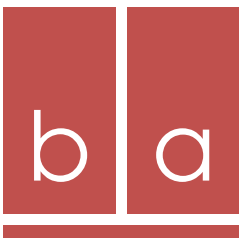


PLANNING REPORT PREPARED FOR THE CSH DEVELOPMENT LLC. ASSISTED LIVING APPLICATION

**TOWNSHIP OF WEST ORANGE
ESSEX COUNTY, NEW JERSEY**

BA# 3804.XX





COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
A S S O C I A T E S , I N C .

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REPORT PREPARED FOR CSH DEVELOPMENT LLC.

TOWNSHIP OF WEST ORANGE,
COUNTY OF ESSEX, STATE OF NEW JERSEY

PREPARED FOR CSH DEVELOPMENT LLC ASSISTED LIVING APPLICATION INCLUDING USE AND BULK
VARIANCES TO THE TOWNSHIP OF WEST ORANGE BOARD OF ADJUSTMENT.
BA #3804.XX

The original document was appropriately signed and sealed on March 10, 2021 in accordance with NJSA 13:41-1.2 of the State Board of Professional Planners.

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INTRODUCTION

Burgis Associates, Inc. ("Burgis") has been retained by CSH Development LLC. ("CSH") to prepare this planning report concerning Block 152.22 Lot 1412.01 ("Site" or "Property"). This report presents a planning analysis and conclusions regarding a development proposal submitted by CSH for an assisted living facility. Also known as 609 Eagle Rock Avenue, this 2.53-acre property is within the B-2 General business Zoning District. The applicant seeks approval to demolish the former Atrium catering and banquet facility occupying the Site and, in its place, construct a new assisted living facility. The application is directed to the Zoning Board of Adjustment as the B-2 General Business Zoning District does not permit the development of assisted living housing.

This report is segmented into various sections. The first section provides a description of the site and surrounding area. The following section presents information regarding the West Orange Master Plan and zoning regulations applicable to this development. The next section identifies the statutory provisions for a use variance for this development and how the proposed development addresses these requirements. The report concludes with an identification of the basis for the grant of the use and related bulk variances and the manner in which this application affirms the statutory criteria for variance relief.

In summary, the analysis reveals there are Special Reasons that support this development application. First, the proposed development is inherently beneficial. That designation demonstrates that Special Reasons exist for the grant of the variance. Additionally, the proposed development will remove an older vacant building from the site and introduce an inherently beneficial land use that is both complementary and is compatible with the community's land use pattern, enhancing the general neighborhood through the construction of a modern and attractive senior assisted living housing development. The analysis will also reveal the development application affirms the multiple part Sica balancing test which will be described in greater detail later in this report.

SITE CONDITIONS AND SURROUNDING LAND USE

PROPERTY DESCRIPTION

The Site is comprised of one property, 609 Eagle Rock Avenue, located on the northerly side of Eagle Rock Avenue opposite Mann Avenue and approximately 200 feet west of Forest Avenue. The site is identified on the West Orange tax map as Block 152.22 Lot 1412.01 and is a 2.53-acre lot with 502 feet of frontage along Eagle Rock Avenue. There are two existing driveways to Eagle Rock Avenue, one on the easterly portion of the property and one on the westerly terminus of the property adjacent to lot 1412.04. Turf and landscaping are dominant features along the front yard.

The property is currently developed with a former catering and banquet facility known as the Atrium Country Club, containing off-street parking on the westerly and easterly portions of the property and is currently vacant. According to tax assessment records, the building on this site was constructed over 40 years ago. The existing building is a one-story masonry and steel building designed to respond to, and reflect, the needs of the facility. The building is showing signs of requiring significant maintenance due to being vacant since August of 2017. Accessory structures are also located on the property including a raised outdoor terrace for events, a gazebo, shed and on the westerly side of the principal building.

The subject Site and immediate area are depicted on the following image.



Source: NJ-Geoweb, aerial 2015.

LOCATIONAL CONTEXT

The site fronts Eagle Rock Avenue which is a four-lane Essex County roadway (Route 611), providing regional travel in an east and west direction. The avenue is a sloping downhill from east to west and straight in the vicinity of the Site. Curb and sidewalk are installed on both sides of the street. The posted speed limit is 30 MPH. On-street parking is not permitted on this roadway and there are bus stops in the immediate vicinity served by NJ Transit and the commuter shuttle bus routes. The avenue enables access to the locally developed retail in the area known as "Pleasantdale", at the intersection of Eagle Rock Avenue and Pleasant Valley Way approximately 900 feet from the subject property.

The following aerial provides an overview of the Site, with zoning and the adjacent developed conditions.



