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Attorneys for the Ocean City Planning Board

IN THE MATTER OF THE APPLICATION OF DUNCAN REAL ESTATE INVESTMENTS LLC, FOR MINOR SUBDIVISION APPROVAL, PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL, CONDITIONAL USE APPROVAL, VARIANCES AND WAIVERS FOR BLOCK 804, LOT 9	OCEAN CITY PLANNING BOARD APPLICATION NO. PBA 26-012 **DECISION AND RESOLUTION**

BACKGROUND OF DECISION AND RESOLUTION

1. DUNCAN REAL ESTATE INVESTMENTS, LLC ["Applicant"] is the owner of certain lands and premises located in the City of Ocean City known as Block 804, Lot 9 as shown on the current official tax map for the City of Ocean City, New Jersey commonly known as 801 Wesley Avenue, Ocean City, New Jersey ["Property"].

2. The Applicant has made application to the Ocean City Planning Board for **(i) minor subdivision approval** to subdivide the Property into two (2) new lots in the Central Business Zone (which, if approved, will be Lots 9.01 and 9.02). Proposed Lot 9.02 is a corner lot and will have a lot frontage and lot width of 50.00 feet along Wesley Avenue, a lot depth of 105.00 feet, and a lot area of 5,250.00 square feet. Proposed Lot 9.01 is an interior lot and will have a lot frontage and lot width of 50.00 feet along Wesley Avenue, a lot depth of 105.00 feet, and a lot area of 5,250.00.00 square feet; **(ii) preliminary and final major site plan approval** to construct one (1) new, three-story

mixed-use building on proposed Lot 9.01 consisting of 1,649.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with eight (8) off-street residential parking spaces and to construct one (1) new, three-story mixed-use building on proposed Lot 9.02 consisting of 1,560.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with seven (7) off-street residential parking spaces at the Property which is located in the Central Business Zone; **(iii) conditional use approval** for the first and second floor residential units on proposed Lot 9.01 and proposed Lot 9.02; and, **(iv) variances** to permit (a) a minimum lot area for proposed Lot 9.01 of 5,250.00 square feet and a minimum lot area for proposed Lot 9.02 of 5,250.00 square feet; (b) a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.01 and a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.02; (c) a minimum commercial floor area of 1,649.00 square feet in the new, three-story mixed-use building for proposed Lot 9.01 and a minimum commercial floor area of 1,560.00 square feet in the new, three-story mixed-use building for proposed Lot 9.02; (d) a minimum parking area setback of 1.00 feet from building and 2.00 feet from property line on proposed Lot 9.01 and a minimum parking area setback of 1.00 feet from building on proposed Lot 9.02; and (e) porches/decks on front of building on proposed Lot 9.01 and proposed Lot 9.02. The Applicant also seeks design waivers for (a) sign location on proposed Lot 9.02 and (b) for the proposed 40.5 feet parking

opening on proposed Lot 9.01. All existing structures, improvements and any existing concrete or flat work now located on the Property are to be demolished and removed.

3. The application to the Ocean City Planning Board as aforesaid was deemed complete and a public hearing in respect of the aforesaid application was held before the Ocean City Planning Board on October 14, 2026.

4. Ocean City Planning Board Member Stell recused himself and did not participate in the public hearing in respect of the aforesaid application that was held before the Ocean City Planning Board on October 14, 2026.

WITNESSETH

NOW, THEREFORE, the Ocean City Planning Board based upon the exhibits submitted and the analysis by the Planner for the Ocean City Planning Board, Randall E. Scheule, A.I.C.P. & P.P. ["Planner"] and the Engineer for the Ocean City Planning Board, David S. Scheidegg, P.E., P.P., C.M.E. ["Engineer"] and the testimony presented makes the following findings of fact:

1. Paragraphs 1 through 4 set forth above in the Background of Decision and Resolution are incorporated by this reference as if specifically set forth herein at length; all appropriate applications have been filed; all required application fees have been (or will be) paid; and, all notices required by law have been given.

