

**ADJOURNMENT:** \_\_\_\_\_

November 8, 2024

Pennington Planning Board  
30 North Main Street  
Pennington, NJ 08534



**Re: Recommended Ordinance Amendments  
2023 Reexamination Report**

Dear Planning Board Members:

As part of the Board's 2023 Master Plan Reexamination Report, there were a number of specific changes recommended to the development regulations. Below, for your review, are amendments intended to address some of those recommendations, along with commentary as appropriate. The ordinance committee has met twice and reviewed the recommended changes, discussing each and arriving at final recommendations to be reviewed by the full Planning Board. As you will see, some of the recommendations from the reexamination report are noted as being better addressed as the Board prepares the Land Use Plan Element of the master plan.

Each of the specific recommendations as written in the reexamination report are provided in italicized font for reference. In cases where changes to the ordinance are proposed, the current wording of the specific section is provided and modifications are noted.

- 1. Definitions – Borough Code §215-8. Many of the definitions in the zoning ordinance have not been updated in some time and should be reviewed and amended as necessary. Of particular note are definitions for cellar, basement, building height and structure, all of which have been implicated in recent applications and require clarification. New definitions may be added so the ordinance is more comprehensive. “The Complete Illustrated Book of Development Definitions” is considered the treatise on defining land use-related terms and should be consulted for guidance on an update of current definitions as well as those that may need to be added.*

Below are recommended amendments to the definitions section of the ordinance, §215-8. While the reexamination report suggested that additional definitions be added, those would be better addressed as part of the Land Use Plan Element update and in consultation with the Zoning Officer. These amendments address the more pressing issues we have encountered over the last few years and include other definitions that should be amended to provide consistency where needed.

- a. BASEMENT – A space, whether finished or not, having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 7 feet. (This updates our definition to include the

minimum ceiling height required for a space to be considered “habitable” under the International Building Code (IBC.)

- b. CELLAR – A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground. A space with more than one half of its floor-to-ceiling height above the average grade of the adjoining ground that has a floor-to-ceiling of less than 7 feet is also a cellar. (This updates our definition to include the minimum ceiling height required for a space to be considered “habitable” under the International Building Code (IBC).)
- c. HALF STORY – A space under a pitched roof that has the line of intersection of the roof and wall face not more than three feet above the floor level and a floor-to-ceiling height of less than 7 feet. (This modifies the definition of half-story and removes it from the “STORY” definition below where it currently resides.)
- d. STORY - The vertical distance between the finished surface of a floor and the finished surface of the floor above it. Or, if there is no floor above, then the vertical distance between the finished surface of a floor and the ceiling above it. Basements shall be considered a story as shall attics not meeting the definition of half-story. (This amendment simplifies the prior definition by removing the qualifiers that follow the definition.)
- e. FLOOR AREA – The sum of the gross horizontal area of each story of a primary building or buildings, measured from the exterior face of the exterior walls and from the centerline of walls separating attached buildings.
- f. FLOOR AREA RATIO – The floor area of a primary building or buildings divided by the area of the property on which the primary building or buildings are situated.
- g. STRUCTURE – A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. (This definition is per the MLUL).
- h. BUILDING HEIGHT – The vertical distance from average finished grade to the top of the highest roof beams on a flat or shed roof, to the deck level on a mansard roof and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs. Where this chapter provides for maximum height limitations by reference to a specified height and number of stories, the intent is to limit building height to those maximums. (This eliminates the requirement to measure building height to the top of any roof structure and is consistent with the building code definition. It also eliminates the requirement to calculate building height from finished grade 5’ from the foundation.)
- i. PARTIAL DESTRUCTION – Damage to a building or structure, whether voluntary or involuntary, to the extent that such damage constitutes less than 50 percent of the total floor area of such building or structure. (We also have the option to utilize costs that exceed 50% of the market value of the building or structure, but that seems to be more difficult to document and could be subjective.)
- j. PREVAILING SETBACK – The mean front yard setback of principal dwellings on the same side of the street located within the same zoning district within 500 feet in either direction.

2. *The Municipal Land Use Law was amended in 2022 to include provisions requiring EV charging infrastructure for multifamily developments and parking areas. New provisions also exempt certain installations of EV charging stations and infrastructure from site plan approval and deem such use a permitted accessory use in all zoning districts within a municipality. A model ordinance has been provided by the Department of Community Affairs and the Board recommends these standards be incorporated into the zoning ordinance.*

We have adapted the DCA model ordinance to the Zoning Ordinance, and it is provided separately at the end of this document due to its length.

3. *Standby generators have become normal fixtures for many homes and commercial businesses in the Borough. The Board recommends standards be developed to ensure appropriate controls are in place regulating placement, setback and screening of these accessory structures. As the issue of air-conditioning compressors is already addressed in §215-66.1, amendment of this section to also address generators would be appropriate.*  
Below is the suggested change to the section dealing with air-conditioning compressors to incorporate generators, with changes tracked. It is also recommended that the application fees and escrow for applications related solely to air conditioning compressors and generators be reviewed and potentially reduced based on the limited scope of these matters.

- a. § 215-66.1 Air-conditioning compressors and generators.

In all zones, air-conditioning compressors and generators shall be placed so as to conform to the setback requirements of the principal structure building of the property. A variance shall be required for placement of an air-conditioning compressor or generator in violation of required setbacks ~~within a nonconforming setback~~ only if the placement increases the existing nonconformity ~~air-conditioning compressor or generator is proposed closer to the property line than the existing principal building.~~ Any air-conditioning compressor or generator located in the front yard must be visually screened from the street by evergreen vegetation or solid fence conforming to ordinance requirements. Air-conditioning compressors ~~units~~ and generators shall be exempt from setback requirements if adjacent property is ~~commercial~~ nonresidential or in a ~~commercial~~ nonresidential zone.

4. *Article V of the zoning ordinance regulates nonconforming uses and structures. Presently the language in §215-52.B and §215-57 seems to intend to permit additions for nonconforming structures without the need for variance relief provided the degree of nonconformity is not increased. The Board should determine the intent of these sections and revise them as needed.*

As noted above, the language governing nonconforming uses and structures in two sections of the ordinance is unclear and requires clarification. Below are the suggested modifications to these sections, with changes tracked.

a. § 215-52 Continuation of use of existing buildings.

Except as otherwise provided in this article, the lawful use of legally existing nonconforming buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such building is located; provided, however, that:

A. No nonconforming lot shall be further reduced in size.

B. No nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance; provided, however, that alterations or enlargements that do not increase the degree of nonconformity related to required front, side or rear yard setbacks are permitted provided such alteration or enlargement represents a 25% or less increase in the length of the building or portion of the building that is nonconforming. Increasing the degree of nonconformity by construction or alteration is considered to be a further reduction of ~~permitted already nonconforming~~ front, side or rear yard setbacks ~~or, further increase over of already nonconforming permitted lot coverage, or further increase in permitted already nonconforming building height, or further extension above the permitted building plane.~~

b. § 215-57 Alterations.

A nonconforming building that is partially destroyed may be reconstructed to its original condition but not enlarged or extended unless in conformance with the requirements of §215-52.B. Nothing in this section shall limit the ability to reconstruct only a portion of a building that is partially destroyed provided previous nonconforming conditions that existed at the time of partial destruction are not exceeded and are made more conforming, unless said building is changed to a building conforming or more nearly conforming to the requirements of this chapter; provided, however, that alterations or enlargements that do not increase the degree of nonconformity are permitted.

5. *Definitions for the terms “reconstruction”, “partial reconstruction” and “total reconstruction” should be provided and specific regulations for each should be developed.*

Unfortunately, the Complete Book of Development Definitions does not suggest how to define these terms. In searching the ordinance, “partial reconstruction” and “total reconstruction” do not appear in the text. New Jersey’s Rehabilitation Subcode (N.J.A.C. 5:23-6.1, et. seq.) does define the term reconstruction, as does Chapter 119 of the Borough Code, Historic Preservation, which is “The act or process of reproducing by new construction the exact form and detail of a vanished or nonsurviving building, structure or object, or any part thereof, as it appeared at a specific period of time when documentary and physical evidence is available to permit accurate reconstruction.”. Both definitions are provided below for reference, but the Borough Code definition seems to be tailored to address issues relevant to historic preservation rather than defining the term in a way that is universally applicable.

**NJ Rehabilitation Code** - "Reconstruction" means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration or any combination thereof. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

**Chapter 119 of Borough Code – RECONSTRUCTION** The act or process of reproducing by new construction the exact form and detail of a vanished or nonsurviving building, structure or object, or any part thereof, as it appeared at a specific period of time when documentary and physical evidence is available to permit accurate reconstruction.

6. *Presently accessory structures such as sheds, garages and gazebos are regulated in §215-12. This section of the ordinance should be reviewed and amended to address garage height limitations and to potentially include separate setback requirements for at-grade accessory structure such as patios.*

The suggested changes to this section are noted below.

- a. § 215-12 Yard requirements for secondary buildings.

A. Not more than ~~three~~two accessory structures ~~of different uses~~ shall be permitted per lot and may include detached decks, patios, sheds, pool houses, detached garages and gazebos. ~~For example, one shed, one garage and one gazebo are permitted.~~ Accessory structures must be located at least 10 feet from the principal structure, except as described in Subsection B.

B. Accessory structures that are attached to principal structures, via a nominal or substantial attachment, shall comply with required setbacks of the principal structure and shall be considered part of the principal structure.

C. Detached accessory structures, including detached decks and patios at grade, shall be located in the rear yard and shall conform to setbacks of not less than five feet from the side or rear yard.