Source: NJ-Geoweb, aerial 2015.and Township Zoning Map

The adjacent land uses along the Eagle Rock Avenue corridor are characterized as mixed commercial and residential. Immediately south of the subject Site, is a mixture of single family residential and some commercial properties east of Mann Avenue residing in the R-5 Zone. From Mann Avenue to the west are commercial properties in the B-2 General Business Zone. Immediately to east of the subject property, is a commercial property developed with a 2 ½ story professional office building in the B-2 Zone, the next lot to the east is a 2 family residential property followed by single family homes in the R-5 zone fronting the intersection of Forest Avenue and Eagle Rock Avenue. To the west of the subject Site, is a lot developed with a parking area in the R-C Zone district with a one-story commercial building to the west of this lot in the B-2 Zone. To the north of the Site is the Forest Creek Townhome development served by Waldeck Court located in the R-C Residential Cluster Zone.

PROPOSED DEVELOPMENT OVERVIEW

The application is for an assisted living facility containing a mix of studio, one-bedroom and two-bedroom units, 85 total in all within a three-story structure. In addition to the units, the proposed building will contain administrative offices, kitchen and related facilities. Additionally, there are several amenity rooms provided including dining areas, club, discovery, theater, multipurpose, a sports lounge and recreation rooms. The site will also be developed with several outdoor amenities including an outdoor patio, court yards, pergola style shade structure and an onsite pedestrian walk. The site will also contain a carport drop-off area, at total of 51 off street parking spaces with 4 spaces reserved for handicap individuals, an emergency generator, landscaping and lighting improvements.

The proposed units are designated as Assisted Living (AL) and Memory Care (MC) units. The Memory Care units will be only on the first floor of the building. The following provides a breakdown of the units proposed:

Table:1 Unit Distribution

Floor	MC Studio	MC 2-bedroom	AL Studio	AL 1-Bedroom	AL 2-bedroom	Total
First Floor	17	5	-	3	-	25
Second Floor	-	-	10	15	5	30
Third Floor	-	-	12	14	4	30
Total	17	5	22	32	9	85

Source Meyer Architectural Plans dated 3/11/21

Assisted living facilities are defined in the Township Chapter 25 land use Regulations in section 25-4 as:

Shall mean a facility which is licensed by the State of New Jersey, as an Assisted Living Facility, to provide apartment style housing and congregate dining and to assure that assisted living services are available when needed, for four or more adult persons unrelated to the proprietor. Apartment units offer at a minimum, one furnished room, a private bathroom, a kitchenette without a stove, and a lockable door on the unit entrance.

In addition, the NJ State Department of Human Services, Division of Aging Services further defines Assisted Living as follows:

ASSISTED LIVING RESIDENCES (ALR) are licensed by the Department of Health. These are community-based facilities offering a special mix of housing, personalized support services, and health care designed to promote maximum independence and dignity for each resident. Staff is available 24 hours a day. These facilities promote "aging in place." These facilities have apartment-style housing, rooms, and congregate dining. Assisted living services are available when needed. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance. These facilities may also provide rooms, three meals per day, personal assistance, 24-hour security, recreation

activities, and some may provide supervision of medication and limited health services. Rooms and baths may be either private or shared. These facilities can be either private or Medicaid providers.

Assisted living facilities are licensed by the State of New Jersey which issues a "certificate of need." Based upon regional need. The issuance of a certificate is significant to this application as it demonstrates a "need" for this facility and supports the criteria of a use variance application (as noted herein).

ZONING ANALYSIS

The following provides an analysis of the Township of West Orange zoning and related development standards and a comparison to the proposed application submitted for Board approval and where the proposed application seeks relief from the applicable standards.

Permitted Uses. The site is located in B-2 General Business Zone District. The purpose of this zone as identified as the general business district. The permitted uses and bulk standards are outlined below:

Table:2 B-2 Zone Permitted Uses

<u>Principal Uses:</u>	<u>Conditional Uses (Same as B-1 Zone):</u>
Retail store	Motor vehicle fueling station
Personal service store or studio	Theater
Office or office building	Public utility building or structure
Business or vocational school	Telephone exchange
Restaurant, Bar	Senior citizens housing project
Massage, bodywork or somatic therapy establishment	Hotel
Fitness center/health club	Private club, other than a golf club
	Video or amusement arcade
	Fast food restaurant
	Commercial antenna
	Microbreweries, craft distilleries and wineries

(Source: §25-7.1)

While senior housing is noted as a permitted conditional use, an assisted living facility is not noted as a permitted use therefor variance relief is being sought for this application.

Accessory Uses: (Same as the OB-1 Zone §25-7.1): Required accessory parking, signs and vending machines. The application complies with these regulations.

Special use provisions:

1. The regulations contained in §25-8.12. a. regarding principal uses stipulates the following:

No more than one principal use upon any single lot, except in the B-1 and B-2 Districts, residential uses shall be permitted on the second floor or above in a building which has a permitted commercial or retail use on the first floor.

