



MEMORANDUM

Clarke Caton Hintz

Architecture

Planning

Landscape Architecture

100 Barrack Street

Trenton NJ 08608

clarkecatonhintz.com

Tel: 609 883 8383

Fax: 609 883 4044

To: Montgomery Township Zoning Board of Adjustment

From: Michael Sullivan, ASLA, AICP
James Clavelli, PP, AICP
Tristan Harrison, PP, AICP

Re: **Stellar Land Assets, LLC**
Preliminary and Final Major Site Plan with Variances
316 Wall Street
Block 35001, Lot 15 & 16
HC - Highway Commercial

Date: February 26, 2024

1.0 Project & Site Description

1.1 Project Description: The applicant is seeking major site plan approval to convert two existing office buildings within an existing office park into a car dealership. The plan includes removal of existing office floor area, changes to roofs and facades, easements to provide for vehicular circulation between properties, utility easements, fences, gates, lighting, tree plantings, signs, and a waste enclosure. Variances, including a variance to exceed the maximum permitted floor area ratio (FAR) are required.

The proposed improvements extend beyond the boundary of Lot 15. These include the removal of four (4) parking spaces on Lot 16 and a swing gate to allow circulation between Lot 15 and Lot 16. A proposed cross-access easement on Lot 15 contains an existing waste enclosure and appears to provide access to Lot 10 and Lot 16. **Despite these off-site improvements, Lots 15 and 10 are not included in the application.**

John Hatch, FAIA

George Hibbs, AIA

Brian Slauch, AICP

Michael Sullivan, AICP

Michael Hanrahan, AIA

Mary Beth Lonergan, AICP



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- 1.2 **Revised Application Required:** Since the plan includes changes to Lots 10 and 16, the application should be revised and resubmitted to include both of those lots in addition to Lot 15. The consent of the owners of each of those additional lots should be reflected in the application along with all other requirements predicate to the filing of an application. Furthermore, the revised submission should articulate a unified site design and all necessary information for Lot 15, Lot 16, and Lot 10.
- 1.3 **Site Description:** The application is for Lot 15 and Lot 16, located in the HC Highway Commercial District on US Route-206. Improvements are proposed on Lot 15, which is 1.9974 acres and located at the intersection of US Route-206 and Wall Street. Two existing 2-story masonry office buildings are located on Lot 15, referred to in the application as “Building G” (17,402 sf.) and “Building H” (17,424 sf.). Existing parking, lighting, fencing, plantings, utilities, waste storage, and circulation areas are located on the site. Parking and circulation areas are connected to Lot 16 and Lot 10. **It is unclear from the application whether the plans propose an expansion of the existing car dealership on Lot 16 or a separate, new car dealership.**



View of Site from Northwest

- 1.4 **Neighborhood Context:** The site is located within an existing research and office park accessed by Wall Street, which is a private road with a driveway easement as indicated on the property survey. Lot 15 and Lot 16 front US Route-206 and property within the REO-3 Research Engineering, and Office District. An existing bus stop with a shelter is located on US Route-206 directly in front of the site.
- 1.5 **Airport Hazard Area:** The site is located within the Airport Hazard Area associated with Princeton Airport. Pursuant to §16-6.6.e, commercial uses are permitted in the Airport Hazard Area, but not within the Clear Zone. The site is not located within the Clear Zone and the proposed building height does not exceed the vertical development restrictions of the Airport Hazard Area. The plan complies.
- 1.6 **Critical Environmental Areas:** Portions of the site are within the 100-Year and 500-Year Special Flood Hazard Area and the 100-foot Montgomery Stream Corridor boundary. The plan proposes fences, gates, storage of vehicles, and a new waste enclosure within critical areas but no additional impervious cover or new building footprint.
- 1.7 **Relief Required:** The plan requires a variance for exceeding the maximum permitted floor area ratio (FAR), 18 “bulk” variances, and five design exceptions. A summary of required relief is included in Section 17.1 of this report.
- 2.0 **Use & Bulk Standards**
- 2.1 **Permitted Principal Use.** The plan proposes automobile sales through a franchised new car dealership, which is a permitted use in the HC Highway Commercial District pursuant to §16-4.12.a.9. The plan complies.



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- 2.2 **Permitted Accessory Uses.** The plan proposes changes to existing off-street parking, fences, lighting, signs, which are permitted accessory uses in the HC Highway Commercial District pursuant to §16-4.12.b. The plan complies.

Highway Commercial District Bulk Standards: Table 1 indicates the plan's conformance with bulk standards in the HC Highway Commercial District.

