

Franklin Township

Somerset County, New Jersey



DEPARTMENT OF PLANNING AND ZONING

Planning – Zoning – Affordable Housing
Planning Board – Zoning Board of Adjustment

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MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Mark Healey, PP/ AICP
Director of Planning/ Senior Zoning Officer

DATE: November 4, 2021

RE: *Levin Properties, L.P.*– D Use Variances; Preliminary and Final Major Site Plan;
C Variances – 940 Easton Avenue – Block 385 Lot 2.07 (ZBA-21-00019)

As requested, I have reviewed the following documents relative to the above referenced preliminary and final site plan application:

- 25-sheet set of site plans, prepared by Menlo Engineering Associates, dated 8/16/21
- 1-sheet set Truck Movement Plan, prepared by Menlo Engineering Associates, revised 7/16/21
- 6-sheet Partial Topographical and Utility Survey – Rutgers Plaza, prepared by Control Point Associates, Inc. revised 8/6/21
- 14-sheet set of architectural plans, prepared by Minno Wasko, dated 8/12/21

SITE DESCRIPTION

The 27.4-acre site is the “Rutgers Plaza” shopping center property located on the southwest corner of Easton Avenue’s intersection with JFK Boulevard. The site is currently developed with shopping center comprised of 4 buildings: a Burger King with drive-thru (vacant) in the northwest portion of the site; a Stop & Shop supermarket and Chase bank with drive-thru in the northeast portion; a multi-tenant retail building in the southeast portion of the site; and a former K-Mart store in the southwest portion of the site. The site has vehicular access to JFK Boulevard and Easton Avenue. Per the site plan, a total of 1,257 parking spaces exist on the site. Seeley’s Brook and the associated flood hazard runs along the easterly property line.¹

The site is located within the General Business (G-B) zone which permits retail, eating and drinking establishments, office and personal service uses.

¹ The Township’s Stream Corridor Protection ordinance is not applicable to this application since the application does not propose any further encroachment in the direction of the stream.

Nearby land uses consist of a garden apartment and townhouse developments to the south and west of the site on either side of JFK Boulevard; another shopping center to the east fronting Easton Avenue; and a Wendy's fast-food establishment to the north of the site on the opposite side of Easton Avenue.

PROJECT DESCRIPTION

The applicant seeks approval to demolish the former K-Mart building and to construct a 4-story apartment building in its place.

- Proposed apartment building:
 - 4-stories and 47² feet in height in one, roughly "M" shaped building in the location of the former K-Mart
 - 200 apartments consisting of 69 one-bedroom units; 123 two-bedroom units; and 8 three-bedroom units
 - 20% of the units (40 units) would be affordable: 8 one-bedroom units; 24 two-bedroom units; and 8 three-bedroom units³
 - Proposed amenities include: two "courtyard" areas which would include various sitting areas and outdoor pool; a 3,580 square foot storage area in the basement; a 2,950 square foot club room; a 1,930 square foot fitness area; two entrance lounges; mail room; and a trash room.
- Site modifications include the following:
 - Reconfiguration of the site-internal access drives which would serve to: separate the parking area for the apartment building from the other parking areas; add a number of landscape islands and other green space into the parking lot interior⁴; and reduce the number of parking lot access points from the internal access drive.
 - Reconfiguration of the parking layout with a total of 1,105 spaces consistent with the applicant's calculation of 1,105 required⁵ spaces.

² The architectural plans identify the building height as 46'8". Further, per §112-28, building height is to be measured to the roof (exclusive of a parapet wall less than 5 feet in height). Thus, the building height should be identified per Township ordinance which may result in a lesser height than indicated in the application.

³ The Site Data table on Sheet A2 needs to be updated to reflect the 8 three-bedroom units as affordable.

⁴ These changes, along with the proposed elimination of a paved area in the rear of the site, result in a proposed decrease of 63,700 square feet (1.46 acres) of impervious coverage (a decrease from 78.9% to 73.4%). Despite the proposed decrease, a variance from the maximum impervious limitation of 70% is requested.