We offer this standard is not applicable to this application since it is subsumed in the use variance application for an assisted living application.

Bulk Standard Analysis: The following is a comparative analysis of the existing zone bulk requirements in comparison to the existing developed site conditions and the proposed conditions as an assisted living facility.

Table:3 Bulk Criteria Analysis

Zone Criteria	B-2 General Business	Existing	Proposed
Min. Req. Lot Area (sf.)	10,000 (0.23 ac)	110,003 (2.53 ac)	110,003 (2.53 ac)
Min. Lot Width (ft)	N/S	476.5	476.5
Min. Req. Front Yard Setback (ft.)	30	12.3 (E)	33.0
Min. Req. Side Yard (ft.)	10	141.4	66.0
Min. Req. Rear Yard (ft.)	30	71.2	55.2
Maximum Building Coverage (%)	40	15.3 (15,000 sf)	27.0 (29,726 sf)
Max. Impervious Coverage (%)	60	83.0 (91,249 sf)	62.8 (74,979 sf) (V)
Maximum Building Height (stories/ft)	2 ½, 35	1	3, 38.33 (V)
Min. Req. Buffer: B-2 to Residential (ft.) (§25-11.3.a.)*	50	3 +/- (E)	Varies 5 to 30 +/- (V)

Source: §25-7.1, or as noted.

* Along any side or rear property line which is also the boundary line between a nonresidential district and a residential district or is contiguous to a residential use in a residential zone, a buffer strip shall be planted and maintained in perpetuity with trees and shrubbery of such sizes and densities as to adequately screen the buildings from such abutting residential district or use in a residential zone. The required buffer width shall be 50 feet in all nonresidential zones.

Parking requirements of ordinance: The regulations contained in §25-12.2. a.1. identify parking standards for the use as noted below although in accordance with N.J.A.C. 5:21-1.5 of the Residential Site Improvement Standards (R.S.I.S.), by statute shall apply and replace the applicable municipal standards.

Township Standards as contained in §25-12.2. b.1.

Assisted Living: 1.00/ bed

R.S.I.S. Standards as contained in N.J.A.C. 5:21-1.5:

Assisted living 0.50 / dwelling unit

The proposed assisted living facility will contain 100 beds in 85 units therefore it is noted that the Township standards would require 100 parking spaces. It is noted for the Board, the New Jersey R.S.I.S. standards contained

in N.J.A.C. 5:21-4.14-Table 4.4 requires 0.50 spaces per unit or 43 spaces. This regulation establishes that the proposed 51 parking spaces proposed comply with the R.S.I.S. standards and no variance is required.

The following additional provision of the regulations apply to the proposed application.

1. Off street parking in the B-2 District parking is permitted only in the side or rear yard only (§25-12.1. I.). The proposal includes parking in the required front yard setback. It is noted the existing facility as developed includes parking in the front yard setback.
2. The parking standards also stipulate that each entrance or exit from a parking area shall be at least 50 feet from any residential district. The proposed single entrance drive complies with this requirement.

Loading requirements: The following loading standards apply to the proposed application since deliveries are needed at the facility.

In all districts for every building or part thereof, which is to be occupied by manufacturing storage, goods, display, wholesale store or warehouse, market, hospital, laundry, dry cleaning or other use similarly requiring the receipt of distribution in vehicles of materials or merchandise, there shall be provided and maintained of the same premises with such buildings, off-street loading spaces.

<u>Building Area</u>	<u>Required Loading Spaces</u>
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Thirty thousand to 100,000 square feet	3 spaces.
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The proposed assisted living facility includes one loading and delivery area on the northerly side of the facility therefore is applying for relief from the 3 spaces required. Testimony will be provided to indicate that such a facility does not need 3 loading spaces.

Fence standards. The following standards regarding fences contained in §25-8.4 are applicable to the proposed application.

1. *In all nonresidential districts, fences or walls not exceeding six feet in height shall be permitted in the side and rear yards provided the fence or wall is not closer than five feet at any point to a principal building in a residential district (§25-8.4 c.).*

The proposal complies with this standard.

2. *In all nonresidential districts, a fence or wall to be used for screening may not exceed six feet in height (§25-8.4 d.).*

The proposed fencing complies with this standard.

Sign standards: The following sign regulations apply to the GB Zone and compliance of the proposed monument sign. While a building mounted sign is permitted, there is no building mounted sign is proposed at this time.

Table:4 Sign Criteria Analysis

Sign Criteria	B-2 Criteria	Proposed
Max. Number of Freestanding	1	1
Min. Setbacks-Front Lot Line (ft.)	10	10
Min. Setback Side Lot Line (ft.)	25	169.2
Max Area (sf.)	50	50
Height: Min, Max (ft.)	2, 8	8
Max. Width: Includ. support (ft.)	6	6

Source: §25-15.3.c.2.(d).

