

RESOLUTION
TOWNSHIP OF CHERRY HILL ZONING BOARD OF ADJUSTMENT
APPLICANT'S NAME: KM HOTELS, LLC
APPLICATION NO.: 19-Z-0030 (PBC 10003)

WHEREAS, the Applicant, KM Hotels, LLC, as equitable owner of the premises in the Township of Cherry Hill, County of Camden, State of New Jersey, located at 2342 and 2348 Route 70 West and designated as Block 71.01, Lots 2.02 and 3 on the tax maps of the Township of Cherry Hill, has filed an application for amended preliminary and final major site plan approval with bulk variances and waivers, for a second one-year extension of the previous approvals granted in May, 2020 and to consolidate Lots 2.02 and 3. The Applicant has proposed to construct two hotels with a total of 251 rooms; to construct a 4,250 square foot freestanding restaurant as well as other site improvements.

WHEREAS, after a public hearing held via video conference on July 18, 2024, the following initial findings of facts were made, to wit:

1. After a public hearing held on May 7, 2020, the Applicant was previously granted three use variances pursuant to N.J.S.A. 40:55D-70d(1) for the following relief:

- a. From Section 417.C.3.a.i to permit a freestanding restaurant with 120 seats which is located on less than 10 acres where a minimum of 200 seats was required. Said use variance was specifically conditioned upon the requirement that the restaurant shall not include any drive-thru service.
- b. From Section 430.D.10 to allow a parking lot to be located in Zone 2 of the Stream Buffer Overlay Zone where such use is prohibited. Said approval was specifically conditioned upon the requirement that the Applicant restore the stream buffer consistent with the requirements imposed by the Department of Community Development and the Zoning Board Engineer.
- c. To permit the continued use of the preexisting carwash which is a nonconforming use in the B4 Zone and which is operated currently on a larger sized lot than the size as proposed. Said approved was specifically conditioned upon the Applicant obtaining minor subdivision approval and preliminary and final major site plan approval.

2. The Applicant was also granted minor subdivision approval of Block 71.01, Lot 2 into two separate lots, one lot containing 6.3 acres for the construction of the proposed two hotels and restaurant and the other lot containing 5.02 acres for the existing carwash and the coffee shop. Said approval was specifically conditioned upon the requirement that there be no cross-access permitted between the

hotel/restaurant lot and the carwash/coffee shop lot now known as Lot 2.02.

3. The Applicant was also previously granted bulk variances pursuant to N.J.S.A. 40:55D-70c(2) for the following relief:

- a. From Section 417.H.2.a to permit a 5 foot parking setback from the right-of-way where a minimum of 20 feet is required; however, this request was ultimately withdrawn.
- b. From Section 417.H.2.d to allow a setback of 6.43 feet from off-street parking to a structure where a minimum of 10 feet is required.
- c. From Section 432.B.2.a to allow an entrance canopy to project more than 5 feet from the building and which is greater than 8 feet wide.
- d. From Section ~~511.H.2.b~~, to permit a 5 foot parking set back from the right-of-way, where a minimum of 20 feet is required.

4. The Applicant was also previously granted preliminary major site plan approval with numerous conditions as set forth in the Resolution adopted in this matter on June 4, 2020, a copy of which is incorporated herein by reference.

5. The Applicant has now proposed amended preliminary and final major site plan approval together with 5 new bulk variances not required by the initial approval as well as a series of waivers related to the newly proposed site plan. No new use variances are requested with regard to the amended application.

6. Specifically the Applicant now proposes to construct two hotels each with 5 stories containing 131 rooms and 120 rooms, respectively, it proposes to construct a 4,250 square foot freestanding restaurant and it seeks the second of three permitted one-year extensions of the previous preliminary site plan approvals, together with variances, waivers and other site improvements including stormwater management basins, sidewalks, parking areas, curbing, lighting and landscaping. The Applicant also proposes to consolidate Lot 2.02 as well as Lot 3, which was not part of or included in the initial preliminary approval application in 2020. Lot 3 is an out parcel abutting Lot 2.02 and is now under contract for purchase by the Applicant.

7. The property is located in the Regional Business B4 Zone and Redevelopment Area 5-Western Gateway Phase II Overlay Zone. All of the proposed uses are permitted uses with said Zone and/or are consistent with the use variances granted by this Zoning Board with the 2020 approvals.

8. The subject property, Lot 2.02, contains 6.3 acres and Lot 3 contains 0.43 acres for a total of 6.73 acres. Both parcels are currently vacant sites located along NJSH Route 70 West (Marlton Pike). Lot 2.02 has frontage along Route 70 West and is also bound to the north by a tributary of Cooper River. Lot 3 is an out parcel lot also with frontage along Route 70 West. Nearby Zoning Districts include the existing Magic Carwash and the Dieva Body Shop which are located in the B4 - Redevelopment Area 5 Zone. The Executive Campus parcel is located to the west and north of the site and a number of smaller parcels are located to the east of the site. Across Route 70 there are a number of small parcels to the east of the site as well as the Double Tree Hotel and Cooper Health facility, all of which are located in the Highway Business B2 Zone. Redevelopment Area 5 - Western Gateway Phase II was designated as an area of in need of redevelopment in 2004 pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40:12A-1, et seq.