2. The Applicant has submitted and the Planner and Engineer have reviewed the plans and documents identified and delineated by the Planner in the Planner's Report dated September 11, 2026 ["Planner's Report"] all of which are incorporated by this reference as if specifically listed herein at this place and identified and delineated by the

Engineer in the Engineer's Report dated September 22, 2026 ["Engineer's Report"] all of which are incorporated by this reference as if specifically listed herein at this place. The Planner's Report is attached to this Decision and Resolution as Exhibit A and expressly made a part hereof and the Engineer's Report is attached to this Decision and Resolution as Exhibit B and expressly made a part hereof.

3. The Applicant was represented by Jon D. Batastini, Esquire at the time of public hearing. Mr. Batastini presented the Applicant's application for minor subdivision, preliminary and final major site plan, conditional use approval, variances, and design waivers in respect of the Property. The Property is located in the Central Business Zone and is identified as Block 804, Lot 9 as shown on the current official tax map for the City of Ocean City, New Jersey. The street address of the Property is 801 Wesley Avenue, Ocean City, New Jersey. Mr. Batastini indicated that it was the Applicant's intention to subdivide the Property into two (2) new lots in the Central Business Zone (which, if approved, will be Lots 9.01 and 9.02) and construct one (1) new, three-story mixed-use building on proposed Lot 9.01 consisting of 1,649.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with eight (8) off-street residential parking spaces and to construct one (1) new, three-story mixed-use building on proposed Lot 9.02 consisting of 1,560.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with seven (7) off-street residential parking spaces at the Property which is located in the Central Business Zone. A conditional use approval is required for the first

and second floor residential units on proposed Lot 9.01 and proposed Lot 9.02. Variances to permit (a) a minimum lot area for proposed Lot 9.01 of 5,250.00 square feet and a minimum lot area for proposed Lot 9.02 of 5,250.00 square feet; (b) a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.01 and a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.02; (c) a minimum commercial floor area of 1,649.00 square feet in the new, three-story mixed-use building for proposed Lot 9.01 and a minimum commercial floor area of 1,560.00 square feet in the new, three-story mixed-use building for proposed Lot 9.02; (d) a minimum parking area setback of 1.00 feet from building and 2.00 feet from property line on proposed Lot 9.01 and a minimum parking area setback of 1.00 feet from building on proposed Lot 9.02; and (e) porches/decks on front of building on proposed Lot 9.01 and proposed Lot 9.02 are required for the project development. The Applicant also seeks design waivers for (a) sign location on proposed Lot 9.02 and (b) for the proposed 40.5 feet parking opening on proposed Lot 9.01. All existing structures, improvements and any existing concrete or flat work now located on the Property are to be demolished and removed.

Andrew Bechtold, R.A. was the first witness to testify in respect of the application. Mr. Bechtold is a registered architect and was recognized by the Ocean City Planning Board as an expert. Mr. Bechtold is the architect engaged by the Applicant in respect of the minor subdivision approval, preliminary and final major site plan approval, conditional use approval, variances, and design waivers for the Property. Mr. Bechtold provided a general description of the Property and the proposed minor subdivision, preliminary and final major site plan, conditional use, and variances for the

Property. Mr. Bechtold provided an overview of the project development. Mr. Bechtold testified concerning the conditional use standards applicable for the project development and opined that the project as proposed satisfies the conditional use standards to permit residential dwellings on the first floor and second floor of the new buildings. He identified all of the variances required for the project development. He identified the design waivers required by the Applicant.

The Applicant proceeded under c. (2) criteria of N.J.S. 40:55D-70 in presenting its proofs for the variances requested and Mr. Bechtold testified using the c. (2) criteria of N.J.S. 40:55D-70 as the basis for his professional testimony and opinions.

Mr. Bechtold testified that the proposed development of two (2) new, smaller mixed-use buildings on the proposed lots at the Property provided a better zoning alternative than the development of one (1) new, large building at the Property. He testified that the proposed development offered a more appropriate scale of development in the immediate neighborhood than one massive building on the Property. He further testified that the project development provided greater air, light, and open space. He testified that each of the corner lots at Eighth Street and Wesley Avenue were "all approximately Fifty (50) foot lots." He opined that the proposed development brings back the historical appearance of the neighborhood in comparison to the existing building. He also opined that the proposed development promotes the walkability of the downtown. The porches/decks on the first floor match well with the residential character of Wesley Avenue.