CONSISTENCY TO OTHER PLANS

TOWNSHIP OF WEST ORANGE MASTER PLAN

To review the applicable policies and objectives provided by the Master Plan of The Township, we reviewed the most recent report titled the "2019 Re-examination Report and Plan Element Amendments" as prepared by the Planning Board and for purposes of reviewing the Land Use Plan we reviewed the 1989 Master Plan. The recent 2019 re-examination report presented the most up to date framework for purposes of the review of the relative objectives and policies applicable to this application. The 2019 report provided an overview of the goals and objectives as established in the 2010 Master Plan. A number of the objectives and recommendations of the plan were found to be relevant to the proposed application for review and consideration as follows:

2019 Major Plan Objectives:

1. *Promote a Desirable Visual Environment.*
2. *Encourage Economic Development, Redevelopment and Rehabilitation in Downtown and Other Commercial Areas That Is Compatible with the Character of the Township.*
3. *Provide for the Housing Needs of Senior Citizens and Low and Moderate Income Households.*

2019 Master Plan Principles:

1. ***Encourage Appropriate Residential Development:** Appropriate residential development" can vary in different locations and contexts throughout the Township. In particular, mixed-use development that includes multifamily residential is appropriate in various commercial districts and other developed locations in the Township, while neighborhoods comprised of single-family detached housing at lower densities should remain unchanged, while allowing for upgrading of the housing stock. **Higher density multifamily residential development is also appropriate in limited locations adequately served by transit stations, transportation networks and other infrastructure. Senior and specialized housing options should be supported as well, as long***

as potential development impacts are addressed. This principle should not be construed, however, as supporting increased densities and out-of-scale development in established residential neighborhoods.

2. Properly Locate Public, Commercial/Retail, Industrial, Residential and Service Uses. *The Master Plan should continue to emphasize the need to locate public, commercial/retail, industrial, **residential and service uses at sites and locations which are suitable for their use environmentally, economically, and geographically, and can be adequately serviced by public infrastructure***
3. Maintain the Appropriate Scale of the Community. *While in many locations keeping existing development patterns intact is appropriate, **there are instances where redevelopment may involve larger buildings** and/or other more intensive development. There are locations in West Orange that have experienced changes in population density and development patterns. Some of these areas will continue to change to meet the diversity of demand and trends in commercial and residential development, such as transit oriented and mixed-use development. In such cases, potential development impacts should be mitigated through appropriate site and building design.*

2019 Master Plan Recommendations for Land Use Regulations Ordinance

1. *Support land uses and development design that **promote “aging in place” for older adults**, and undertake other measures that support the Township's Senior Livability Initiative.*

2019 Master Plan- Economic Development

1. *Provide for a **range of appropriate housing types and sizes**.*

1989 Land Use Plan

The 1989 Land Use Plan Map (Figure 15), places this site in the B-2 General Business District for commercial use.

STATE STRATEGIC PLAN

The State Strategic Plan identifies areas near mass transit as a valuable resource. The Plan identifies the potential of these areas to provide concentrations of jobs, housing, retail and institutional development. As noted earlier in this report, bus and shuttle transit is available along the Eagle Rock Avenue corridor. The State supports the coordination of public and private partnerships to achieve this end. An integral part of this strategy is to provide investment in areas that are compact, conserve land and offer shopping and services within convenient walking distance of home and jobs. The proposed redevelopment of the Site along this developed corridor is one that is consistent with the State Strategic Plan.

PLANNING RATIONALE FOR USE VARIANCE RELIEF

The application seeks a use variance under N.J.S.A. 40:55D-70-d (1) for approval to construct the assisted living facility in the B-2 General Business Zone. While the B-2 Zone permits senior citizen housing as a conditional use, the zone does not include an assisted living residence as a specific permitted use. The proposed use seeks to satisfy a housing need that is unique to a targeted age group that benefits the community. The population to be served are elderly senior citizens who range from being able to care for themselves and enjoy some level of independence but require varying levels of assistance with their daily routines. Additionally, the facility provides on the first floor, a specialized area wherein those who may require what is termed "memory care" is also provided.

This type of housing arrangement also offers an opportunity for seniors to "age in place" in a community. Aging in place is a planning term wherein housing choices are provided to an aging demographic whose housing needs have changed through the course of their lifecycle where they no longer require the traditional single-family home and whose space or care needs have changed. Therefore, in our opinion, the proposed use is the type of use contemplated by the definition of "inherently beneficial use" in the Municipal Land Use Law (MLUL).