⁵ The applicant should confirm the calculations on the site plan. My calculations indicate a parking requirement of 1,091 spaces including a commercial calculation based on a square footage of 158,560 (4,600 + 75,220 + 78,740) vs. 161,744 square footage used in the applicant's calculations. The residential calculations are correct.

- The configuration of the existing curb cuts on JFK Boulevard and Easton Avenue would remain unchanged.
- Pedestrian circulation improvements would consist of: extension of a sidewalk from Easton Avenue up the site access drive connecting to the on-site walkways; extension of a sidewalk from JFK Boulevard up the site access drive connecting to the on-site walkways; sidewalks around all four sides of the apartment building; and sidewalk connections/ extensions from the proposed apartment building to each of the commercial buildings on the site.
- A total of 12 EV charging stations are proposed: 8 in the area of the apartment building; 2 in the area of the multi-tenant retail building; 2 in the area of the Stop & Shop
- Other associated site modifications including grading, utility and drainage modifications.
- Additional landscaping (compared to existing) would be added in the internal landscape islands and green spaces discussed above.
- Modifications to site lighting consists of placement of decorative light poles (17-feet in height) in the area surrounding the proposed apartment and retro-fitting the existing lighting in the parking fields with LED lighting at height of existing poles.
- Multi-tenant retail building to the east of the former K-Mart: would remain
 - Architectural Sheet A14 proposes an upgrade to the façade of this building with architecture that complements that of the proposed apartment building in terms of overall design and use of materials
 - Modifications of the parking area and drive aisle in front of this building would provide for an extended sidewalk area in front of the building. A note on the plan indicates “20’ wide potential seating area to be determined per individual tenant needs”
- Stop & Shop and Chase bank: would remain

The proposal requires the following approvals from the Township Zoning Board of Adjustment⁶:

- *D(1) Use Variance*: Apartment buildings are not a permitted use in the General Business (G-B) zone
- *D(4) Floor Area Ratio⁷ (FAR) Variance*: 0.30 permitted – 0.23 existing – 0.35⁸ proposed
- *D(6) Height Variance*: 30 feet permitted – 47 feet proposed⁹

⁶ Since the development is within 1,000 feet of the D&R Canal, review by the Township’s Historic Preservation Advisory Committee is required.

⁷ The floor area ratio is the ratio of the gross floor area divided by the total lot area.

⁸ The applicant should provide the FAR calculations on the plan. My calculations indicate an FAR of 0.0341 based on a total site-wide square footage of 407,195 (4,600 + 75220 + 248,635 +78,740). Basement space is not included.

- *Preliminary and Final Site Plan*
- *"C" Variances:*
 - *Number of freestanding signs:* 1 each frontage permitted (2 total) – 2 freestanding signs exist – 2 additional proposed (resulting in 4 total for the site)
 - *Max. sign area:* 25 square feet permitted – 64.06 square feet proposed (each)
 - *Impervious Surface Coverage:* 70% permitted – 78.9% existing – 73.4% proposed
 - *Building-mounted signs* – Schedule 5 does not provide for building-mounted signs for apartment buildings – 2 signs proposed.

REVIEW COMMENTS

1) In support of the requested use variance, the applicant must demonstrate:

- that "special reasons" exist for the variance (positive criteria); and
- that the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance (negative criteria).

With respect to the positive criteria, the applicant must prove that the use would promote the general welfare because the site is particularly suitable for such use.

With respect to the negative criteria, the applicant must prove that the variance can be granted without substantial detriment to the public good. In addition, the applicant must prove that grant of the variance would not be inconsistent with the intent and purpose of the master plan and zoning ordinance (e.g., they must reconcile the proposed use variance with the zoning ordinance's omission of the use from those permitted in the zoning district).

Finally, the applicant must prove that benefits of granting the variance would substantially outweigh any detriments.

2) It is strongly recommended that the applicant prepare accurate 3D renderings of the development from nearby vantage points including from the adjacent multi-family development to the south, from JFK Boulevard and from the D&R Canal. Such renderings would likely assist the Board in their consideration of the requested approvals (including the building height variance) and would likely aid the review by the Township's Historic Preservation Advisory Committee and the review by the DRCC. Such renderings should accurately take into the difference in grade between the vantage point and the project site.