He testified that the new building satisfied several purposes of zoning as detailed in N.J.S. 40:55D-2. He testified that the proposed project satisfied several purposes of

zoning identified in N.J.S. 40:55D-2 a. (appropriate use of land promoting the general welfare), c. (provision of adequate light, air, and open space) g. (efficient use of land) and i. (promotion of a desirable visual environment). He testified that the proposed project was consistent with the Master Plan for the City of Ocean City and satisfied the purposes of the Central Business Zone. He testified that vehicular access to the Property would be from the rear alley.

Mr. Bechtold testified that there was no detriment resulting from the proposed minor subdivision, preliminary and final major site plan, conditional use approval, variances, and design waivers requested by the Applicant. He testified further that there was a benefit to the public by granting the minor subdivision, preliminary and final major site plan, conditional use approval, and variances, especially when taking into consideration the purposes of zoning detailed in N.J.S. 40:55D-2 identified above, the permitted uses of the Property, including the conditional use proposed by the Applicant, the aesthetic quality of the proposed new buildings, the enhanced visual environment offered by the proposed project, the intent of the Central Business Zone, and the nature of the variances requested by the Applicant. In summarizing the testimony, Mr. Bechtold offered his expert opinion that the positive criteria consistent with N.J.S. 40:55D-70 c. (2) to grant the variance relief requested by the Applicant were satisfied and particularly as to the c. (2) criteria, that the benefits of any deviation permitting the variance relief would substantially outweigh any detriment and that the negative criteria consistent with the standards required in N.J.S. 40:55D-70 were likewise satisfied, indicating that the relief requested by the Applicant, could, in his professional opinions,

be granted without any substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

During Mr. Bechtold's testimony, one (1) exhibit marked as follows was received by the Ocean City Planning Board:

1. Exhibit A-1 **(rendering).**

During and upon completion of Mr. Bechtold's testimony, he addressed questions from Ocean City Planning Board Members.

4. Comments from the Planner were received consistent with Planner's Report. The Planner's Report was received by the Ocean City Planning Board. Comments from the Engineer were received consistent with the Engineer's Report. The Engineer's Report was received by the Ocean City Planning Board. The Applicant agreed to comply with (i) the Planner's Report and (ii) the Engineer's Report, as represented by Applicant's counsel, Mr. Batastini.

5. Upon completion of Mr. Batastini's presentation on behalf of the Applicant, receipt of the Planner's Report and the Engineer's Report, and receipt of comments by the Planner and the Engineer, the meeting was then opened to the public. The following members of the public testified and offered comments in respect of the application as follows:

1. Susan Matthews, 815 Wesley Avenue commented that this project featuring two smaller buildings with no variances for parking was a better alternative than the prior approval. The porches/decks on the front of the building blend in nicely with the neighborhood.

6. Upon conclusion and closing of the public portion of the meeting, there was further discussion and deliberation by the Ocean City Planning Board.

NOW, THEREFORE, the Ocean City Planning Board hereby makes the following conclusions of law based upon the foregoing findings of fact. The Applicant has made application to the Ocean City Planning Board for **(i) minor subdivision approval** to subdivide the Property into two (2) new lots in the in the Central Business Zone (which, if approved, will be Lots 9.01 and 9.02). Proposed Lot 9.02 is a corner lot and will have a lot frontage and lot width of 50.00 feet along Wesley Avenue, a lot depth of 105.00 feet, and a lot area of 5,250.00 square feet. Proposed Lot 9.01 is an interior lot and will have a lot frontage and lot width of 50.00 feet along Wesley Avenue, a lot depth of 105.00 feet, and a lot area of 5,250.00.00 square feet; **(ii) preliminary and final major site plan approval** to construct one (1) new, three-story mixed-use building on proposed Lot 9.01 consisting of 1,649.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with eight (8) off-street residential parking spaces and to construct one (1) new, three-story mixed-use building on proposed Lot 9.02 consisting of 1,560.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with seven (7) off-street residential parking spaces at the Property which is located in the Central Business Zone; **(iii) conditional use approval** for the first and second floor residential units on proposed Lot 9.01 and proposed Lot 9.02; and, **(iv) variances** to permit (a) a minimum lot area for proposed Lot 9.01 of 5,250.00 square feet and a minimum lot area for proposed Lot 9.02 of 5,250.00 square feet; (b) a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.01 and a minimum lot frontage and a minimum lot width of

