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60 Union Street, First Floor, Newark NJ 07105

Memorandum

Date: January 17, 2023

To: Franklin Township Zoning Board of Adjustment
Mark Healey, AICP/PP – Franklin Township Planner

From: Golda Speyer, AICP/PP – Applicant Planner
Topology, LLC

Application: 64 Casa Esencia, LLC
ZBA-21-00027

SUBJECT: Response to Township Planner Review Letter Dated May 3, 2022

64 Casa Esencia, LLC (hereinafter “the Applicant”) formally resubmits Preliminary & Final Site Plan Major Site Plan materials to the Franklin Township Zoning Board of Adjustment for application ZBA-21-00027.

To that end, the purpose of this memorandum is to provide a response to the Franklin Township Planning Review Letter dated May 3, 2022. Specific responses are provided by the Applicant’s Planner written in underlined green text.

Should you have any questions or comments, please do not hesitate to contact me at g.speyer@topology.is.

Sincerely,

A handwritten signature in black ink that reads "Golda Speyer".

Golda Speyer, AICP, PP
NJ Planner License No. 639400

I. TOWN PLANNER REVIEW ON PROJECT HISTORY AND DESCRIPTION

The Town Planner has identified the following description of the application:

The applicant proposes the following:

- 12 townhouse units (at a density of 7 units/ acre)
- Units provided in 4 separate buildings with each building containing between 2 to 4 townhouse units
- Bedroom mix: three 1-bedroom units; eight 2-bedroom units; and three 3-bedroom units
- Site plan indicates that 27 parking spaces are provided
- Access to the site is proposed via a single two-way curb cut on Norma Avenue
- Other site plan features include grading, drainage, utility, lighting and landscape site modifications

Applicant Response: The Applicant proposes 12 townhouse units to be provided in 5 separate buildings rather than 4 separate buildings. The Applicant proposes the bedroom mix to be two 1-bedroom units and ten 2-bedroom units, rather than the bedroom distribution described above. Lastly, the Applicant proposes 28 parking spaces, rather than 27 parking spaces described above.

See architectural plans prepared by Studio Raiffe revised January 4, 2023 and civil plans prepared by Frank H. Lehr Associates revised January 4, 2023 for further clarification.

II. TOWN PLANNER REVIEW ON VARIANCES

The Town Planner has identified the following variances in the application:

The application requires the following variances from the Board:

- D(1) Use Variance: Townhouses are not a permitted use in the O-P zone
- D(4) FAR Variance: 0.25 max. permitted – 0.46 proposed
- D(5) Density Variance: More residential units would be realized than under the O-P zoning
- Min. front yard setback: 40-feet required (Franklin Boulevard) – 26.3 feet
- Max. Impervious Coverage: 45% permitted – 46.9% proposed
- Additional Variances - Townhouse requirements (Section 112-49)

Applicant Response: The updated submission has amended the following variances (see civil plans prepared by Frank H. Lehr Associates revised January 4, 2023 for further clarification):

- Floor-Area-Ration (F.A.R.) is reduced from 0.46 to 0.42;
- Impervious coverage is reduced from 46.9% to 46.2%; and
- The Franklin Boulevard front yard setback is increased from 26.3' to 30.9'.

The Applicant intends to seek variance the associated "C" and "D" variance relief, which will be thoroughly discussed in testimony at the Zoning Board of Adjustment Hearing. For reference to the Board:

1. In regards to the "use" variance, the Applicant respectfully requests D(1) variance pursuant to N.J.S.A. 40:55(d)-70(d)(1). The Board may grant a use variance as guided in Medici v. BPR Co., 107 N.J. 1 (1987), where the Applicant will demonstrate proofs for both the

"positive criteria" and the "negative criteria."

The Applicant will show that there are "special reasons" for a use variance:

- That the 12-unit townhome development is particularly suited to the property, and
- That the townhome development is not inconsistent with the intent and purpose of the master plan and zoning ordinance.

The Applicant intends to show in testimony that there are no negative impacts to the general welfare, nor a substantial impairment of the intent and purpose of the master plan and zoning ordinance because the site can accommodate impacts associated with a townhome development.

2. Specific justification for the remaining D(4) and D(5) variances will be discussed in testimony that there are special reasons that the site can accommodate the floor-area-ratio and density deviations pursuant to Coventry Square v. Westwood Board of Adjustment, 138 N.J. 285, 298-299 (1994). Such testimony will be provided on how the variances will meet both the "positive" and "negative" criteria, and not impact the surrounding neighborhood or the master plan and zoning ordinance.
3. The Applicant intends to provide testimony regarding the necessity for the requested "C" variance relief for the front yard setback and coverage deviation as identified by the Municipal Land Use Law (40:55D-70). Particularly, the Site has certain grading and exceptional topographic constraints that particularly affect this lawful piece of property.

See below on townhome development deviation discussion.