D. Garages and pool houses shall be constructed of ~~compatible~~ building materials and ~~architectural~~ architectural style similar to that of the principal building, including ~~painting schemes~~ cladding material and primary color, ~~as the principal structure.~~

E. Garages shall not exceed a footprint of 750 square feet and shall have concrete or equivalent floors. The maximum height line measured at the ridge shall not exceed ~~20~~25 feet in height. Garages shall have pitched roofs. Areas above detached garages may be finished, but in no case used for ~~business services or as~~ a separate living quarters dwelling unit. Heating and half bathrooms are allowed, but cooking facilities are not permitted.

F. All garages attached to the principal structure shall be set back at least five feet from the front facade of the principal structure, and an attached ~~front loading~~

garage facing the street shall not exceed two bays. Attached Ggarages shall have pitched roofs or match the roof forms of the existing principal building.

G. Sheds and gazebos shall not exceed 200 square feet in floor area. Small sheds and gazebos, i.e., 100 square feet in floor area or less, without permanent footings shall not require a building permit. Large sheds and gazebos, i.e., 101 square feet to 200 square feet in floor area, shall require a building permit whether they utilize permanent footings or not and shall be constructed of compatible building materials and architectural style similar to the principal building, including cladding and primary color. ~~and architectural style as the principal structure.~~ The maximum height for all sheds and gazebos shall be 12 feet. Pool houses shall not exceed 300 square feet in floor area.

~~H. Section 215-16A shall not apply to accessory structures.~~ (The section referred to, Slopes, was repealed in 2017 therefore this reference is no longer applicable.)

7. *The schedule of area, yard and building regulations should be amended to include setback requirements for existing attached homes in all zoning districts, particularly side yard setback standards and to include the Floor Area Ratio and Floor Area limits for each Zone. Consideration should be given to utilizing front yard setback standards in residential districts that are related to the prevailing setback, as many dwellings, particularly along North and South Main Street in the R-80 zone, do not meet current requirements.*

We suggest amending the schedule to modify note 3 and include new notes 6, 7, and 8, with note 6 appearing in the Front Yard column, note 7 in the Any Side Yard column (keeping note 3) and note 8 appearing in the Total Both Side Yards column. The term "prevailing setback" is added to the definitions section of the ordinance in Section 1, above.

3 Side yards of corner lots, adjacent to a side street, shall be equal to the required front yard, subject to note 6, below.

6 The required front yard shall be the lesser of prevailing setback or the front yard otherwise required in column No. 6.

7 For attached dwellings, the side yard for the common property line where a wall is shared shall be 0 feet.

8 For attached dwellings, the total side yard required shall be equal to column number 7, Any Side Yard.

8. *The issue of floor area and floor area ratio should be revisited in conjunction with the review of definitions in the zoning ordinance. Several recent applications have been reviewed related to maximum floor area, all of which were approved after appearing more than reasonable based on the character of the lots. Consideration also needs to be given to what areas of a house contribute to the calculation of floor area.*

Suggested changes to definitions in Section 1 that addresses this issue.

9. *In recent years, the board has received a growing number of variance applications related to the creation of dwelling units over detached garages. The apparent goal of the Borough's one dwelling unit per lot limit is to prevent the creation of rental apartments.*



*Typically, however, applicants are now seeking to create living spaces for family members, some of whom are elderly or disabled. One such variance application was recently granted. The board should discuss the intent of this rule and determine the conditions under which this use is acceptable. This should be included in future discussion about Accessory Dwelling Units.*

This issue will need to be discussed with the Board and addressed as part of the update to the Land Use Plan Element.

- 10. Requirements in the ordinance related to lighting should be reviewed and a more comprehensive set of regulations should be adopted.*

This is more appropriately addressed as part of the update to the Land Use Plan Element and will require significant research. It may be prudent to assign this task to the Environmental Commission.

- 11. Signage standards in the zoning ordinance should be reviewed and revised as necessary, including lighting related to signage and the use of neon and LED signs.*

This is more appropriately addressed as part of the update to the Land Use Plan Element and will require significant research and discussion by the Board.

- 12. The issue of keeping poultry within the Borough should be considered to determine if regulations are appropriate.*

Below is an ordinance our office wrote for Pohatcong Township in Warren County, adapted to Pennington. We need to determine which Chapter of the Borough Code these requirements should reside, should the Board wish to recommend Mayor and Council implement regulations.

On properties other than those devoted to agricultural or horticultural use and eligible for farmland assessment, the following requirements shall be met.

- A. The keeping of chickens and other poultry shall be prohibited on multiunit properties, including any property in common ownership as part of a homeowner's association or owned or maintained by a management company or landlord.
- B. The keeping of chickens and other poultry shall be prohibited on nonresidential properties and residential properties that do not meet the minimum lot size for the zone district in which the property is located.
- C. A maximum of six (6) chickens or poultry may be kept on any one property.
- D. Roosters shall be prohibited.
- E. Chickens and other poultry shall be provided an enclosure which is covered, ventilated, and predator/rodent resistant. Said enclosure shall provide a minimum of four (4) square feet per bird when outdoor space of equal or greater space is provided or ten (10) square feet per bird where outdoor space of equal or greater space is not provided. Enclosures shall be located within rear yards only.

- F. Chickens and other poultry and their enclosure shall be contained within an area completely enclosed by fencing a minimum of four (4) feet in height. Chickens and poultry shall not be permitted to roam freely outside of fenced areas.
- G. The enclosure and any fenced run shall be well drained so that there is no accumulation of moisture. The floors and walls of the enclosure shall be kept in a clean and sanitary condition, with all droppings collected at least weekly. Animal solid waste shall be kept in a covered and secured container until composted, applied as fertilizer or transported off-premises.
- H. All enclosures shall be a minimum of 10 feet from a side or rear lot line.
- I. Any exterior lighting proposed shall be shielded so as not to shine on adjacent properties.

*13. Structures placed on properties to permit donation of clothing and other items is a recurring issue in the Borough. Potential regulations should be explored.*

The intent of potential land use policy and subsequent regulations should be discussed with the Board and the Zoning Officer prior to enactment.

*14. Review of whether standards should be implemented for driveways related to minimum and maximum width and setback from property lines.*

This issue should be discussed by the Board and Zoning Officer prior to enactment of standards.

*15. The Board recommends the exceptions to the requirement for site plan approval in §163-4 be reviewed and amended as necessary. The current exception in §163-4A creates a potentially subjective judgment and clarifying language is needed.*

We suggest §163-4.A be modified as shown below, with changes tracked.

**§ 163-4 Site plan approval required; exceptions.**

Prior to the issuance of a building permit or certificate of occupancy for any development on a lot wholly or partly in the Borough, a site plan shall be reviewed by the Planning Board. No site plan review shall be required for:

A. A change in occupancy or use of any nonresidential structure where the Borough Zoning Officer has determined that the new use is a primary permitted use in the zone district in which the property is located, or that the new use represents a continuation of a legally existing nonconforming use either by reason of Chapter 215, Zoning, or because of prior Planning Board acting as a ~~or~~ that the new use was previously approved by the Planning Board acting as a Board of Adjustment approval, and will not intensify-increase site-traffic to and from the site, inhibit site circulation, or increase the number of required parking spaces ~~or endanger the general health, safety and public welfare; or~~

*16. The Board recommends that the Council consider regulations related to the provision of wireless telecommunications service.*

This issue should be discussed by the Board and Zoning Officer prior to enactment of standards.

*17. The issues discussed in Section C above related to the COVID-19 pandemic should be considered as potential amendments to the zoning ordinance.*

This issue should be discussed by the Board and Zoning Officer prior to enactment of standards. Section C as noted above is located within the reexamination report adopted by the Board, and is attached for reference.

We look forward to meeting with the ordinance committee to discuss this correspondence. Should you wish to discuss this or any other matter, please feel free to contact us via e-mail at [jkyle@kylemcmanus.com](mailto:jkyle@kylemcmanus.com) or by phone at 609-257-6706.

Sincerely,

A handwritten signature in black ink, appearing to read "J.T. Kyle". The signature is fluid and cursive, with the first name "J.T." and the last name "Kyle" clearly distinguishable.

James T. Kyle, PP/AICP  
Borough Planner

Cc:

Ed Schmierer, Esq., Board Attorney (via e-mail)  
Lisa Maddox, Esq., Board Attorney (via e-mail)  
John Flemming, Zoning Officer (via e-mail)

#

**AN ORDINANCE  
AUTHORIZING AND ENCOURAGING  
ELECTRIC VEHICLE**

**SUPPLY/SERVICE EQUIPMENT (EVSE) & MAKE-READY PARKING SPACES**

This Ordinance sets forth procedures for the installation of Electric Vehicle Supply/Service Equipment (EVSE) and Make-Ready parking spaces and establishes associated regulations and other standards within the Borough of Pennington in Mercer County, New Jersey.

WHEREAS, supporting the transition to electric vehicles contributes to Pennington Borough's commitment to sustainability and is in the best interest of public welfare; and

WHEREAS, installation of EVSE and Make-Ready parking spaces encourages electric vehicle adoption; and

WHEREAS, the Borough of Pennington encourages increased installation of EVSE and Make Ready parking spaces; and

WHEREAS, adoption of this ordinance supports the State of New Jersey's goals to reduce air pollutants and greenhouse gas emissions from the transportation sector as outlined and supported by various programs related to NJ's 2019 Energy Master Plan, Global Warming Response Act (P.L.2007, c.112 (C.26:2C-37 et al.)), and EV Law (P.L. 2019, c. 362); and

WHEREAS, P.L. 2021, c.171, which Governor Murphy signed into law on July 9, 2021, requires EVSE and Make-Ready parking spaces be designated as a permitted accessory use in all zoning or use districts and establishes associated installation and parking requirements; and

WHEREAS, the Borough of Pennington encourages greater ownership and use of electric vehicles, thus the Borough is amending the Zoning Ordinance to establish standards and regulations for the safe and efficient installation of EVSE and Make-Ready parking spaces at appropriate locations.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey, that Chapter 215, Zoning, of the Borough Code, Section 216 is hereby amended as follows:

## §215-16 ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT

### A. Purpose and Intent

The purpose and intent of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. This ordinance is intended to:

- (1) Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
- (2) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
- (3) Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
- (4) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

### B. Definitions

Certificate of occupancy: The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and regulations adopted pursuant thereto.