The specific framework for reviewing an assisted living facility as an inherently beneficial use, is based in the Sunrise Development, Inc. v. Zoning Board of Adjustment of the Borough of Madison et al decided by the Appellate Division in 1999. This case is the legal basis establishing that housing for the elderly as an assisted living facility is an inherently beneficial use of high priority. Subsequently and further relevant to this analysis, the Municipal Land Use Law in 2000 was amended wherein a definition of "inherently beneficial use" was revised (N.J.S.A. 40:55D-4):

"a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such uses include, but are not limited to, a hospital, school, childcare center, group home or a wind, solar or photovoltaic energy facility or structure."

The definition provides references to specific named uses although it also notes these are "not limited to" such uses but uses which are "universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare". We offer to the Board that an assisted living facility is of the highest order as identified in applicable case law as serving the public good and promoting the general welfare by the offering assisted living to seniors who need such important housing options and services in the community at large.

A use variance for a use which is inherently beneficial, is determined to have provided and satisfied the positive criteria under the proof required by a use variance under N.J.S.A. 40:55D-70-d(1). The use in these circumstances is required further review under the case of Sica v. Board of Adjustment of the Township of Wall, 127 N.J. 152 (1992). This case established the following four-part balancing test that a Board shall use in evaluating the negative criteria for an inherently beneficial use:

1. Evaluate the public interest served by the inherently beneficial use;
2. Identify any adverse consequences of granting the variance;
3. Consider what conditions might be imposed to mitigate the adverse consequences; and
4. Finally, to balance the public interest in granting the variance versus the adverse impact, as lessened by any conditions imposed by this Board, and determine whether, on balance, there would be substantial detriment to the public good if the variance was granted. Only if the detriment is substantial, can a Board deny such a variance.

Further, because inherently beneficial uses presumptively meet the positive criteria, a site suitability test is deemed unnecessary. The inherently beneficial use status is the "special reason."

The following are our findings relative to this four-part test offered for the Board's consideration:

(1) Public interest to be served.

Care of sick, infirm, and elderly is very high public interest among inherently beneficial uses. When a use also requires a showing of need, such as a hospital, nursing home or in this case an assisted living facility, such uses are recognized as a high order use. The proposed facility if approved by the Board of Adjustment, will be submitting for a Certificate of Need from the New Jersey State Department of Human Services, Division of Aging Services. This is important as it will certify that New Jersey acknowledges the need for this facility. This high order classification of inherently beneficial is specifically critical when reviewing the balancing if a use is determined to include any detriments and if such detriments are determined to be substantial or not, in the analysis of the negative criteria under step 4 of this test.

(2) Adverse consequences of granting the variance and (3) consideration of what conditions might be imposed to mitigate the adverse consequences.

Physically, the proposal will replace the existing catering banquet hall with a new assisted living facility and related parking and site amenities. The assisted living residence is a use not contemplated in the zone and commonly when not anticipated, at issue can be the increase in intensity of use as it relates to traffic or other inherent activities. The loss of a commercial use on this lot can also be a concern along with the proposed building exceeding the maximum height and number of stories in the zone. Additionally, the proposal, while being less than the existing amount of total impervious cover, exceeds the maximum permitted of 60 percent of the site by 8.2 percent.

It is noted for the Board's consideration from a land use perspective, assisted living facilities are a modern use serving a specific niche in housing between age restricted senior housing (conditionally permitted in the B-2 zone), and a nursing home use. This form of living is compatible with the B-2 zoning by placing such a use with adequate setbacks, that is adjacent to goods and services. Additionally, as noted in the traffic study submitted with this application, there is a evidence that vehicular access from this use will not have a significant impact on traffic circulation due to minimal vehicular activity from this use. In addition, Eagle Rock Avenue provides access to a

county thorofare including mass transit opportunities provided by NJ Transit bus routes and municipal shuttle services for employees and visitors. Finally, the inclusion of such a use would serve as a transitional residential use between the adjacent residential uses permitted in the R-C and R-5 zones which border the site and the more intensive commercial areas in the B-2 zone.

The building exceeds the height permitted in the zone of 35 feet with a new facility at 38.33 feet or by 3 feet 4 inches. We note for the Board's consideration, the increase in height will be minimal at 3 feet 4 inches over the maximum permitted and will not have a substantial impact on the intent on this regulation in consideration of the proposed arrangement and design of the building. The architectural features proposed include the arrangement of façade materials along with the upper floor configuration as a mansard roof feature covering the third floor. A mansard roof is an architectural element visually mitigating the perceived height of the structure by placing the third floor in a roof area of the building. Additionally, the proposed structure will meet or exceed the minimum setback and maximum building coverage requirements in the zone providing the intended light air and open space.