9. A detailed history of the site is set forth in the Department of Community review letter dated June 12, 2024, which is incorporated herein by reference. The site has an extensive history and uses dating back to a former landscape/hardscape storage lot and garden center that existed on the site since the 1960's and contains dirt roadways, the Cooper River tributary and a former gas station. As such it is subject to the oversight of the New Jersey Department of Environmental Protection's (DEP) regulations. The DEP has been extensively involved in the review of this application and has imposed remediation obligations on the Applicant concerning this site.

10. The Applicant has now requested additional bulk variances pursuant to N.J.S.A. 40:55D-70c(2) for the following relief:

- a. From Section 417.H.2.e and Section 401.K to permit open space coverage of 12.5% where a minimum of 25% is required.
- b. From Section 417.H.2.a to permit a building setback of 53.2 feet from the Route 70 right-of-way where a minimum setback of 60 feet, 6 inches is required. This relates to the proposed Residence Inn Hotel.
- c. From Section 417.H.2.d to permit off-street parking setback of 5 feet from a structure where 10 feet is allowed. The requested variance of 5 feet is proposed along the east side of the Residence Inn, a 6.8 foot setback is proposed along the east side of the restaurant and an 8 foot setback is proposed along the north side of the Hampton Inn Hotel. A previous setback of 6.43 feet was granted with the 2020 approval.
- d. From Section 511.B.2 to permit a total of 281 parking spaces where a minimum of 316 parking spaces are required.

- e. From Section 516.G.4.b to permit a basin to have a side yard setback of 12.4 feet where a minimum setback of 20 feet is required. This relates to Basin B and its location to adjacent Lot 2.01.

11. The Applicant has agreed to withdraw the following design waivers granted in the 2020 application:

- a. From Section 508.G.1 from meeting the parking area requirement of providing interior islands with a minimum of one (1) parking space for every ten (10) spaces.
- b. From Section 509.C.6 regarding pole mounted fixtures at a height of 25 feet where 20 feet is allowed.
- c. From Section 511.L.6 regarding a driveway length of 32.4 feet where 40 feet is required.
- d. From Section 511.N.2.a regarding eliminating bicycle storage spaces.
- e. From Section 511.Q.2, to permit two (2) contiguous parking spaces, where a minimum of three (3) contiguous parking spaces are required.

12. The Applicant has now also requested design waivers for the following relief:

- a. From Section 511.L.6 to permit a driveway length of 23.4 feet where a minimum of 40 feet is required.
- b. From Section 511.N.2.a to permit five bicycle racks where a minimum of seven bike racks are required.

13. The Applicant was represented by Robert Mintz, Esquire.

14. The Applicant presented the testimony of the following witnesses at the public hearing:

- a. Brian Peterman, P.E. - Civil Engineer
- b. Denis Cummings, L.S.R.P. - Environmental Engineer
- c. Craig Patterson, P.E. - Environmental Engineer
- d. Nathan Mosley, P.E. - Traffic Engineer
- e. Michael Weisberg, Representative of the Applicant

15. A complete list of the plans and documents submitted by the Applicant in support of the application is specified on pages 5 and 6 of the Department of Community Development Review Letter dated June 12, 2024. In addition, the Applicant introduced the following exhibits at the public hearing:

- a. Exhibit A-1 - Overall Aerial Plan

- b. Exhibit A-2 - Site Plan Comparison
- c. Exhibit A-3 - Hampton Inn Elevation with heights noted
- d. Exhibit A-4 - Residence Inn Elevation with heights noted
- e. Exhibit A-5 - Riparian Restoration Plan

16. Comprehensive review letters were issued by the Department of Community Development dated June 12, 2024 and Environmental Resolutions, Inc., the Zoning Board Engineer, dated June 25, 2024. Both letters were marked into evidence, are on file with the Zoning Board Secretary and are incorporated herein by reference.

17. The Zoning Board presented the testimony of Jacob Richman, P.P., A.I.C.P., Board Planner and Deputy Director with the Department of Community Development and C. Jeremy Noll, P.E., C.M.E., C.P.W.M., of Environmental Resolutions, Inc., the Zoning Board Engineer. Both testified with regard to their respective review letters which were made a part of the record in evidence in this matter.

18. One member of the public testified at the public hearing in this matter.

19. Public notice of the hearing was provided in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-12 and by the Township of Cherry Hill which published a separate notice advising the public that the subject hearing would be held by video conference. Said notice provided information to the public as to how to participate in said video conference which was held via the Zoom platform.

WHEREAS, Robert Mintz, Esquire, the attorney for the Applicant, introduced the application and provided an overview as to the changes which were made after preliminary approval was granted in 2020 and the current proposal. Mr. Mintz stated that Lot 3 which was owned by Cooper Health System, is now under contract of sale to the Applicant. The new amended plans call for Lot 3 to be consolidated with Lot 2.02. Lot 3 has therefore been integrated into the new amended site plan application presently before the Board. Lot 2.02 consists of 6.3 acres and Lot 3 consists of 0.43 acres.

