

August 24, 2022

Mrs. Kristie Dickert, Administrative Officer  
Zoning Board of Adjustment  
Neptune Township  
P.O. Box 1125  
Neptune, NJ 07754-1125

**Re: STER Developers, LLC (ZB#22-09)  
1102 9th Ave, Memorial Drive, & 1105 8<sup>th</sup> Avenue  
Block 405, Lots 5, 6, & 7  
Use Variance & Prelim/ Final Major Site Plan  
Our File: NTBA 22-13**

Dear Mrs. Dickert:

Our office received and reviewed materials that were submitted in support of an application for preliminary and final major site plan approval with use and bulk variances for the above referenced project. The following documents were reviewed:

- Neptune Township Tree Removal Permit Application dated June 21, 2022.
- Neptune Township Zoning Permit Denial dated June 29, 2022.
- Preliminary and Final Site Plan for Surfside Crossing, consisting of 26 sheets, prepared by Steven R. Cattani, PE, of Dynamic Engineering, dated June 13, 2022.
- Architectural Plans, consisting of seven (7) sheets, prepared by James R. Guerra, RA, AIA, of James R. Guerra, PA, dated April 26, 2022.
- Community Impact Statement, prepared by Christine A. Nazzaro-Cofone, AICP, PP, of Cofone Consulting Group, dated June 2022.
- Traffic Impact Study, prepared by Nick Verderese, PE, and Justin P. Taylor, PE, PTOE, of Dynamic Traffic, dated April 4, 2022.
- Environmental Impact Statement, prepared by Steven R. Cattani, PE, CFM, CME, of Dynamic Engineering, dated June 2022.

- Stormwater Basin Area Investigation Report, prepared by Patrick J. Cranitzki, PE, and Scot Hume, of Dynamic Engineering, dated March 25, 2022.
- Stormwater Management, Groundwater Recharge and Water Quality Analysis, prepared by Steven R. Cattani, PE, CME, CFM, of Dynamic Engineering, dated June 2022.
- Stormwater Management Operation and Maintenance Report, prepared by Steven R. Cattani, PE, CFM, CME, of Dynamic Engineering, dated June 2022.
- Alta/NSPS Land Title Survey, consisting of one (1) sheet, prepared by Craig Black, PLS, of Dynamic Survey, dated March 30, 2022.

1. **Site Analysis and Project Description**

The subject property consists of Block 405, Lots 5, 6, & 7; a 79,034 sq. ft. parcel located on the west side of Memorial Drive between 8<sup>th</sup> and 9<sup>th</sup> Avenues in the TRV Transit Village Zone District. Lots 5 and 6 are currently vacant, and Lot 7 is developed with a single-family home. Residential properties are located to the west of the subject property, industrial uses are located to the north and south, and the NJ Transit North Jersey Coast Line is located to the east of the subject property, across Memorial Drive.

The applicant is seeking preliminary and final site plan approval to construct a mixed-use building containing 78 apartments, consisting of 18 one-bedroom units and 60 two-bedroom units, and approximately 936 sq. ft. of commercial space and parking on the first floor. Additional site improvements include parking, lighting, landscaping, and stormwater management facilities.

2. **Consistency with the Zone Plan**

The subject property is located in the TRV Transit Village Zone District. The purpose of the TRV Zone District is to provide a form-based code to provide an opportunity for future development that will take place at an appropriate scale, and takes into consideration how development projects will impact the aesthetics and function of the public realm. Permitted uses in the TRV Zone District include retail, restaurants, and personal service on the first floor only, offices on the first and second floor only, multi-family dwellings and residential units, not permitted on the first floor.