Table 1. Highway Commercial District (HC) §16-4.12d				
	Required	Existing	Proposed	Variance
Principal Building				
Max. Bldg. Height (feet/stories)	30 / 2.5	<30 / 2.0	30 / 2.0	No
Min. Lot Area (acres)	1.0	1.9974	No change	No
Min. Lot Frontage (feet)	150	200	No change	No
Min. Lot Width, Route 206 (feet)	150	200	No change	No
Min. Lot Depth (feet)	150	436	No change	No
Min. Front Yard, Route 206 (feet)	50.0	80.8	No change	No
Min. Front Yard, Wall Street (feet)	50.0	49.3	No change	Preexisting (V)
Min. Side Yard, each (feet)	25	20.1	No change	Preexisting (V)
Min. Rear Yard (feet)	50	127.4	No change	No
Min. Distance to Another Bldg.	20	17.9	No change	Preexisting (V)
Max. Floor Area Ratio (FAR)	0.20 / 0.225*	0.4003	0.2813	Yes (V)
Max. Lot Coverage (%)	55	88.89	No change	Preexisting (V)
(V) = Variance Required				
* Pursuant to §16-4.12.d Footnote [2], the maximum permitted FAR may be increased to up to 0.225 when[...]a fully constructed driveway interconnection is provided to an adjacent property.				

- 2.3 **Preexisting Variances:** The application indicates four preexisting bulk variances from §16-4.12.d for maximum lot coverage, minimum front yard setback, minimum side yard setback, and minimum distance between buildings. It is unclear if variances were granted for these nonconformities, or if they are lawfully preexisting. **This office recommends that the applicant request variances for these existing nonconformities unless evidence can be provided indicating that relief was granted previously, or that they were created prior to the efficacy of the zoning regulations.**

- 2.4.1. **Front Yard, Wall Street:** Pursuant to §16-4.12d, a minimum front yard of 50 feet is required, where 49.3 exists and no change is proposed.



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- 2.4.2. **Side Yard:** Pursuant to §16-4.12d, a minimum side yard of 25 feet is required, where 20.1 exists and no change is proposed.
- 2.4.3. **Distance Between Buildings:** Pursuant to §16-4.12d, a minimum distance of 20 feet is required between buildings, where 17.9 feet exists and no change is proposed.
- 2.4.4. **Lot Coverage:** Pursuant to §16-4.12d, a maximum lot coverage of 55% permitted, where 88.89% exists and no change is proposed.
- 2.4. **Floor Area Ratio (FAR):** Pursuant to §16-4.12d, a maximum FAR of 0.225 is permitted, where 0.4003 exists and 0.2813 is proposed. The plans propose to reduce the existing FAR by removing 5,106 sf of existing floor area within Building G and 5,248 sf of existing floor area in Building H. **A floor area ratio variance pursuant to N.J.S.A. §40:55D-70.d(4) is required.**

3.0 General Requirements for the HC District

- 3.1. **Driveway Easements:** *More information is required.* Pursuant to §16-4.12f.1, driveways providing vehicular access between adjacent properties shall be permitted where feasible and required with appropriate cross easements, and the on-site circulation systems and parking areas shall be designed to accommodate such interconnections between adjacent lots. The plan proposes a cross-access easement on Lot 15 running parallel to the lot line shared with Lot 10 and extending from Wall Street to Lot 16. **The application should be revised and resubmitted with the inclusion of Lot 10 as it corresponds to the proposed easement on Lot 15. Details of the proposed easement and its interrelationship between Lot 15, Lot 16, and Lot 10 should be provided. This office notes that the proposed condition is in line with the zone requirement.**
- 3.2. **Outdoor Storage and Display:** *More information is required.* Pursuant to §16-4.12f.2, permitted automobile sales are permitted outside display areas for automobiles for sale and outside storage areas for automobiles being repaired, provided that the following requirements are satisfied:



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- (a) all such display and storage areas shall be paved as approved as part of the site plan submission, and all such areas shall be included as part of the calculation for lot coverage; and
- (b) no such display and storage areas shall be located within 50 feet of any street line, within 15 feet of any property line not common with a residential zoning district, or within 40 feet of any property line common with a residential zoning district.

The plans should be revised to indicate the proposed areas to be used to accommodate vehicles that are stored, for service, and for display. Parking dedicated for customers is labelled but parking for employees should also be identified. A site visit by this office indicated storage of vehicles with dealership tags in spaces on the site perimeter and within 50 feet of street lines. A variance is required.