WHEREAS, Mr. Mintz stated that the amendments to the site plan were necessitated as a result of new DEP regulations that were imposed shortly after the 2020 approvals were granted. He stated that the DEP increased the riparian zone buffer requirements from 50 feet to 300 feet which, in turn, required that the entire development and design of the site had to be moved closer to Route 70 to accommodate the increased buffer area. He also stated that preliminary approvals of the project were a prerequisite for any DEP approvals. Further, Mr. Mintz represented that the Applicant is seeking a one year extension of the preliminary approvals as well as final major site plan approval.

WHEREAS, Mr. Mintz stated that this site is being developed in conjunction with the adjoining Route 70 West, LLC site on Lot 2.01 which contains the proposed carwash and coffee shop. He stated that all witnesses will be the same for both applications and although presented separately, the testimony of the witnesses will be overlapping. Finally, he stated that the one-year extension of the approvals is requested due to the involvement of DEP regulations and reviews affecting this site. He stated that the Applicant will comply with all of the DEP requirements including the regulations regarding reclaiming the waterway and the continued maintenance and care of the tidelands and riparian buffers at the site.

WHEREAS, Craig Patterson, was duly sworn and testified that he is a Senior Environmental Engineer, that he is licensed in New Jersey and that he works with Marathon Engineering. He stated that he is familiar with the plans, that he is involved with the DEP approval process for this application, that he has testified before numerous other land use boards in New Jersey and has been recognized as an expert in environmental engineering. The Board stipulated to his qualifications as an expert in environmental engineering.

WHEREAS, Mr. Patterson testified that the approval process with DEP began in 2018 with a request that DEP determine the wetlands buffer, stream hazards and the riparian buffers of the tributary at the rear of this site. He stated that when the process began in 2018, the DEP regulations for the riparian buffer were 50 feet, however, shortly after the preliminary site plan approvals were granted in 2020, DEP revised its regulations to increase the riparian buffer zone to 300 feet which then meant that much of the development areas fell within this increased buffer. As a result of the DEP increased requirements, the Applicant was forced to move the development closer to Route 70 which thus required the amended layout for this development. Mr. Patterson testified that the Applicant has been working with DEP and that as a condition of DEP approval, the Applicant submitted a Riparian Zone Restoration Plan which allowed the Applicant to repair the existing riparian buffer and deed restrict the buffer area as a conservation area. Mr. Patterson testified that a large planting area was also created as part of the DEP approved Riparian Restoration Plan. He testified as to the tree survey that was conducted for the site and stated that the project will result in a net gain of over 250 trees to be planted within the Riparian Zone Buffer.

WHEREAS, Mr. Patterson testified that while the Applicant seeks a variance for a reduction in open space of 12.5% where 25% is required; if the wetlands area and riparian buffer are added back into the open space calculations, the site will far exceed 25%. He testified that the granting of the open space variance is consistent with the purposes of the Municipal Land Use Law (MLUL), specifically N.J.S.A. 40:55D-2, Sections e, g, i and j, since this development will preserve natural resources by repairing and maintaining the riparian buffer zones. Mr. Patterson then identified Exhibit A-5 which showed the

Riparian Buffer Zone Planting Plan as approved by DEP. He explained that the restoration work will be conducted on both sides of the stream at the site. He also testified that the Applicant has agreed to comply with a DEP Flood Hazard Individual Permit which contains various conditions of approval including deed restricting the riparian zone buffer area as open space/conservation and it requires the Applicant to obtain final approval from the Zoning Board.

WHEREAS, Denis Cummings, was duly sworn and testified that he is a licensed engineer in New Jersey and certified as an L.S.R.P. by the State of New Jersey. He also stated that he has been recognized as an expert in the field of site remediation by other land use boards in New Jersey. The Board accepted his qualifications as an expert in site remediation.

WHEREAS, Mr. Cummings testified that he is familiar with this site and works as the LSRP for this project. He stated there are existing contaminants along the entirety of the site primarily as a result of a prior gas station use at this site. He stated that there has been soil samplings taken and ground water monitoring at the site and that he is awaiting an Administrative Consent Order with DEP as to the proposed remediation plan. He further testified that the Applicant has agreed to comply with all of his recommendations made as an L.S.R.P and that the remediation work necessary is not unique, but is similar to contaminants found at other gas station sites which are also being remediated in New Jersey. Upon questioning by a Board member as to the timeline for the remediation, Mr. Cummings testified that the Applicant is seeking to achieve ground water safety very soon and the soil remediation can be done during and concurrently with the construction of the development. He stated that LSRP sign-offs will be required and that DEP will issue their final permit once all remediation is complete.

WHEREAS, Nathan Mosley, P.E., was duly sworn and testified that he is licensed by the State of New Jersey as a traffic engineer and is employed by Shropshire Associates. He stated that he has appeared before this Zoning Board as well as numerous other planning and zoning boards and has been previously recognized as an expert witness in traffic engineering. The Board accepted his qualifications as an expert.

