ORDINANCE No. 2023-3

AN ORDINANCE OF COLTS NECK TOWNSHIP IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 102 OF THE CODE OF COLTS NECK TOWNSHIP ENTITLED "DEVELOPMENT REGULATIONS"

WHEREAS, on April 23, 1997 the Colts Neck Township Committee amended in its entirety Chapter 102, Development Regulations of the Code of Colts Neck Township; and

WHEREAS, Colts Neck Township is continuously and closely involved in planning and development process in the Township; and

WHEREAS, one of the purposes of planning is to review the Township's policies and Development Regulations based on best available information and past experiences and to adopt regulations to guide the use of lands in a manner that promotes the public good and general public welfare, and

WHEREAS, the Township is aware that an appeal and request for an interpretation of the Township's Development Regulations involving the applicability of the existing conditional use standards was filed, and more specifically, and how those conditional use standards were to be applied; and

WHEREAS, in Flancbaum et. al. v, Township of Colts Neck Zoning Board et. al, Docket No. MON-L-408-21 Judge Butehorn found that the conditional use standards found in Article VIII "Zoning Requirements" and Article X "Zoning Requirements of the Development Regulations" were not conditional use standards and in order to be applied as conditional use standards, those requirements must be in Article IV "Administrative Provisions" subchapter 11 "Conditional Use"; and

WHEREAS, the Township Planner, Timothy Anfuso, recommends that the conditional use standards governing public utilities, electric generating facilities, service stations (with or without convenience stores) and veterinary offices found in Articles VIII and X be repealed and codified as part of Chapter 102-11, Conditional Uses; and

WHEREAS, the Township Planner further recommends that the conditional use standards governing public utilities, electric generating facilities, service stations (with or without convenience stores) and veterinary offices be amended and supplemented to eliminate vague provisions and establish clear and ascertainable standards to guide the Board as well as to address changes/advancements which have occurred in those sectors over time; and

WHEREAS, the Colts Neck Township Committee finds it is in the best interest of the Township to have all conditional use regulations codified in Chapter 102-11, Conditional Use and amend and supplement same to provide current clear and ascertainable standards.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Colts Neck, County of Monmouth, State of New Jersey as follows: (additions to text indicated by underline; deletions to text indicated by ~~strikeout~~).

Section I: That Section 102-4, Definitions be amended and supplemented to add the following new definition:

PUBLIC UTILITY – A facility with a primary function of generating, creating or harnessing natural or manmade energy for essential services use or distribution off-site and regulated as a public utility by the Board of Regulatory Commissioners and defined pursuant to N.J.S.A. 48:2-13.

Section II: That Section 102-11, Conditional Uses be amended and supplemented to add the following new subsections:

G. Public Utilities

1. A narrative statement must be submitted by the applicant setting forth the reasons that the proposed installation must be provided in the particular location proposed. The statement must show that the installation in the location proposed is necessary for the efficiency and effectiveness of the public utility system and for the provision of service to the general public or the neighborhood impacted by the installation.

2. For above grade installations, a statement must be submitted setting forth the reasons that the proposed installation must be provided above ground.

3. The design of any building in connection with such facility must conform to the general character of the area.

4. Adequate and attractive fencing and other safety devices shall be provided.

5. A minimum 50' buffer shall be required along all lot lines and any building, apparatus or installation on the site. Sufficient landscaping, including shrubs and trees to create a solid screen, shall be provided and shall be periodically maintained.

6. The public utility and lot shall meet all the applicable Schedule of Limitations (§102-87 or §102-114) for the district in which it is located, including height, except that it need not have the minimum required lot area. Only one principal building will be permitted on the lot and a paved parking area is required.

7. Public utility building shall provide one parking space for each company vehicle station at the building, plus one parking space for each employee, but in no case less than two parking spaces.

8. Building or mounted lighting fixtures may be utilized, provided shielding is provided to prevent the spillover of illumination onto adjacent properties. Motion-sensitive lighting is encouraged.

9. Appropriate safety devices shall be provided at the public utility facility to ensure public safety.

10. A conditional use permit shall not be required for underground public utilities.

H. Electric Generating Facilities

Electrical generation facilities are facilities which generate electricity and transmit electricity to the public utility electrical system. Electrical generating facilities shall be permitted in accordance with an approved site plan.

1. The location of the electrical generating facility is to be wholly within the D-1 Light Industrial District with no structures to be located within 500 feet of any residential zone.

2. Fuel for said facility is to be limited to piped natural gas as the primary fuel and Number 2 fuel oil and kerosene as backup fuels.