- 3.3. **Planting Area Requirement:** Pursuant to §16-4.12f.3, all portions of a lot not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition. In any case, no less than 45% of the area of any lot or tract shall be so landscaped, and the landscaped area may include approved detention and/or retention basin. The plan proposes no changes to the preexisting nonconforming site coverage. **This is a preexisting nonconforming condition. A variance is required.**
- 3.4. **Parking Areas in Side and Rear Yards:** Pursuant to §16-4.12f.4, structures such as parking areas, loading areas, driveways or other structures in side and rear yards that share a common property line with a residential zoning district are not permitted. The property shares no property lines with a residential district. The plan complies.
- 3.5. **Parking and Loading Areas, Driveway and other Structure Distance:** Pursuant to §16-4.12f.5, no parking area, loading area, driveway, or other structure (except for approved access ways, signs and fencing) shall be permitted within the first 25 feet adjacent to any street line nor within the first 15 feet adjacent to any other property line, and such areas shall be planted and landscaped. The plan proposes no change



to existing asphalt cover extending to the side and rear property lines. **This is a preexisting nonconforming condition. A variance is required.**

- 3.6. **Lawn Area Within Buffer.** Per §16-4.12f.5, the required distance between structures and the street line and adjacent property lines shall be planted and maintained with lawn or ground cover and trees and shrubbery as approved by the Board. No lawn area is proposed within the side and rear yards. **This is a preexisting nonconforming condition. A variance is required.**

4.0 Requirements for Multiple Buildings on One Lot in the HC Zone

- 4.1. **HC Zone Standards for Multiple Buildings:** Pursuant to §16-4.12.e.9(b), multiple detached buildings are permitted on a lot in accordance with the following standards (note that this office interprets and deviations from these standards as “c” variances, rather than a “-d(1)” use variance).

4.1.1. **Building Separation:** Pursuant to §16-4.12.e.9(b)(1), all buildings shall be separated by a minimum of 20 feet where the separation is occupied by landscaping and/or is used for pedestrian movement only. The space between the preexisting buildings used for landscaping and pedestrian movement is 17.9 feet. **This is a preexisting nonconforming condition. A variance is required.**

4.1.2. **Common Driveway:** Pursuant to §16-4.12.e.9(b)(5), access from the public street(s) to the buildings shall not be provided by individual driveways to each building, but by common drive(s) so as to reduce the number of access points along the street(s). The plan proposes to retain the single existing driveway along Wall Street serving Lot 15 and proposes a cross-access driveway easement. The plan complies. **More information is required regarding the proposed easement as discussed in Section 3.1 of this report.**

4.1.3. **Parking Distribution and Pedestrian Connections:** Pursuant to §16-4.12.e.9(b)(6), parking shall be evenly distributed, with pedestrian connections between buildings and to all public areas within a development, and large parking lots shall be avoided. Parking is generally distributed around the existing buildings while the existing walkways are connected via the parking area striping. The plan complies. **If the Board requires installation of sidewalks**



(See Section 5.7), connections to the off-site bus stop on US Route-206 are recommended.

4.1.4. Maintenance of Landscaping: *Condition of approval.* Pursuant to §16-4.12.e.9(b)(7), a single controlling entity, such as a commercial owners' association or a single owner of the entire development, shall be provided for the maintenance of the landscaping, multiple-tenant signs, detention basins, lighting and other common elements or shared structures and facilities. **As a condition of any approval, the applicant/owner should commit to the maintenance of the landscaping on the entire site.**

5.0 Off-Street Parking, Circulation and Trash Removal

- 5.1. Minimum Parking Requirement: *More information is required.*** Minimum parking requirements in the HC zone are determined by use pursuant to §16-4.12g. Automobile sales shall provide at least 10 parking spaces for customer convenience. The plan indicates a total of 111 parking spaces, which includes 10 customer parking spaces adjacent to the buildings, 10 employee parking spaces for 10 employees, and 91 additional parking spaces for inventory, service, and sales. The plans comply.
- 5.2. Separation of Parking Areas:** Pursuant to §16-4.12.g, customer spaces shall be separated from vehicle display areas and not be used by employees, who shall be provided parking spaces elsewhere on the property. The plans do not delineate employee parking spaces nor do they indicate separation between customer spaces and vehicle display areas. **The plans should be revised to indicate how all 111 parking spaces will be designated for each use. A variance may be required.**
- 5.3. Electric Vehicle Parking Requirement:** Pursuant to the Municipal Land Use Law (C.40:55D-66.20.3.b), as a condition of preliminary site plan approval, each application involving a parking lot with 101 to 150 parking spaces, and not involving a multiple dwelling, requires the installation of at least four (4) “make-ready” parking spaces, and at least one (1) of which shall be accessible for people with disabilities. The plans do not indicate existing or proposed EV spaces. **Pursuant to the statute, preliminary site plan approval cannot be granted without compliance with the statute. The plans should be revised to comply.**