WHEREAS, Mr. Mosley testified that he is familiar with the site, that he conducted a shared parking analysis, which included the new Lot 3 and issued his traffic report dated July 8, 2024, which included both this site and the adjoining carwash site. Mr. Mosley identified Exhibit A-1 which was the overall aerial plan of all of the lots and testified that he met with New Jersey Department of Transportation (DOT) on several occasions, which has jurisdiction over the access to the site due to the frontage on State Highway Route 70. He stated that there is an existing traffic signal in the front of the site directly across from the Cooper Hospital Building. Mr. Mosley testified that the site will have two driveway locations, one as a

right-in only from Route 70 West and the other is a right-in and right-out onto Route 70 West. The driveways for both sites have been submitted to DOT for approval and DOT issued comments which stated there are no issues regarding the proposed access points.

WHEREAS, Mr. Mosley testified that the traffic report which was initially conducted in 2022 accounted for both the existing traffic and the future development traffic. He stated that the report focused primarily on A.M. and P.M. peak hours and explained that the site generated more traffic during the weekends whereas the adjoining carwash site generated most of its traffic during the weekday A.M. and P.M. hours. He stated that the proposed restaurant will have pass-by traffic and that the existing traffic intersection will not change the level of service at any of the intersections, all of which will remain at Levels B or C. Mr. Mosley stated that there may be a slight delay while exiting the site, however, the new development will not cause major delays and that the site will provide safe access and circulation and have minimal off-site affects. Mr. Mosley stated that there are currently three to four curb cuts accessing the site which will be consolidated into two curb cuts which is an overall improvement and that the site will work safely and efficiently with minimal impacts. Mr. Mosley stated that the applicant will provide a copy of the major access permit from NJDOT once it is received. Mr. Mosley stated that the Applicant will work with the Board's professionals on supplementing direction signage and adding a "Do Not Block the Box" signs/striping near the right-in/right-out driveway.

WHEREAS, Mr. Mosley testified as to the Shared Parking Analysis provided for this site and stated that there are 282 parking spaces provided, whereas the ordinance requires a minimum of 316 spaces. He stated that in his opinion and based upon the published ITE requirements, Sixth Edition, the peak number of parking spaces required for the two hotels would amount to 228 spaces and that the peak requirement for both the hotels and restaurants amounts to 257 spaces. Thus, he testified that there is an excess of 28 parking spaces available. He also testified that there is no interconnection between the hotel site and the adjoining carwash site and that there is sufficient parking provided based upon the Shared Parking Analysis as contained in Section 511.B.7 of the Ordinance. As a result, he testified that the variance requests were justified and he further stated that he will continue to work with the Zoning Board Professionals regarding the directional signage, pavement striping and other issues.

WHEREAS, Brian Peterman was duly sworn and testified that he is a professional engineer licensed by the State of New Jersey, that he has testified before this Board and numerous other land use boards in the State of New Jersey including providing testimony regarding the previous site plan application for this project. The Board recognized Mr. Peterman as an expert in the field of professional engineering.

WHEREAS, Mr. Peterman identified Exhibit A-2 which was the comparison site plan showing the previously approved plan and the amended site plan and he discussed in detail the specific changes between the two plans. He stated that as a result of the DEP requirements, they had to redesign the site to move the buildings closer to Route 70 and because the Applicant purchased Lot 3 which is now incorporated into the proposed plans. He stated that one of the primary changes is that the location of the hotels were switched, however, the restaurant is still located in the same area.

WHEREAS, Mr. Peterman outlined that requested bulk variances were for open space, a front yard setback for one of the hotels, off-street parking setbacks, the number of parking spaces, a basin setback as well as proposed sign variances to permit façade signage at this site. He stated that, in his opinion, there are no detriments created by the amended application and that a hardship has been created for the Applicant under the c(1) criteria as a result of the change in the DEP regulations. He further stated that the proposed development meets with and satisfies the intent of the approved redevelopment plan for this site. He stated that as to the positive criteria, the development will protect the environmental issues that have been raised by DEP including the wetlands buffers and riparian buffers, that the Applicant will continue to maintain and repair the protected areas, the Applicant will deed restrict the riparian and buffer areas and will clean up and maintain the entire site, consistent with DEP requirements. Thus, he stated that the benefits of the site far outweigh any detriments.

WHEREAS, Mr. Peterman testified that there are two façade signs proposed for the Hampton Inn Hotel, where one façade sign is permitted. He stated that the size and locations of the façade signs will comply with the ordinance requirements except for the proposed façade sign on the "right elevation" as it does not have direct street frontage, while the other façade sign will be located on the front elevation facing Route 70. With regard to the Residence Inn site, he stated that they have three façade signs proposed, one permitted façade sign on the front elevation facing Route 70, one on the east elevation, and one on the west elevation internal to the site; thus a variance is required for the two additional façade signs. The Applicant also proposes to install a three (3) paneled multi-tenant sign that is compliant in size and location on the site in order to identify the two (2) hotels and the future restaurant pad site tenant. Again, he stated that other than the requested sign location variances, the Applicant will comply with the ordinance as far as sign sizing goes or the Applicant will return to the Zoning Board for further signage approval.

