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December 4, 2024

Via email: ptriolo@bittigerelias.com
Priscilla J. Triolo, Esq.
Bittiger, Elias, Triolo & Diehl
12 Route 17 North, Suite 206
Paramus, New Jersey 07652

RE: The WayMaker, LLC
40 Eagle Ridge Way
Block 106, Lot 20.03

Dear Ms. Triolo:

As you may recall, I am the attorney for the West Orange Planning Board. I have now had the opportunity to confer with the attorney for the Zoning Board, Steven Warner, Esq. and as follow up to my November 27, 2024, I must point out some other significant application deficiencies.

First, as you should already know, your client's application was incorrect in that, among other things, it purported to seek preliminary and final site plan approval and for a single-family home. Pursuant to *N.J.S.A. 40:55D-37* "individual lot applications for detached one- or two-family dwelling unit buildings shall be exempt from ...site plan review and approval." Therefore, the application was filed with the wrong board and should have been directed to the Zoning Board for review.

Further, while your application states that there are no required variances, please see the attached reports from the Board's Engineering Expert and Planning Expert. Specifically attached is the report by Philip Scott, P.E., C.M.E. of Matrix New World Engineering dated November 26, 2024 and a report by Gerard M. Haizel, PP, AICP, Principal of Nishuane Group dated November 29, 2024.

Both the Board's Engineer and Planner find that the boulder retaining wall is in violation of Ordinance 25-8.4a. Of note, on page 10 of the Planner's report, Mr. Haizel states:

Further, the applicant provides no details of this wall on their plans, including the height, composition or construction details. In my opinion, it is not possible for the Board to fully assess this wall, without the necessary construction detail, **which is not provided as part of the application.** To that end, **the applicant should provide details of the proposed boulder wall,**

including construction details and the proposed finished height. The applicant should insure that this wall complies with the required standards pursuant to Township of West Orange Zoning Ordinance §25-8.4a or provide justification for a variance to permit the deviation from the required standard. (emphasis original)

Additionally, the application filed on behalf of your client fails to request a soil movement permit. (No. 14 of Section D of the Application "Type of Application.") The Matrix report finds that the amount of soil disturbance of over one acre of land creates the need for a Major Site Plan under the Township's Storm Water Management regulations and therefore requires a Soil Removal Permit which was not included in your application.

Finally, though the Construction Board of Appeals issued a fine to your client for construction of the wall without a permit on July 16, 2024 in the amount of \$2,000.00, as of this time this fine remains unpaid to the Township of West Orange.

Please correct the above noted deficiencies in order to render the application complete. The corrected application should be filed with the correct board (the Zoning Board), or if you prefer, we will administratively transfer the application to the Zoning Board, either of which would need to be done to start the 45-day clock to deem the application complete. To be clear; however, the 45-day clock to deem the application complete, never commenced and, as such, the application could never have been, and was not, automatically deemed complete by default. Similarly, the 120-day clock that starts post completeness determination never commenced and, therefore, the application never could have been, and was not, deemed an automatically approved by default due to the expiration of the time to act.

We reserve all rights and remedies concerning all aspects of the project and the pending application.

Thank you.

Very truly yours,



DIANA POWELL MCGOVERN, ESQ.
E-mail: dmcgovern@gpmlegal.com

Cc: Steven Warner, Esq.- warner@centraljerseylaw.com
West Orange Zoning Official- zoningofficial@westorange.org
Jamilet Baquerizo Vite- jvite@westorange.org

November 26, 2024

Via E-mail (jvite@westorange.org)

Planning Board
Township of West Orange
66 Main Street
West Orange, New Jersey 07052

Attn.: Jamilet Baquerizo Vite – Planning Board Secretary

**RE: ENGINEERING REVIEW FOR THE WAY MAKER, LLC, INGROUND POOL AND POOL BUILDING
WEST ORANGE PLANNING BOARD APPLICATION No. PB 24-19
40 EAGLE RIDGE WAY (BLOCK 106, LOT 20.03)
TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
MATRIX No. 23-1345-08**

Ms. Vite,

As requested, Matrix New World Engineering, Land Surveying and Landscape Architecture, PC (Matrix) has reviewed the Planning Board application and supporting documentation for the above-referenced site. Matrix has prepared a technical engineering review of the proposed improvements at the subject. It shall be noted that our review of the project is limited to site / civil engineering only. Matrix defers all planning matters, including but not limited to, bulk and/or use variances, conformance with the master plan and ordinances, etc.