The proposal will reduce the amount of existing impervious coverage from 83 percent or 91,249 square feet to 68.2 percent 74,979 square feet for a reduction of 16,270 square feet. This reduced amount of total lot coverage is significant permitting improved stormwater infiltration thereby providing mitigation of the existing level of non-conforming coverage. When combined with improvements to the proposed drainage design and enhanced landscaping buffering, it offers an opportunity to reduce runoff and enhance the visual environment of the site and the surroundings.

(4) Balance the public interest in granting the variance versus the adverse impact, as lessened by any conditions imposed by this Board, and determine whether, on balance, there would be substantial detriment to the public good if the variance was granted.

The design of the proposed plan provides several features when combined with any subsequent conditions imposed by the Board during plan review, to provide a basis wherein there would not be a substantial detriment to the public good if the variance deviations were granted. Specifically, the use would help to serve the public good by providing an inherently beneficial use, the use could operate at this facility serving this need with adequate safety, light air and open space while providing a transitional use to the surroundings. The building architecture detailing include mitigating factors for the minimal deviation in height and the level of lot coverage is an improvement over the existing level of coverage along with the other stated aesthetic improvements, enhance the property and do not provide what can be termed as "significant" detrimental impacts to the zone plan standards.

PLANNING RATIONALE FOR BULK VARIANCE RELIEF

The proposal while requiring a use variance also includes several classified bulk variances. While the bulk variance items are often subsumed in the review of the use variance since the use is not contemplated, a review and analysis in support of the bulk variances is also provided herein. This analysis is offered using the flexible c-variance proofs under N.J.S.A. 40:55D-70 (c) 2., where the benefits of the proposal substantially outweigh the impacts by the review of the positive and negative criteria under the statutory requirements. The following summarizes the proposed variances including addressing the negative criteria with the positive criteria preceding this review since they are furthered in totality by the proposal.

Building height variance relief. As previously noted, the proposal includes a variance for building height relief for 38.33 feet and 3-stories whereas 35 feet 2 ½ stories are permitted.

It is offered for the Board of Adjustment; the proposal provides the following benefits:

1. More efficient arrangement of the building floor plate based on patient needs. Specifically, with three stories there are shorter corridors for quick access and reduced walking distances and time to provide services.
2. The proposed building is near another three-story office building in the vicinity of the site located at 622 Eagle Rock Avenue in context with the subject property thereby not introducing something new and discordant to the immediate neighborhood.
3. It is noted where permitted in the R-2 Zone, an assisted living facility is permitted at 37 feet, 8 inches and 3-stories, therefore the proposal is not out of context with the massing contemplated where the use is permitted. Finally, as noted previously, the architectural features proposed offer elements that further mitigate the effects of this deviation.

The proposed building height under the analysis of the negative criteria, would not substantially impair the intent and purpose of the zoning ordinance or zone plan since the relief would maintain adequate light, air and open space. The visual bulk of the structure would be nearly imperceptible, not out of context with the immediate neighborhood and offset by the proposed architectural detailing as noted herein with adequate setbacks from adjacent properties.

Buffer variance relief. The proposal requires variance relief from §25-11.3 a. wherein it is required:

In addition to the setback requirements listed in Subsection 25-7.1 of the Table of District Regulations, along any side or rear property line which is also the boundary line between a nonresidential district and a residential district or is contiguous to a residential use in a residential zone, a buffer strip shall be planted and maintained in perpetuity with trees and shrubbery of such sizes and densities as to adequately screen the buildings from such abutting residential district or use in a residential zone. The required buffer width shall be 50 feet in all nonresidential zones. These requirements shall also apply to a residential subdivision or site

plan on a property that is 10 acres or greater in area, as well as to any residential use permitted by use variance in a nonresidential zone.

A landscape buffer is therefore required in the B-2 zone along the rear property line where the R-C zone borders the rear property line coincident with the adjacent townhome development. The buffer width required is 50 feet and the proposal include various improvements placed minimally 5 feet for the pedestrian sidewalk loop. Additionally, a shade structure and some patio areas for residents along with some vehicular parking and circulation also are proposed in the buffer area.

It is relevant to note at this property, parking and circulation roadways at approximately 3 to 4 feet exist from the rear property line along most of the common lot line. Additionally, the common lot line between the proposal and the adjacent townhome development is currently planted with a row of well-formed evergreen trees of substantial height. These trees offer considerable buffering which inherently provide a significant degree of the intended purpose of this requirement.

The proposal seeks this variance to allow for these improvements at varying offsets from the property line. Additional landscape area is being added in areas that do not exist currently, thereby further improving the screening. Landscaping will be added to supplement the existing evergreen trees where needed to enhance these conditions except for where improvements are proposed for the emergency access drive. This emergency access drive will be constructed with grass pavers to allow vehicular access while reducing impervious cover and their visual impact while maintain the existing access to the adjacent private drive known as Waldeck Court.