WHEREAS, Mr. Peterman testified as to the requested waivers some of which were previously granted, as well as the waivers required for the amended plans which included the length of the driveway of 23.4 feet, where a minimum of 40 feet is required and the inclusion of five bike racks where a minimum of 7 bike racks are required. He also

testified that previous waivers granted are being withdrawn including those from Section 508.G.1 regarding interior parking islands, Section 509.C.6 regarding the height of light poles which will now have a maximum height of 20 feet and from Section 511.L.6 regarding the driveway length of 32.4 feet.

WHEREAS, Mr. Peterman testified that there are no new use variances requested. He further identified Exhibit A-3 and A-4 which showed the elevations of the Hampton Inn and Residence Inn, respectively. He stated that all of the parking will be located outside of the stream buffer which complies with prior approvals and he confirmed that the request for a one year extension of the preliminary approval was necessitated by the changes in the DEP regulations and approval process. Mr. Peterman testified that the Applicant will comply with the comments and conditions contained in both the Community Development and Environmental Resolutions, Inc. review letters dated June 12, 2024 and June 25, 2024, respectively, and it will comply with the prior conditions noted in the review letters and prior Resolution except as specifically changed or set for on the record in this matter. He stated that the Applicant will continue to work with the Zoning Board Professionals, that the Applicant will agree to a night light function test, will comply with all lighting requirements, will comply with all landscaping requirements, will provide a tree removal and restoration plan, and will comply with the Cherry Hill tree ordinance. He stated the Applicant will provide a tree removal schedule consistent with the ordinance; that the Applicant will comply with the sign lighting ordinance and that the Applicant will comply with the required site lighting, except in certain areas that are internal to the site and abut the adjoining carwash property. He stated that when the restaurant tenants are identified, the Applicant will provide renderings of the buildings, materials and colors and that the number of seats in the restaurant will continue to be less than 200 seats.

WHEREAS, Jacob Richman, P.P., A.I.C.P., Board Planner and Deputy Director with the Department of Community Development, testified that the Applicant has adequately addressed all of the comments and conditions contained in the Community Development review letter including that the Applicant will comply with all of the conditions noted in the June 12, 2024 letter as well as all of the conditions noted in the prior preliminary approval in 2020, except as now noted on the record. He further clarified that the extension of the approvals are needed due, primarily, to the change in DEP requirements and that he is satisfied, if the application is approved, that the Applicant will continue to work with the Zoning Board Professionals as this application proceeds.

WHEREAS, C. Jeremy Noll, P.E., C.M.E, C.P.W.M., the Zoning Board Engineer, testified that the Applicant has complied or will comply with all of the comments and conditions contained in his review letter of June 25, 2024 and that the Applicant has agreed to continue to

address any issues of the Fire Marshal's Department as well as his office relating to any of the issues raised in this matter.

WHEREAS, Mr. Mosley again testified in response to questions posed by Zoning Board members relating to the parking variance and the differences in testimony as to the required number of parking spaces from the first application in 2020 as compared to this application. Mr. Mosley explained that the site has not changed substantially and that the previous parking analysis was based upon older ITE references which called for more parking. Mr. Mosley stated that the Sixth Edition of the ITE Manual changed its recommendations.

WHEREAS, Mr. Peterman responded as to questions raised regarding the front elevation of the Hampton Inn as well as the materials to be used at the Residence Inn building. The Applicant ultimately agreed to work with the Board professionals on upgrading the Residence Inn to incorporate more brick with Mr. Mintz adding that EIFS material was available in brick faced finishes and that the Applicant was willing to use a brick-face EIFS material.

WHEREAS, the application was open for public comment and one member of the public, Martha Wright, who was duly sworn, testified. She made reference to Exhibit A-2 and asked for clarification of the change of the signage, stated that she did not support any of the requested sign variances and was concerned about the proposed sign lighting as well as the lighting levels in general. She questioned as to how the hotel trash gets to the dumpsters and stated that she would prefer more landscaping along Route 70. Mr. Peterman responded to her comments and also noted that the landscaping will be irrigated.

WHEREAS, the development plans have been reviewed by the Department of Community Development and Environmental Resolutions, Inc. (whose findings and reports are incorporated herein and made a part hereof). Said reports state those areas of the plans that have been found to be in compliance with the Development Control Regulations of the Township and those areas which are not in compliance. The Community Development report is dated June 12, 2024 and the Environmental Resolutions, Inc. report is dated June 25, 2024. Both reports are marked into evidence as part of the record herein.

WHEREAS, from the submissions made by the Applicant, the testimony and evidence presented by the Applicant and its professionals, the testimony and evidence presented by the Zoning Board Professionals, the testimony and evidence of all interested parties, and based upon the entire record, the following further findings of facts and conclusions of law were made:

1. All of the initial findings of facts as set forth in Paragraphs 1-19 are hereby incorporated by reference herein as further findings of facts as well as the findings of facts contained in the prior resolution adopted in this matter dated June 4, 2020.