As provided by your office, Matrix has received and reviewed the following documents for this project:

- 40 Eagle Ridge Way Public Utilities List;
- Property Buffer Report (200-foot owner list) for Block 106, Lot 20.03, prepared by the Office of the Tax Assessor, Township of West Orange, dated August 20, 2024;
- Proof of Payment for Major Site Plan Application Fee from Bittiger Elias and Triola, PC, dated September 18, 2024;
- Township of West Orange Application Form for Planning Board or Zoning Board of Adjustment, dated September 18, 2024;
- Letter of Explanation prepared by Priscilla J. Triolo, Esq., dated September 18, 2024;
- Letter of Transmittal Prepared by Priscilla J. Triolo, Esq, dated September 18, 2024;
- Verification of Taxes and Sewer Charges Paid, Block 106, Lot 20.03, 40 Eagle Ridge Way, prepared by the Office of the Tax Collector, dated August 20, 2024;
- Unsigned and Unsealed Stormwater Management Report, Block 106, Lot 20.03, prepared by Colliers Engineering & Design, Inc., dated September 16, 2024;
- Signed but unsealed property survey drawing for Block 106, Lot 20.03, entitled "Topographic Survey," prepared by Roberts Engineering Group, LLC, dated February 10, 2021;

- Signed but unsealed property survey drawing for Block 106, Lot 20.02, entitled "Boundary and Topographic Survey", prepared by Omland and Osterkorn, Inc., dated May 22, 2024; and
- Signed but unsealed set of engineering drawings, prepared by Colliers Engineering & Design, Inc., dated September 17, 2024, including the following sheets:
 - Cover Sheet (Sheet 1)
 - Demolition Plan (Sheet 2)
 - Layout Plan (Sheet 3)
 - Grading and Drainage Plan (Sheet 4)
 - Landscape Plan (Sheet 5)
 - Soil Erosion & Sediment Control Plan (Sheet 6)
 - Construction Details -1 (Sheet 7)
 - Construction Details – 2 (Sheet 8)

PROJECT DESCRIPTION

Matrix understands that the Owner and Applicant for this application is TheWayMaker, LLC, mailing address: 40 Eagle Ridge Way, West Orange, New Jersey. As per the Township's Zoning Map (last revised 2020), the subject parcel (Block 106, Lot 20.03) is located in the 'R-1' (Residential, 80,000 square foot minimum area) zoning district along Eagle Ridge Way, approximately 200 feet from the intersection of Eagle Ridge Way and Boland Drive. The subject property is approximately 2.067 acres and is presently developed with a single-family house with an attached garage, a pool house that is under construction, and an inground pool that is under construction. Also under construction are drainage collection, conveyance and storage facilities and a retaining wall. Below is a summary of the proposed property improvements:

Approximately 1.88 acres of the subject property either has or will be disturbed to accommodate the pool building and inground pool which are under construction and the drainage facilities, some which have been constructed and others to be constructed as part of this application. Since more than one acre of land is being disturbed for these improvements, this application is considered a Major Site Plan under the Township's Storm Water Management regulations. As stated, the pool building and inground pool are under construction. When the original plans were submitted, less than one acre was being disturbed and thus the improvements were not considered a Major Site Plan. However, during construction it was determined that more than an acre was disturbed and work stopped pending approval of the Planning Board. The pool building and inground pool are considered accessory uses. The engineering drawings do not depict any trees to be removed as any trees disturbed by the construction were previously removed and a permit was issued by the Township Forester. The applicant submitted a Landscape Plan that depicts new proposed plantings.