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- 5.4. **Off-Street Loading:** Per §16-4.12h.1, any building or group of buildings within the HC zone is required to have one (1) loading space at the side, rear or within the proposed building. The plans do not indicate existing or proposed loading areas. **A variance is required.**
- 5.5. **Parking Lot Wayfinding:** Pursuant to §16-5.8.4, all off-street parking lots shall have adequate designations to indicate traffic flow and parking spaces. **No directional arrows or stop signs are proposed. This office defers to the Board traffic expert on whether the proposed wayfinding and circulation comply.**
- 5.6. **Wheel Stops and Bollards:** The proposed parking spaces do not have wheel stops or bollards to protect adjacent walkways, fences, and structures. **This office recommends the plans be revised to provide curb stops in spaces adjacent to these areas.**
- 5.7. **Sidewalk Requirement:** Pursuant to §16-5.14c.1(d), “sidewalks shall be provided along all existing streets upon which all residential and nonresidential development abuts, unless specifically waived in certain locations by the reviewing municipal agency based upon good cause shown by the applicant” Sidewalks do not currently exist along the frontage of Wall Street or US Route-206. The Township Code does not indicate that private roads, such as Wall Street, or State Roads, such as US Route-206, are exempt from the sidewalk requirement. **A design exception is required.**
- 5.8. **Trash Collection:** Pursuant to §16-4.12h.2, there shall be at least one trash and garbage pick-up location within convenient access to the building being served, including provisions for the separation and collection of recyclable materials in accordance with the recycling requirements of Somerset County. A trash enclosure is proposed in the corner of Lot 15 and appears accessible from Buildings G and H. The plan complies.
 - 5.8.1. **Trash Enclosure Composition:** Pursuant to §16-4.12h.2(c), trash and garbage located outside of a building requires a steel-like, enclosed trash and garbage contained located in a manner obscured from view by a fence, wall, planting or combination of all three. The plan proposes a trash enclosure composed of masonry wall and galvanized steel gates with brown PVC coated chain link fence woven with PVT slats. The plan complies.



5.8.2. **Existing Trash Enclosure:** No details are provided for the existing trash enclosure on Lot 15 within the proposed cross-access easement. **The plans should be revised to indicate (1) whether the existing trash enclosure is to remain, (2) design details, and (3) the lot number, land use, and building(s) it serves.**

6.o Lighting

6.1. **Existing Lighting:** The plan indicates 20 existing lights consisting of six (6) pole-mounted street lamps, six (6) pole-mounted cobra lights, and eight (8) wall-mounted lights. The plan notes that no changes to existing lighting are proposed. **The plans should be revised to indicate whether the existing wall-mounted lights are proposed to be mounted at the same height on the proposed building façades.**

6.2. **Lighting of Parking and Walking Areas:** *Additional information is required.* Pursuant to §16-5.4b.1, all parking areas and walkways shall be adequately illuminated for security and safety. The Ordinance does not specify standards as to what constitutes safe and secure. **This office recommends that the applicant testify as to the adequacy of the proposed lighting as related to security and safety onsite. A comparison to relevant industry standards such as Illuminating Engineering Society (IES) may be beneficial to the Board.**

6.3. **Lighting Height of Building Mounted Lights:** Pursuant to §16-5.4b.2(a), lighting fixtures are not to exceed 20-feet or the height of the closest major building, whichever is less. The plan proposes a wall-mounted light at 20.4 feet and pole-mounted cobra lights at a height not indicated. **This is a preexisting nonconforming condition. A design exception is required.**

6.4. **Required Lighting Specifications:** *More information is required.* Pursuant to §16-5.4b.2(b), lighting fixtures are to include non-glare lights with recessed lenses focused downward and with cut-off shields as appropriate in order to mitigate against adverse impacts upon adjacent and nearby properties, the safety of traffic along adjacent roadways and overhead skyglow. **The plans should be revised to provide the additional lighting details.**

6.5. **Site Lighting at Ground Level:** *More information is required.* Pursuant to §16-5.4b.2(c), light intensity at ground level shall average a minimum of 0.3 footcandles,



though not more than 1.0 footcandle. The plans do not provide average lighting calculations. The plans also indicate areas where no calculations are provided. **The plans should be revised and should include an illumination calculation summary. A design exception may be required.**

- 6.6. **Site Lighting at Ground Level - Intersections:** *More information is required.* Pursuant to §16-5.4b.2(c), light intensity at intersections shall average a minimum of 0.5 footcandles, though not more than 1.0 footcandle. The plans do not provide lighting calculations at intersections. **The plans should be revised. A design exception may be required.**
- 6.7. **Circuit Timers:** *Additional information is required.* Pursuant to §16-5.4b.2(d), excepting any lighting determined by the Planning Board to be necessary and/or advisable for security purposes, all other lighting is to be controlled by circuit timers so that the lights are automatically turned off after business hours. There does not appear to be any notation on the plan regarding hours of operation for lighting. **The applicant should testify as to the hours of operation of the proposed lighting and add a note to the plan that indicates that information.**

7.0 Landscape Design & Plantings

This office defers to the Board Landscape Architect regarding the planting design. This review only relates to quantifiable standards.