3. **Bulk Requirements**

A. The Bulk requirements of the TRV Zone District as they relate to the proposed development are as follows:

	Required- Form A (Lot 6)	Required- Form B (Lots 5&7)	Proposed
Minimum Lot Area	5,000 sq. ft.	5,000 sq. ft.	79,034 sq. ft.
Minimum Lot Frontage	50 ft.	50 ft.	251.7 ft.
Minimum Lot Width	50 ft.	50 ft.	251.7 ft.
Maximum Lot Coverage	80%	70%	81.3%*
Maximum Front Yard Setback - Memorial	15 ft.		6.6 ft.
Minimum Front Yard Setback- 8 <sup>th</sup> Ave & 9 <sup>th</sup> Ave		10 ft.	
Maximum Front Yard Setback – 8 <sup>th</sup> Ave	15 ft.	20 ft.	22.9 ft.*
Maximum Front Yard Setback- 9 <sup>th</sup> Ave	15 ft.	20 ft.	16.8 ft.*
Maximum Side Yard Setback	15 ft.		36.6 ft.*
Minimum Side Yard Setback		5 ft.	
Minimum Rear Yard Setback	0 ft.	5 ft.	
Maximum Residential Density	20 units/acre	15 units/ acre	43.1 units/acre*
Maximum Principal Building Height	48 ft.	36 ft.	48 ft*
Maximum Principal Building Stories	4 stories	3 stories	4 stories*
Minimum Principal Building Stories	2 stories	2	
<b>Accessory Structures</b>			
Minimum Front Yard Setback	24 ft. plus principal building	20 ft. plus principal building	154.5 ft.
Minimum Side Yard Setback	0 ft.	6 ft.	8.4 ft.
Minimum Rear Yard Setback	3 ft.	6 ft.	45
Maximum Building Height	20 ft.	20 ft.	
Maximum Building Stories	2 stories	2 stories	

\* Variance Required

- B. The maximum permitted lot coverage for Lot 6 is 80%, and for Lots 5 & 7 is 70%, whereas 81.3% is proposed, **requiring a variance.**
- C. The maximum front yard setback along 8<sup>th</sup> Avenue is 15 ft., whereas 22.9 ft. is proposed. **A variance is required.**
- D. The maximum front yard setback along 9<sup>th</sup> Avenue is 15 ft., whereas 16.8 ft. is proposed. **A variance is required.**
- E. The maximum permitted side yard setback is 15 ft., whereas 36.6 ft is proposed. **A variance is needed.**
- F. The maximum permitted residential density is 15 units per acre on Lots 5 & 7 and 20 units/ acre on Lot 6, whereas 43.1 units per acre is proposed. **A d(5) variance is required.**
- G. The maximum permitted principal building height on Lots 5 & 7 is 36 ft., whereas 48 ft. is proposed. **A d(6) variance is required.**
- H. The maximum permitted number of stories for a principal building on Lots 5 & 7 is 3 stories, **requiring a variance.**

4. **Additional Ordinance Requirements**

A. *Architectural Design Standards*

As per §502.B.1(a), except for buildings in planned commercial development, no building shall be permitted to have a total measurement greater than 150 feet in length along any wall, roof or footprint plane. Building wall offsets, including both projections and recesses, shall be provided along any building wall measuring greater than fifty (50) feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall. The total measurement of such offsets shall equal a minimum of ten (10) percent of the building wall length. The maximum spacing between such offsets shall be forty (40) feet. The minimum projection or depth of any individual offset shall not be less than two feet. Roofline offsets shall be provided along any roof measuring longer than seventy-five (75) feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long roof. **The proposed building length is greater than 150 ft. Testimony should be given as to compliance with this ordinance section.**

B. *Circulation*

As per §505.B.4, the maximum permitted driveway width for apartments is 22 ft., whereas 25 ft. is proposed. A waiver is needed.