The proposed principal building location along the rear of the property will be 55 feet at its closest point from the common lot line thereby respecting the physical distance that would be intended by the buffer. The accessory structures proposed in this buffer consist of a one-story open shade structure along the pedestrian path and the proposed 6-foot-high enclosed refuse enclosure at the north easterly corner of the property. The refuse enclosure will be constructed of masonry on three sides and equipped with gates which will contain and screen the proposed enclosure. The proposed pergola is a common residential feature and is open on four sides not representing a negative visual impact to the adjacent residential use. The accessory uses proposed also include an outdoor courtyard and patio space. These areas are outdoor amenities for the residential development also common in a residential setting. It is noteworthy these improvements are adjacent to the cul-de-sac area of Waldeck Court and the front and side elevations of the nearest townhomes. This arrangement presents a compatible relationship to the existing conditions on the adjacent residential property thereby further minimizing any negative impacts from this variance relief.

The proposed access drive to the rear of the building and some of the proposed northeasterly parking area will also overlap portions of the required buffer area. We note the access drive is to be used periodically primarily during daytime for service and delivery needs. The drive and parking are adjacent to the area of existing buffering and the proposed landscaping is intended to provide further evergreen and deciduous planting that will help screen these improvements. Additionally, the parking area in the buffer accounts for approximately 3 spaces and

is arranged such that vehicles parking will be parallel to the common lot line and at the end of a row of parking minimizing the potential for impacts from the majority of the parking area.

The proposed buffer relief sought under the above noted analysis of the negative criteria, would not substantially impair the intent and purpose of this zoning requirement or zone plan in summary for the following reasons:

1. The area would maintain and further enhance with added landscaping, the noteworthy existing landscaping along this common lot line advancing the intent of the proposed requirement. In fact, the added pervious area to be created adjacent to this existing landscaping will help to improve the growing conditions by allowing more rooting area for this buffer compared to existing conditions.
2. The proposal enables considerable improvement to the existing non-conforming conditions of the 3 to 4-foot setback of the existing parking and vehicular circulation areas. Where proposed, the parking and circulation drives are setback 25 to 30 feet providing a significant improvement to the existing conditions.
3. The proposed setback of the building from the rear lot line minimally at 55 feet, furthers the intent of this standard by maintain the physical offset to the bulk of the principal building. The accessory structures proposed are less than one story and are either residential in character or are supplemented with additional screening features with landscaping to buffer them.
4. These proposed outdoor amenities for the residential development are common in a residential setting and will be in areas proximate to the adjacent cul-de-sac area of Waldeck Court. These features and arrangements mitigate their potential impact thereby maintaining the intent and purpose of the buffer.

Maximum total impervious cover variance relief. The proposal requires variance relief from §25-7.1. wherein a maximum of 60 percent is required, 83 percent exists, and 68.2 percent is proposed. The common intention of this standard is limit runoff with the benefit of greater infiltration while providing open space or green area on a property to mitigate the effects of the parking and buildings. These intentions are being furthered by the following considerations:

1. The reduction of impervious cover from existing developed conditions by 16,270 square feet. thereby permitting greater infiltration of stormwater.
2. The proposal is making considerable improvement to the management of runoff by the improvements to the proposed-on site stormwater management system.
3. The proposal includes landscape areas distributed throughout the property to break up the parking areas provide buffering and establish an aesthetically pleasing visual environment as viewed from points offsite. This landscaping includes additional shade and evergreen trees to provide shade and screening of the areas of parking and building massing.

Therefore, it is offered the variance relief will not have a substantial impact on the intent and purpose of these regulations nor the intentions of the zone plan.

Parking in the required front yard variance relief. The proposal requires variance relief from §25-12.1 I. wherein parking in the B-2 Zone is not permitted in the 30-foot front yard. The common intention of this standard is to minimize the image of large expanses of parking and building setback away from the street. These intentions are being furthered by the following considerations

1. It is relevant to note that the pre-existing parking area on site contains approximately 36 spaces in the front yard setback. The proposal will contain approximately 12 parking spaces in the front yard setback seeking to minimize this impact although is not able to fully comply due to the long frontage of the property and needs of parking distribution on site. This condition is not uncommon along the B-2 corridor and not introducing an arrangement that is discordant to the immediate neighborhood.
2. The building is setback at 33 feet whereas 30 feet is required supporting the intention of buildings relationship to a front yard and minimizing the effect of the parking area.
3. The design seeks to further minimize this impact by arranging most of the parking perpendicular away from the front yard setback.
4. Sufficient area is being provided for landscaping to offset the and screen the parking and the visual effect on the Eagle Rock Avenue streetscape.

Therefore, it is offered the variance relief will not have a substantial impact on the intent and purpose of these regulations.