- 7.1. **Trees:** Pursuant to §16-5.6d.3, a minimum of 14 trees per acre of gross tract shall be planted throughout the tract in the case of nonresidential or multifamily development. At 1.9974 acres, the plan requires 28 trees. Excluding street trees, five (5) trees exist, while three (3) are proposed for a total of eight (8) trees, where 28 are required. **A design exception is required.**
- 7.2. **Street Trees:** Pursuant to §16-5.6d.15, street trees shall be planted at 50 foot intervals. The frontage on US Route-206 complies, whereas the frontage on Wall Street has three (3) existing street trees for 436 feet of frontage and none proposed. **A design exception is required.**
- 7.3. **Screening:** This office recommends plantings, such as a 36-48" evergreen hedge or shrub along the front row of parking, to screen headlights from the roadway.



8.o Architecture

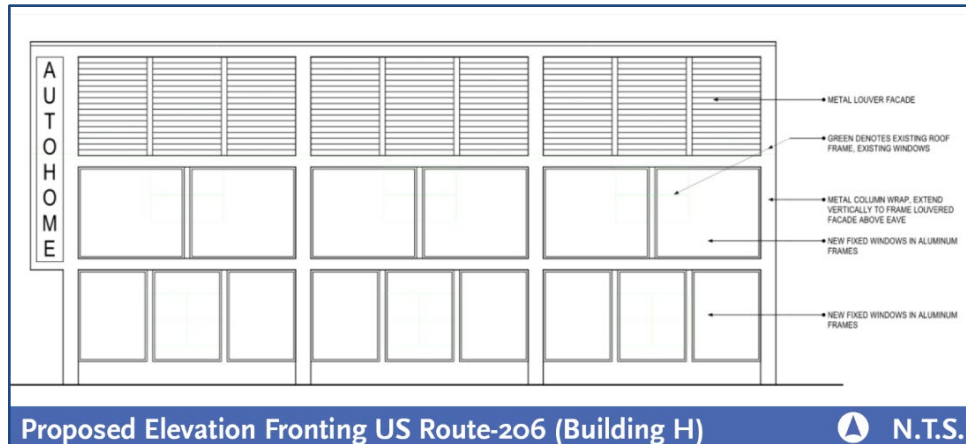
- 8.1. **Architectural and Building Standards in the HC District:** Section §16-4.12e contains requirements for all buildings and sites within the HC district.
- 8.2. **Proposed Design:** The plan proposes facades of a contemporary industrial style composed of metal louvers, metal column wraps, aluminum window frames, and glass windows varying in size and rhythm as shown in the exhibits from the architectural plans below. The proposed designs of Building G and H are nearly identical.





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- 8.3. **Compatibility:** *More information is required.* Pursuant to §16-4.12e.1(a), building exteriors in the HC District including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials. The site is located between existing car dealerships further south on US Route-206 and office buildings within the research park of which it is part, all of which are within the HC zone. The architecture of nearby existing car dealerships is generally contemporary and composed of flat roofs, glass, ribbon windows, aluminum, and grey-toned panels. The architecture of nearby existing office buildings is more traditional and composed of pitched roofs, individual windows, tan brick, and brown shingles. Additionally, the office building immediately to the north in Research Park appears Greek Revival-inspired with a white façade, covered portico, moldings, and columns.

The proposed facades of Building G and H are consistent with each other and contain similar materials and design elements that are most consistent with other car dealerships on US Route-206. **The plans should be revised to identify the material of the office portion of the façade to determine if it is consistent with the existing office building architecture in the HC District.**

- 8.4. **Pedestrian Scale:** Pursuant to §16-4.12e.1(b), architectural details, style, color, proportion and massing shall create a pedestrian scale development. The proposed building façade has ground-floor windows, articulated floors, and no blank walls. **The plan complies. However, this office recommends awnings, overhangs, or other such features to distinguish the pedestrian level from the relatively long and flat façades.**



