

R. C. SHEA & ASSOCIATES

COUNSELLORS AT LAW, P.C.
244 MAIN STREET
PO Box 2627
TOMS RIVER, NEW JERSEY 08754
(732) 505-1212
TOLL FREE (800) 556-SHEA
LAND USE FAX: (732) 505-5468

BERKELEY TOWNSHIP OFFICE
HOLIDAY CITY PLAZA III
600 MULE ROAD, SUITE 16
TOMS RIVER, NJ 08757

BRICK AREA
(732) 451-0800

MANCHESTER AREA
(732) 408-9455

ROBERT C. SHEA
MARC S. GALELLA †
MICHAEL J. DEEM ▪
CHRISTOPHER R. SHEA *
ROBERT C. SHEA II
VINCENT J. DELRICCIO

* Member NJ & PA Bars
LLM in Trial Advocacy

† Member Nat'l Academy of Elder Law Attorneys
▪ Certified by the Supreme Court of New Jersey as a Civil Trial Attorney
Certified By The National Board of Trial Advocacy As A Civil Trial Advocate
Rule 1:40 Qualified Mediator

August 8, 2024

Via Email and Hand Delivery

Toms River Planning Board
Attn: Lucia Lynch
33 Washington Street
Toms River, NJ 08753

Re: ***Waterfront Development Partners, LLC***
101 West Water Street
Block 658, Lots 47 & 58
Our File No.: 14357

Dear Ms. Lynch,

As you are aware, this office represents the interests of the applicant in the above matter. By way of background, this application was filed on November 6, 2023. After the Board failed to deem the application complete within the 45-day period prescribed by N.J.S.A. 40:55D-10.3, the applicant was forced to initiate litigation against the Board to obtain a declaration of completion. This application was subsequently deemed complete by the Court Order dated March 1, 2024. (**Exhibit A**)

Under N.J.S.A. 40:55D-61:

Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to section 47 of this act, **the planning board shall grant or deny approval of the application within 120** days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in this act. **Failure of the planning board to act within the period prescribed shall constitute approval of the application and a**

R. C. SHEA & ASSOCIATES

COUNSELLORS AT LAW, P.C.

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certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

On April 16, 2024, my office requested an adjournment of the hearing, which was set for the following day, and granted a waiver of the deadline. (**Exhibit B**) As per, my April 16, 2024 letter, the reason for the adjournment was because the Board's Planner Review Letter was not sent to us until only nine (9) days prior to the hearing. Said Review Letter called out one variance, which has since been eliminated. A second letter was sent on May 23, 2024, confirming that the public hearing should be relisted for July 3, 2024 and confirming the waiver of the time limitation. (**Exhibit C**)

The letters were clear that we agreed to waive the time limitations "only up until the next meeting date." Further, I sent a confirming e-mail on May 23, 2024, specifically noting that the waiver of time only lasted until July 3, 2024. (**Exhibit D**) We set forth this chain of events in both our prior letters of June 28, 2024 and July 3, 2024 to the Board and Board Counsel.

At the outset of the July 3, 2024 hearing, the Board attempted to further delay this application by arguing, without adequate legal support, that a Developers Agreement with the Township was a condition precedent to the Board's ability to hear this application. It should be noted that such an interpretation is contrary to the Court's March 1, 2023 Order. It should be further noted that the application is not requesting any variances and that the Township is **obligated** under the Redevelopment Ordinance to provide said Developers Agreement. Furthermore, Christine Winter, PP for the Board agreed that any such document could be a condition of approval (**Exhibit E**)

Based upon the Board's position, Mayor Rodrick, who has been open about his personal disdain for development in the downtown area, indicated, prior to the commencement of testimony, that he would like to make a motion for the Board not to hear this application. In fact, it was only upon the advice of the Board Attorney, that he withdrew this request. Mayor Rodrick, who has not sat on a single Planning Board application aside from this one since his inauguration in January of 2024, also refused to recuse himself in light of his open and obvious conflicts of interest with respect to this application. Board Member Pascarella, who serves as the Township Attorney and has been involved in correspondence regarding the Developers Agreement, similarly refused to recuse himself from this hearing.