1. General

- 1.1. Architectural drawings were not provided as part of the submission materials for the pool building and pool. As such, we are unable to ensure that the proposed building complies with the residential building design criteria specified in Ordinance §25-9.7(b). The Applicant shall provide architectural drawings for further review. However, permits were already issued for these two uses.

2. Demolition

- 2.1. The Applicant shall provide testimony regarding the intention to remove any additional trees and obtaining a Tree Removal Permit pursuant to Ordinance §25-27.

3. Layout Plan

- 3.1. The Applicant shall provide testimony regarding the existing site conditions, proposed improvements, and conformance with applicable ordinances and regulations.

- 3.2. A boulder wall that is over ten feet in height was constructed along the rear property line. No permit was issued for this wall and since it is over six feet in height, the wall violates Ordinance 25-8.4a. A violation notice was issued. To bring the wall into compliance with the Ordinance, the plan proposes to place fill material along the face of the wall. However, a construction detail of this wall is required and since the original wall exceeded four feet, a building permit must also be obtained. The wall will need to be inspected and certified.

4. Grading & Drainage Plan

- 4.1. The Applicant's engineer shall provide details of the previously installed drywell system/seepage tank field.
- 4.2. The Applicant's engineer shall provide clarify how stormwater runoff will discharge from the existing drywell system/seepage tank field. If there is an outflow pipe connecting to an off-site system, it shall be detailed on the plans and noted in the stormwater management report.
- 4.3. The Applicant's engineer shall explain the purpose of removing the portion of the 36" elliptical pipe and the addition of the proposed single chamber outlet control structure and scour hole at the southwest corner of the property. This change in the drainage system shall also be addressed in the stormwater management report.
- 4.4. The Applicant's engineer shall provide results of a geotechnical investigation to ensure the infiltration system meets the requirements of Chapter 12 of the NJ Stormwater Best Management Practices (BMP) Manual. Verification of the depth of bedrock and seasonal high-water table shall be submitted to the Municipal Engineer and confirmed prior to the issuance of a building permit.

5. Landscaping Plan

- 5.1 Matrix has no comment on the landscaping plan.

6. Soil Erosion & Sediment Control

- 6.1. The Applicant shall obtain a soil erosion and sediment control permit from the Hudson-Essex-Passaic Soil Conservation District. Matrix reserves the right to review the certification and approved plans from the district.

We thank you for the opportunity to be of service to the Township of West Orange Planning Board. Please feel free to contact me directly with any questions or comments at (973) 295-3279 or via e-mail at pscott@mnwe.com.

Sincerely,

MATRIX NEW WORLD ENGINEERING



Phillip Scott, P.E., C.M.E.
Director of Urban Engineering and Development

LL:PS
Enclosures

Cc: Dennis Petrocelli, PG – Vice President, Matrix

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MEMORANDUM

TO: Township of West Orange Planning Board
FR: Gerard M. Haizel, PP, AICP, Principal
RE: PB-24-19 – 40 Eagle Ridge Way
Block 106, Lot 20.03
DT: November 29, 2024

The following is prepared on behalf of the West Orange Planning Board. The information is for advisory purposes only and is intended to assist the Board's decision-making process. Below are descriptions of the projects based on the supplied plans and documentation as well as commentary on issues evident from them.

Items Reviewed

In preparation of this report, I have reviewed the following items:

- Township of West Orange Application form for the Planning or Zoning Board of Adjustment, dated September 18, 2024.
- Correspondence: Proposal for Application of TheWayMaker, LLC, 40 Eagle Ridge Way, Block 106, Lot 20.03, dated 9-18-2024, from Priscilla J. Triolo, Esq., of Bittiger Elias Triolo & Diehl, Attorney for the Applicant.
- Site Plans titled Preliminary & Final Site Plan, The Waymaker LLC, Proposed Residential Improvements, Block 106 Lot 20.03, Township of West Orange, Essex County, New Jersey, consisting of eight (8) sheets, dated 9-17-2024, prepared by Jesse Cokeley, PE of Colliers Engineering & Design, Inc.
- Boundary & Topographic Survey at 40 Eagle Ridge Way, Township of West Orange, Essex County, New Jersey, consisting of one (1) sheet, dated 05-22-2024, prepared by Kiersten Osterkorn, PE, PLS, PP of Omland & Osterkorn, Inc.
- Topographical Survey for TheWayMaker, LLC, Lot 20.03, Block 106, 40 Eagle Ridge Way, Township of West Orange, Essex County, New Jersey, consisting of one (1) sheet, dated 02-10-2021, prepared by Ted W. Pivovarnick, PLS of Roberts Engineering Group, LLC.



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- Stormwater Management Report, Proposed Residential Improvements, Block 106, Lot 20.03, Township of West Orange, Essex County, NJ, dated 9-16-2024, prepared by Jesse Cokeley, PE of Colliers Engineering & Design, Inc.
- Engineering Review For The Way Maker, LLC, Inground Pool And Pool Building West Orange Planning Board Application No. Pb 24-19, 40 Eagle Ridge Way (Block 106, Lot 20.03), Township Of West Orange, Essex County, New Jersey, dated 11-26-2024, prepared by Philip Scott, PE, CME of Matrix New World Engineering

Project Summary

On property located in the Township's **R-1 (One-Family dwellings on 80,000 square foot lots) District**, the applicant, **TheWayMaker, LLC**, proposes to undertake site work on a lot with an existing one-family dwelling. The proposed site work includes the installation of a subsurface chamber infiltration basin in the rear yard, as an enhancement to a previously approved stormwater seepage pit detention system. The proposed subsurface detention system will also allow for the enlargement of the surface area of collection for the yard. Additionally, the proposed scope of work will include the repair of an existing boulder wall at the rear of the property, as well as landscaping.

The proposed development on the site was subsequently deemed to be a "major development" and as such, is required to comply with the provisions of Township of West Orange Zoning Ordinance **§25-29.4 – Stormwater Management Requirements for Major Developments**, which requires additional stormwater collection, which will be placed underground in the rear yard.

The existing one-family detached dwelling and accessory pool and pool house on the site **are permitted** in the R-1 District. However, the proposed development does not appear to meet all the required bulk and design standards for this use. The applicant is also seeking major preliminary and final site plan approval for this application.

Required Variance Relief

Wall Height – Pursuant to the Township of West Orange Zoning Ordinance **§25-8.4a**, walls and fences which are not more than 50% solid are permitted anywhere on the property, in all districts, provided they are not higher than 4-feet. The applicant constructed a boulder wall on the eastern perimeter of the site that extends above the maximum permitted height, for which no approvals were sought nor conveyed and a violation notice was previously issued. **A C-variance is required to permit a wall at greater height than permitted.**

Project Description

The subject site is a 90,087-SF lot located on the eastern side of Eagle Ridge Way. The site is currently improved with a 2-story single-family dwelling. At the rear of the house is a pool and a pool house, which are located on the northern side of the rear yard.

The proposed subsurface infiltration basin is proposed on the southern area of the rear yard, opposite to the pool. The proposed curtain drain will extend in an arc from the eastern and northern perimeter of the back yard. The rear yard beyond the curtain drain drops off substantially to the south and east.

To the east of the curtain drain, at a lower elevation from the improvements to the west and north, is a retaining wall constructed of boulders. The applicant indicates that this wall was "overbuilt" to facilitate the installation of the stormwater management system and grading of the site. However, there is no indication on the site plans as to the existing or proposed height of the wall nor any construction details.

Plans show the existing circular driveway and the extension to the garages located on the southern side of the house will be curbed with Belgian block and paved with pervious pavers.

No work is proposed to the existing dwelling on the site, as part of the scope of this application.