Charging Level: The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

1. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
2. Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
3. Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

Electric vehicle: Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

Electric Vehicle Supply/Service Equipment or (EVSE): The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

Make-Ready Parking Space: means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).

Private EVSE: EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

Publicly-accessible EVSE: EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

### **C. Approvals and Permits**

- (1) An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
  
- (2) EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in 1. above.

- (3) All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (4) The Borough Zoning Officer or Borough Engineer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of Pennington Borough's land use regulations.
- (5) An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
  - (a) the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
  - (b) all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
  - (c) the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- (6) An application pursuant to Section 5. above shall be deemed complete if:
  - (a) the application, including the permit fee and all necessary documentation, is determined to be complete,
  - (b) a notice of incompleteness is not provided within 20 days after the filing of the application, or
  - (c) a one-time written correction notice is not issued by the Borough Zoning Officer or Borough Engineer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
- (7) EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.

- (8) A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

#### **D. Requirements for New Installation of EVSE and Make-Ready Parking Spaces**

- (1) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
  - (a) prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
  - (b) within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
  - (c) within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
  - (d) Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
  - (e) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (2) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in 1. above shall:
  - (a) Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
  - (b) Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
  - (c) Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
  - (d) Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
  - (e) Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
  - (f) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.



- (g) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (h) Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

#### **E. Minimum Parking Requirements**

- (1) All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to the parking standards set forth in each individual zone district.
- (2) A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
- (3) All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- (4) Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged but shall not be required in development projects.

#### **F. Reasonable Standards for All New EVSE and Make-Ready Parking Spaces**

- (1) Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
- (2) Installation:
  - (a) Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
  - (b) Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.

- (c) To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
  - (d) Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (3) EVSE Parking:
- (a) Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.
  - (b) Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
  - (c) Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space, or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of the Pennington Borough Code. Signage indicating the penalties for violations shall comply with Section 5 below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
  - (d) Private Parking. The use of EVSE shall be monitored by the property owner or designee.
- (4) Safety
- (a) Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.
  - (b) Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with the Borough of Pennington's ordinances and regulations.
  - (c) Adequate EVSE protection including but not limited to concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the

face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.

- (d) EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- (e) Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- (f) Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (g) Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, Pennington Borough shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

#### (5) Signs

- (a) Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- (b) All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.

- (c) Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with b. above.
  - (d) In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
    - 1) Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
    - 2) Usage fees and parking fees, if applicable; and
    - 3) Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- (6) Usage Fees
- (a) For publicly-accessible municipal EVSE: In addition to any parking fees, the fee to use parking spaces within the municipality identified as EVSE spaces shall be equal to the electric rate in cents per kilowatt hour at the time of charging plus a fee equal to 10% of the rate charged in cents per kilowatt hour.
  - (b) This fee may be amended by a resolution adopted by the governing body.
  - (c) Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

## **SEVERABILITY**

If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

## **REPEAL OF PRIOR ORDINANCES**

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

## **EFFECTIVE DATE**

This ordinance shall take effect after final passage and publication as provided by law.

their collection was determined in a Middlesex County Superior Court case to instead have the first four-year period to begin upon a Judgment of Repose, or upon a finding by the Court that the municipality is determined to be non-compliant (IMO of the Adoption of the Monroe Borough Housing Element and Fair Share Plan and Implementing Ordinances). Superior Courts around the State have been guided by this decision.

While the Borough had initially participated in the consortium of municipalities that retained Econsult Solutions to develop methodology and negotiate with Fair Share Housing Center, it withdrew from the process and has since not revisited the issue. Now that Judge Jacobsen's decision on methodology related to cases in Princeton and West Windsor is settled caselaw and the methodology has been utilized within the vicinage, the Borough intends to at a minimum prepare a Housing Element and Fair Share Plan based on that approach. According to a 2018 report prepared by Econsult Solutions utilizing what has now been coined "The Jacobsen Methodology," the Borough's affordable housing obligation can be summarized as follows:

Prior Round Obligations (1987-1999): 52 Units

Present Need (Rehabilitation Obligation): 70 Units

Third Round Obligation (1999-2025): 186 Units

Based on analysis prepared by the Borough Planner, Pennington is essentially fully developed, with little vacant land available for affordable housing. This means the Borough will be entitled to a Vacant Land Adjustment. The only properties potentially remaining are the former Borough Landfill, located between Broemel Place and West Delaware Avenue, and the current Hopewell Valley Senior Center, located on Reading Street. Recent information presented by the LSRP working with the Borough on closing the landfill revealed that the combination of landfill materials and environmental constraints present on the property (wetlands, wetland transition areas, flood hazard areas and riparian buffers) means that residential development will not be feasible from an economic perspective. Therefore, this property will not contribute to calculation of Realistic Development Potential. As Hopewell Township and the Borough are moving forward with construction of a new Senior Center at a site in Hopewell Township, the current Senior Center property will become available and will be considered to help meet the need for affordable housing. Additional potential sites include the former Wells Fargo property on the corner of Route 31 and West Delaware Avenue and properties along West Franklin Avenue and Route 31.

In reviewing data from the 2020 Census and 2020 American Community Survey, approximately 46% of renters within the Borough are spending more than 35% of their monthly income on housing costs. For owner-occupied housing, approximately 24% of residents are spending more than 30% of their monthly income on mortgage costs. This points to a need for additional affordable rental options in the Borough as almost half of renters are spending a significant portion of their income on housing costs.

## **7. COVID-19 Pandemic**

While the COVID-19 pandemic continues today, it is clear it will have a lasting impact on the State's economy and how its residents and business operate and interact with one another well into the future. The impact of the pandemic on the Borough will likely not be fully understood, however this Reexamination Report offers an opportunity to consider what

changes to land use policies are necessary to facilitate businesses and residents enjoying success and quality of life during and after the pandemic.

Since the Governor declared a State of Emergency on March 9, 2020, Borough business and residents have suffered the health and economic consequences. Through these challenging times, a few trends have appeared, and it seems likely they will continue through the pandemic and perhaps beyond.

- Economic Repercussions. While the impact remains unknown, it is clear that temporary business closures and reduced business activity may result in permanent business closures that could lead to vacant commercial and office spaces. The Borough may need to contend with vacancies and will need to monitor this trend and potentially consider if additional permitted uses are appropriate so as to welcome new businesses to the Borough. The economic repercussions may go beyond the commercial market and impact the residential market.
- Work from home. Employees across the state have been forced to work from home during the pandemic. For some people and businesses, this has been very successful and is desired to continue beyond the pandemic. This will increase the demand for home offices – perhaps a den, spare bedroom, or finished basement or attic space. It may also increase the desire for a home office as both employers and employees realize the convenience and reduced costs of working from home.
- Multigenerational Housing. It is likely the Borough will see increased instances where adult children and/or parents of homeowners are living together. This is a trend that predates the pandemic but is likely to increase, reflecting a changing economy. This may increase the demand for larger homes, in-home and accessory suites, and accessory apartments.
- Outdoor dining. With the rates of virus transmission significantly lower in outdoor spaces employing social distancing, the desire for restaurants to have outdoor dining has dramatically increased. As such, demand for outdoor dining along sidewalks and in areas of parking lots may increase. It is possible this demand for outdoor dining may extend beyond the COVID-19 pandemic. This change in demand should be supported in the Borough beyond the pandemic since it has the potential to enhance the attractiveness of commercial areas and can contribute toward these areas serving as Borough gathering spaces.
- Pedestrian and bicycle facilities. With the temporary closure of businesses and residents working from home, the desire to walk and bike around the community for recreation increased. It is likely this will create new habits among residents and increase the demand for safe and convenient pedestrian and bicycle facilities. The Borough should explore how these facilities can be provided between destinations where they do not exist and where enhancements are necessary.
- Drop-off / Pick-up. Temporary closure of businesses and concern about safety of indoor spaces have generated increased demand for take-out food and deliveries of online purchases and restaurant food. The Borough may be faced with increased demand for customer pick-up locations and home delivery. Such accommodations have already generated reconfigured parking lots and curbside pick-up arrangements.

These accommodations have addressed not only health and safety concerns for employees and customers, but also enhanced convenience for local businesses.

## 8. Electric Vehicles

The popularity of electric personal vehicles has grown substantially. In lieu of purchasing fuel at a gas station, these vehicles charge their batteries between trips. While many owners will conduct charging at their home and will do so in accordance with the applicable building code, many will also need and/or desire to charge while at work, shopping or otherwise out of their homes. This requires electric vehicle charging stations. In fact, support for charging stations is consistent with the Strategy 1 of the *2020 New Jersey Energy Master Plan* which states, "Reducing Energy Consumption and Emissions from the Transportation Sector, including encouraging electric vehicle adoption, electrifying transportation systems, and leveraging technology to reduce emissions and miles traveled."



*Example electric vehicle charging station*

Amendments to the Municipal Land Use Law adopted in August of 2021 included many provisions specific to the installation of electric vehicle supply equipment, including:

- New definitions for "make-ready" and "electric vehicle supply equipment".
- Applications proposing the installation of electric vehicle supply equipment in any zoning district within the Borough must be treated as a permitted accessory use or structure.
- Applications proposing the installation of electric vehicle supply equipment or make-ready parking spaces at an existing gasoline service station, existing retail establishment or any other existing building shall not require site plan or other land use board review nor variance relief and shall be approved by the issuance of a zoning permit by the administrative officer, provided the following requirements are met:
  - The proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
  - All other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
  - The proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L. 1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the

**BOROUGH OF PENNINGTON  
30 N. MAIN STREET  
PENNINGTON, NJ 08534**

October 8, 2024

To: Pennington Planning Board

From: Betty Sterling

RE: Resolution 2024-10.4

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Attached please find a copy of Resolution 2024-10.4, Authorizing and Directing the Planning Board of the Borough of Pennington to Undertake a Preliminary Investigation to Determine Whether Certain Properties Within the Borough Qualify as an Area in Need of Redevelopment.