2. Based upon the testimony and evidence presented by the witnesses and experts, the Zoning Board makes the following further findings of facts and conclusions of law as set forth herein below.
3. All of the foregoing "WHEREAS" paragraphs contained on pages 5 through 11 are hereby incorporated by reference herein as further findings of facts made by the Zoning Board and the Zoning Board has given appropriate weight to said testimony of the professionals and the interested parties in making its findings of facts.
4. The Zoning Board finds and accepts as credible the testimony of the Zoning Board Planner, Zoning Board Engineer as well as the Applicant's professionals as testified to herein.
5. The Zoning Board has reviewed and considered the relevant portions of the Zoning Ordinance, Municipal Land Use Law, exhibits, testimony, and other pertinent documents and authority submitted in this matter and has considered the requested site plan, variances and waivers as well as the positive and negative criteria as set forth in the Municipal Land Use Law, and in the relevant court decisions as related to the bulk variances requested.
6. Individual members of the Zoning Board have set forth their specific reasons on the record as to the basis for granting the application and variances which include that the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning Ordinance and that positive factors substantially outweigh any detriments.
7. With regard to the requested bulk (c) variances other than the signage variances, the Zoning Board has concluded that the new variances requested for the open space reduction, building setback to the Route 70 right-of-way, the off-street parking located less than 10 feet from the structure and the side yard setback for Basin B, can be granted consistent with the hardship provisions of N.J.S.A. 40:55D-70c(1) since a hardship exists due to the exceptional and practical difficulties affecting this specific piece of property including the existing wetlands, the Cooper River tributary and riparian buffers that have significantly impacted this site. In addition, the Zoning Board concludes that the remaining bulk variances can be granted without substantial detriment to the public good, that the benefits of the deviation substantially outweigh the detriments and that the variances will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.
8. The Zoning Board finds concludes that the Applicant has affirmatively proved, produced and introduced sufficient testimony and evidence to sustain its burdens regarding the

positive and negative criteria of the statute to justify the requested variances and that the impact of the proposed application on the Township, the adjacent properties and the surrounding areas will not constitute a substantial detriment to the public good or the surrounding areas.

9. The Zoning Board finds and concludes that the request for the one year extension of the preliminary site plan approval is warranted since the Applicant has proved to the reasonable satisfaction of the Board that the Applicant was prevented from proceeding because of delays in obtaining legally required approvals from other governmental entities including but not limited to the New Jersey Department of Environmental Protection and that the Applicant has applied promptly for and diligently pursued said required approvals.

NOW, THEREFORE, based upon the foregoing findings of facts and conclusions of law, including all of the testimony presented at the hearing, **BE IT RESOLVED** by the Township of Cherry Hill Zoning Board of Adjustment, that Application No. 19-Z-0030 (PBC 10003) by KM Hotels, LLC for amended preliminary and final major site plan approval with bulk variances and waivers, as well as a one-year extension of the previous approval, are hereby **GRANTED** by a vote of 5 in favor and none opposed, for the reasons set forth on the record in this matter and subject to the following terms and conditions:

1. The bulk variances requested from N.J.S.A. 40:55D-70c are hereby recognized as preexisting variances previously approved in the June 4, 2020 prior resolution. Thus, said variances remain in effect and new variances are not required:

- a. From Section 432.B.2.a to permit an entrance canopy to protrude more than 5 feet from the building and be greater than 8 feet wide.
- b. From Section 511.H.2.b to permit a 5 foot parking setback from the right-of-way where a minimum of 20 feet is required.

2. The following bulk variances granted on June 4, 2020 are withdrawn and abandoned by the Applicant:

- a. From Section 417.H.2.a to permit a 5 foot setback from the State or County road.
- b. From Section 417.H.2.d to permit a setback of 6.43 feet from off-street parking to a structure where a minimum of 10 feet is required.

3. The following new bulk variances requested from N.J.S.A. 40:55D-70c(1) are granted:

- a. From Section 417.H.2.e and Section 401.K to permit an open space coverage of 12.5% where a minimum of 25% is required.
 - b. From Section 417.H.2.a to permit a building setback of 53.2 feet from the Route 70 right-of-way where a minimum setback of 60.6 feet is required.
 - c. From Section 417.H.2.d to permit off-street parking to be located less than 10 feet from a structure where a setback of 5 feet along the east side of Residence Inn and 6.8 feet along the east side of the restaurant and 8 feet setback along the north side of the Hampton Inn are granted.
 - d. From Section 511.B.2 to permit a total of 281 parking spaces inclusive of 11 EV spaces where a minimum of 316 parking spaces are required, is granted.
 - e. From Section 516.G.4.b to permit the Basin B side yard setback of 12.4 feet where a minimum setback of 20 feet is required.
4. The following new bulk variances for signage requested from N.J.S.A. 40:55D-70c(2) are granted:
- a. From Section 517.D.22 to permit a multi-tenant sign with three panels to identify the names of the Hampton Inn Hotel, the Residence Inn Hotel and the restaurant facility each on their own panel.
 - b. From Section 517.G.3.a.i to permit three façade signs for the Residence Inn Hotel where one façade sign is allowed. *In addition to a compliant sign on the south/Route 70 elevation, the Applicant proposes one (1) façade sign on the east and west elevations, where said elevations do not have direct street frontage.*
 - c. From Section 517.G.3.a.i to permit two façade signs for the Hampton Inn Hotel where one façade sign is allowed. *In addition to a compliant sign on the south/Route 70 elevation, the Applicant proposes one (1) façade sign on the west elevation, where said elevation does not have direct street frontage.*
5. The following new waivers with regard to the amended application were granted:
- a. From Section 511.L.6 to permit a driveway length of 23.4 feet where a minimum of 40 feet is required.
 - b. From Section 511.N.2.a to permit five bicycle racks where a minimum of seven racks are required.