⁹ Also: 2 stories permitted – 4 stories proposed

- 3) As indicated above, the plan proposes a total of 1,105 spaces based on the applicant's calculation of 1,105 required spaces. As indicated in the footnote above, it *appears* that the applicant may have slightly over-calculated the amount of required parking. Further, the applicant should note that the Board has granted parking variances and/or landbanking of spaces in cases where the applicant has proved that a less-than-required number of spaces would adequately serve the development. Lastly, it is noted that §112-98, Sharing of parking facilities, permits reduction in the number of parking spaces where the uses on a site differ in times of peak parking demand.

Further reduction in the amount of parking spaces and/or landbanking on the site could result in further improvements to the site layout and help bring the site further towards compliance with the impervious surface and tree planting requirements.

- 4) With roughly 650,000 square feet of paved area, Schedule 6 would require a total of 325 trees. The current site is significantly deficient. While likely still deficient the proposed site plan would bring the site closer to compliance with a net increase of 108 trees (31 trees removed - 108 deciduous, evergreen and flowering trees proposed).

While the applicant has essentially maximized opportunities for tree planting internal to the parking lot (based on the current layout), there would appear to be some opportunities on the site perimeter including along JFK Boulevard and in the grass area behind the proposed apartment building.

- 5) The site plan complies with the tree replacement requirements of Chapter 222 (16 trees required - 95¹⁰ trees of qualifying size are proposed on the plan).
- 6) I defer to the reviewing engineer but it would that some information is missing with respect to the removal/ regrading/ restoration of the retaining wall and pavement in the southwesterly corner of the parking lot behind the former K-Mart.
- 7) The applicant should demonstrate that the proposed monuments signs would not impede sight distance.
- 8) The applicant needs to clarify their intent with respect to the currently vacant Burger King building. The "Overall Plan" shows that building being demolished and replaced with a "future building" with a drive-thru with new building placement, drive-thru queuing lanes, revised parking lot layout, and a one-way circulation (counter-clockwise) is shown in this area. However, the Demolition Plan does not reflect that proposal. Further, while Geometry Plan (2) reflects this proposal, that sheet contains a label indicating "future site improvements" and none of the remaining site plan sheets reflect the proposal. Is the applicant just showing this for informational purposes (and no formal approval is requested) or is the applicant seeking some type of site plan approval (e.g., preliminary site plan) at this time? If no approval is sought at this time, then the zoning information (including FAR, parking, building coverage and impervious coverage) should reflect

¹⁰ Sheet 16 indicates 62 replacement trees.

what's existing (not proposed) in that area. If site plan approval is sought at this time then the site plan should be updated appropriately. Appropriate notes and labels should be added to the site plan to reflect this matter¹¹ (including that the sidewalk and associated retaining wall from Easton Avenue would be included as part of this phase).

- 9) If the Board is inclined to approve the application, I would recommend that the approval be conditioned upon completion of the following prior to issuance of the first certificate of occupancy (c/o) for the apartment building: construction of the proposed site improvements; and improvements to the façade of the multi-tenant retail building.
- 10) The architectural plans should be revised to provide “typical” floor plans for *each* unit type. Only 4 “typical” unit floor plans have been provided yet there are many more unit types reflected on the overall building floor plans.
- 11) While a total of 12 EV charging stations are proposed, it would appear that P.L. 2021, c.171, which the Governor signed into law on July 9, 2021, would require additional EVSE and Make-Ready parking spaces.
- 12) I defer to the reviewing engineer, however it would seem the design of the one-way drop-off area should incorporate some means of discouraging wrong-way movements into the area.
- 13) Affordable Housing.
 - a) Since the Township has met its “third round” housing obligation, the deed restriction must be worded in such a manner that this development will help the Township address a portion of its “fourth round” obligation.
 - b) The table below provides my assessment of the required unit distribution by income level for the development based upon: the bedroom distribution requirements of the COAH rules (NJAC 5:93-7.3(a)) and UHAC (NJAC 5:80-26.3(b)); the 13% very low income requirement of the Fair Housing Act; the overall Low/ Mod split requirements of the COAH rules; and the income distribution requirements of UHAC (NJAC 5:80-26.3(a,)) which requires that at least 50 percent of the restricted units within each bedroom distribution be low-income units (including very-low income).