Landscaping

- Twenty-five (25) Ruby Spice Summersweet shrubs are proposed adjacent to the walkway from the rear of the dwelling to the pool.
- One (1) Limelight Hydrangea shrub is proposed in the northern area of the front yard.
- Ninety-four (94) Nelly Stevens Holly shrubs are proposed along the northern perimeter of the site.
- One hundred and fourteen (114) Compact Japanese Holly shrubs are proposed on the northern, eastern and western sides of the pool house.
- One hundred and five (105) Steeds Japanese Holly shrubs are proposed on the northern, eastern and western sides of the pool house.
- Nine (9) Red Tip Photinia trees are proposed adjacent to the walkway from the rear of the dwelling to the pool.



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- Eleven (11) Sugar Tyme Crabapple trees are proposed in the front yard on the perimeter of the house.
- A mix of perennials is proposed through the landscaped area, which will include the following:
 - Ten (10) Flame Thrower Echinacea
 - Seventy-two (72) Autumn Joy Sedum
 - One hundred and thirty-one (131) Walkers Low Catmint
 - Twenty-seven (27) Siberian Iris

Site & Area Description

Street Address: 40 Eagle Ridge Way
Block & Lot: Block 106, Lot 20.03
Zoning District: R-1 (One-Family dwellings on 80,000 square foot lots) District
Total Site Area: 90,087-SF

Location Map



Location Map – The property in question is outlined in red on the Google aerial map above. The site is located on the eastern side of Eagle Ridge Way. Surrounding the site to the north and west are single-family dwellings on larger lots, similar to the subject site.

Photo Survey



Photo 1: View of the subject property located at 40 Eagle Ridge Way. Pictured here is the view of the front of the site from the west on Eagle Ridge Way.



Photo 2: View of the rear of the subject property showing the rear elevation of the dwelling and the pool and pool house off to the right of the frame.



Photo 3: View of the pool house at the rear of the dwelling.



Photo 4: View of the area on the northern side of the pool and pool house.



Photo 5: View looking south from the rear yard.

Planning Considerations

The subject site is located within the **R-1 (One-Family dwellings on 80,000 square foot lots) District**. Among the permitted principal uses in this district are:

Permitted Principal Uses

- One family, detached dwelling
- Water reservoir, well tower, filter bed
- Federal, state, county or township building
- Golf course and golf club house
- Farm, nursery, greenhouse and similar uses
- Hospital

Accessory Uses

- Required accessory parking
- Private garage
- Horticultural or agricultural building
- Customary accessory building or structure
- Private swimming pool
- Private recreation facility
- Home occupation
- Home professional office
- Signs
- Fences and dividing walls
- Farm produce stand for produce grown on premises
- Private storage shed
- Greenhouses

Conditional Uses

- Commercial recreation
- Public school
- Private school
- Library
- Museum
- Park or playground
- Public utility building or structure
- Telephone exchange
- Private club, other than a golf club
- House of worship

Pursuant to the Township of West Orange Zoning Ordinance **§25-7.1, Part A: Permitted Uses**, the existing one-family detached dwelling and accessory pool and pool house on the subject site are permitted in the R-1 District. The chart below has been created to identify bulk deficiencies.

Required Standard	Permitted	Proposed	Variance Required
Use	One-Family Detached Dwelling	One-Family Detached Dwelling	No
Min. Lot Area	80,000-SF	90,087-SF	No
Min. Lot Area per Unit	80,000-SF	79,170-SF	No*
Min. Lot Width	150-Feet	253.5-Feet	No
Min. Front Yard	40-Feet	69.3-Feet	No
Min. Side Yard Setback	25-Feet (Each Side)	North Side: 25.3-Feet South Side: 50.9-Feet	No No



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Min. Rear Yard Setback	50-Feet	184.6-Feet	No
Max. Building Coverage	20%	9.68%	No
Max. Lot Coverage	30%	24.08%	No
Max. Fence Height	4-Feet	>6-feet	Yes

Note: * - Existing Non-conforming condition

In addition to the above standards for the R-1 District, pursuant to Township of West Orange Zoning Ordinance **§25-5**, the proposed development is subject to the following supplemental provisions.