III. TOWN PLANNER REVIEW COMMENTS

The Town Planner has provided the following comments of the application:

1. *Townhouse Requirements. The development would be subject to the townhouse requirements of Section 112-49. The applicant should seek to address the requirements of Section 112-49 where practicable. Otherwise, the applicant should provide sufficient justification for relief from these requirements.*

- a. *The minimum development tract size shall be 10 acres – 1.696 acres existing proposed. Relief required.*

Applicant Response: Testimony will be provided on the "C" variance justification for such relief. We note that this is a small-scale development of 12 units intended for "middle housing" and in keeping with the surrounding neighborhood context. There is no subdivision proposed, and the existing lot area will remain the same in size.

- b. *The development shall provide 400 square feet of recreational area for each dwelling unit (4,800 square feet required) – No such area proposed. Relief required. The applicant should explore opportunity(ies) for such amenities. The applicant would need to justify relief if no such area(s) proposed.*

Applicant Response: The civil resubmission set has eliminated the variance where 4,950 SF of recreational outdoor space is shown, as well as individual rooftop amenity area for each unit. As such, the development has met the ordinance requirement in this regard.

- c. All private streets shall be paved to a minimum width of 30 feet – 25 feet proposed. Relief required. I defer to other Township staff as to any technical objections.

Applicant Response: The civil resubmission set has amended the minimum street width variance to 27' proposed. Testimony will be provided on the "C" variance justification for such relief.

- d. No dwelling unit shall be located less than 25 feet from the curblin e or edge of pavement of a private street or access driveway. Approximately 15 feet proposed. Relief required. See comment #2.a, below.

Applicant Response: The civil resubmission set has amended the minimum access driveway distance to 18.4'-25.5' proposed. Testimony will be provided on the "C" variance justification for such relief.

- e. Each individual lot shall have a front and rear yard not less than 20 feet. There shall be a single side yard of not less than 20 feet at the end of each row. In the instance of a development proposal under this subsection creating a lot for each dwelling unit, each unit shall have a rear yard of not less than 20 feet. The applicant needs to clarify whether individual lots would be created for each unit.

Applicant Response: Applicant proposes to merge the lots where no individual lots would be created.

- f. There shall be no more than eight dwelling units in any single group of dwelling units. Complies.

Applicant Response: Applicant complies with this requirement.

- g. No dwelling unit, or group of dwelling units, shall exceed 2-1/2 stories or 35 feet in height, whichever is lesser. No living space shall be permitted above the second floor. Complies.

Applicant Response: Applicant complies with this requirement.

- h. Refuse storage areas shall be so designed as to minimize any detrimental effect on the character of the development. The site plan contains a note indicating "trash will be handled in individual trash container per townhouse and placed on curbside pickup." The applicant should explain how this would occur (e.g., by "curbside" it is assumed that this would be internal to the development (not along the public street). Further, the applicant needs to demonstrate that refuse trucks could traverse through the site.

Applicant Response: Testimony will be provided at the Hearing in this regard.

- i. All utility wiring shall be underground. The applicant should confirm (with necessary notation on the plan) that electric service would be underground through the development.

Applicant Response: The civil resubmission set has been amended to depict a note that all utility wiring will be underground.

- j. Common accessory buildings and facilities shall be designed to harmonize with the overall character of the development and shall meet the setback requirements set forth herein for groups of dwelling units. Not applicable – no accessory buildings proposed.

Applicant Response: Applicant complies with this requirement.

- k. Low- and moderate-income dwelling units (15% or 2 units required) – No affordable units proposed. Relief required.

Applicant Response: Applicant will comply with affordable housing requirements. Testimony will be provided at the Hearing in this regard.

2. Parking.

- a. While the site plan complies with the minimum (#) parking requirements of the NJ Residential Site Improvement Standards (RSIS) – 27 spaces required/ site plan indicates that 27 are provided – it is VERY STRONGLY recommended that the applicant make revisions to add as many on-site spaces as possible. Based on extensive experience in the Township, the RSIS requirements dramatically underestimate parking requirements for townhouse developments. This principally relates to the fact that RSIS permits garages to count towards parking requirements but the reality is that a significant portion of homeowners do not park in their garage (using it for storage or other purposes). Further, most of the units have a driveway space that cannot accommodate a car in the driveway without having the car project over the sidewalk and/or into the drive aisle. This would mean that the 12 units would be competing for use of the 13 common spaces.

The site/ unit layout needs to be revised so that each driveway is at least 18 feet in depth from the building to the sidewalk. Such changes would increase the parking supply and allow cars to be parked in front of the units without blocking the sidewalk and/or drive aisle (which will inevitably happen with the proposed layout). Adjustments to unit layouts could include shifting the garages further back. Site layout adjustment could include shifting the sidewalk forward and building placement adjustments (e.g., shifting units 5/6 back (the applicable setback is 12 feet not 20 feet).