6. The request for a one-year extension of the preliminary major site plan approval pursuant to N.J.S.A. 40:55D-49f is granted retroactive to May 20, 2024 until May 19, 2025.

7. All of the comments and conditions contained in the Department of Community Development review letter of June 12, 2024 and the Environmental Resolutions, Inc. review letter of June 25, 2024 are hereby incorporated herein by reference as conditions of approval and must be fully satisfied by the Applicant in accordance with their terms, except as otherwise specifically noted on the record and specifically include:

a. Regarding the Community Development letter dated June 12, 2024, the following paragraphs are noted as conditions:

- Page 7, Paragraphs 9, 10, 15 and 34;
- Page 8, Paragraphs 35, 36, 37, 45 and 48;
- Page 9, Paragraphs 54, 58 and 64;
- Page 10, Paragraphs 64(i), 64(j) 64(l) and 65;
- Page 11, Paragraphs 67 and 68;
- Page 15, Paragraphs E(1), E(5) and E(6);
- Page 16, Paragraphs 7, 8, 9, 10, 11, 13, F(2) and F(6);
- Page 17, Paragraphs 19, 20, 50, 56, 68 and 69;
- Page 18, Paragraphs G(1), G(2), G(3), G(4), G(5), IV(1), IV(2) and IV(3) and
- Page 19, Paragraphs 4, 5, 6, 7, 8, 9, 10, 11 and 12.

b. Regarding the Environmental Resolution, Inc. letter dated June 25, 2024, the following paragraphs are noted as conditions:

- Page 6, Paragraphs 1(a), 1(b), 1(c), 1(d), 2(d), 3, 4, 5 and 6;
- Page 7, Paragraphs 7 and 8;
- Page 7 Site Plan: Paragraphs 1, 2, 3, 4, 5, 6, 7 and 9;
- Page 8 Grading and Drainage: Paragraphs 1, 3, 4, 5, 6 7, 8 and 9;
- Page 8 Stormwater Management: Paragraph 1(a);
- Page 9, Paragraphs 1(b), 1(c), 1(d), 2, 3(b) 3(e), 4(b) and 4(c);
- Page 10, Paragraphs 4(d), 5, 6, 7, 8, 9, 10(a), 10(b), 10(c) and 10(d);
- Page 10, Landscaping: Paragraphs 1, 2 and 3;
- Page 11, Paragraphs 4, 5 and 6;
- Page 11, Traffic: Paragraphs 1, 2 and 6;
- Page 12, Details, Paragraph 1;
- Page 12, Environmental: Paragraphs 1(a), 1(b) and 1(c);
- Page 13, Paragraphs 1(d), 1(e), 1(f), 1(g), 1(h) and 1(i);
- Page 14, Administrative: Paragraphs 1, 2, 3, 4 and 5;
- Page 14, Resolution Compliance: Paragraphs 2 and 4
- Page 15, Paragraphs 12, 13, 14, 15, 16, 21, 26 and 29;
- Page 16, Paragraphs 32, 38, 39, 40, 41, 42, 43, 44, 45 and 46;

- Page 17, Paragraphs 47, 48, 49, 54, 56, 57, 62, 63 and 64;
- Page 18, Paragraphs 65, 68, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85 and 87;
- Page 19, Paragraphs 88, 89, 91 and 92 and
- Page 19, Permits and Approvals: Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

8. All of the comments and conditions contained in the previous Department of Community Development review letter of March 11, 2020 and the Environmental Resolutions, Inc. review letter of March 10, 2020 are hereby incorporated herein by reference as conditions of approval and must be fully satisfied by the Applicant in accordance with their terms, unless said conditions are otherwise changed or amended by the within application.

9. All of the other agreements, conditions and/or representations made by the Applicant or imposed upon the Applicant as set forth in this matter as contained in the "WHEREAS" recital paragraphs of this resolution as well as the June 4, 2020 resolution, shall be fully satisfied by the Applicant in accordance with their terms, except as otherwise noted on the record or unless changed by the amended application.

10. The Applicant shall be bound by all agreements and/or representations made by or on behalf of the Applicant as set forth at the hearing in this matter as well as the hearing resulting in the June 4, 2020 resolution and the Applicant shall be bound by all exhibits introduced, all representations made and all testimony given on its behalf before the Zoning Board in both public hearings except as otherwise noted on the record.