- 8.5. **Building Entrance Articulation:** Pursuant to §16-4.12e.4(a), all entrances to a building shall be articulated utilizing architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, or overhangs. Such elements shall be architecturally compatible with the overall building. The proposed entrances do not contain any of these architectural elements. **A variance is required.**
- 8.6. **Visual Breaks:** Pursuant to §16-4.12e.5(a), building exteriors shall have vertical and/or horizontal offsets to create visual breaks along each facade. The plan proposes façades with visibly distinct floors, an overhang on one side, and variation between the internal showroom space and office space on the long side of the buildings. The plan complies.
- 8.7. **Wall Offsets:** Pursuant to §16-4.12e.5(b), building wall offsets, including projections such as balconies and canopies, recesses, and changes in floor levels shall be used to the extent appropriate to the architectural design to add architectural interest and variety and to mitigate the visual appearance of a simple, long wall. The long sides of the existing buildings have ± 2 -foot overhangs, while the façade facing US Route-206 has recessed walls. The plan proposes a flat wall facing US Route-206, but proposes to retain the existing overhangs. The plan complies.
- 8.8. **Corner Façade Orientation:** Pursuant to §16-4.12e.5(c), buildings with more than one street frontage shall be designed to have a front facade facing each frontage, and where a building faces a driveway, the building also shall have a front facade facing the driveway. The plan proposes similar front architectural treatments facing US Route-206 and Wall Street. The plan complies.
- 8.9. **Façade Consistency:** Pursuant to §16-4.12e.5(d), architectural treatment of the front facade(s) shall be continued in its major features around all visibly exposed sides of a building. The proposed architectural treatments of the front façades continue around the sides of the buildings and terminate where the floorplan transitions from showroom to office space. The plan complies.
- 8.10. **Consistency of Building Sides:** *More information is required.* Pursuant to §16-4.12e.5(e), all sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details. The plans do not indicate the proposed material of the office space walls to determine consistency with the primarily glass



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and metal façade of the showrooms. **The plans should be revised to indicate the proposed material and color of the office space of the building to determine consistency with the metal and glass facades of the building.**

8.11. Natural Materials: *More information is required.* Pursuant to §16-4.12e.5(f), materials such as wood and masonry are recommended. High quality man-made materials are also permitted, while stucco may be used only as an accent in limited areas. Proposed building materials include metal and glass. **See 8.9, above. A variance may be required.**

8.12. Façade Features: Pursuant to §16-4.12e.5(g), dormers, gables, windows and other similar design features shall be provided across a building facade. The plan proposes windows on all building façades. The plan complies.

8.13. Roofline Compatibility: Pursuant to §16-4.12e.6(a), the design of all buildings within a development shall include rooflines that are architecturally compatible or in context with existing buildings in the vicinity of the subject building. Within this context, rooflines that mix flat and pitched components are encouraged.

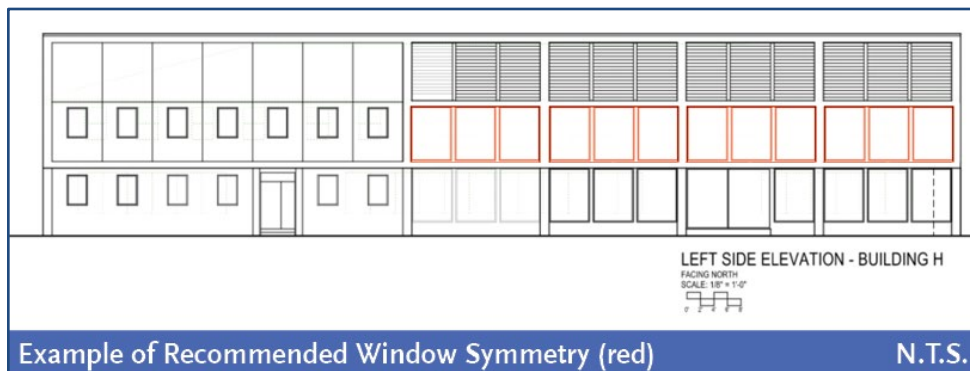
The rooflines of nearby buildings are flat, pitched, or a combination thereof. Other buildings within the existing business park along Wall Street have pitched roofs, while existing car dealerships along US Route-206 have flat roofs. The plan proposes to replace the existing pitched roofs with flat roofs. The plan complies.

8.14. Flat Roof Cornice: Pursuant to §16-4.12e.6(c), flat roofs shall provide that all visibly exposed walls have an articulated cornice that projects horizontally from the vertical wall in order to create the appearance of a 1-1/2 to 2-1/2 story facade. **The plan does not propose an articulated cornice, and the proposed buildings appear as three-story facades. A variance is required.**

8.15. Roofline Offset: Pursuant to §16-4.12e.6(d), long, monotonous, uninterrupted roof planes are not permitted. Roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to mitigate the visual appearance of a single, long roof. The plan proposes a single-long flat roof on each building. **A variance is required.**



8.16. Window Proportion: Pursuant to §16-4.12e.7(a), windows must be appropriately proportioned to the building. The plan propose three (3) window types varying by floor and internal space. **This office recommends replacing the double windows with the proposed triplet windows to enhance the unity and symmetry within the façade as indicated in the following exhibit.**



8.17. Accessory Structure Compatibility: *More information is required.* Pursuant to §16-4.12.8(a), all lighting, benches, trash receptacles and signage shall be designed to be compatible with the architecture of the building(s). **The plans should be revised and/or testimony should be provided to indicate compatibility between proposed building facades and existing and proposed lights, signs, and trash enclosures.**

8.18. Consistency of Pavement Material: *More information is required.* Pursuant to §16-4.12e.8(c), the materials used for all internal sidewalks and pathways connecting buildings, parking areas and public areas to sidewalks along the street(s) and to the Township's pathway network shall be chosen to enhance the architecture of the building(s) and the attractiveness of the site development. No changes to the existing pavement are proposed. **The plans should be revised to indicate pavement materials and their relationship to the architecture of the buildings.**

9.0 Signs

9.1. Proposed Attached Signs: Pursuant to §16-4.12.i, each principal first floor in a building with direct access from the outside shall be permitted a sign attached flat against the building. The plan proposes two attached signs, including one sign on each building.