C. *Refuse Storage*

As per §515-A.1, All non-residential refuse and recyclable disposal collection areas shall be suitably buffered and screened to minimize the impacts of noise, odors, disposal and collection activities and views of collection bins and dumpsters. Buffering and screening shall minimize such impacts both from within the site itself, as well as from adjacent and nearby properties and public rights-of-way. Buffering shall consist of a minimum four (4) foot wide area surrounding all sides of such facility exposed to view. If such facility is located on a site adjacent to a residential use or zone, such buffering shall consist of a minimum ten (10) foot area surrounding all sides of such facility exposed to view. Screening shall consist of a minimum six (6) foot-high masonry wall, solid wooden fence or accessory building with gates or doors and ramped access to facilitate the movement of bins or dumpsters. The base of such screen shall be planted with a minimum four (4) foot high evergreen hedge along the sides and rear of same. **The applicant should provide testimony regarding the “design size”, noise, odor and proposed masonry block trash enclosure. It does not meet the required buffer and screening requirements of this ordinance section.**

D. *Residential Development*

- 1) As per §516.C.3, the maximum percentage of dwelling unit type permitted is 75%, whereas the applicant is proposing 77% of units to be 2-bedrooms (60 units) and the remaining 23% to be one-bedroom units (18 units). A waiver is needed.
- 2) As per §516.C.6, buildings in a multifamily development shall be set back at least fifteen (15) feet from all parking areas, whereas 0 ft. is proposed. **A waiver is needed.**
- 3) As per §516.C.6, buildings shall be setback at least twenty-five (25) feet from driveways, and private or public streets., whereas 0 ft. to the driveway is proposed. **A waiver is needed.**

E. *Street Trees*

As per §523.B, street trees are required to be planted a minimum of one (1) per 35 ft., whereas no street trees are proposed along the Memorial Drive frontage. **A waiver is needed.**

5. **Required Proofs for Variance Relief**

A. ***D(5) Increase in Density.* The application requires a d(5) variance to allow for an increase in density over the maximum permitted in the zone district.**

- 1) To meet the positive criteria for a d(5) variance, the applicant should prove the particular suitability of the site in accommodating the use, despite the increase in density over what is permitted in the zone district.
- 2) The negative criteria should focus on the impact of the deviation. The applicant must present evidence that the negative impacts of non-compliance with the permitted density can be mitigated to the extent that the use will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

B. ***D(6) Height Variance.* The application requires a d(6) use variance to permit a height of a principal structure which exceeds by 10 ft. or 10% the maximum height permitted in the district for a principal structure.**

- 1) To meet the positive criteria for a d(6) variance, the applicant should prove the particular suitability of the site in accommodating the use, despite the increase in height by over 10% of what is permitted in the zone district.
- 2) The negative criteria should focus on the impact of the deviation. The applicant must present evidence that the negative impacts of non-compliance with the permitted height can be mitigated to the extent that the use will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

C. ***C Variances***

**A number of “c” variances are required. There are two types of c variances with different required proofs.**

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.

- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court's ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that "the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community."
- 3) C variances must also show consistency with the negative criteria as well.

6. **Stormwater Management and Review Comments**

- A. The project disturbance is over one (1) acre and increases the amount of impervious coverage by more than 0.25 acres. Therefore the project must comply with NJDEP Best Management Practices with regard to green infrastructure, TSS Removal, groundwater recharge and stormwater quantity reduction.
- B. The Applicant is proposing porous pavement, a subsurface small-scale infiltration basin, and two (2) above ground small-scale infiltration basins.
- C. The proposed porous pavement and (3) basins will satisfy the "**Green Infrastructure**" and "**TSS Removal**" requirements of the Ordinance.
- D. The proposed basins are designed to satisfy the "**Groundwater Recharge**" requirements, however we have concerns with proposed "Liner" below the basins and "Seasonal Highwater Table" affecting the design.
- E. The proposed system does not completely satisfy the "**Stormwater Quantity**" reduction. The Applicant is **requesting four (4) waivers** for the following Points of Analysis (POA) design storms:
  - 1) POA #1, 2-year storm permitted 0.11 cfs, proposed 0.13 cfs
  - 2) POA #2, 2-year storm permitted 0.06 cfs, proposed 0.065 cfs
  - 3) POA #3, 10-year storm permitted 0.00 cfs, proposed 0.005 cfs
  - 4) POA #3, 100-year storm permitted 0.03 cfs, proposed 0.108 cfs