11. The Applicant has agreed to work with the Zoning Board Professionals with regard to all issues noted in the record, including issues relating to the site plan, parking, lighting, trash enclosure placement, signs, landscaping, tree removal, tree replacement and the Township Tree Ordinance.

12. The Applicant shall enter into a Stormwater Maintenance Agreement and Stormwater Maintenance Plan with the Township to insure compliance with the requirements of Section 516 of the Zoning Ordinance.

13. The Applicant shall revise the plans to include a note that it is required to obtain approval or a Letter of No Interest from New Jersey Department of Transportation; approval or an exemption waiver from the Camden County Soil Conservation District and a Letter of No Interest from the Camden County Planning Board.

14. The Applicant shall submit all required New Jersey Department of Environmental Protection approvals to the Department of Community Development and Zoning Board Engineer and the Applicant

shall specify which approvals are conditional and which approvals require further approvals.

15. The Applicant shall revise the plans to include a note that all connection fees for sewer with the Camden County MUA and the Cherry Hill Township MUA as well as water connection fees are required as a condition of approval.

16. The Applicant shall submit a lot consolidation deed consolidating Block 71.01, Lots 2.02 and 3 including the consolidated legal description, to the Zoning Board Attorney, Engineer and Department of Community Development for their advance review and approval.

17. The Applicant shall provide copies of the driveway access permits as issued by New Jersey Department of Transportation.

18. The Applicant shall comply with the size, height and location requirements set forth in the ordinance requirements with regard to the freestanding sign or return to the Zoning Board for further approvals.

19. The Applicant shall comply with the lighting requirements as set forth in the Zoning Ordinance.

20. The Applicant shall provide a tree restoration plan, a tree removal schedule and shall comply with the requirements of the tree removal ordinance of the Township.

21. The Applicant shall comply with the lighting ordinance regarding the signage.

22. The Applicant shall revise the plans to reflect that parking will be located outside of Zone 2 of the stream buffer and consistent with the prior approvals granted in this matter.

23. The Applicant shall comply with the requirements set forth in the Cherry Hill Fire Marshal's review letter or return to the Zoning Board for further approvals.

24. The Applicant will work with the Zoning Board Professionals to ensure that proper shielding is provided for the lighting.

25. The Applicant will work with the Zoning Board Professionals regarding the materials and colors of the Residence Inn Hotel architectural features.

26. The Applicant shall make payment of the Affordable Housing Fee and/or other affordable housing obligations in accordance with the relevant regulations, ordinances, statutes and/or court decisions in effect at the time of the filing of the application.

27. The Applicant is hereby notified that prior to the issuance of any zoning permits:

- a. All taxes and assessments shall be paid on the property for which this application is made. The Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which the application is made.
- b. Any and all conditions made a part of this approval, including those noted by reference in any reports of any consultants to the Zoning Board or as set forth on the record at the Zoning Board hearing must be satisfied.
- c. Zoning approval must be obtained from the Department of Community Development.
- d. The Applicant shall pay all required escrows, costs and professional fees associated with the application to the Department of Community Development within fourteen (14) days of receipt of a written request for payment of escrow funds. The failure to pay the required escrow funds within the fourteen (14) day period after receipt of written notice may result in the voiding of this approval. Negative escrow account balances shall incur interest at the rate of 1½% per month.
- e. Any and all outside agency approvals that are required must be obtained by the Applicant.

28. The following permits and/or approvals are required as a condition of site plan approval:

- a. New Jersey Department of Transportation;
- b. New Jersey Department of Environmental Protection - LOI (August 23, 2019)
- c. New Jersey Department of Environmental Protection - Flood Hazard Delineation
- d. New Jersey Department of Environmental Protection - Wetlands Buffer Averaging
- e. New Jersey Department of Environmental Protection - TWA
- f. New Jersey Department of Environmental Protection - Bureau of Safe Drinking Water
- g. Camden County Planning Board
- h. Camden County Soil Conservation District (approval or exemption waiver)
- i. Camden County MUA
- j. Cherry Hill Township Fire Marshal (review/comments, dated 8/19/19)
- k. Cherry Hill Police Department (review/comments, dated 8/21/19)

- l. Cherry Hill Department of Code Enforcement
(review/comments, dated 9/9/19)
- m. Cherry Hill Engineering and Public Works (review/comments
dated 8/22/19)
- n. Any other agencies deemed necessary

29. The failure of the Applicant to comply with any of the conditions contained in this Resolution will permit the Zoning Board, at its sole option, to rescind the approvals being granted by this Resolution and/or to advise the Township to revoke any permits which have been issued to the Applicant.

DATED: August 15, 2024

ZONING BOARD OF THE
TOWNSHIP OF CHERRY HILL

By: Jacob Richman
JACOB RICHMAN, PP, AICP
ZONING BOARD SECRETARY

CERTIFICATION

This Resolution of Memorialization being adopted by action of the Zoning Board on this 15th day of August, 2024, is a true copy of the action taken by the Board at its meeting held on July 18, 2024.

Jacob Richman
JACOB RICHMAN, PP, AICP
ZONING BOARD SECRETARY