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At the close of the July 3, 2024 hearing, the applicant agreed to further waive the statutory time limitation only until the August 7, 2024 Planning Board hearing. The August 7, 2024 hearing, was, however, cancelled as a result of the Mayor and Council's unilateral decision to hold a special meeting for the Township Council on the same date. Given the Mayor's actions at the July 3, 2024 hearing, this appears to be in line with his repeated attempts to delay this application as part of his personal and unjustifiable crusade against my client's attempts to exercise his right to develop his property. Upon information and belief, while the Mayor and Council could have chosen any day for their special meeting, the August 7, 2024 date appears to have been selected specifically to delay my client's application.

Please accept this correspondence as a request for a certificate, pursuant to N.J.S.A. 40:55D-61 as set forth above, stating that the Board has failed to act within the statutorily prescribed time frame. The 120-day period expired on June 29, 2024 and the applicant has only agreed to waive the statutory deadline until the August 7, 2024 hearing and no later. As noted above, said certificate **shall** issue upon request of the applicant. Please provide same within 48-hours or we will have no choice but to explore all available legal remedies to protect our client's interests and due process rights.

Very truly yours,

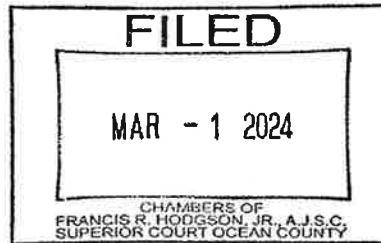
ROBERT C. SHEA

RCS/kpm

Enclosures

cc: Melanie Appleby, Esq.

EXHIBIT “A”



Prepared by the Court

WATERFRONT DEVELOPMENT
PARTNERS, LLC.,

Plaintiff,

vs.

TOMS RIVER TOWNSHIP PLANNING
BOARD, et al.

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION;
OCEAN COUNTY

DOCKET NO.: OCN-L-325-24 PW

Prerogative Writs

Order granting summary relief pursuant to
N.J.S.A. 40:55D-10.3

ORDER

THIS MATTER having been opened to the Court on March 1, 2024, on Plaintiff's application for this Court to deem the subject Planning Board Application complete pursuant to N.J.S.A. 40:55D-10.3; and Robert Shea, Esq., appearing on behalf of Plaintiff; and Robin La Bue, Esq., appearing on behalf of Defendants; and for the reasons set forth in the papers and on the record; and

WHEREAS, Plaintiff's own property located at 101 West Street, Toms River, New Jersey, also known as Block 658, Lots 47 & 58 in the Township of Toms River, (the Property); and

WHEREAS, On November 6, 2023, the Plaintiff applied to the Toms River Planning Board for Preliminary and Final Site Plan Approval for a mixed use residential and commercial building on the Property; and

WHEREAS, Pursuant to N.J.S.A. 40:55D-10.3,

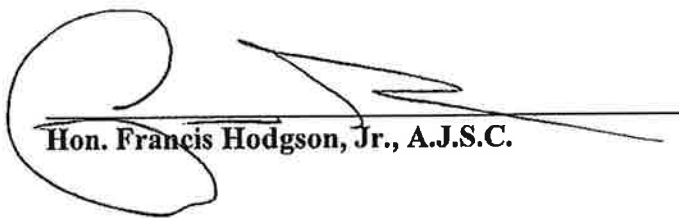
The [subject] application shall be deemed complete upon the expiration of the 45-day period for purposes of commencing the applicable time period, unless:
a. the application lacks information indicated on a checklist adopted by

ordinance and provided to the applicant; and b. the municipal agency or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
and;

WHEREAS, 45 days passed without Defendant notifying Plaintiffs of any deficiencies or incompleteness; and it is therefore

ORDERED that;

1. Plaintiff's application made to the Toms River Planning Board be deemed complete as of today; and further
2. This Order will be uploaded onto ECourts as notice to all parties.



Hon. Francis Hodgson, Jr., A.J.S.C.