**BOROUGH OF PENNINGTON  
RESOLUTION 2024-10.4**

**RESOLUTION AUTHORIZING AND DIRECTING THE PLANNING BOARD OF THE  
BOROUGH OF PENNINGTON TO UNDERTAKE A PRELIMINARY INVESTIGATION  
TO DETERMINE WHETHER CERTAIN PROPERTIES WITHIN THE BOROUGH  
QUALIFY AS AN AREA IN NEED OF REDEVELOPMENT**

**WHEREAS**, pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-6, the governing body of the Borough of Pennington ("Borough") is authorized to direct the Planning Board of the Borough of Pennington ("Planning Board") to undertake a preliminary investigation in order to determine whether certain properties within the Borough would qualify as an area in need of redevelopment pursuant to the criteria set forth in N.J.S.A. 40A:12A-5; and

**WHEREAS**, the Legislature amended the Local Redevelopment and Housing Law on September 6, 2013 to expand and clarify various provisions of same; and

**WHEREAS**, as a provision of the amendment to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12-6, the Legislature has directed that the resolution authorizing the planning board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain ("Non-Condensation Redevelopment Area") or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the powers of eminent domain ("Condensation Redevelopment Area"); and

**WHEREAS**, the Borough of Pennington does not intend to use all the powers provided by the Legislature for use in a redevelopment area, and specifically, the Borough of Pennington will not utilize the power of eminent domain; and

**WHEREAS**, the Borough Council desires the Planning Board to conduct such a preliminary investigation relative to certain properties located within the Borough, more specifically identified as Block 205, Lot 22, as shown on the Official Tax Map of the Borough of Pennington with a street address of 12 North Main Street (the "Property").

**NOW, THEREFORE BE IT RESOLVED** by the Borough Council of the Borough of Pennington, that:

1. The Planning Board of the Borough of Pennington is hereby directed to conduct a preliminary investigation to determine whether Block 205, Lot 22, or any portions thereof, constitute an area in need of redevelopment (non-condemnation) according to the criteria set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-5;
2. The Planning Board of the Borough of Pennington is hereby directed to conduct a preliminary investigation of the aforementioned Property, in accordance with the requirements set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A: 12A-6, more specifically, to prepare a map showing the boundaries of the potential area in need of redevelopment and locations of the various parcels of property included therein, with a statement setting forth the basis for the investigation appended to the map; to specify a date for a public hearing for the purpose of hearing persons who are interested in, or would be affected by, the determination that the delineated area is an area in need of redevelopment; to give notice of said hearing pursuant to the requirements set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-6(b)(3); to hear and receive into the record any objections or comments related to such a determination that the proposed property be designated an area in need of redevelopment; and

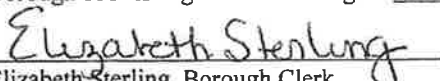
3. After completing its hearing on the matter, the Planning Board shall recommend by resolution whether Block 205, Lot 22, or any part thereof, should be determined, or should not be determined by Borough Council to be an area in need of redevelopment.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Marciante	M			
Chandler	X				Stern	S			
Gnatt	X				Valenza	X			

This is to certify that the foregoing is a true copy of a Resolution adopted by the Borough Council of the Borough of Pennington at a meeting on October 7, 2024.

  
Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON  
30 NORTH MAIN STREET  
PENNINGTON, NJ 08534**

October 8, 2024

To: Pennington Borough Planning Board

From: Betty Sterling  
Borough Clerk/Assistant CFO

RE: Ordinance 2024-13 – Stormwater Amendments  
Ordinance 2024-14 Revisions to Historic Preservation Ordinance

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Attached please find a copy of **Ordinance 2024-13, Updating Borough Stormwater Control Ordinance in Accordance with Current Regulations of New Jersey Department of Environmental Protection**, which was introduced at a meeting of the Pennington Borough Council on September 9, 2024. This Ordinance is being referred to the Planning Board to ensure consistency. The Ordinance was scheduled for Public Hearing and Adoption at the October 7, 2024 Regular Council Meeting. The Public Hearing has been carried to the Regular Council Meeting on December 2, 2024.

Attached please find a copy of **Ordinance 2024-14, Amending Chapter 119 of the Code of the Borough of Pennington Concerning Historic Preservation**, which was introduced at a meeting of the Pennington Borough Council on October 7, 2024. This Ordinance is being referred to the Planning Board to ensure consistency. The Ordinance is scheduled for Public Hearing at the Regular Council Meeting on December 2, 2024.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2024-13**

**ORDINANCE UPDATING BOROUGH STORMWATER CONTROL ORDINANCE IN  
ACCORDANCE WITH CURRENT REGULATIONS OF NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

**WHEREAS**, the Borough of Pennington seeks to update its stormwater control ordinances to reflect amendments to the Stormwater Management Rules at N.J.A.C. 7:8, adopted March 2, 2020 and July 17, 2023;

**WHEREAS**, the codified regulations which are the basis for these updates are found at N.J.A.C. 7:8-5.6 (Stormwater runoff quantity standards) and N.J.A.C. 7:8-5.7 (Calculation of stormwater runoff and groundwater recharge);

**WHEREAS**, the subjects of the updates pertain to Chapter 163, Sections 20.4 R and 20.5 of the Pennington Borough Code;

**NOW THEREFORE BE IT ORDAINED** by the Borough Council of the Borough of Pennington, as follows:

1. Section 163-20.4, Subsection R, pertaining to Stormwater runoff quantity standards, is hereby amended (with new language underlined and deleted language crossed out) as follows:

R. Stormwater runoff quantity standards.

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 163-20.5, complete one of the following:
  - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected two-, ten-, and 100-year storm events, as defined and determined pursuant to Sec.163-20.5C and D, respectively, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the current and projected two-, ten- and 100-year storm events, as defined and determined pursuant to Sec.163-20.5C and D, respectively, and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
  - (c) Design stormwater management measures so that the post-construction peak runoff rates for the current and projected two-, ten- and 100-year storm events, as defined and determined pursuant to Sec.163-20.5C and D, respectively, are 50%, 75% and 80%, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - (d) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection R(2)(a), (b) and (c) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three, will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
- (3) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

2. Section 163-20.5, pertaining to Calculation of stormwater runoff and groundwater recharge, is hereby amended (with new language underlined and deleted language crossed out) as follows:

A. Stormwater runoff shall be calculated in accordance with the following:

- (1) The design engineer shall calculate runoff using ~~one of the following methods (a) through (d)~~ the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16, Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as

amended and supplemented. This methodology is additionally described in Technical Release 55- Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1044171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf); or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873.

~~(b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The Rational and Modified Rational Methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at <http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>.~~

(2) For the purpose of calculating ~~runoff coefficients~~ curve numbers and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "~~runoff coefficient~~ curve number" applies to both the NRCS methodology at § 163-20.5A(1)(a) ~~and the Rational and Modified Rational Methods at § 163-20.5A(1)(b)~~. A ~~runoff coefficient~~ curve number or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover ~~has~~ existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

~~(3) In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedge-rows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.~~

~~(4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55- Urban Hydrology for Small Watersheds and other methods may be employed.~~

~~(5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.~~

B. Groundwater recharge may be calculated in accordance with the following:

(1) The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological and Water Survey website at <http://www.nj.gov/dep/njgs> <http://www.state.nj.us/dep/njgs/> or at the New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

C. The precipitation depths of the current two-, 10-, and 100-year storm events shall be determined by multiplying the values determined in accordance with (1) and (2) below:

(1) The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service's Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at: [https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html?bkmrk=nj](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj); and

(2) The applicant shall utilize Table 5 below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

**Table 5: Current Precipitation Adjustment Factors (NEW)**

County	Current Precipitation Adjustment Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.01	1.02	1.03
Bergen	1.01	1.03	1.06
Burlington	0.99	1.01	1.04
Camden	1.03	1.04	1.05
Cape May	1.03	1.03	1.04
Cumberland	1.03	1.03	1.01
Essex	1.01	1.03	1.06
Gloucester	1.05	1.06	1.06
Hudson	1.03	1.05	1.09
Hunterdon	1.02	1.05	1.13
Mercer	1.01	1.02	1.04
Middlesex	1.00	1.01	1.03
Monmouth	1.00	1.01	1.02
Morris	1.01	1.03	1.06
Ocean	1.00	1.01	1.03
Passaic	1.00	1.02	1.05
Salem	1.02	1.03	1.03
Somerset	1.00	1.03	1.09
Sussex	1.03	1.04	1.07
Union	1.01	1.03	1.06
Warren	1.02	1.07	1.15

**D. Table 6 below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service's Atlas 14 Point Precipitation Frequency Estimates pursuant to C (1) above, by the change factor in Table 6 below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.**

**Table 6: Future Precipitation Change Factors (NEW)**

County	Future Precipitation Change Factors		
	2-year Design Storm	10-year Design Storm	100-year Design Storm
Atlantic	1.22	1.24	1.39
Bergen	1.20	1.23	1.37
Burlington	1.17	1.18	1.32
Camden	1.18	1.22	1.39
Cape May	1.21	1.24	1.32
Cumberland	1.20	1.21	1.39
Essex	1.19	1.22	1.33
Gloucester	1.19	1.23	1.41
Hudson	1.19	1.19	1.23
Hunterdon	1.19	1.23	1.42

Mercer	1.16	1.17	1.36
Middlesex	1.19	1.21	1.33
Monmouth	1.19	1.19	1.26
Morris	1.23	1.28	1.46
Ocean	1.18	1.19	1.24
Passaic	1.21	1.27	1.50
Salem	1.20	1.23	1.32
Somerset	1.19	1.24	1.48
Sussex	1.24	1.29	1.50
Union	1.20	1.23	1.35
Warren	1.20	1.25	1.37