50.00 feet for proposed Lot 9.02; (c) a minimum commercial floor area of 1,649.00 square feet in the new, three-story mixed-use building for proposed Lot 9.01 and a minimum commercial floor area of 1,560.00 square feet in the new, three-story mixed-use building for proposed Lot 9.02; (d) a minimum parking area setback of 1.00 feet from building and 2.00 feet from property line on proposed Lot 9.01 and a minimum parking area setback of 1.00 feet from building on proposed Lot 9.02; and (e) porches/decks on front of building on proposed Lot 9.01 and proposed Lot 9.02. The Applicant also seeks design waivers for (a) sign location on proposed Lot 9.02 and (b) for the proposed 40.5 feet parking opening on proposed Lot 9.01. All existing structures, improvements and any existing concrete or flat work now located on the Property are to be demolished and removed.

Under the Municipal Land Use Law, N.J.S. 40:55D-1 *et seq* and particularly, N.J.S. 40:55D-60, a Planning Board, when considering a subdivision or site plan, as in this case, may grant variances as provided for in N.J.S 40:55D-70 c. The Applicant has the burden of proof to satisfy both the positive and negative criteria necessary to grant the variance relief requested. The Applicant must satisfy certain specific proofs which are enunciated in N.J.S 40:55D-70 c. Specifically, pursuant to N.J.S 40:55D-70 c. (2), the Applicant may be entitled to relief, if the Applicant can demonstrate that in a particular circumstance relating specifically to the Property, the purposes of the Municipal Land Use Law would be advanced by allowing a deviation from the Ocean City Zoning and Land Development Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, variance relief may be legally granted. The categories specifically enumerated above constitute the

affirmative proofs necessary in order to obtain "bulk" or c. variance relief. Finally, the Applicant must also show that the variance relief requested can be granted without any substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and Ocean City Zoning and Land Development Ordinance. It is only in those instances when an applicant has satisfied the statutory criteria, that a Planning Board acting pursuant to statutory and case law can grant relief. The burden of proof is upon the Applicant to establish these criteria.

Based upon the application, plans and documents, reports, and testimony of all witnesses, including the expert opinion furnished by Mr. Bechtold and the comments offered by a member of the public, the Ocean City Planning Board finds that the Applicant **has met** the minimum requirements of the Municipal Land Use Law, case law and the Ocean City Zoning and Land Development Ordinance so as to grant the relief requested. Specifically, as it pertains to the c. variance relief sought by the Applicant, the Ocean City Planning Board finds that: ***1.*** The c. (2) criteria to grant the variances to permit (a) a minimum lot area for proposed Lot 9.01 of 5,250.00 square feet and a minimum lot area for proposed Lot 9.02 of 5,250.00 square feet; (b) a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.01 and a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.02; (c) a minimum commercial floor area of 1,649.00 square feet in the new, three-story mixed-use building for proposed Lot 9.01 and a minimum commercial floor area of 1,560.00 square feet in the new, three-story mixed-use building for proposed Lot 9.02; (d) a minimum parking area setback of 1.00 feet from building and 2.00 feet from property line on proposed Lot 9.01 and a minimum parking area setback of 1.00 feet from