EXHIBIT “B”

R. C. SHEA & ASSOCIATES

ROBERT C. SHEA
MARC S. GALELLA †
MICHAEL J. DEEM *
CHRISTOPHER R. SHEA *
ROBERT C. SHEA II
VINCENT J. DELRICCIO

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Trial Advocate
Rule 1:40 Qualified Mediator

April 16, 2024

Via Email and First Class Mail

Toms River Planning Board
Attn: Lucia Lynch
33 Washington Street
Toms River, NJ 08753

Re: Waterfront Development Partners, LLC
101 West Water Street
Block 658, Lots 47 & 58
Our File No.: 14357

Dear Ms. Lynch:

As you know, this office represents the applicant with regard to the above referenced application, which is scheduled for April 17, 2024.

The application, as you are aware, was submitted on November 6, 2023, and was deemed complete by a Court Order on March 1, 2024. Despite the lengthy time frame, we did not receive a planner's review letter until April 9, 2024, only nine (9) days before the hearing. Furthermore, said review letter called out, for the first time, an alleged variance for building step-back. While this appears to be another attempt by the Township to delay and stifle this application, the applicant will require time to properly address the planner's review comments.

Since this issue has been raised for the first time in the course of five (5) months, the applicant is requesting to carry the April 17, 2024 hearing to the next available hearing date in order to review and address the comments. The applicant agrees to waive the statutory time limitation for automatic approval **only** up until the next meeting date at this time.

R. C. SHEA & ASSOCIATES
COUNSELLORS AT LAW, P.C.

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Naturally if you have any questions, please do not hesitate to contact me.

Very truly yours,



ROBERT C. SHEA

RCS/kpm

cc: Brian Murphy
Melanie Appleby, Esq.
Mark Tress

EXHIBIT “C”

R. C. SHEA & ASSOCIATES

ROBERT C. SHEA
MARC S. GALELLA †
MICHAEL J. DEEM *
CHRISTOPHER R. SHEA *
ROBERT C. SHEA II
VINCENT J. DELRICCIO

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Trial Advocate
Rule 1:40 Qualified Mediator

April 16, 2024

Via Email and First Class Mail

Toms River Planning Board
Attn: Lucia Lynch
33 Washington Street
Toms River, NJ 08753

Re: Waterfront Development Partners, LLC
101 West Water Street
Block 658, Lots 47 & 58
Our File No.: 14357

Dear Ms. Lynch:

With respect to the above-referenced application, and consistent with our phone conversation, I am requesting this matter be carried from the June 5, 2024 public meeting date and re-listed on July 3, 2024.

Additionally, this will confirm that we are hereby waiving any time requirement, pursuant to N.J.S.A.40:55-1, et seq.

Naturally, should you have any questions or wish to discuss the above, please feel free to contact me. If I am not available, please ask to speak with my assistant, Karin Magala.

Very truly yours,


ROBERT C. SHEA

RCS/kpm

EXHIBIT “D”

Vincent J. DeRiccio

From: Robert C. Shea
Sent: Thursday, May 23, 2024 6:36 PM
To: Karin Magala
Cc: Lucia Lynch; Vincent J. DeRiccio
Subject: Re: Waterfront Development Partners LLC, 101 West Water Street, Block 658, Lots 47 & 58

Lucia. The waiver is as noted in my letter is till July 3, 2024. Thanks. Bob
Robert C. Shea Esq.
R.C. Shea and Assoc.
244 Main St.
Toms River, N.J. 08753
Office : (732) 505-1212
Email: Rshea@rcshea.com

On May 23, 2024, at 4:24 PM, Karin Magala <kmagala@rcshea.com> wrote:

Lucia –

Attached please find letter of today's date from Robert C. Shea, Esq., with regard to the above matter. If you should have any questions, please do not hesitate to contact me. Thank you.