Further, such changes would help make the site more consistent with the intent of the Township townhouse standard cited above in comment #1.d (no dwelling unit shall be located less than 25 feet from the curblin e or edge of pavement of a private street or access driveway) in that the intent of this requirement is in part related to having sufficient space for a driveway parking in front of each unit.

Applicant Response: The proposed development is equipped with ample basement space that will provide storage use for its residents. The garages are intended to be limited to the storage of minor storage items such as bicycles, trash bins, etc. in which such garages can be accommodated with a vehicle inside. The Site also provides more than the minimum parking space requirement on-site and no variance is required (27 spaces are required where Applicant proposes 38 spaces). As such, there is no deviation from the zoning ordinance. Furthermore, the updated submission has amended the access driveway distance to 18.4'-25.5' for more parking space in the driveway. As such, the development has met the ordinance requirement in this regard.

- b. The site plan needs to be revised to comply with applicable requirements for EVSE and make-ready parking spaces (applicable to all multi-family residential developments with 5 or more units).

Applicant Response: The updated submission has eliminated the variance as it depicts 12 EV parking spaces. As such, the development has met the ordinance requirement in this regard.

- c. The loading zone for the HC space needs to be 8-feet wide.

Applicant Response: The handicapped space on the civil resubmission set has been revised to comply accordingly.

- d. The left-most space in the 3-space area is proposed right up against unit 2. Adequate space needs to be provided so the driver can exit the vehicle.

Applicant Response: The parking space in question on the civil resubmission set has been relocated accordingly to remove conflict.

3. Tree Preservation. As shown in figure 3, below, numerous large trees line the site's Norma Avenue and Franklin Boulevard frontages. For environmental and aesthetic purposes, and for consistency with Chapter, 222, Trees, there should be maximum effort to preserve as many of these trees as possible. The tree preservation shown on the plan doesn't seem to reflect any of the other site plan elements (grading in areas of tree preservation, trees to remain within proposed limits of disturbance, no means of tree protection shown, proposed landscaping proposed on top off or in very close proximity to trees proposed to remain, trees to remain in very close proximity to stormwater facilities, doesn't take into account the new sidewalk). I will evaluate the tree replacement calculations on Sheet SD-8 after a more realistic tree preservation plan is proposed, which makes appropriate changes in other site plan elements (limit of disturbance, tree protection fencing, grading, utility placement, etc.) to maximize tree preservation.

Applicant Response: Sheet SD-7 on the civil resubmission set has been revised accordingly to depict 27 trees removed with 90 replacement trees.

4. Sidewalk. As shown in Figure 3, a sidewalk was recently installed along Norma Avenue. The site plan needs to be revised accordingly (including necessary revisions to proposed grading and tree preservation/removal).

Applicant Response: The civil resubmission set has been revised accordingly.

5. Zoning Information.

- a. The applicant needs to explain how/why the "den/ offices" would not constitute bedrooms.

Applicant Response: Testimony will be provided at the hearing in this regard.

- b. It is unclear which units are considered by the applicant to be the two 3-bedroom units

cited in the parking requirements table on the site plan.

Applicant Response: The resubmission does not depict any 3-bedroom units.

- c. The applicable side setback along the northerly property line would be 12 feet (not 20 feet). The site plan should be revised accordingly.

Applicant Response: The civil resubmission set has been revised accordingly to reflect the amended side yard setback (12 FT to the westerly property line, and 13 FT to the southerly property line).

- d. The 25-foot setback line along Franklin Boulevard should be removed from the plan as it does not apply.

Applicant Response: The civil resubmission set has been revised accordingly.

- e. The zoning table indicates a "total of two sides" of 23.10 feet but the correct figure would appear to be 24.3 feet (i.e., 8 + 16.3). The plans should be revised accordingly.

Applicant Response: The civil resubmission set has been revised accordingly to reflect the amended side yard setback combined (27 FT to principal building structure, and 25 FT to principal structure with deck).

- f. The zoning tables on the site plans and architectural plans differ. The plans should be revised accordingly.

Applicant Response: The civil and architectural resubmission set has been revised accordingly.

- g. The site and architectural plans differ from one another in several ways (e.g., zoning table, site plan layout). The plans should be revised accordingly.

Applicant Response: The civil and architectural resubmission set has been revised accordingly.

6. *Lot consolidation should be a condition of approval.*

Applicant Response: Applicant will agree to lot consolidation as a condition of approval.

7. *Per Section 112-255.A(2), the applicant would be subject to an affordable housing development equal to 6% of the equalized assessed value.*

Applicant Response: Applicant intends to provide affordable housing as required by ordinance. With that said, providing affordable housing shall exempt any development fee by ordinance per § 112-255 where "Affordable housing developments and developments where the developer is providing for the construction of affordable units shall be exempt from development fees." See <https://ecode360.com/33798961#33798961>.

Applicant alternatively requests, if permissible, to provide the developer fee in lieu of affordable unit construction.