

IN THE MATTER OF THE APPLICATION OF

PSC1, LLC

**FOR APPROVAL OF A CHANGE OF USE
AND SITE PLAN WAIVER
FOR THE PROPERTY LOCATED AT**

**729 HADDON AVENUE, COLLINGSWOOD, NJ
BLOCK 30.02 – LOT 10**

**BOROUGH OF COLLINGSWOOD
PLANNING BOARD OF
ADJUSTMENT**

**RESOLUTION OF
MEMORIALIZATION**

RESOLUTION NUMBER 2021-16

WHEREAS, the Applicant, PSC1, LLC, whose address is P.O. Box 599, Medford, New Jersey 08055, hereinafter referred to as the “Applicant”, is the lessee of the property located at 729 Haddon Avenue, Collingswood, New Jersey, which is also designated on the Tax Map of the Borough of Collingswood as Block 30.02, Lot 10, hereinafter referred to as the (“Property”); and

WHEREAS, the Property is owned by John G. Wilson of 8 Leeds Road, Moorestown, New Jersey 08057, who has consented to the application being made and the use proposed by the Applicant herein; and

WHEREAS, the Applicant was represented by Kevin Sheehan, Esquire of Parker McCay, 9000 Midlantic Drive, Suite 300, Mt. Laurel, New Jersey 08054; and

WHEREAS, the Property is located in the Central Business District (CBD) Zoning District; and

WHEREAS, the Property consists of a corner lot at the Northwest corner of Haddon Avenue and Washington Avenue upon which is situate a one-story brick and stucco building and outdoor seating area which was formerly the site of the “El Sitio” restaurant; and

WHEREAS, the Applicant is also the lessee of the adjacent property where the Applicant operates the “Pop Shop Café and Creamery” restaurant; and

WHEREAS, the Applicant proposes to expand the Pop Shop into the Property by creating three (3) openings in the party walls currently separating the Property from the adjacent Pop Shop which will allow the Applicant to provide additional seating for patrons of the Pop Shop; and

WHEREAS, the Applicant applied for a zoning permit with the Borough of Collingswood, which zoning permit was denied in correspondence to the Applicant dated February 11, 2021 by Jason Miller, A.I.C.P., P.P., Collingswood Zoning Officer; and

WHEREAS, the Borough of Collingswood Land Development Ordinance § 141-28 mandates that site plan approval is required for all site plans not defined as exempt in the Ordinance and Ordinance § 141-4 defines “site plan exempt”, among other things, as not involving additional building area and, as a result of the additional building area, the Applicant requires site plan approval; and

WHEREAS, the Applicant has requested approval of a site plan waiver or, alternatively, minor site plan approval in connection with their proposal; and

WHEREAS, Timothy R. Staszewski, P.E., C.M.E., Engineer for the Borough of Collingswood Planning Board, has submitted a report dated April 19, 2021, which report and requirements therein is incorporated herein by reference; and

WHEREAS, the Application came before the Consolidated Planning Board of the Borough of Collingswood for public hearing on Monday, April 26, 2021 with the following members being present: Commissioner Joan Leonard; Frank Caputo; Patrick Hoban; Gretchen Kolecki; Diane Marini; Reed Orem; Mary Ellen Ries; Joseph Santomauro; Claire Gustafson; and Abby Rutman along with Timothy R. Staszewski, P.E., C.M.E., Engineer for the Consolidated Planning Board and Matthew P. Madden, Esquire, Solicitor for the Consolidated Planning Board; and

WHEREAS, due to the proximity of property he owns relative to the location of the Property, Board Member Reed Orem recused himself from the hearing on and consideration of the Application; and

WHEREAS, the Applicant submitted with this Application the following:

- a. Borough of Collingswood Planning Board Application dated March 10, 2021.
- b. Corporate Disclosure Statement.
- c. Zoning Permit Denial dated February 11, 2021.
- d. Tax Map.
- e. Floor Plan for proposed use prepared by Gary F. Gardner, Inc. entitled as Sheet Title A-1, Floor Plan, Pop Shop.
- f. Property Survey prepared by Richard S. Humphries, P.L.S. of Walter H. Macnamara Assoc., Inc. entitled "Survey of Premises No. 729 Haddon Ave Boro. Of Collingswood Camden" dated June 10, 2008.

g. Proofs of mailing and publication of public notice.