Karin Magala
Legal Assistant
R.C. Shea & Associates
Counsellors at Law
244 Main Street, P.O. Box 2627
Toms River, NJ 08754
Telephone: (732) 505-1212; Fax (732) 505-1360
Email: kmagala@rcshea.com

<Ltr to Planning Board for adj 5.23.2024.pdf>

EXHIBIT “E”



Principals
Richard Rehmann, GISP
Richard Heggan, PLS, PP
Jeffery MacPhee, PLS
Carolyn A. Feigin, PE, PP

June 25, 2024

Mrs. Lucia Lynch, Board Secretary
Toms River Planning Board
33 Washington Street
Toms River, NJ 08753

**Subj: Technical Review #2: Application No. PB23-037
Preliminary & Final Major Site Plan – Redevelopment Plan
Waterfront Development Partners LLC
101 W. Water Street (Block 658 Lots 47 & 58)
(ARH File: 6642010.01)**

Dear Ms. Lynch:

ARH ASSOCIATES has received the above-captioned Application for review. Applicant is seeking approvals to construct a 5-story, mixed-use building with ground level retail, 64 dwelling units, and associated parking and site improvements.

Lots 47 & 58 are located in the Township's Phase 1 Downtown Redevelopment Area.

This report consists of our review of the Subject Application for conformance with Toms River's Land Use and Development Regulations (Chapter 348) and is limited to Planning issues. Engineering, legal and other issues shall be addressed by the Board's other Professionals.

Comments are limited to the information presented to date. Applicant may present additional information and testimony at the Board hearing.

I. OWNER & APPLICANT INFORMATION

WATERFRONT DEVELOPMENT PARTNERS LLC
150 AIRPORT ROAD
LAKEWOOD, NJ 08701

ARH Associates

Corporate Headquarters – 215 Bellevue Avenue – PO Box 579 – Hammonton, NJ 08037 – 609.561.0482 – fax 609.567.8909
Tinton Falls Office – 97 Apple Street – Suite 1 – Tinton Falls, NJ 07724 – 609.561.0482 – fax 609.567.8909
www.arh-us.com

II. SUBMITTALS

Application Transmittal Memorandum	Lucia Lynch	11/9/2023	6/19/2024
Application Transmittal Letter	Jarred M. Fredericks FWH Associates, PA	11/2/2023	
Unified Land Development Application	Mark Tress	9/14/2023	
Corporate Disclosure Statement	Water Development Partners LLC	11/10/2023	
Attorney Letter	Robert C. Shea	3/6/2024	
Superior Court of NJ Law Division: Ocean County Docket No.: OCN-L-325-24 PW Order	Hon. Francis Hodgson, Jr., A.J.S.C.	3/1/2024	
Development Application Checklist Schedule A & B	Unsigned	11/9/2023	
Statement of Operations/Descriptions of Use	Mark Tress	9/14/2023	
Ocean County Planning Board Application Transmittal Letter	Jared M. Fredericks FWH Associates, PA	10/31/2023	
Ocean County Soil Conservation Application Transmittal Letter			
Toms River MUA Application Transmittal Letter			
Veolia Water New Jersey, Inc. Application Transmittal Letter			
Real Estate Tax Affidavit Township of Toms River, State of New Jersey, County of Ocean	Carl M. Dileo, CTC Tax Collector	10/31/2023	
Redevelopment Plan for Phase 1 Downtown Waterfront Redevelopment Area, Township of Toms River, Ocean County, New Jersey	David Glynn Roberts, PP, AICP, LLA	12/26/2017	12/14/2021
Boundary & Topographic Survey Irons Street Lot 30, Block 658.01 & Lots 47, 58, Block 658 Tax Map Sheet No. 76 Situated in Toms River Township, Ocean County, New Jersey	William P. Schemel, PLS FWH Associates, PA	8/16/2022	
Mixed Use Water Street, Toms River, N.J. Block: 658 Lot: 47	John Saracco, RA	10/2/2023	
Dwg. PB-100 – Rendering Project Data			
Dwg. PB-200 – First Floor Plan			
Dwg. PB-201 – Second Floor Plan			
Dwg. PB-202 – 3 rd , 4 th Floor Plan			
Dwg. PB-203 – Fifth Floor Plan			
Dwg. PB-204 – Roof Plan			
Dwg. PB-300 – Elevations			
Dwg. PB-301 – Elevations			