building on proposed Lot 9.02; and (e) porches/decks on front of building on proposed Lot 9.01 and proposed Lot 9.02. The Applicant also seeks design waivers for (a) sign location on proposed Lot 9.02 and (b) for the proposed 40.5 feet parking opening on proposed Lot 9.0.1 **have been satisfied** and, specifically as to the c. (2) criteria, the purposes of the Municipal Land Use Law would be advanced by a deviation from the Ocean City Zoning and Land Development Ordinance and the benefits of the deviation would substantially outweigh any detriment, taking into consideration the purposes of zoning detailed in N.J.S. 40:55D-2-2 a. (promote the general welfare), c. (provision of adequate light, air and open space) g. (efficient use of land) and i. (promotion of a desirable visual environment) the permitted uses of the Property, the aesthetic quality of the proposed improvements, the enhanced visual environment offered by the proposed project, the intent of the CB Central Business Zone, and the nature of the variances requested by the Applicant; and ***2.*** There is no evidence whatsoever before the Ocean City Planning Board that the minor subdivision, preliminary and final major site plan, conditional use approval, variances, and design waivers as requested, if approved and granted, would have a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and the Ocean City Zoning and Land Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Ocean City Planning Board on October 14, 2026 that the application made by the Applicant, DUNCAN REAL ESTATE INVESTMENTS LLC requesting land use approvals is determined as follows: **(i) minor subdivision approval** to subdivide the Property into two (2) new lots in the in the Central Business Zone (which, if approved, will be Lots 9.01 and 9.02). Proposed

Lot 9.02 is a corner lot and will have a lot frontage and lot width of 50.00 feet along Wesley Avenue, a lot depth of 105.00 feet, and a lot area of 5,250.00 square feet. Proposed Lot 9.01 is an interior lot and will have a lot frontage and lot width of 50.00 feet along Wesley Avenue, a lot depth of 105.00 feet, and a lot area of 5,250.00.00 square feet; **(ii) preliminary and final major site plan approval** to construct one (1) new, three-story mixed-use building on proposed Lot 9.01 consisting of 1,649.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with eight (8) off-street residential parking spaces and to construct one (1) new, three-story mixed-use building on proposed Lot 9.02 consisting of 1,560.00 square feet of commercial floor area on the ground floor, two (2), three (3) bedroom residential units on the first floor, and one (1), five (5) bedroom residential unit on the second floor together with seven (7) off-street residential parking spaces at the Property which is located in the Central Business Zone; **(iii) conditional use approval** for the first and second floor residential units on proposed Lot 9.01 and proposed Lot 9.02; and, **(iv) variances** to permit (a) a minimum lot area for proposed Lot 9.01 of 5,250.00 square feet and a minimum lot area for proposed Lot 9.02 of 5,250.00 square feet; (b) a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.01 and a minimum lot frontage and a minimum lot width of 50.00 feet for proposed Lot 9.02; (c) a minimum commercial floor area of 1,649.00 square feet in the new, three-story mixed-use building for proposed Lot 9.01 and a minimum commercial floor area of 1,560.00 square feet in the new, three-story mixed-use building for proposed Lot 9.02; (d) a minimum parking area setback of 1.00 feet from building and 2.00 feet from

property line on proposed Lot 9.01 and a minimum parking area setback of 1.00 feet from building on proposed Lot 9.02; and (e) porches/decks on front of building on proposed Lot 9.01 and proposed Lot 9.02; and design waivers for (a) sign location on proposed Lot 9.02 and (b) for the proposed 40.5 feet parking opening on proposed Lot 9.01 are **APPROVED AND GRANTED.**

The Ocean City Planning Board finds and determines that the Applicant has satisfied the positive and negative criteria necessary to grant the variances requested for the project development and that as presented, the project represents a (i) well designed visual enhancement to the community (ii) is a better zoning alternative than the development of one (1) new, large building at the Property and (iii) blends in well with the nearby residences on Wesley Avenue and commercial uses on Eighth Street.

IT IS FURTHER RESOLVED that the above approvals all as aforesaid are GRANTED with and subject to the following terms and conditions:

A. The subdivision approval is further conditioned on the approval of the subdivision expiring 190 days from the date of adoption of this Decision and Resolution, unless within such period a plat in conformity with such approval and provisions of the Map Filing Law (N.J.S. 46:23-9.9 *et. seq*.) is filed by the Applicant all as required consistent with and pursuant to N.J.S. 40:55D-47. **The Applicant has agreed to and shall file by plat as represented at the time of public hearing. The Applicant shall confirm the proper lot designations in respect of the Property (as subdivided) with the Ocean City Tax Assessor before the plat referenced herein is filed as aforesaid.**

B. Prior to the issuance of any construction permit, reimburse the City of Ocean City for all professional fees and other expenses incurred by the City of Ocean City as a result of processing Applicant's application in accordance with the Ocean City Zoning and Land Development Ordinance.