WHEREAS, the Board duly considered the Application in detail; and

WHEREAS, at the time of the public hearing the Applicant submitted an exhibit which consisted of the floor plan for the Property which was shaded to show the area of expansion and which included the proposed configuration of the outdoor seating area which exhibit was duly marked as Exhibit A-1 and entered into evidence; and

WHEREAS, appearing at the public meeting to testify on behalf of the Application was Joann Gardner, member of the Property owner and owner/operator of the Pop Shop, who was duly sworn and testified and responded the questions from her counsel and the members and professionals of the Consolidated Planning Board of the Borough of Collingswood; and

WHEREAS, testimony was provided by the Applicant as follows:

1. Ms. Gardner is the owner/operator of the Pop Shop and is familiar with the operations for same.
2. Ms. Gardner presented Exhibit A-1 which shows that there are seventy-four (74) seats in the existing Pop Shop, that there are sixty-four (64) seats proposed for the interior of the Property and that the Applicant proposes an outdoor seating area which would include a total of fifty-eight (58) exterior seats.
3. In addition, the Pop Shop operates a party room fronting on Washington Avenue which contains ninety-one (91) seats.
4. The Applicant does not propose any additional floor area and does not propose any lighting or landscaping improvements.

5. The Pop Shop currently has an air-conditioned trash room where trash is maintained in the interior until it is ready for pick-up.
6. The current hours of operation for the expanded Pop Shop would be 10:00 AM to 8:00 PM Monday through Friday, 9:00 AM to 8:00 PM on Saturdays and 9:00 AM to 7:00 PM on Sundays although these hours of operation may be expanded at the time the Covid pandemic subsides sufficiently to allow for such expanded hours.
7. The Pop Shop presently has twenty-two (22) employees although they anticipate having thirty-five to thirty-seven (35 – 37) employees once the Covid pandemic subsides.
8. All deliveries to the Pop Shop are made on Washington Avenue.
9. The Applicant submitted a license application for the outdoor seating area and the Zoning Officer granted a license for the outdoor seating area.
10. The Applicant will comply with any and all regulations applicable to the outdoor seating area.
11. The Applicant is agreeable to removing the three (3) tables and six (6) seats proposed on the Haddon Avenue frontage of the building and depicted on Exhibit A-1 and replacing same with a bench or benches.
12. The Applicant is agreeable to relocating the six (6) tables and twelve (12) seats proposed along the Washington Avenue frontage of the building, closest to Washington Avenue to the area immediately adjacent to the railing for the existing outdoor seating area.

13. The Applicant is agreeable to ensuring that any exterior seating does not conflict with foot traffic from the doorways through which patrons pass in entering or exiting the Pop Shop.
14. In the present business climate, it is crucial for the Applicant to have outdoor seating to ensure the survival of the business.
15. Trash is picked up two (2) times per week and the Applicant is agreeable to adding a third weekly trash pick-up in the event it is needed to ensure sanitary conditions both inside and outside the Property.
16. The Applicant has sinks available to ensure that no cooking apparatus or mops will be cleaned on the exterior of the building on the Property.
17. The kitchen floors have drains that allow for dirty water from mopping to drain although the Applicant did have to have the drains serviced upon her acquisition of the Property because same were not in serviceable condition.
18. The Applicant recognizes that a number of unsanitary conditions existed upon her acquisition of the business but has remedied most, if not all, of such conditions and is committed to ensuring that the Pop Shop is a clean, first class restaurant because the viability of her business depends on it.
19. The Applicant will ensure that trash is not piled up or arranged in an unsightly manner on the exterior of the Property.

20. The Applicant will ensure that her workers have seating in the area used for employee breaks as opposed to milk crates employees previously sat on during the course of the prior owners' operation of the Pop Shop.
21. The Applicant acknowledges that it is her responsibility to keep the exterior of the Property clean and testified that she would designate an employee to ensure that the exterior of the Property is cleaned and maintained on a daily basis.
22. The Applicant is agreeable to advising all employees to refrain from parking on Haddon Avenue to ensure that parking is available for patrons of the Pop Shop and nearby businesses.
23. The Applicant is agreeable to submitting a revised outdoor seating plan to the Board Engineer, which plan will memorialize the changes to the exterior seating agreed upon at the time of the public hearing and which plan will be subject to the Engineer's review and approval as a condition of any approvals granted.

WHEREAS, the Board Engineer testified that he had no objection to the granting of a site plan waiver for the alterations proposed; and

WHEREAS, the meeting was opened to the public and no members of the public appeared to provide comments on the Application or to question the Applicant and the public portion of the hearing was, thus, duly closed.