	Very Low Income	Low Income	Moderate Income	Total
1-bedroom	1	3	4	8
2-bedroom	4	8	12	24
3-bedroom	1	3	4	8
TOTAL	6	14	20	40

¹¹ Such notes should also specify that the sidewalk and associated retaining wall from Easton Avenue would be included as part of this phase.

- c) It is recommended that the Board's resolution cite these figures, that the architectural floor plans be revised to identify the units by bedroom and income level and that the deed restriction include a listing of each of units by unit number, number of bedrooms and income level (as is customary and cited in COAH's sample deed restriction for rental developments). It is recommended that the above be a conditional of any approval issued by the Board.
- d) The Board's resolution should require filing of the deed restriction as a condition of the Board's approval, which must occur no later than the issuance of the first certificate of occupancy. As indicated above, it should contain a listing of each of the affordable units by unit number, number of bedrooms and income level. I recommend that it be reviewed by myself and Board and/or Township Attorney prior to filing.
- e) The applicant must have an experienced administrative agent per UHAC (NJAC 5:80-26.14) to handle affirmative marketing, establishing pricing, and long-term administration of the affordable units. AHPNJ recommends that the administrative agent be identified as early as possible. It is recommended that the Board's resolution of approval require that the applicant keep the Township informed during the selection process of the administrative agent.
- f) COAH (NJAC 5:93-11) and UHAC (NJAC 5:80-26.15) rules require an affirmative marketing program for the affordable units. I recommend that the applicant be required to provide a copy of the affirmative marketing plan for the review of the Township (for consistency with the Township's affirmative marketing plan. It is noted that pursuant to NJAC 5:93-11.3(e), the cost of advertising the affordable units is the developer's responsibility. It is recommended that the above be included as a condition of the Board's approval as this occurs subsequent to site plan approval.
- g) As an inclusionary development, the application would be exempt from collection of an affordable housing development fee.