**BE IT FURTHER ORDAINED**, that this Ordinance shall be effective upon passage and publication as provide by law.

Introduced: September 9, 2024  
 Advertised: September 13, 2024  
 Public Hearing: October 7, 2024 (Carried)  
 Public Hearing (Carried): \_\_\_\_\_  
 Adopted: \_\_\_\_\_  
 Published: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
 Elizabeth Sterling, Borough Clerk

\_\_\_\_\_  
 James Davy, Mayor

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2024-13**

**ORDINANCE UPDATING BOROUGH STORMWATER CONTROL ORDINANCE IN  
ACCORDANCE WITH CURRENT REGULATIONS OF NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

**RECORD OF COUNCIL VOTE ON INTRODUCTION**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone				abstain	Marciante	X			
Chandler				absent	Stern	M			
Gnatt	X				Valenza	S			

**RECORD OF COUNCIL VOTE ON ADOPTION**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				



**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2024-14**

**ORDINANCE AMENDING CHAPTER 119 OF THE  
CODE OF THE BOROUGH OF PENNINGTON  
CONCERNING HISTORIC PRESERVATION**

**WHEREAS**, the Historic Preservation Commission of the Borough of Pennington has recommended amendments to Chapter 119 of the Borough Code concerning Historic Preservation;

**WHEREAS**, Borough Council has accepted the Commission's recommendations, which are reflected in the amendments that follow (new language underlined and deleted language crossed out);

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, as follows:

1. Section 119-2 of Chapter 119, concerning Definitions, is hereby amended as follows:

§ 119-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ADDITION** — An extension or increase in building size, floor area or height.

**ADMINISTRATIVE OFFICIAL – The Borough Land Use Administrator or another official performing such duties.**

**ALTERATION** — Any work done on a designated structure or in a district which changes its exterior appearance, excepting paint color.

**CERTIFICATE OF APPROPRIATENESS** — A document issued by the Historic Preservation Commission demonstrating its review of any alteration, addition to or demolition of a designated historic site, or to a property within an historic district. Such review is based upon the application and representations of the applicant and the approved plans presented for the preservation, restoration, rehabilitation or alteration of an existing property, or the demolition, addition, removal, repair or remodeling of any feature on an existing building within the historic district, or for any new construction within the historic district.

**CONSTRUCTION OFFICIAL – Qualified person appointed by the municipality to enforce and administer the regulations within the purview of the Pennington Department of Building and Construction.**

**CONTRIBUTING** — Building, site, structure or object that adds to the historic architectural qualities, historic associations or archaeological values for which the property or district is significant because it was present during the period of significance or possesses historic integrity or yields important information about a significant period.

**DEMOLITION** — The partial or total razing, dismantling or destruction of any historic site or any improvement within an historic district.

**HISTORIC DISTRICT** — One or more historic sites and certain intervening or surrounding property significantly affecting or affected by the quality and character of historic site or sites, as specifically designated herein.

**HISTORIC RESOURCE** — Any historic district, site, building, structure, or object included in, or eligible for inclusion in, the local listing (of historic places); such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

**HISTORIC SITE** — Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which has been designated in the Master Plan as being of historic, archaeological, cultural, scenic or architectural significance at the national, state or local level, as specifically designated herein or any property which is located in an historic district. The designation of an historic site or landmark shall be deemed to include the Tax Map lot on which it is located as well as the right-of-way contiguous thereto.

**HISTORIC STRUCTURE** — Any structure situated on property included in the historic designation list of the Borough of Pennington as adopted herein as it may be amended.

**IMPROVEMENT** — Any structure or any part thereof installed upon real property by human endeavor and intended to be kept at the location of such construction or installation.

**IN-KIND** — Replacement elements which exactly match material, type and texture of original ~~or existing~~ elements.

**INTEGRITY** — The ability of a property or element to convey its historic significance; the retention of those ~~essential~~ characteristics and features that enable a property to effectively convey its

significance.

INVENTORY — A list of historic properties determined to meet criteria of significance specified herein.

**KEY CONTRIBUTING — Any buildings, structures, sites, or objects which, due to their significance, would individually qualify for landmark status.**

MINOR WORK APPLICATION — Any application for a certificate of appropriateness which:

- A. Does not involve demolition, relocation or removal of an historic site;
- B. Does not involve an addition to a property in an historic district or new construction in an historic district;
- C. Is a request for approval of doors, windows, exterior sheathing or other work visible from the street which will comply with the adopted design guidelines for the improvement proposed where a specific guideline applies and which will not substantially affect the characteristics of the historic site or the historic district.
- D. Is a request for a field change for a certificate of appropriateness which has already been issued and which meets the criteria of Subsection C of this definition, above.

NATIONAL REGISTER CRITERIA — The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

NONCONTRIBUTING **BUILDINGS** — Building, site, structure or object that does not add to the historic architectural qualities, historic associations or archaeological values for which a property is significant because it was not present during the period of significance; due to alterations, disturbances, additions or other changes it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period; or it does not independently meet the National Register criteria. **Any buildings or structures constructed within the last fifty (50) years are considered noncontributing, unless otherwise designated.**

ORDINARY MAINTENANCE — Repair of any deterioration, wear or damage to a structure or any part thereof in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage using the same materials and workmanship and having the same appearance.

PRESERVATION — The act or process of applying measures to sustain the existing form, integrity and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

PROTECTION — The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

RECONSTRUCTION — The act or process of reproducing by new construction the exact form and detail of a vanished or nonsurviving building, structure or object, or any part thereof, as it appeared at a specific period of time when documentary and physical evidence is available to permit accurate reconstruction.

REHABILITATION — The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

REPAIR — Any work done on an improvement that is not an addition and does not change the exterior appearance of any improvement; provided, however, that any such repairs must be done with materials and workmanship of the same quality.

RESTORATION — The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

STRUCTURE — A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

SURVEY — A process of identifying and gathering data on a community's historic resources. It includes a field survey which is the physical search for and recording of historic resources on the ground, preliminary planning and background research before the field survey begins, organization and presentation of survey data as the survey proceeds, and the development of inventories.

2. Section 119-3 of Chapter 119, concerning the Historic Preservation Commission, is hereby amended as follows:

**§ 119-3. Historic Preservation Commission.**

There is hereby established the Historic Preservation Commission.

- A. Responsibilities. The Historic Preservation Commission shall have the following duties and responsibilities:
- (1) To identify, record and maintain a survey of all buildings, sites, objects, improvements, structures and districts of historical significance within the Borough.
  - (2) To recommend to the Borough Council the designation of buildings, structures, sites, objects, districts or improvements as historic landmarks, and to recommend the designation of historic districts.
  - (3) To monitor and recommend to the Borough Council any buildings, structures, sites, objects or districts for inclusion in the New Jersey or National Register of Historic Places.
  - (4) To make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic landmarks and historic districts of any other Master Plan elements. The Commission may provide information to the Planning Board indicating the location and significance of historic landmarks and historic districts, and identify the standards used to assess worthiness for historic landmark or historic district designation.
  - (5) To advise the Planning Board on applications for development pursuant to N.J.S.A. 40:55D-110.
  - (6) To provide written reports pursuant to N.J.S.A. 40:55D-111 on the application of the Zoning Ordinance provisions concerning historic preservation.
  - (7) To review and render determinations regarding applications for certificates of appropriateness as set forth in this chapter.
  - (8) To monitor and recommend to the Borough Council the submission of any grants related to historic preservation.
  - (9) To carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough.
- B. Membership; appointment.
- (1) The Commission shall consist of seven regular members and two alternate members who shall be appointed by the Mayor with the advice and consent of the Borough Council. Members shall serve without compensation. At the time of appointment, members shall be designated by class as provided further below.
  - (2) The Commission shall consist of at least one member of each of the following classes:
    - (a) Class A: a person who is knowledgeable in building design and construction or architectural history and who may reside outside the municipality; and
    - (b) Class B: a person who is knowledgeable, or with a demonstrated interest, in local history and who may reside outside the municipality.
  - (3) Of the regular members, a total of at least one less than a majority shall be of Classes A and B.
  - (4) Those regular members who are not designated as Class A or B shall be designated as Class C. Class C members shall be citizens of the municipality who shall hold no other municipal office, position or employment except for membership on the Planning Board.
  - (5) At least one regular member of the Commission shall be a homeowner within the Historic District, ~~and one member shall be a person who owns a business or commercial property located in the Borough~~, provided the member otherwise qualifies as a Class A, B or C member. The Commission shall make its best efforts to include one member who shall be a person that owns a business or commercial property located in the Borough.
  - (6) Alternate members shall meet the qualifications of Class C members. At the time of appointment, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2."
- C. Terms.
- (1) The terms for the members of the Historic Preservation Commission first appointed by Borough Council shall be as follows:
    - (a) One member appointed for a one-year term.
    - (b) Two members appointed for a two-year term.
    - (c) Two members appointed for a three-year term.
    - (d) Two members appointed for four-year terms.
    - (e) Thereafter, the term of each regular member shall be for four years.
  - (2) All terms shall begin on January 1 of the year in which the appointment is made.
  - (3) Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board shall be for the term of membership on the Planning Board.
  - (4) A vacancy occurring otherwise than by expiration of term shall be filled within 60 days for the unexpired term only.