3. On-site storage of fuel is to be limited to fuel oil tanks with a total capacity not exceeding 25,000 gallons and separated from public streets and adjoining properties in accordance with the criteria established pursuant to 24 CFR Part 51, Safe Separation Standards for Hazardous and Flammable Material.

4. A water supply source capable of meeting the worst case supply/demand situation is to be secured prior to preliminary approval.

5. Cooling towers are to be located so as to minimize icing conditions on or adjacent to public streets.

6. Electric generating facilities will be allowed to have a height of 75 feet to accommodate an exhaust stack, related inlet filter structures and lattice structures for transmission lines consistent with sound engineering and environmental design.

7. Exhaust stacks shall be designed to comply with U.S. Environmental Protection Agency Good Engineering Practice (GEP) regulations to ensure that ambient air quality standards are maintained.

8. Off-site electrical transmission lines situated within or adjoining public street rights-of-way are to be mounted on structures not exceeding 75 feet in height except at crossings of intersections and where required by the Board of Public Utility Commissioners or other regulatory agencies where the maximum height shall not exceed 100 feet. Alternatives are to be routed and designed to minimize any adverse impact on public safety, property value or utilization, street widenings or realignments and aesthetic character.

I. Service Stations (with or without convenience stores)

1. Service Stations (with or without convenience stores) shall be located on a lot meeting the following requirements:
   a.) Lot width and frontage, 200 feet
   b.) Lot depth, 200 feet
   c.) Front yard setback, 100 feet
   d.) Rear yard setback 60 feet
   e.) Side yard setback, 40 feet
   f.) Minimum separation between canopy and service station or convenience store, 55 feet
   g.) Maximum building and canopy coverage, 10 percent
   h.) Maximum convenience store gross floor area, 4,500 square feet
   i.) Food preparation areas in the convenience store are prohibited. The purpose of this requirement is to promote public safety by discouraging situations where customers will eat prepared food such as sandwiches, hamburgers, hot dogs, soups, and similar items while driving and by facilitating the function and safety of the site by limiting the amount of time that customer vehicles will remain on-site at the gasoline pump islands or parking spaces.

2. Service stations (with or without convenience stores) shall adhere to the following: (i) there shall be no more than two rows of fueling islands with a maximum of two pumps per row; (ii) all parking spaces and their access aisles shall be separated from the pump islands and the traffic circulation around the pump islands; (iii) the convenience store shall have no drive up window service; (iv) there shall be no carwash facilities in recognition of the Swimming River Reservoir and the State's Environmentally Sensitive Planning Area designations in the State Development and Redevelopment Plan; (v) the number of service stations in all business districts combined shall not exceed three.

3. There shall be no counters, tables or seating for the consumption of food or beverage items either within the building or outside of the building.

4. Minimum off-street parking. Service Stations shall provide at least five spaces for the first and three spaces for each additional lift, wheel alignment pit, bay or similar work area in the service station and one space per employee on the largest work shift, which space shall be separated from the driveway and general apron areas and shall not obstruct access to any such facilities. Convenience stores shall provide one space per 200 square feet of gross floor area in the convenience store. Large size parking (10' x 40') shall be provided for

convenience stores in addition to the required number of off-street parking spaces. The number of large size vehicle spaces shall be approved by the Board through the site plan process but in no event shall be less than three large size vehicle parking spaces.

5. Service Station (with or without convenience store) building design requirements.

a.) A Colonial Williamsburg or agricultural (i.e., barn or similar agricultural structure) architectural style is strongly encouraged. The architectural details shall provide facades containing a delineated base, middle and top through exterior wall material changes along the vertical plane of the building. For example, the base could be delineated with stone or brick while the top could be delineated with cornice expression, trim material, or accentuated masonry.

b.) Façade improvements should incorporate traditional design elements such as cornices, transoms, sign band, bulkheads, window bases and window head moldings.

c.) First floor facades which are visible from Route 34, Route 537 or the Highway Access Management Road shall have a minimum of 60% of the ground floor façade between 3 and 10 feet above grade, be transparent, and shall provide visual access to the street. Blanked-out windows and windows which display only signage or which look into unused or "dead" space do not meet this requirement.

d.) Building facades shall be finished in stone, veneer, stucco, brick, fiber cement panel and/or cast stone. The use of face brick, limestone, fieldstone, brownstone, marble, or granite are recommended masonry finishes. Wood walls of clapboard, board and batten, shiplap, shingle style or other traditional wood siding is encouraged. Fiber cement panels shall have the appearance of siding or shingles. Metal shall be used only for minor accentuation of other elements of the façade. Exterior insulation and finishing systems (EIFS), T-111plywood panels or stucco panels shall not be used on any portion of the building façade facing a public street or the Highway Access Management Road.