- 9.2. **Sign Discrepancy:** The plan proposes two (2) building mounted signs – one (1) sign affixed to Building G and one sign affixed to Building H. **The notes on the plan indicate that the sign on Building G faces US Route-206, whereas the elevations indicate that it faces Wall Street. The plans should be revised to reflect the correct orientation of the sign.**
- 9.3. **Sign Area, Corner Lot:** Pursuant to §16-4.12.i.1(c), corner lots are permitted one additional attached sign for a principal use within the building which faces the additional street, provided that the sign shall not exceed 1/2 square foot of sign area per one linear foot of building facade fronting on said street, but in no case shall the size of the sign exceed 20 square feet in area. The area of the proposed sign on Building G facing Wall Street is 22 square feet. **A variance is required.**
- 9.4. **Attached Sign Height:** Pursuant to §16-5.13d.4, no attached sign shall be higher than 20 feet, measured to the top of the sign from the grade beneath the sign, except that no sign shall exceed any lesser height specifically set forth elsewhere in the subsection. The proposed signs are 18 feet in height and mounted 10 feet above grade for a maximum height of 28 feet. **One (1) design exception is required for each of the two attached signs.**

10.0 Fences and Walls

- 10.1. **Existing Fences:** An existing chain-link fence and split-rail wood fence are located on the south property line between Lot 15 and Lot 16. **A site visit indicated that the existing chain-link fence is rusted and peeled back in the location of the proposed rear gate to Lot 16, and portions of the split-rail fence have been removed. This office recommends replacement of all existing fences and gates with the proposed black aluminum fence.**



Existing Chain-Link and Split-Rail Fences (Southwest Property Line)

10.2. Existing Timber Wall: A \pm 1.5-foot tall wood timber wall exists in front of Building H. No changes are proposed.

10.3. Proposed Aluminum Fence: The plan proposes a 6-foot 3-rail flat top fence composed of black aluminum located in the yard east of Building G.

10.4. Fence Height: Pursuant to §16-5.3.b, no wall or fence on any lot in any district shall be erected or altered so that said wall or fence shall be over four feet in height in side, rear and front yard areas. The plan proposes a 6-foot aluminum fence in the side and rear yard of Lot 15. **A variance is required. (Per Township practice, deviations from the Ordinance regarding fencing are treated as variances rather than design exceptions.)**

10.5. Proposed Swing Gate: The plan proposes a 16-foot-wide swing gate composed of black aluminum rail fencing on the rear property line between Lot 15 and Lot 16.

10.6. Fence Protection: The plans do not indicate that existing and proposed fences are protected from moving vehicles. **This office recommends protecting fences by installing bollards, guardrails, curbed open space buffers, or similar features.**

11.0 Miscellaneous

11.1. Critical Environmental Areas: Pursuant to §16-6.4(6)(a), no person shall engage in, cause or permit other persons to engage in prohibited uses in the floodway, flood fringe, flood plain, flood hazard areas, special flood hazard areas and stream corridor areas. All uses not specifically permitted by the subsection are prohibited.



The plan proposes an existing waste enclosure and a proposed waste enclosure within flood hazard areas and the stream corridor, which is not a specifically permitted use. A variance is required.

- 11.2. **Development Fee for Affordable Housing: *Condition of Approval*.** The applicant is required to comply with the nonresidential development fee ordinance consistent with §15-24.

12.o Consideration of the Floor Area Ratio Variance

- 12.1. **Consideration of the Floor Area Ratio (FAR) Variance (pursuant to NJSA 40:55D-70d(4):** FAR is a tool to limit the intensity of use, by controlling mass and scale of buildings. When considering a variance for excessive FAR, the applicant is required to satisfy a lower threshold of special reasons than that which would be required for a use variance. However, they must ensure that the degree of the proposed deviation will still satisfy the negative criteria.
- 12.2. **The Positive Criteria:** Under the *Coventry Square*¹ standard, the applicant need not show that the site is particularly suited for more intensive development, but rather, that the site will accommodate the problems associated with the larger floor area than permitted by the ordinance.
- 12.3. **Negative Criteria:** As always, the granting of the variance must be able to be accomplished without resulting in substantial detriment to the public good, and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. The Court clearly explained in *Price*², how an applicant might establish the negative criteria for a variance, reinforcing that “only minimally greater” than permitted or “a minimal increase” could satisfy the negative criteria, but that variances that amounted to a tripling of the standard were not appropriate.