- D. Alternates.
- (1) The alternate members may participate in all Commission discussions during proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No 1 shall vote.
  - (2) Alternate members shall serve for terms of two years; provided, however, that the initial terms of the two such alternate members shall be one and two years, respectively.
- E. Council liaison. A member of the Borough Council shall be designated as a liaison between the Historic Preservation Commission and the Borough Council. The role of such liaison person shall be informational only, and such person shall possess no voting rights with regard to any action taken by the Commission.
- F. Officers. Annually, the Commission shall elect a Chair and Vice Chair from its members and select a recording secretary who may or may not be a member of the Commission or a municipal employee.
- G. Recordkeeping and procedures.
- (1) In order to make available to the public information useful to the preservation and protection of historic districts and sites and to provide the basis for consistency of policy, the Commission shall maintain complete files and records. The Commission's files shall include but are not limited to data used in the classification of buildings, places and structures, minutes of Commission meetings, applications for certificates of appropriateness along with collateral data, decisions and appeals associated therewith and information, materials and references submitted to the public related to historic preservation. A record of Commission proceedings shall be kept and made available, but a formal verbatim record shall not be required.
  - (2) The Commission Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications. All meetings shall be noticed and conducted in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq. Copies of all minutes shall be maintained in the office of the Commission and shall be delivered promptly to the Borough Clerk.
  - (3) Copies of records shall be made available to municipal bodies, agencies, and officials for their use. When the Planning Board refers an application to the Historic Preservation Commission, then the referring Board shall receive a copy of the Commission's report.
  - (4) The ~~Borough construction~~ office shall maintain and display an up-to-date map showing the Historic District, as well as a current listing of historic sites.
- H. Conflict of interest. No member of the Commission shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Unless a member resides or owns property within 100 feet of property which is the subject of an application, mere ownership or residence in a designated historic district and/or ownership of a designated historic site or a nondesignated site shall not be deemed a personal or financial interest.
- I. Removal. A member of the Commission may, after a public hearing, if requested, be removed by the governing body for cause.
- J. Meetings; quorum
- (1) The Historic Preservation Commission shall establish and post in Borough Hall a regular schedule of a minimum of one meeting per month. Regular meetings shall be held as scheduled unless canceled for lack of applications to process. Additional special meetings may be called by the Chair or Vice Chair, or on the request of any two of its members, when the regular meetings are inadequate to meet the needs of its business, to handle emergencies or to meet time constraints imposed by law.
  - (2) The Historic Preservation Commission shall hold public ~~meetings~~ hearings to review all applications for permits, referrals of development applications and other business which comes before the Commission. At meetings addressed to applications or review of a proposed historic site or district, applicants and interested parties shall have the right to be heard.
  - (3) The presence of five members, which may include alternate members filling the vacancies of regular members, shall constitute a quorum. Liaison person(s) are not entitled to vote and shall not be counted towards achieving a quorum. A majority vote of those present and voting shall prevail, and shall be sufficient to grant or deny a certificate of appropriateness. Not less than a majority of the appointed membership shall be required to grant or change an historic landmark or historic district designation or to grant approval for demolition.

3. Section 119-4 of Chapter 119, concerning Designation of Historic Sites and Districts, is hereby amended as follows:

- A. Survey.  
The Commission shall maintain a comprehensive survey of the Borough of Pennington to identify historic districts and landmarks which are worthy of protection and preservation.
- B. Criteria for designation.  
The criteria for evaluating and designating historic districts and sites shall be guided by the National Register criteria. The Commission or any person may recommend designation of historic landmarks or historic districts that are in accordance with the National Register criteria or that possess one or more of the following attributes:
- (1) Character, interest, or value as part of the development, heritage or cultural characteristics of the Borough, state or nation;
  - (2) Association with events that have made a significant contribution to the broad patterns of our history; or
  - (3) Association with the lives of persons significant in our past; or
  - (4) Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering; or
  - (5) Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the Borough, state or nation; or
  - (6) Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative; or
  - (7) Unique location or singular physical characteristics that make a district or landmark an established or familiar visual feature; or
  - (8) Significant concentration of historic resources which share elements of historic architecture or history.
- C. Procedures for designation.
- (1) Interested parties shall contact the Commission regarding consideration of a proposed historic site or district. The Commission may also initiate the designation of an historic site or district. The Commission will schedule a meeting hearing to review the proposed historic site or district.
  - (2) The formal historic district nomination shall include a building-by-building inventory of all properties within the district; color and/or black-and-white photographs of all properties within the district; a property map of the district showing boundaries; and a physical description and statement of significance which address the criteria for designation set forth herein. The formal historic site nomination shall include a color and/or black-and-white photograph, a tax map of the property and a physical description and statement of significance which address the criteria for designation set forth herein.
  - (3) Upon review and approval of the proposed site or historic district by the Historic Preservation Commission, and after hearing the comments of the public, if any, the Commission shall forward the proposed site or district nomination to the Planning Board for consideration. Notification shall be by public notice in the official paper and by prominent posting in the municipal building at least 30 days prior to the Planning Board hearing. The interested parties or the Commission shall submit to the Planning Board a complete list of involved properties.
  - (4) Upon review and approval of the proposed site or district by the Planning Board, the site or district nomination will be sent to the Borough Council for adoption to amend and supplement this chapter.
  - (5) All other requirements of the Municipal Land Use Law regarding adoption of development regulations shall be followed.
- D. Designation of districts. There is hereby established the Pennington Crossroads Historic District. The designated historic district is outlined on the Pennington Historic District Map included as Appendix A at the end of this chapter incorporated herein.

4. Section 119-5 of Chapter 119, concerning the Certificate of Appropriateness, is hereby amended as follows:

**§ 119-5. Certificate of appropriateness.**

- A. When required.  
A certificate of appropriateness issued by the Commission shall be required before a permit is issued, or before work can commence, for any of the following activities within a historic district(s) or on any designated historic landmark:
- (1) Demolition of any contributing designated building, structure, or site, not including accessory structures.
  - (2) Change in the exterior appearance that is visible from the street of any building, structure, site, object or improvement by addition, reconstruction, alteration or replacement, including the following, except for the activities described in Subsection B below.
  - (3) Relocation of a principal structure or site.
  - (4) Any addition to or new construction of a principal structure that is visible from the street.

B. When not required.

In no instance shall the following be considered subject to review:

- (1) Changes to the interior of a structure.
- (2) Exterior painting of a structure.
- (3) Ordinary maintenance as defined in this chapter.
- (4) ~~When ordinary maintenance is not feasible, r~~ Replacement according to the following is permitted according to this criteria only:
  - (a) ~~Complete in-kind replacement of existing doors or windows. Nonoriginal materials are permitted.~~
  - (b) ~~(a) Repair of existing windows and doors involving no change in their design, scale or appearance. In-kind replacement of existing storm windows and replacement of storm doors with new doors which show the same view or more of the entry door.~~
  - (c) ~~Complete replacement of existing material with in-kind material.~~
  - (d) ~~(b) Replacement of roofing material with any replacement roofing material.~~
  - (e) ~~(c) Structural repairs which do not alter the exterior appearance of the building.~~
  - (f) ~~Complete replacement of existing roof structures, such as cupolas, dormers and chimneys, or the repair of same which does not alter their exterior appearance. Nonoriginal materials are permitted.~~
  - (g) ~~Complete replacement of existing clapboards, shingles, or other siding involving no change in design, scale or appearance of the structure. Nonoriginal materials are permitted.~~
  - (h) ~~(d) Maintenance and repair of existing clapboards, shingles or other siding involving no change in design, scale or appearance of the structure.~~
- (5) (5) Changes or additions to landscape or hardscape, including signs, outdoor displays, fences and hedges, street furniture, awnings, driveways, sidewalks and paving materials.
- (6) ~~Any rear yard additions or alterations that will not project beyond the existing sidewalks of the principal structure.~~
- (7) ~~(6) Exterior lighting not attached to principal structure or not visible from street.~~
- (8) ~~(7) Work related to any accessory structure in a rear yard, as defined by the Pennington Borough Zoning Ordinance.<sup>3</sup>~~
- (9) ~~(8) Installation or replacement of solar panels, satellite dish antennas, air-conditioning or HVAC equipment.~~
- (10) ~~Alterations to structures constructed after 1945.~~
- (11) ~~(9) Development applications, see below.~~

C. Minor work applications.

(1) The Chair of the Historic Preservation Commission, or other designated member(s) of the Commission acting on the Chair's behalf, may review applications for minor work as defined in this chapter, without holding a public meeting hearing. If the Chair finds the application appropriate, he or she may act in place of the full Commission and issue a certificate for minor work to the Construction Official, who may then issue a building permit. If the Chair does not find the application appropriate or doubts its appropriateness, the application shall be scheduled for a public meeting hearing before the full Commission Board.

(2) The definition of "minor work application" in accordance with Section 119-2 of this ordinance shall include but not be limited to the following:

- (a) Replacement of existing windows with new windows, which must match existing or original historic window type, dimension, muntin pattern, and profile. Nonoriginal materials that match dimension, profile, exposure and texture may be permitted. Vinyl and aluminum, and highly reflective glass are not permitted.
- (b) Replacement of existing entry doors with new doors, which must match existing or original historic door type, dimension, pattern and profile. Where the original door type, dimension, pattern and profile cannot be ascertained, then a period-appropriate door type, dimension, pattern and/or profile may be approved.
- (c) Replacement of existing clapboards, shingles, or other siding involving no change in design, scale or appearance of the structure. Nonoriginal materials that match dimension, profile, exposure and texture may be permitted. Vinyl and aluminum are not permitted. Where original trim does not exist or cannot be preserved, the period-appropriate trim dimension and/or profile may be approved.
- (d) Replacement of existing roof structure such as cupolas, dormers and chimneys, or the repair of same which does not alter their exterior appearance. Nonoriginal materials are permitted.
- (e) Replacement of existing storm windows with new storm windows that show the same view or more of the relevant window, and installation of new storm windows that minimize obstruction of the view of the existing window.

- (f) Replacement of storm doors with new storm doors which show the same view or more of the entry door, and installation of new storm doors that minimize obstruction of the view of the existing door.
- (g) Replacement of storefronts, or the repair of same, must match existing or original storefront type, dimension, pattern (including muntin pattern) and profile. Where the original storefront type cannot be ascertained, then a period-appropriate type, dimension, pattern, and/or profile may be approved.