Figure 1: Site Location

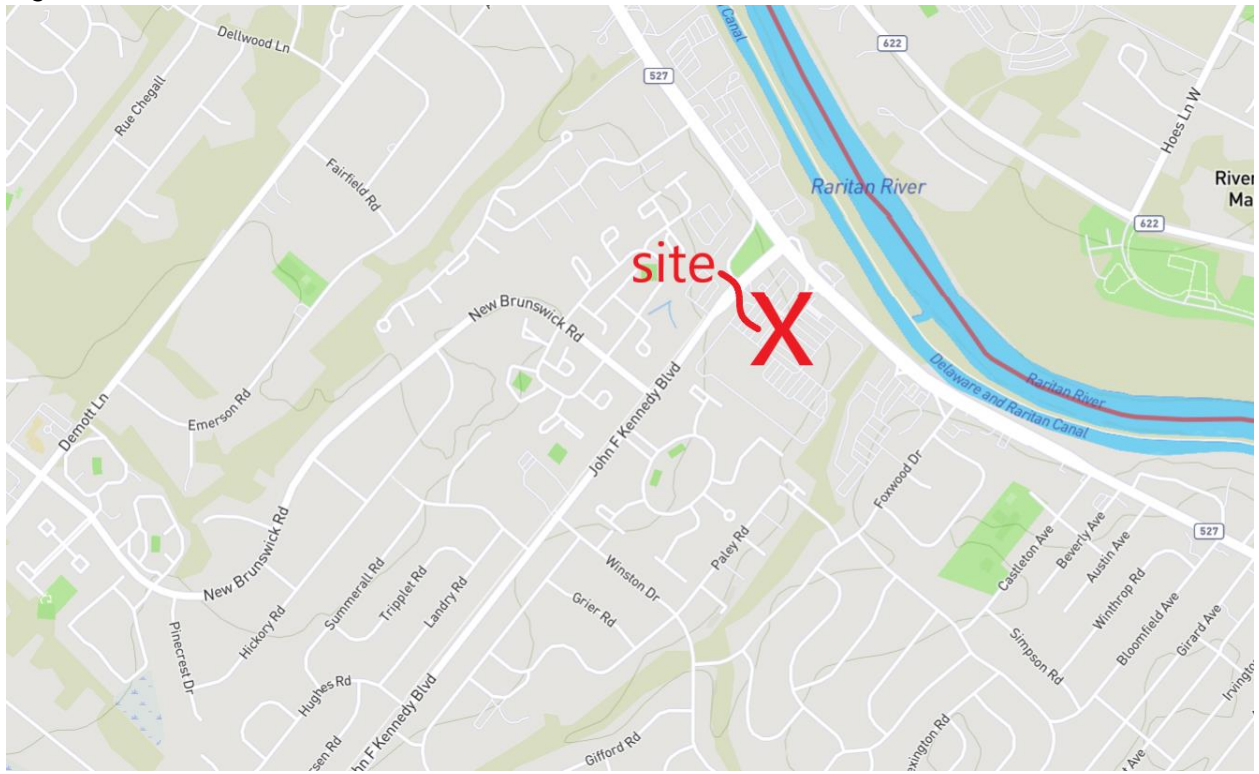


Figure 2: Site and Surrounding Area



Figure 3: Site and Surrounding Area



Figure 4: Former K-Mart (from northwest)

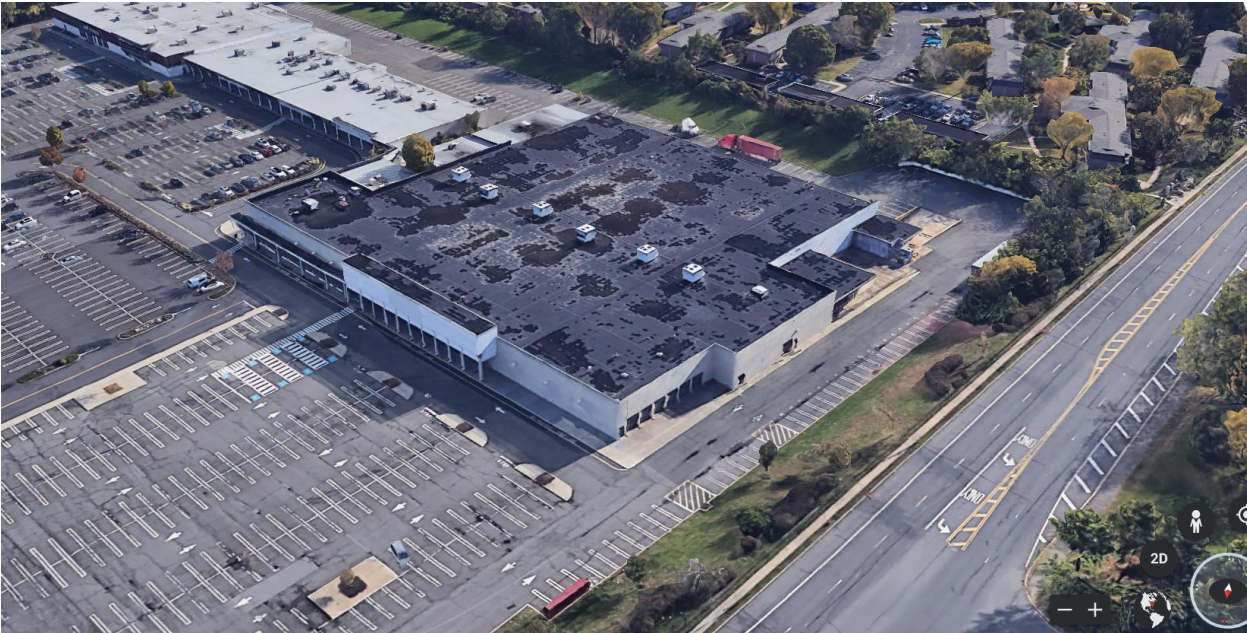


Figure 5: Former K-Mart (from north)



Figure 6: Former K-Mart (from south)



Figure 7: Area behind former K-Mart