Loading requirement variance relief. The proposal requires variance relief from §25-12.3. wherein 3 loading spaces are required for a building of this size whereas one is provided. The common intention of this standard is to ensure sufficient loading and unloading is accommodated for buildings of certain sizes. These intentions are being furthered by the following considerations

1. Testimony will be provided to substantiate that this facility only requires the need of a single loading area. The addition of another two loading areas would be excess pavement for an area that is not be needed.

Therefore, it is offered the variance relief will not have a substantial impact on the intent and purpose of these regulations.

Summary of the positive criteria by the identification of the purposes of zoning served by the proposal. The variances in the proposed site arrangement and design would collectively further the following purposes of zoning as provided for under N.J.S.A. 40:55D-2 as follows:

1. Purpose "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.*

The proposal seeks to establish an assisted living facility for senior housing with an appropriate development arrangement promoting the public health, safety, morals, and general welfare.

2. Purpose "c": *To provide adequate light, air and open space.*

The building will not exceed the permitted level of building coverage and the site arrangement will reduce the total site coverage on the property from existing conditions. The proposal includes adequate setbacks and site landscape improvements to improve these conditions collectively providing the intentions of adequate light air and open space.

3. Purpose "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.*

The proposal seeks to promote an assisted living facility at an appropriate development concentration as evidenced by the compliance with the majority of B-2 zoning controls, reducing the amount of impervious cover on the property while locating such development at a location that is served by a regional county roadway.

4. Purpose "i": *To promote a desirable visual environment through creative development techniques and good civic design and arrangement.*

The proposal would further this purpose by the site arrangement and design including compliance with setbacks, the various building design features and related aesthetic site improvements.

Summary of the proposal's relationship to the Townships relevant goals and objectives of the Master Plan. The following provides a review of the relative sections of the Master Plan:

2019 Major Plan Objectives:

1. Promotion a Desirable Visual Environment. This is furthered as noted herein by the appropriate site layout and design along with the related design features and additional landscaping.
2. Encourage Economic Development, Redevelopment and Rehabilitation in Downtown and Other Commercial Areas That Is Compatible with the Character of the Township. This is furthered by the economic redevelopment of the subject parcel for the construction of an assisted living facility that would help to serve the needs of Senior Citizens by providing specialized assisted living housing.
3. Provide for the Housing Needs of Senior Citizens and Low and Moderate Income Households. This is clearly provided by the proposal and the required inclusion that such facilities are required by N.J.S.A. 26:2H-1216, wherein 10% of the beds in an assisted living residence be designated as Medicaid beds serving affordable housing needs.

Master Plan Principals:

1. Encourage Appropriate Residential Development: *"Higher density multifamily residential development is also appropriate in limited locations adequately served by transit stations, transportation networks and other infrastructure. Senior and specialized housing options should be supported as well, as long as potential development impacts are addressed. This principle should not be construed, however, as supporting increased densities and out-of-scale development in established residential neighborhoods."*

An assisted living residence at this location would be adequately served by public transit provided by NJ Transit and the municipal shuttle service while being served by existing infrastructure. The specialized housing of an assisted living facility would also promote this principal in a commercial area providing some transitional benefits between commercial and residential neighborhoods.

2. Properly Locate Public, Commercial/Retail, Industrial, Residential and Service Uses. *The Master Plan should continue to emphasize the need to locate public, commercial/retail, industrial, residential and service uses at sites and locations which are suitable for their use environmentally, economically, and geographically, and can be adequately serviced by public infrastructure.*

The proposal would provide such a use at an appropriate location adjacent to goods and services along Eagle Rock Road.

3. Maintain the Appropriate Scale of the Community. *While in many locations keeping existing development patterns intact is appropriate, there are instances where redevelopment may involve larger buildings and/or other more intensive development.*

The proposal while largely following the zoning requirements of the zone, the increase in building height is necessary to provide an efficient building configuration while utilizing appropriate design details that offset the impacts of this relief requested.

2019 Master Plan Recommendations for Land Use Regulations Ordinance

1. *Support land uses and development design that **promote "aging in place" for older adults**, and undertake other measures that support the Township's Senior Livability Initiative*

This intention is being directly addressed by this proposal by providing this specialized assisted housing to address the senior population to allow for "aging in place".

CONCLUSION

The application represents a proposal for the removal of a vacant catering and banquet facility with a new assisted living residential facility. If approved, several pre-existing non-conforming conditions will be improved and specialized care housing to address the needs for seniors in the community will be provided. We offer for the Board's consideration; the use represents an inherently beneficial use that meets the majority of the bulk requirements of the zoning ordinance with some relatively minor deviations from the standards. The deviations as described herein, do not represent a substantial impact to the zone standards and zone plan while furthering several relevant purposes of zoning.