D. Procedures.

- (1) The construction office shall forward a copy of all permit applications dealing with historic landmarks or historic districts to the Commission prior to issuance of the requested permit.
- (2) All applicants shall complete an application form. Application forms shall be made available in the Borough construction office or website. Complete applications shall be filed with the construction office.
- (3) Each application may be accompanied by sketches, drawings, photographs, descriptions, the property survey, if available, and other information to show the proposed alterations, additions, changes or new construction. Applications for demolition shall include current and archival photographs, if available, of the interior and exterior of the building and drawings to document the condition of the building. The Commission may require the subsequent submission of such additional materials related to building condition as it reasonably requires to make an informed decision.
- (4) The Commission shall reach a decision on an application and submit its report to the Construction Official within 45 days of referral by the Construction Official. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.

5. Section 119-8 of Chapter 119, concerning Application Review, is hereby amended as follows:

§ 119-8. Application review.

- A. The Commission shall hold a public meeting hearing on all applications for certificates of appropriateness. ~~No public hearing shall be required in order for the Commission to render a determination of non-necessity as defined in this chapter. The Chair or designated Commission Member may render a determination of non-necessity without requiring a meeting of the full Commission; notification will be provided to the full Commission in such cases.~~
- B. Prior to holding a public meeting hearing on an application for a certificate of appropriateness, the Commission shall, in addition to complying with the requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., notify the applicant in writing at least 10 days prior to the meeting hearing by personal service or certified mail setting forth the time, date and place of the meeting hearing.
- C. An applicant for a certificate of appropriateness shall not be required to appear or to be represented at the meeting hearing in order for the Commission to consider the application for a certificate of appropriateness, and the Commission may take action in the absence of the applicant.
- D. At the meeting hearing, the Commission shall allow all persons the opportunity to be heard concerning the issuance of a certificate of appropriateness for the proposed work.
- E. After conducting the public meeting hearing, the Commission shall render a determination on the application. All determinations shall be in writing with an explanation of the reasons for the decision, and shall be delivered promptly to the Administrative Construction Official. The Commission shall grant a certificate of appropriateness to the applicant if it finds the application appropriate to the historic landmark or historic district and in conformity with the standards and criteria set forth in this chapter. The Commission may issue a certificate of appropriateness subject to certain condition(s), which shall be set forth in detail in the Commission's written decision. The Commission shall deny the issuance of a certificate of appropriateness if it finds the application inappropriate to the historic landmark or historic district and/or not in conformity with the said standards and criteria. The Commission's denial of a certificate of appropriateness shall be deemed to prohibit the applicant from undertaking the work applied for, and shall preclude the issuance of any required permit for the said work by the Construction Official. Upon receipt of the Commission's written determination, the Administrative Construction Official shall notify the applicant of said determination in writing within five days thereof.
- F. Failure of the Commission to render its written determination to the Administrative Construction Official within the forty-five-day period referenced above shall be deemed to constitute a determination in favor of the issuance of a certificate of appropriateness for the proposed work and without conditions. In the event that the applicant has consented to an extension of time to consider the application, the Administrative Construction Official shall be notified of said extension and no certificate of appropriateness or permit shall be issued for the proposed work until a determination has been rendered by the Commission during the extension period.
- G. The owner shall post the certificate of appropriateness on a conspicuous spot on the exterior of the designated property visible to the public during the entire process of work.
- H. When a certificate of appropriateness has been issued, the Construction Official or his appointee

shall, from time to time, inspect the work approved by such certificate and shall regularly report to the Commission the results of such inspections, listing all work inspected and reporting any work not in accordance with such certificate.

- I. A certificate of appropriateness shall be valid for a period of two years from date of issue unless reasonable extensions are requested by the applicant or the Commission.
- J. The performance of unauthorized activities shall be deemed to be a violation of this chapter and may subject the responsible parties to sanctions imposed hereunder.

6. Section 119-10 of Chapter 119, concerning criteria for review of applications, is hereby amended as follows:

7.

**§ 119-10. Criteria for review of applications.**

- A. The goal of the review process is to preserve the integrity of designated historic sites and districts and to ensure the compatibility of any changes or improvements made to them. Such changes may be done in a manner that references the historic architecture or they may be completed in a more contemporary idiom as long as they relate to the physical context of the original building in terms of scale, proportion, rhythm, massing and materials.
  - B. In interpreting and applying the standards and criteria set forth herein, the Commission shall be guided by the principles contained in the most current version of the Secretary of Interior Standards for Rehabilitation and the Secretary of the Interior Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (hereinafter referred to as "the standards").
  - C. In reviewing an application for a certificate of appropriateness, the Commission shall consider the setting, design, arrangement, texture, details, scale, shape, materials and finish, and consider the relationship of those characteristics to the historic, architectural, cultural, archeological, and aesthetic significance of the historic site or district as well as:
    - (1) The impact of the proposed change on the historic and architectural significance of the historic site or district.
    - (2) The historic site's importance to the municipality and the extent to which its historic, cultural, or architectural significance would be adversely affected to the detriment of the public interest.
    - (3) The designation of a property within a district as "key contributing," "contributing," or "noncontributing."
    - (4) The extent to which the proposed action would adversely affect the public's view of an historic site within an historic district from a public street.
  - D. Visual compatibility factors. In regard to an application for new construction, alterations, additions or replacements affecting an historic site or an improvement within an historic district, the following visual compatibility factors shall be considered in relation to its setting and context:
    - (1) Height.
    - (2) Massing.
    - (3) Proportion of the width and height of the building's facades.
    - (4) Proportion of openings within the building.
    - (5) Rhythm of spacing of buildings on streets.
    - (6) Rhythm of solids to voids on facades fronting on public places.
    - (7) Relationship of materials and texture.
  - E. Additions to designated buildings or contributing structures within the District: Additions are not historical in themselves, and do not possess original or historic materials or design. Accordingly, they are subject to the following criteria:
    - (1) Additions at the sides and rear of historic structures are encouraged so as not to obscure the historic structure. New construction on the front of historic structures is generally inconsistent with the objectives of this chapter.
    - (2) The character of the addition is not required to duplicate the architectural style of the historic structure. Where visible from the street, the addition should complement, rather than dominate, the existing structure.
  - F. New construction and additions to noncontributing structures within the District. New construction and additions to noncontributing structures do not have existing historic character and are not attached to historic structures. Accordingly, they are subject to the following criteria:
    - (1) New construction and additions to noncontributing buildings need not match the architectural style or general materials of their surroundings or the noncontributing building to which the building will be attached.
    - (2) New construction and additions to noncontributing buildings shall be consistent with their general context, per "visual compatibility" factors, above.
    - (3) Height, and street setback shall match the prevailing conditions of the nearest three buildings in each direction.
8. Chapter 119 is hereby supplemented by a new Section 119-17, concerning Severability, as follows:
- 119-17. Severability**  
**If any provision of this chapter shall be held invalid, such invalidity shall not affect the**



other provisions hereof which can be given effect without the invalid provision or provisions, and to this end the provisions of this chapter are declared to be severable.

9. This ordinance shall take effect upon passage and publication as provided by law.

Introduced: October 7, 2024

Advertised: October 11, 2024

Public Hearing: \_\_\_\_\_

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
Elizabeth Sterling, Borough Clerk

\_\_\_\_\_  
James Davy, Mayor

**RESOLUTION OF MEMORIALIZATION  
BOROUGH OF PENNINGTON PLANNING BOARD  
RESOLUTION FOLLOWING A PRELIMINARY INVESTIGATION RECOMMENDING  
THAT BLOCK 201, LOTS 6 AND 7 ON THE PENNINGTON BOROUGH TAX MAP BE  
DECLARED AN AREA IN NEED OF REDEVELOPMENT**

**WHEREAS**, pursuant to *N.J.S.A.* 40A:12A-6, the governing body of the Borough of Pennington, the Pennington Borough Council (“Borough Council”), adopted Resolution 2024-8.6 on August 5, 2024, directing the Pennington Borough Planning Board (“Planning Board”) to undertake a preliminary investigation in order to determine whether a certain area within the Borough designated as Block 201, Lots 6 and 7 on the Pennington Borough Tax Map (“Property”) would qualify as an area in need of redevelopment pursuant to the criteria set forth in *N.J.S.A.* 40A:12A-5; and

**WHEREAS**, pursuant to *N.J.S.A.* 40A:12-6, the Borough Council further determined that, should the Property qualify as an area in need of redevelopment, said area would be designated as a “Non-Condemnation Redevelopment Area”; and

**WHEREAS**, the Planning Board authorized its Planning Consultant, Kyle McManus Associates to prepare the aforementioned preliminary investigation report for the Property; and

**WHEREAS**, Kyle McManus Associates prepared the report entitled, “Preliminary Investigation, Block 201, Lots 6 and 7 Prepared for the Pennington Borough Planning Board by: Kyle McManus Associates,” dated September 20, 2024; and

**WHEREAS**, said report includes a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein; and

**WHEREAS**, the Planning Board scheduled and conducted a public hearing on the preliminary investigation report at its meeting on October 9, 2024, after providing notice in

accordance with the requirements of *N.J.S.A.* 40A:12A-6b(3)(d) and making available to the public a copy of said preliminary investigation report; and

**WHEREAS**, at the hearing on October 9, 2024, the preliminary investigation report was considered by the Planning Board and an opportunity was provided for all persons who were interested in or would be affected by a determination that the Property is a redevelopment area were given an opportunity to testify.