e.) Building entrances should be articulated to make it easily identifiable by visitors and to provide architectural interest. Examples of special features of entrances include, but are not limited to, awnings or architectural treatments.

f.) Long interrupted wall or roof planes in excess of 30 feet shall be avoided.

g.) Offsets, within the form of buildings are encouraged as features that minimize the bulky look of a block shaped building.

h) Recessed entrances are encouraged for unprotected entrances.

i.) Warm, small scale and durable materials shall be used on pedestrian accessible surfaces, including knee walls, walkway features and walking surfaces. The use of brick or stone, stamped concrete sidewalks and crosswalks are examples.

j.) Roof design

(i) Flat roofs are prohibited, except for rooftop equipment only. This prohibition shall not apply to fueling island canopies.

(ii) Roofline at the top of the structure shall incorporate offsets, jogs, architectural features and components for enhanced interest. Monotony should be avoided in design.

(ii) Roof shape, color and texture should be coordinated with exterior materials of the building's façade.

(iii) Roof design should minimize the negative impact of roof protrusions by grouping plumbing vents, duct and other utility structures together.

(iv) Rooftop equipment such as mechanical units, vents and flues

should be located centrally or to the rear of the building to the greatest extent practicable. Any equipment visible from a publicly accessible area, adjacent lot and pedestrian corridor shall be screened using pitched roof forms.

k.) All refuse containers shall be enclosed within and screened by a masonry enclosure with an exterior treatment that is complementary to the color and materials of the principal building.

6. A maximum of two colors shall be used for signs. Background colors that match the building color or neutral colors are encouraged. A high level of contrast between the sign message and the background works well for legibility

7. The fuel islands and gasoline fueling canopy shall not be located between State Highway Route 34 or Monmouth County Route 537 and the service station building and/or convenience store.

8. Service stations (with or without convenience stores) shall provide public restroom facilities.

9. There shall be no outdoor display or storage of merchandise, product, stock or similar goods.

10. Service stations (with or without convenience stores) shall be equipped with emergency generators to ensure continued operation during periods of a State of Emergency.

11. No service station (with or without a convenience store) shall have an entrance or exit for vehicles within 200 feet of an entrance or exit along the same side of a street or across the street from any firehouse, public or private school, park, playground, institutional use, hospital or public building, except where such property is in another block or abuts another street from the subject lot. No service station (with or without a convenience store) shall be within 2,500 feet of another service station (with or without a convenience store), measured from the shortest distance from property line to property line along street right-of-way and, where measurements cross the street right-of-way, perpendicular to the street right-of-way. Driveways, aprons, parking areas and other portions of the site traveled by motor vehicles shall be located and paved in accordance with the off-street parking provisions of this chapter. Access to all service stations shall be in conformance with the Route 34, Colts Neck, Highway Access Management Plan.

12. All appliances, pits, storage areas, equipment and accessory items displayed, other than gasoline filling pumps, air pumps, vacuum machines or electric charging stations, shall be within a building. All repair work shall be performed in a fully enclosed building and no dismantled parts shall be displayed outside of an enclosed building.

13. The operation of a service station (with or without a convenience store) shall adhere to the following:

a.) No autobody work or painting shall be permitted on any part of the premises

b.) No motor vehicles, trailers or boats to be sold or leased shall be parked, stored or displayed on any part of the premises

c.) No vehicle shall be permitted to be standing or parked on the premises of a service station other than those used by employees in the direct or indirect operation of the establishment or by customers of the service station or as permitted in number 15 below

14. No vending machines shall be permitted outdoors

15. No inoperable or wrecked motor vehicle or part thereof or not more than four motor vehicles incapable of normal operation upon the highways or unregistered vehicles shall be permitted on the premises of any service stations not within a closed and roofed building; except, however, that an additional number, not exceeding six motor vehicles, may be located upon any service station premises outside of a closed or roofed building for a period of time not to exceed seven days, provided that said motor vehicles are awaiting repair by the owners thereof.

J. Veterinarian Offices

1. Veterinarian offices for large farm animals as an accessory use to an agricultural use.

2. Veterinarian offices for large farm animals shall be located on a lot meeting the following requirements:
   a.) Minimum lot area, 30 acres
   b.) Minimum lot width and frontage, 300 feet
   c.) Minimum lot depth, 300 feet
   d.) Minimum front, side and rear setbacks, 200 feet
   e.) Maximum lot coverage, five percent

3. Veterinarian offices for large farm animals shall provide at least six spaces or a minimum of one space for each 400 s.f. of gross floor area, whichever requires the most parking.