WHEREAS, the Application was reviewed and discussed at length at the meeting and the Board duly considered the Application in detail; and

WHEREAS, upon motion duly made by Patrick Hoban and seconded by Mary Ellen Ries to approve the application for change of use and site plan waiver approval, subject to the testimony, submissions and exhibits made and submitted by the Applicant and the Applicant's compliance with the conditions agreed upon as detailed herein, the Consolidated Planning Board of the Borough of Collingswood unanimously approved the application by a vote of nine (9) in favor and zero (0) opposed, based on the testimony of the Applicant and the conditions as set forth above and hereafter. The voting on the Application was as follows:

Joan Leonard:	Yes
Frank Caputo	Yes
Patrick Hoban	Yes
Gretchen Kolecki	Yes
Diane Marini	Yes
Reed Orem	Recused/Abstained
Mary Ellen Ries:	Yes
Joseph Santomauro:	Yes
Claire Gustafson:	Yes
Abby Rutman:	Yes

WHEREAS, the Consolidated Planning Board of the Borough of Collingswood makes the following findings of fact and conclusions of law with respect to the relief sought herein, to wit,

1. The Application and public notices are in proper order as required by statute and ordinance.
2. The Applicant is the lessee of the Property, the Property owner has consented to the application and the proposed use and the Applicant, thus, has standing to pursue the approvals described herein.
3. The Applicant seeks change of use approval and site plan waiver approval permitting the Property to be used as additional seating for the Pop Shop and associated facilities as more fully described herein.

4. The Applicant has demonstrated the requisite proofs in accordance with the Municipal Land Use Law and Borough of Collingswood Land Development Ordinance for the granting of the site plan waiver and change of use.

5. The Applicant has demonstrated that the granting of such approvals will not substantially impair the intent and purpose of the zone plan and zoning ordinance or the Borough Master Plan and that the granting of such relief will not operate as a substantial detriment to the public good.

6. The Applicant's testimony, as set forth above, and the Applicants submissions and exhibits are hereby incorporated into these findings of fact.

7. The Consolidated Planning Board of the Borough of Collingswood grants approvals for the change of use and site plan waiver approvals as described herein.

WHEREAS, the Consolidated Planning Board of the Borough of Collingswood finds that reasons exists for the granting of the approvals detailed herein, that the approvals granted herein with the conditions detailed herein will further the purposes of the Municipal Land Use Law, that the benefits in granting this Application will substantially outweigh any detriment to the public good or zoning ordinance and that such relief may be granted without any substantial impairment to the Borough of Collingswood Land Development Ordinance, the Master Plan and all other ordinance related to the property; and

NOW THEREFORE BE IT RESOLVED that the Application of PSC1, LLC for change of use and site plan waiver approval are hereby approved as noted above.

BE IT FURTHER RESOLVED that the approvals are expressly conditioned upon (a) the Applicant complying with all testimony, submissions, exhibits, and representations made in support

of the Application and at the time of the public hearing; (b) the Applicant obtaining any and all necessary outside agency approvals; (c) the Applicant submitting a revised outdoor seating plan and that such revised plan shall be subject to the review and approval Board Engineer and shall provide for (1) the removal of the three (3) tables and six (6) seats proposed on the Haddon Avenue frontage of the building and replacement of same with a bench or benches; (2) the relocating the six (6) tables and twelve (12) seats proposed along the Washington Avenue frontage of the building, closest to Washington Avenue to the area immediately adjacent to the railing for the existing outdoor seating area; and (3) ensuring that any exterior seating does not conflict with foot traffic from the doorways through which patrons pass in entering or exiting the Pop Shop; (d) the Applicant providing seating for employees who are on their break; (e) the Applicant designating an employee or manager who will have the responsibility for ensuring that the exterior of the Property is clean on a daily basis; and (f) the Applicant otherwise complying with any and all regulations and/or ordinances applicable to the outdoor seating area.

BE IT FURTHER RESOLVED that the Applicant comply with all the other terms and conditions of the Zoning Ordinance and Building Code of the Borough of Collingswood, and the Statutes of the State of New Jersey.

BE IT FURTHER RESOLVED that, in light of the restrictions imposed by the State of New Jersey as a result of the ongoing COVID-19 crisis, the Planning Board; the Board Vice-Chair and the Board Secretary, as signatories to this Resolution, authorize that their signatures be electronically affixed to this Resolution due to such restrictions and the virtual nature of the public hearing at which same was adopted.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Applicant following its adoption.

The foregoing is a true and memorializing resolution adopted by the Borough of Collingswood Planning Board and is in accordance with its decision at its regular monthly meeting of April 26, 2021.

The effective date of this Resolution shall be May 24, 2021.

**BOROUGH OF COLLINGSWOOD
PLANNING BOARD**

Dated: May 24, 2021

FRANCIS CAPUTO, CHAIRMAN

CERTIFICATION

I hereby certify that the foregoing resolution is a true memorialization of the Consolidated Planning Board hearing on this matter held on April 26, 2021, as memorialized by the Consolidated Planning Board of the Borough of Collingswood at the regular meeting of the Planning Board held on May 24, 2021.

Dated: May 24, 2021

MADALYN DEETS, SECRETARY