- F. The Applicant shall address the following design concerns:
- 1) The Applicant proposes groundwater recharge. Testimony should be provided to address the impact of brick, metal, pvc, glass, seashells, concrete and asphalt debris found in the soil investigation report and if recharge would affect any unknown hazards.
  - 2) The porous pavement system shall address storage volume above the water surface elevation. The porous pavement system is currently designed over the underground system. Water surface elevation for the 1, 2, 10 and 100 year shall clearly be labeled on the detail to indicate the capacity of the system.
  - 3) In accordance with the NJDEP BMP Manual, the Applicant shall address hydraulic impacts. A groundwater mounding analysis shall be provided for the infiltration basins.
  - 4) The onsite piping system shows design velocity of pipe under 2 ft/sec, the Applicant shall address the need to go under a self-cleaning velocity within the piping system and how maintenance will be affected.
- G. Ordinance 21-07, Section IX, Part A, (1) requires whenever an Applicant seek municipal approval of a development subject to this ordinance, the Applicant shall submit all of the required components of the checklist for the Site Development Stormwater Plan at Section IX.C below as part of the submission of the application for approval. The Applicant shall submit a compliance check as required.
- H. The Applicant shall provide a stormwater maintenance manual in accordance with NJDEP BMP standards. Within the manual, the following maps (11" x 17") shall be provided:
- 1) Grading Plan
  - 2) Drainage and Utility Plan
  - 3) Landscape Plan and Details
  - 4) Soil Erosion Seeding Notes



- I. The following notes shall be added to the Grading and Drainage Plan:
  - 1) Stormwater management facilities shall be regularly maintained to ensure they function at design capacity and to prevent health hazards associated with debris buildup and stagnant water.
  - 2) Responsibility for operation and maintenance of the stormwater facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with the owners or owners of the property. Maintenance shall follow the operations maintenance manual approved by the Neptune Township Planning Board.
  - 3) In the event that the facility becomes a danger to public safety or public health, or if it is in need of maintenance. The owner shall affect such maintenance and repair of the facility in a manner that is approved by the Township Engineer.
  
- J. As outlined under Ordinance 21-07, Section IV, Part M – Any stormwater Management Measure authorized under the Municipal Stormwater Management Plan or Ordinance shall be reflected in a deed notice recorded in the Office of the Clerk of the County of Monmouth. The Township will require quarterly reports of drainage maintenance as compliance of this approval and Maintenance Manual.

7. **Additional Comments**

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. Testimony should be given as to any proposed signage and a detail of such should be provided.
- C. The Applicant shall provide testimony on the location of the heating, air conditioning and other utilities being utilized.
- D. The 6" dia. Sanitary sewer connection inverts and its capacity to handle the sewerage discharge from this project should be addressed.
- E. Existing curb and sidewalk for the entire lengths of 8<sup>th</sup>, 9<sup>th</sup> & Memorial Drive should be replaced.
- F. The pavement on 8<sup>th</sup> and 9<sup>th</sup> Avenues should be milled and resurfaced at the conclusion of this project.

8. **Conditions of Approval**

- A. Freehold soil Conservation District
- B. Monmouth County Planning Board
- C. TNSA
- D. NJDEP Sanitary Sewer Treatment Works
- E. Neptune Township Fire Official
- F. Neptune Township Sewer Department
- G. Neptune Township tree removal fees
- H. The Applicant shall secure all county permits for road opening, water, sanitary sewer, gas and electric
- I. Posting the performance guarantees and inspection fees
- J. Developer's Agreement
- K. Lot Consolidation
- L. Tax Assessor's approval of new lot number
- M. Tax Map revision fee

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Matt Shafai, P.E.  
Board Engineer



Jennifer C. Beahm, P.P.  
Board Planner

MS:clb/mes

cc: Monica Kowalski, Esq., Board Attorney  
Jennifer Krimko, Esq., Applicant's Attorney  
Steven R. Cattani, PE, Applicant's Engineer  
Christine Cofone, PP, Applicant's Planner

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