13.o Consideration of the Bulk (“c”) Variances

The following sections summarize the bulk variance criteria (pursuant to NJSA 40:55D-70.c) for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the

¹ *Coventry Square, Inc. v. Westwood Zoning Bd. of Adjustment*, 138 N.J. 285, 289-299 (1994)

² *Price v. Himeji*, 214 N.J. 263, 292-293 (2013)



“c” variances. The applicant must justify the variances separately and each variance must satisfy both parts.

13.1 Consideration of the Positive Criteria. To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

13.2 Consideration of the Negative Criteria. Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

14.0 Consideration of the Design Exceptions

The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses the criteria for the granting of exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:



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The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

15.0 Materials Reviewed

- 15.1 *Montgomery Township Planning & Zoning Board Application* and related documents, dated August 30, 2023.
- 15.2 *Site Plan*, 1 sheet, prepared by Michael K. Ford, PE, dated August 24, 2023 and revised through December 21, 2023.
- 15.3 *Architecture Plan*, 1 sheet, prepared by Ralph L. Finelli, dated August 21, 2023.
- 15.4 *Plan of Survey*, 1 sheet, prepared by Wayne K. Applegate, PLS, of EKA Associates, PA, dated May 23, 2023.
- 15.5 *Somerset Union Soil Conservation District Request for Determination of Non-Applicability*, dated August 30, 2023.
- 15.6 *Somerset County Planning Board Application*, dated August 30, 2023.
- 15.7 *Delaware and Raritan Canal Commission Application*, dated September 13, 2023.

16.0 Applicant / Owner / Professionals

- 16.1 **Applicant:** Stellar Land Assets, LLC c/o Charlie Caronia, 1045 State Road, Princeton, NJ 08540. Tel: 610.304.9627. Email: charlie@carcogap.com.
- 16.2 **Owner:** GH MNO, LLC by: Hilton Reality Co., LLC c/o Jeffrey H. Sands, 902 Carnegie Center, Suite 400, Princeton, NJ 08540. Tel: 609.921.6060 x109.



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- 16.3 Attorney:** Jav B. Bohn, Esq of Schiller, Pittenger & Galvin, P.C., 1771 Front Street, Suite D, Scotch Plains, NJ 07076. Tel: 908.490.0444 x239. Email: jbohn@schiller.law.
- 16.4 Architect:** Ralph L. Finelli, P.O. Box 144, Sergeantsville, NJ 08557. Tel: 908.581.0757. Email: rlfineilliarchitect@gmail.com.
- 16.5 Engineer:** Daid J. Schmidt, PE of D.S. Engineering, P.C. P.O. Box 792, Rocky Hill, NJ 08553. Tel: 908.359.0989. Email: dave@dsepc.com.

17.0 Summary

- 17.1** The project requires the following variances and design exceptions:

Pre-Existing Variances (Unverified by Township Records)

- §16-4.12.d – Min. Front Yard Setback
- §16-4.12.d – Min. Side Yard Setback
- §16-4.12.d – Max. Lot Coverage
- §16-4.12.d – Min. Distance Between Buildings

New Variances

- §16-4.12.d – “-D(4)” Maximum FAR
- §16-4.12e.4(a) – Building Entrance Articulation
- §16-4.12e.5(f) – Natural Materials
- §16-4.12e.6(c) – Flat Roof Cornice
- §16-4.12e.6(d) – Roofline Offset
- §16-4.12.e.9(b)(1) – Building Separation
- §16-4.12f.2 – Outdoor Storage and Display of Vehicles
- §16-4.12f.3 – Planting Area Requirement (Preexisting Nonconforming Condition)
- §16-4.12f.5 – Parking Distance from Property Line (Preexisting Nonconforming Condition)
- §16-4.12f.5 – Lawn Area within Buffer (Preexisting Nonconforming Condition)
- §16-4.12g – Separation of Parking Areas
- §16-4.12h.1 – Off-Street Loading
- §16-4.12.i.1(c) – Sign Area, Corner Lot (Building G)



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- §16-5.3.b – Fence Height
- §16-6.4(6)(a) – Stream Corridor Buffer, Waste Enclosure

Design Exceptions

- §16-5.6d.3 – Trees
- §16-5.6d.15 – Street Trees
- §16-5.13d.4 – Sign Height, Attached Sign (Building G)
- §16-5.13d.4 – Sign Height, Attached Sign (Building H)
- §16-5.14.c.1(d) – Sidewalk Requirement

Please contact this office with any questions you may have.

Documents\5000's\Montgomery Twp\5627_Montgomery Zoning Board of Adjustment\5627.69 Stellar Land Assets Use Variance\240226 Stellar CCH