C. The Applicant will comply with the Planner's Report and the Engineer's Report.

D. The Applicant shall comply with all the representations and agreements placed on the record by the Applicant's counsel and professionals and/or other representatives at the time of public hearing on October 14, 2026. The Applicant shall (1) amend the minor subdivision plan to indicate coordinates at the corners, identify proposed lot numbers and also identify the proposed area on each lot; (2) confirm proposed lot numbers and addresses from the Tax Assessor; (3) remove trees on Eighth Street; (4) make a shade tree contribution for four (4) shade trees; (5) confirm lot numbers; (5) provide a certification for demolition/monuments set; (6) make payment of a tax map fee; and (7) provide service availability letters from all utilities.

E. The Applicant shall obtain the approval of all other municipal, county, state or federal agencies or boards having jurisdiction over the proposed site plan in respect of the Property, including but not limited to approval from the Cape-Atlantic Soil Conservation District, if necessary.

F. The Applicant shall cause all plans and documents to be revised consistent with the above referenced conditions and all of the representations and agreements placed on the record by the Applicant's counsel, professionals, and/or other representatives at the time of public hearing on October 14, 2026.

G. The Applicant shall comply with Article 1600 of the Ocean City Zoning and Land Development Ordinance in respect of Guarantees and Improvement Procedures which revisions include, but are not limited to, the revisions contained in the Engineer's Report dated September 22, 2026 and Planner's Report dated September 11, 2026..

H. The Applicant's requests for the Minor Subdivision and Major Site Plan checklist waivers identified in the Planner's Report and the Engineer's Report are granted.

I. All improvements and any existing concrete or flat work now located on the Property are to be demolished and removed.

J. The Applicant agrees to have the Board Engineer prepare separate cost estimates.

K. If applicable, the Applicant (or future owner) shall satisfy the legal requirements of § 25-1900 (Affordable Housing Development Fees) for any development on proposed Lots 9.01 and 9.02.

L. The Applicant shall comply with all provisions of the Ocean City Zoning and Land Development Ordinance, including without limitation **§ 25-1500.8.3 and § 25-1500.10.3** thereof, and any and all other municipal, county, state, or federal laws or regulations relating or applicable to the proposed project development at the Property.

M. The Applicant shall comply with all provisions of the Ocean City Zoning and Land Development Ordinance, including without limitation § 25-1500.5.4 thereof, and any and all other municipal, county, state, or federal laws or regulations

relating or applicable to the proposed minor subdivision of the Property, including but not limited to § 30-1, Schedule L of the Revised General Ordinances for the City of Ocean City.

N. Consistent with § 25-208.2.5 b. of the Ocean City Zoning and Land Development Ordinance eating establishments including but not limited to cafes, coffee shops, luncheonettes, pizzerias, restaurants and snack shops, candy, nut, confectionery stores, and bakeries shall not be prohibited or limited at any time in or at the Property or by any means including, but not limited to conditions contained within a master deed, deed restriction, Certificate of Occupancy, Mercantile License, Certificate of Zoning Compliance or other instrument.

This Decision and Resolution was adopted upon a motion, to be considered in the affirmative to approve the Applicant's request for land use approvals as aforesaid, made by Ocean City Planning Board Member Jessel and seconded by Ocean City Planning Board Member Adams on October 14, 2026 ["Jessel Motion"]. The vote on the Jessel Motion was five (5) in favor of and zero (0) against with Ocean City Planning Board Members, Adams, Bekier, Allegretto, Jessel and Loeper all voting in the affirmative.

OCEAN CITY PLANNING BOARD

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JOHN LOEPER,
CHAIRPERSON

Dated: November 4, 2026

CERTIFICATION

I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Decision and Resolution was duly adopted at the meeting of the Ocean City Planning Board held on October 14, 2026 memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on November 4, 2026. This resolution has been filed in the office of the Board and is available for inspection upon request.

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JAIME M. FELKER,
Secretary, Ocean City Planning Board