Preliminary and Final Major Site Plan Water Street Apartment Building Block 658 – Lot 47 & 58 Tax Map Sheet No. 76 Situated in Toms River Township, Ocean County, New Jersey	FWH Associates, PA		
Sheet 1 – Title Sheet	Brian P. Murphy, PE		
Sheet 2 – Project Notes			
Sheet 3 – Existing Conditions Plan	William P. Schemel, PLS		
Sheet 4 – Site Plan			
Sheet 5 – Circulation Plan	Brian P. Murphy, PE		
Sheet 6 – Grading, Drainage and Utility Plan			
Sheet 7 – Profiles			
Sheet 8 – Landscape Plan	Leroy G. Webb Jr., LLA	10/2/2023	6/11/2024
Sheet 9 – Lighting Plan			
Sheet 10 – Landscape and Lighting Details			
Sheet 11 – Soil Erosion and Sediment Control Plan			
Sheet 12 – Soil Erosion and Sediment Control Details	Brian P. Murphy, PE		
Sheet 13 – Soil Erosion and Sediment Control Details			
Sheet 14 – Construction Details			
Sheet 15 – Construction Details			
Sheet 16 – Construction Details			
Sheet 17 – Construction Details			
Response to Planning Review Letter	Jarred M. Fredericks	6/7/2024	
Mixed Use Water Street, Toms River, N.J. Block: 658 Lot: 47			
Dwg. PB-100 – Rendering Project Data			
Dwg. PB-200 – First Floor Plan			
Dwg. PB-201 – Second Floor Plan			
Dwg. PB-202 – 3 rd Floor Plan	John Saracco, RA	6/12/2024	
Dwg. PB-203 – 4 th Floor Plan			
Dwg. PB-204 – 5 th Floor Plan			
Dwg. PB-205 – Roof Plan			
Dwg. PB-300 – Elevations			
Dwg. PB-301 – Elevations			

III. PLANNING ANALYSIS

A. Use

Subject is located in the Township’s Phase 1 Downtown Waterfront Redevelopment Area which

is governed by the *Redevelopment Plan for Phase 1 Downtown Waterfront Redevelopment Area, Township of Toms River Ocean County, New Jersey, Amendment #2 adopted December 14, 2021*¹.

The Redevelopment Plan permits mixed use buildings with residential apartments or office uses above street level retail, subject to the following:

- (1) The apartment shall contain a kitchen, bathroom, and living room and shall contain an average gross unit size of 1,000 square feet. **Conforms**

Apartments contain a mix of 1-, 2-, and 3-bedroom units, ranging in size from 655 sf to 1,488 sf.

- (2) Residential unit mix for deed-restricted affordable units within a redevelopment project shall meet the requirements of the Uniform Housing Affordability Controls (UHAC) unless otherwise set forth in a redevelopment agreement.

Affordable housing information has not been provided. Applicant is asked to provide testimony and revised plans showing compliance with UHAC.

B. Area & Bulk Standards [Redevelopment Plan; unless otherwise noted]

Lot			
Min. Lot Area	1 acre	1.03 acres	Conforms
Max. Impervious Surface	Existing Coverage or 80%	90% ²	Conforms
Min. Open Space	Existing Coverage or 20%	10% ³	Conforms
Principal Structure			
Min. Front Yard Setback ⁴	15'	Irons: 15.2'	Conforms
		Water: 20'	Conforms
Min. Side Yard Setback	0	N: 6.95'	Conforms
		W: 7.47'	Conforms
Min. Rear Yard Setback	0	n/a	n/a
Max. Building Coverage	50%	49%	Conforms
Building Height	Minimum: 45' ⁵	59'	Conforms
	Maximum: 100'		Conforms
	Max: 8 residential stories	5 stories	Conforms

¹ "Redevelopment Plan"

² The existing site is 100% impervious. The applicant is proposing a 10% reduction.