**NOW, THEREFORE, BE IT RESOLVED**, by the Pennington Borough Planning Board as follows:

1. The foregoing preamble is incorporated herein as if fully restated.
2. The Property which is the subject matter of the preliminary investigation report satisfied the criteria for designation as an area in need of redevelopment under *N.J.S.A.* 40A:12A-5 and in particular subsection b. thereof, on the basis that a significant portion of the building, which was previously used for commercial purposes, has been vacant for the last two consecutive years, despite efforts to attract new tenants.
3. The Planning Board, therefore, recommends to the Borough Council that the Property should be determined by the Council to be a Redevelopment Area.
4. A certified true copy of this Resolution shall be furnished to the Clerk of the Borough of Pennington on behalf of the Pennington Borough Council.

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James Reilly, Chairman  
Pennington Borough Planning Board

This Resolution of Memorialization adopted November 13, 2024

**RESOLUTION OF MEMORIALIZATION  
BOROUGH OF PENNINGTON PLANNING BOARD**

**STRAUBE CENTER, LLC  
APPLICATION FOR PRELIMINARY AND FINAL SITE PLAN APPROVAL AND  
BULK C(1) VARIANCES  
106 WEST FRANKLIN AVENUE; BLOCK 202, LOT 2  
PENNINGTON BOROUGH TAX MAP  
APPLICATION NO. PB 24-002**

**WHEREAS**, Straube Center, LLC (hereinafter referred to as the “Applicant”) has filed an application with the Pennington Borough Planning Board (hereinafter referred to as the “Board”) for Preliminary and Final Site Plan and c(1) bulk variance approval for 106 West Franklin Avenue, designated as Block 202, Lot 2 on the Pennington Borough Tax Map (hereinafter referred to as the “Property”); and

**WHEREAS**, the Board held a virtual hearing on this application on October 9, 2024; and

**WHEREAS**, the Board received and considered the following staff reports:

1. Van Note-Harvy Associates Engineering Report dated October 3, 2024; and
2. Kyle+McManus Associates Planning Report dated October 4, 2024; and

**WHEREAS**, during the course of said hearing on the application, the Board considered testimony presented by the following witnesses:

1. Paul Pogorzelski, P.E., Van Cleef Engineering Associates, LLC, Applicant’s Engineering Consultant.
2. James T. Kyle, PP/AICP, Kyle+McManus Associates, Board Planning Consultant.
3. Brandon M. Fetzer, P.E., Van Note-Harvey Associates, Board Engineering Consultant.

The Board, in addition to reviewing the application materials, considered the following exhibits presented by the Applicant:

Exhibit A-1. Aerial Photograph of the Property.

Exhibit A-2. Plan entitled "Straube Center Building 'I' Lift Project" prepared by EI Associates Architects & Engineers, P.A., dated March 17, 2023, sheet entitled "Floor and Ceiling Plans" labeled "A11."

Exhibit A-3. Plan entitled "Straube Center Building 'I' Lift Project" prepared by EI Associates Architects & Engineers, P.A., dated March 17, 2023, sheet entitled "Elevation, Section, & Details" labeled "A30."

**WHEREAS**, the Board having considered the above-referenced staff reports, testimony presented, application materials and exhibits, makes the following findings:

1. The Applicant was represented by attorney Dino Spadaccini, Esq., of The Spadaccini Law Firm, LLC.
2. The Applicant is the owner of the Property.
3. The Applicant's consultant Mr. Pogorzelski testified on the Applicant's behalf.
4. The Property is located in the O-B Office Building Zoning District, where the existing use is permitted.
5. The Applicant proposes to renovate the existing building by constructing an elevator (i.e., "lift") along the West Franklin Avenue frontage. The elevator is intended to provide access from the parking lot to the building's second floor. The renovation will require the exterior of the building to be modified, resulting in the loss of one existing parking space. The Applicant also proposes to convert another existing parking space to a handicap accessible parking space.
6. There are a number of existing nonconforming conditions or requirements where previous variance relief was granted, and as follows: minimum front yard setback to West Franklin Avenue (100' required and 25.57' exists); minimum side yard setback (30' required and 14.23'

exists); maximum lot coverage (60% permitted and 65% exists); maximum building height (2 stories permitted and 2.5 stories exist); minimum parking setback (10' required and 0' exists); and minimum number of parking spaces (233 required and 136 spaces exist).

7. While the proposed elevator does not comply with the front yard setback requirement of 100' to West Franklin Avenue, the proposed construction will not increase the degree of nonconformity, and therefore, variance relief is not required for this requirement under section 215-52.B of the Pennington Borough Code.

8. The Applicant requested the Board's waiver of several application submission requirements, and specifically the following: Item 6, Item 7F, Item 8E, Sketch Plan, and Site Plan H, I, J, K and M, which the Board granted.

9. In order to undertake the proposed alteration, the Applicant requires the following relief from the Board:

- A. c(1) Hardship Variance: The proposed elevator necessitates the removal of a parking space for its construction; the Applicant was previously granted variance relief to permit 136 parking spaces where 233 are required (section 215-73 of the Pennington Borough Code). The further reduction to 135 parking spaces requires bulk variance relief under N.J.S.A. 40:55D-70.c(1).

10. The Applicant's proposed alteration will reduce the available parking. The Applicant testified that the reduction in parking spaces should not have a negative impact on the current use. Testimony was presented that the Applicant has observed the vacant spaces when the lot is in use, and approximately 74 are not being used on a daily basis. The Borough Planning Consultant also testified that, based on his observations, there is adequate parking supply to accommodate the loss of a space. The available parking is shared with Lot 3 as well.

The Board having made the above-referenced findings of fact **RESOLVED** and voted seven (7) in favor and zero (0) opposed to approve the application for Preliminary and Final Site Plan approval and c(1) variance relief.

The Board approved the application for the following reasons, subject to the following conditions:

A. As indicted above, the Applicant's proposed construction of an elevator will reduce the available parking by eliminating one parking space and converting another parking space to a handicap accessible parking space. The slight reduction in parking spaces is not anticipated to have a negative impact on the Property or Lot 3's use of same. This is because the observed parking demand on the site reveals that there is not a lack of available parking for Lots 2 and 3 and therefore, the proposed reduction will be minimal.

The grant of a variance will not cause substantial detriment to the intent and purpose of the Borough's zone plan and zoning ordinance. The intent of the minimum parking standards is to ensure that there is an adequate parking supply, which appears to be sufficiently addressed based on observations and the Applicant's representations. Importantly, it appears that the addition of the elevator to the building will improve accessibility from the ground floor.

A specific concern was raised about whether construction of the elevator will have an impact on stormwater control on this Property and neighboring properties. The Applicant stated that its application does not increase the impervious area, and the Board Engineering Consultant confirmed that the Applicant's proposed improvements do not increase impervious coverage and therefore are not subject to additional stormwater measures under the Borough's requirements for major development in section 163-20.4 of the Pennington Borough Code. The Property has annual

reporting obligations intended to confirm that its stormwater facilities are maintained and repaired as necessary. The Applicant agrees to ensure that this report is kept current.

This approval is granted, however, subject to the following conditions:

1. The Applicant shall ensure that its maintenance report annually submitted to the Borough is kept current and shows that the stormwater facilities are functioning properly.
2. The Applicant shall provide at least two handicap accessible parking spaces near the proposed elevator.
3. The Applicant shall confirm compliance with the ADA standards for grading for accessible parking spaces and routes.
4. The Applicant shall provide construction detail for the proposed ramp leading to the elevator, including ensuring compliance with accessible slope requirements.
5. The Applicant shall provide construction detail showing that safe circulation to the building is maintained.
6. The Applicant shall add signage near the handicap accessible parking spaces at the rear of the building to advise that accessible spaces on the north side of the building provide accessibility to the second floor.
7. The Applicant is responsible for obtaining all outside agency approvals, permits or letters of no interest/jurisdiction only if any such approvals, etc. are necessary.
8. The Applicant shall bring current all real property taxes, sewer charges, water charges and land development escrow charges associated with the



Property within 30 days of the date of the adoption of this memorializing resolution.

A copy of this Resolution shall be furnished upon its adoption to the Applicant as well as to the Pennington Borough Zoning Officer, John Flemming, and a brief notice of this decision shall be published as required by law.

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James Reilly, Chairman  
Pennington Borough Planning Board

Application Approved at the October 9, 2024 Meeting  
Resolution of Memorialization Adopted on November 13, 2024

**PENNINGTON PLANNING BOARD**  
**RESOLUTION AMENDING 2024 PROFESSIONAL SERVICES CONTRACT**

WHEREAS, pursuant to a resolution adopted by the Pennington Planning Board on January 10, 2024, the Planning Board awarded a professional services agreement to James Kyle, PP/AICP, KMA Associates as its Professional Planner for the calendar year 2024; and

WHEREAS, the Professional Services Agreement with Planner Kyle provides for a not-to-exceed contract amount for routine services of \$3,900 for 2024; and

WHEREAS, the Planning Board seeks to increase Planner Kyle's not to exceed contract amount for routine services by an additional \$1,500, for a total not to exceed contract amount of \$5,300 for routine services for the calendar year 2024; and

WHEREAS, the New Jersey Local Public Contracts Law authorizes the amendment of a professional services agreement; and

WHEREAS, the Chief Financial Officer of the Borough has certified that funds are available for this increase in in the Planning Board Budget Line #: 4-01-21-180-000-150; THEREFORE, BE IT RESOLVED by the Pennington Borough Planning Board that the 2024 Professional Services Contract with Professional Planner James Kyle, PP/AICP, KMA Associates, is hereby amended by increasing the not to exceed contract amount for routine Professional Planning services for the calendar year 2024 to a total of \$5,300.

**CERTIFICATION**

The undersigned, Secretary to the Pennington Borough Planning Board does hereby certify that the foregoing is a true copy of a Resolution duly adopted by said Board at their meeting held on the 13<sup>th</sup> day of November 2024.

\_\_\_\_\_  
Kaitlyn Macellaro, Secretary  
Pennington Borough Planning Board