Section III That Section 102-84B(4) Principal Uses on land and in buildings be amended and supplemented in the following parts only:

4. Institutional uses and public utilities are permitted only as a conditional use in the A-1 and A-3 Districts only. ~~After application to, review by and approval of the approving authority~~. See §102-11F and §102-11G

Section IV That Section 102-84C(9) Accessory Uses on land and in buildings be amended and supplemented in the following parts only:

9. Nursery schools affiliated with ~~churches~~ institutional uses, operated on ~~church~~ institutional use premises and operated on a nonprofit basis.

Section V That Section 102-84D Building Height be amended and supplemented in the following parts only:

D. Building height. No building shall exceed 35 feet in height or 2 ½ stories, except for ~~places of worship, schools,~~ institutional uses, government buildings and barns, which shall not exceed 55 feet. See §102-61.

Section VI That Section 102-84E(1) Area and yard requirements for public and private schools is hereby repealed and reserved for future use.

Section VII That Section 102-86C(2) Conditional Uses be amended and supplemented in the following parts only:

2. Veterinarian offices for large farm animals as ~~either a principal use or~~ an accessory use to ~~a residence~~ an agricultural use.

Section VIII That Section 102-86F(2) Area and yard requirements for veterinarian offices is hereby repealed and reserved for future use.

Section IX That Section 102-86F(5) Area and yard requirements for facilities for the raising, breeding, experimentation and/or shipping of animals for medical and scientific purposes is hereby repealed and reserved for future use.

Section X That Section 102-86G(2) Minimum off-street parking for public utility buildings is hereby repealed and reserved for future use.

Section XI That Section 102-86G(3) Minimum off-street parking for veterinarian offices is hereby repealed and reserved for future use.

Section XII That Section 102-109B(7) Principal permitted uses on land and in building be amended and supplemented in the following parts only:

7. Service stations, with or without a convenience store, are permitted only as conditional Uses, ~~after application to, review by and approval of the approving authority. Service stations, with or without convenience stores, shall be conditioned on having no more than three service islands; and having at least six parking spaces for any convenience store, which parking spaces and their access aisles shall be separated from the pump islands and the traffic circulation around the pump islands; the convenience store shall have no drive-up window service;~~ there shall be no carwash facilities and, in recognition of the Swimming River Reservoir and the stats Environmentally Sensitive Planning Area designations in the State Development and Redevelopment Plan, the number of service stations in all business districts combined shall not exceed three. See also ~~§102-121~~ §102-11I.

Section XIII That Section 102-109B(13) Principal permitted uses on land and in buildings be amended and supplemented in the following parts only:

13. Public utilities are permitted only as a conditional uses. ~~after application to, review by and approval of the approving authority. Public utility uses shall be conditioned on being limited to those aspects of electric, telephone, cable television, gas and similar services that provide direct service to the ultimate consumer, such as, but not limited to, wires and pipes, poles, transformers and pump stations and meters and shall not include warehousing, repair and maintenance shops, storage yards and similar industrially oriented facilities of utility companies.~~ See §102-11G

Section XIV That Section 102-109E(6) Area, yard and site plan requirements for service stations and public garages is hereby repealed and reserved for future use.

Section XV That Section 102-109F(1) Minimum off-street parking for service stations and public garages is hereby repealed and reserved for future use.

Section XVI That Section 102-109F(12) Minimum off-street parking for public utilities is hereby repealed and reserved for future use.

Section XVII That Section 102-121 Service Stations and public garages is hereby repealed and reserved for future use.

Section VIII Severability.

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

Section XIX Repealer. The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this ordinance shall remain in full force and effect.

Section XX Inconsistent ordinance. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

Section XXI This ordinance shall take effect immediately upon passage, publication and filing according to law.

I, Trina Lindsey, Township Clerk of Colts Neck Township, in the County of Monmouth, New Jersey, hereby certify that annexed hereto is a true and complete copy of Ordinance No. 2023-3 which was introduced at a duly convened meeting of the Township Committee on January 11, 2023. A public hearing will be held on January 25, 2023, 7:00 p.m. Town Hall, 1 Veterans Way.

Sue Fitzpatrick, Mayor

Trina Lindsey, Municipal Clerk

RECORD OF VOTE										
	First Reading					Second Reading				
	January 11, 2023					January 25, 2023				
	M	S	Yes	No	NV	Ab	M	S	Yes	No	NV	Ab
Mayor Fitzpatrick			X									
Deputy Mayor Rizzuto		S	X									
Torchia Buss			X									
Viola			X									
Bartolomeo	M		X									
M - Moved S - Seconded	X - indicates vote				NV - Not Voting			Ab - Absent				