³ ***Applicant is asked to revise zoning chart to accurately reflect the provided open space.***

⁴ From street line

⁵ At building setback (30' from ROW centerline + 15' front setback)

Min. Stepback	10' ⁶	10'	Conforms
Residential Density	Minimum: 40 units/acre	62.1 units/acre	Conforms
	Maximum: 70 units/acre		Conforms
Off Street Parking			
Min. Parking Spaces	69 ⁷	83	Conforms
Min. Make Ready Spaces	12 ⁸	12	Conforms
Signage^{9,10}			

IV. PLANNING COMMENTS

- A. **Applicant is asked to provide a set aside of 15% of the residential units (10 units) for affordable housing per §348-11.10.**
- B. **Applicant is asked to provide testimony regarding the loading space and delivery/pickup for services such as Uber/Doordash/etc.**
- C. **The parking lot is accessed via a garage door. Applicant is asked to address access to the parking lot for the public and/or residents.**
- D. **Applicant is asked to provide testimony regarding the proposed use of the retail space.**
- E. **Applicant is asked to address access to/from the public parking lot on lot 27 which currently is accessed through lot 47. The only exit is being eliminated as a result of this application.**
- F. **The following waivers are required from XIX – General Design Guidelines of the Redevelopment Plan:**
 - a. **Buffer Details:**

⁶ Above 40', 80', 120' in height

Use	Requirement		Required Parking
Residential	1.4 per unit	64 units	90
		25% reduction for mixed-use	-22
Retail	1 per 350 sf of gfa	2,560 sf	7
		EV Credit up to 10% of required parking	-6
		Total Required Spaces	69

⁸ 15% of required off-street parking (rounded to the next full parking space), 1/3 of which shall be installed with electric supply vehicle equipment per P.L.2021, c.171 (C.40:55D-66.20). The applicant has provided 6 EV Spaces consistent with the Redevelopment Plan Requirement.

⁹ Five (5) "RETAIL" signs are shown on the architectural elevations. No other information is provided. **Applicant is asked to provide signage details.**

¹⁰ All signage within the Toms River Downtown Waterfront Phase 1 Redevelopment Plan Area shall conform to signage regulations promulgated by the Township Council of the Township of Toms River with advice and consent of the Toms River Business Improvement District (TRBID) Corporation Board of Directors.

- i. A buffer is required around surface parking lots where none is provided. ***A waiver is required.***
- ii. A minimum of 10' wide buffer required along frontage, where 5' is proposed. ***A waiver is required.***
- b. Site Protection and General Planting Requirements:
 - i. 4% of the gross square footage of paved parking area shall be landscaped. ***Applicant indicates that 10% is landscaped.***
 - ii. 1 shade tree in the parking area is required for every 10 spaces, 9 shade trees are required. Applicant has added an additional tree to the northeastern corner of the property. ***Applicant is asked to add shade trees in the 2 parking islands on the west side of the parking lot.***
 - iii. No row of parking spaces shall exceed 20 spaces without interruption by a minimum 10-foot-wide landscaped island. ***Two concrete islands have been added. Applicant is asked to provide landscaping or request a waiver.***
- c. Architecture:
 - i. Roofline offsets shall be provided along any roof measuring more than 50 feet in length in order to provide architectural interest and articulation to a building. ***A waiver is required.***
 - ii. Window sills shall not be more than 3 feet above the sidewalk. ***A waiver is required for the Retail Storefront along Water Street.***
 - iii. Provide at least one secured, enclosed bicycle storage space for 30% of planned occupancy, but not less than one space per residential unit (LEED-ND SLL (Site Location and Linkage) Credit 4 "Bicycle Network and Storage"). ***Four open and uncovered bike racks are proposed at the North corner of the parking lot. A waiver is required.***
- G. ***Applicant is asked to provide testimony regarding building facades, materials, and colors and compatibility with the character of the historic downtown Toms River area.***
- H. ***Applicants is asked to provide testimony regarding the roof treatment and Solar Reflectance Index. A waiver may be required.***
- I. ***Applicant is asked to confirm via testimony that the parapet is of sufficient height to screen all rooftop equipment.***
- J. ***Applicant is asked to provide details of the proposed fence including color, material, and height.***

V. VARIANCES & DESIGN WAIVERS

- A. Applicant requires design waivers as indicated in IV. Planning Comments of this report.
- B. Pending clarification of the issues raised in this report, and subject to any issues that may arise during a future Site Plan review, additional relief may be required.