Supplemental Standard	Permitted	Proposed	Variance Required
Min. Side Yard For private Swimming Pools	25-Feet	25.3-Feet	No
Min. Rear Yard Setback For private Swimming Pools	10-Feet	99.5-Feet	No
Min. Distance Between Accessory and Principal Buildings	15-Feet	34-Feet	No
Max. Height of Accessory Building (Stories / Feet)	1.5 / 15	1.5 / 15	No
Max. Rear Yard Coverage of Accessory Building	33.33%	5.13%	No

Standards for Granting Variance Relief

C - (Bulk) Variances

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c sets forth the standards for variances from the bulk regulations of a zoning ordinance.

C(1) Variance - The Board must find that there is either undue hardship or practical hardship with the strict application of the zoning requirements as stipulated in the Zoning & Land Use Regulations, as a result of:

- a) exceptional narrowness, shallowness or shape of a specific 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.

C(2) Variance - The Board must find that the proposed deviation from the Zoning & Land Use Regulations will advance the purposes of the MLUL and that the variance can be granted without substantial detriment to the public good, that the benefits of the deviation would substantially outweigh any detriment. The benefits identified in granting a C(2) variance must include benefits to the community as a whole, not only the applicant or the property owner. Here too, the Board must be satisfied that the variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance" of the Township.

Planner's Comments

The applicant proposes to undertake site work on a lot with an existing one-family dwelling. The proposed site work includes the installation of a subsurface chamber infiltration basin in the rear yard, as an enhancement to a previously approved stormwater seepage pit detention system. The proposed subsurface detention system will also allow for the enlargement of the surface area of collection for the yard. Additionally, the proposed scope of work will include the repair of an existing boulder wall at the rear of the property, as well as landscaping.

As indicated in the project description above, the applicant indicates in their application proposal that the existing boulder wall at the rear of the site was "overbuilt," in the process of installing the stormwater management system. **This wall was constructed to a height in excess of 6-feet with no permit or other approvals, for which a violation notice was issued.**

Further, the applicant provides no details of this walls on their plans, including the height, composition and construction details. In my opinion, it is not possible for the Board to fully assess this wall, without the necessary construction detail, **which is not provided as part of**

the application. To that end, the applicant should provide details of the proposed boulder wall, including construction details and the proposed finished height. The applicant should insure that this wall complies with the required standards pursuant to Township of West Orange Zoning Ordinance §25-8.4a or provide justification for a variance to permit the deviation from the required standard.

In their application, the applicant has chronicled the process which led to the subject application for major site plan approval. Based on the information provided, the installation of an accessory pool and pool house were both previously approved for development on the site. However, in the process of installing the required stormwater drainage system, over an acre of the site was disturbed, which triggered the need for Major Site Plan approval, pursuant to the Township's Stormwater Management Regulations. As such, the applicant is before this Board for said review.

The applicant indicates in their application that the previously proposed pool and pool house as well as site landscaping have been completed. **The applicant should provide testimony detailing the status of all work on the site. Testimony should identify what work was completed under previous approvals and what is to be completed under the scope of the current application.**

As noted above, the existing one-family detached dwelling and pool and pool house on the site are permitted as principal and accessory uses. They all conform to the required setbacks and other bulk and design standards.

Recommended Conditions of Approval

Should the Board be inclined to grant the requested variance relief in full or in part, or to approve the accompanying site plan, the following are recommended conditions that should be placed on the approvals.

1. The applicant shall comply with all conditions provided by the Board Engineer.
2. The applicant shall provide details of the proposed boulder wall, including construction details and the proposed finished height. The applicant shall further insure that this wall complies with the required standards pursuant to Township of West Orange Zoning Ordinance **§25-8.4a** or provide justification for a variance to permit the deviation from the standard.
3. The applicant shall provide testimony detailing the overall status of all work on the site. Testimony shall identify what work was completed under previous approvals/permits and what is to be completed under the scope of the current application.