Pursuant to the Redevelopment Plan §VI.8. the Planning Board may grant deviations from the regulations contained within the Redevelopment Plan classified as “c” or bulk variances where by reason of exceptional narrowness, shallowness or shape of a specific piece of property within the Redevelopment Area, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary situation uniquely affecting a specific piece of property or existing structures lawfully constructed thereon, the strict application of the regulation of the Redevelopment Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.

The Redevelopment Plan further allows (§VI.9.) the Planning Board to grant deviations from the regulations and standards contained within the Redevelopment Plan when the purposes of the Redevelopment Plan would be advanced by the deviation and the benefit of the deviation would substantially outweigh any detriments.

In order for a Board to grant a variance, an Applicant must demonstrate, to the Board’s satisfaction, that: (1) such action will relieve peculiar and exceptional practical difficulties or exceptional and undue hardship upon the developer of the subject property resulting from the strict application of the zoning ordinance (typically known as a Hardship Variance); OR (2) that granting a variance to allow departure from the zoning ordinance would advance one of the purposes of the *Municipal Land Use Law* (N.J.S.A. 40:55D-1 et seq. [MLUL]) and that the benefits of the deviation would substantially outweigh any detriment (typically known as the Special Reasons). Collectively, these are known as the Positive Criteria.

An Applicant must also demonstrate, to the Board’s satisfaction, that such variance can be granted without substantial detriment to the public good. This is known as the Negative Criteria.

Both the Positive Criteria and Negative Criteria must be satisfied in order for the Board to grant Variance relief.

The grant of a ‘c’ Variance requires a majority vote of the members present.

The MLUL defines “peculiar and exceptional practical difficulties” and “exceptional and undue hardship” as:

- (a) *[where] by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property...[N.J.S.A. 40:55D-70c(1)]*

Under N.J.S.A. 40:55D-2, the MLUL enumerates as its purposes:

- a. *To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*

- b. *To secure safety from fire, flood, panic and other natural and man-made disasters;*
- c. *To provide adequate light, air and open space;*
- d. *To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the County and the State as a whole;*
- e. *To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;*
- f. *To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;*
- g. *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;*
- h. *To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;*
- i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangement;*
- j. *To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;*
- k. *To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;*
- l. *To encourage senior citizen community housing construction;*
- m. *To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;*
- n. *To promote utilization of renewable energy resources;*
- o. *To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.*

VI. POST APPROVAL CONSIDERATIONS

Should the Board grant the desired approvals for this Application, Applicant, and/or its professionals must, as applicable:

- A. ***Make all appropriate plan revisions as directed by the Board.***
- B. ***Contact the Board Secretary to reconcile any outstanding review escrow accounts prior to Final Plan Certification, Signature or the issuance of building permits, as applicable.***
- C. ***Address all necessary bonds, inspection escrows and related items.***
- D. ***Submit an executed Redevelopment Agreement.***
- E. ***Submit to the Township’s Division of Land Use Regulation and this office evidence (if not already provided) of the following outside agency approvals prior to the Final Plan Certification or Signature:***
 - 1. ***Ocean County Planning Board.***
 - 2. ***Ocean County Soil Conservation District.***
 - 3. ***Toms River Township.***
 - 4. ***New Jersey Department of Environmental Protection.***
 - 6. ***Any others as may be necessary.***
- F. ***Additionally, Applicant is advised that any damage caused to existing Township-owned facilities (i.e., roadways, utilities, etc.) during construction shall be repaired and/or replaced in kind to the satisfaction of the Township Engineer.***

Any resubmissions in response to this report should be accompanied by a point-by-point response to all items. In order to facilitate the Board’s decision-making process, Applicants are strongly encouraged to resolve as many items as possible prior to the hearing on this matter.

Respectfully Submitted,
ARH ASSOCIATES
by



Christine Winter, PP/AICP
Senior Planner

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