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March 21, 2024
55182 00

To: Cheryl Chrusz, Board Secretary
Montgomery Township Zoning Board
100 Community Drive
Skillman, NJ 08558

From: Rakesh R. Darji, PE, PP, CME
Zoning Board Engineer

Re: Stellar Land Assets, LLC
316 Wall Street
Montgomery Township
Somerset County, New Jersey
Block 35001, Lot 16
Preliminary and Final Site Plan w/ d(4) FAR Variance
Application #BA-06-23

Our office has reviewed the documents submitted by the applicant for a Major Preliminary and Final Site Plan with Use Variance application. The parcel is located within the HC (Highway Commercial) Zoning District at the address listed above and contains 1.9974 acres. The prior use included two (2) office buildings on the site with associated improvements including parking, landscaping, lighting, utilities and stormwater management. The applicant proposes to renovate the interior of each building to an automobile dealership. Minor site improvements include a new trash enclosure, parking lot striping and fencing.

Numerous easements exist onsite, including a traffic light easement, utility easement, and a driveway area grantee access per the provided survey. Critical areas onsite include the Montgomery Township Strem Corridor and Flood Hazard Line.

The following information has been submitted by the applicant in support of this application. This office has reviewed submitted documents for compliance with the submission requirements of the Montgomery Township Land Use Ordinance for completeness.

1. Montgomery Township Land Development Application.
2. Montgomery Township Variance Checklist.
3. Plan of Survey, prepared by EKA Associates, P.A., dated May 23, 2023.
4. Topographic Survey, prepared by EKA Associates, P.A., dated August 9, 2023.
5. Site Plan, prepared by D.S. Engineering, P.C., dated August 24, 2023, revise to December 21, 2023, consisting of the following:
 - a. Existing Feature Plan, sheet 1 of 3.
 - b. Site Plan, sheet 2 of 3.
 - c. Existing Lighting Plan and Construction Details, sheet 3 of 3.
6. Environmental Impact Statement, prepared by DuBois & Associates, dated December 11, 2023.
7. Architectural Plans, prepared by Ralph Finelli Architect, dated July 21, 2023, 6 sheets.

General Information

Applicant: Stellar Land Assets, LLC
c/o Charlie Caronia
1045 State Road
Princeton, NJ 08540

Owner: GH MNO, LLC
Hilton Reality Co., LLC
902 Carnegie Center, Suite 400
Princeton, NJ 08540

Engineer: David J. Schimdt, PE
D.S. Engineering, P.C.
PO Box 792
Rocky Hill, NJ 08553

Architect: Ralph L. Finelli, AIA
PO Box 104
Sergeantsville, NJ 08557

Attorney: Jay B. Bohn, Esq.
Schiller, Pittenger, Galvin, P.C.
1771 Front Street, Suite D
Scotch Plains, NJ 07076

Zoning

Zoning – HC – Highway Commercial
§16-4.12d – Area and Yard Requirements

	Required	Existing	Proposed*	
Min Lot Area	1 Acres	1.9974 Acres	N/C	Conforms
Min Lot Frontage	150 FT	200 FT	N/C	Conforms
Min Lot Width	150 FT	200 FT	N/C	Conforms
Min Lot Depth	150 FT	436 FT	N/C	Conforms
Min Setbacks				
~ Front Yard (Rt.206)	50 FT	80.8 FT	N/C	Conforms
~ Front Yard (Wall)	50 FT	49.3 FT	N/C	ENC
~ Rear Yard	50 FT	127.4 FT	N/C	Conforms
~ Side Yard	25 FT	20.1 FT	N/C	ENC
Max Building Height	30 FT 2-1/2 stories	2 stories	N/C	Conforms
Max Impervious Coverage	55 %	88.89%	N/C	ENC
Floor Area Ratio	0.2	0.4003	0.2813	Variance

ENC = Existing Non-Conforming Condition

Variances

- The applicant is seeking a d(4) FAR variance. The Floor Area Ratio (FAR) permitted within the HC zoning district is 0.20, which can be increased to 0.225 when a fully constructed driveway interconnection is provided to an adjacent property (§16-4.12d[2]). The buildings as they are currently outfitted have an FAR of 0.4003. With the proposed renovations to both buildings, the FAR is reduced to 0.2813, though an improvement over the existing condition, still is above the permitted FAR in this zoning district. Thus, a d(4) FAR variance is required to allow a 0.2813 FAR where 0.225 is permitted.

The Applicant has the burden of proof to present “positive” and “negative” criteria to justify the variance. The Applicant should provide testimony indicating that there are “special reasons” to grant the requested relief;

1. The site is particularly suited to the proposed use OR would be zoned into inutility without the variance;
 2. The proposed will advance the purposes of the NJ Municipal Land Use Law (NJSA 40:55D-2) and the Township’s Master Plan and Zoning Ordinance;
 3. The variance can be granted without substantial detriment to the public good; and
 4. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.
2. The following are existing non-conforming conditions from §16-4.12d. These conditions do not impact this application:
 - a. The front yard setback to Wall Road is 49.3 FT where 75 FT is required.
 - b. The side yard setback is 20.1 FT where 25 FT is required.
 - c. The lot coverage is 88.89% where the maximum lot coverage is 55%.
 3. Per §16-4.12e9(b)(1), all building shall be separated by a minimum of 20 FT where the separation is occupied by landscaping or used for pedestrian use only. The 2 existing buildings on site are separated by 17.9 FT. This is an existing, non-conforming condition.
 4. There is an existing non-conforming condition, where the two buildings on-site are separated by 14.78 FT where 20 FT is required. This condition is not altered by the proposed application.
 5. Per §16-4.12f2(b), automobile sales uses are permitted to have outside display areas for automobile sale and outside storage areas for automobiles being repaired in accordance with the following:
 - a. No such display and storage areas shall be located within 50 FT of any street line or within 15 feet of any property line not common with a residential district. The plans show that parking spaces are at the property line on Wall Street and straddle the property line with Lot 10 and are within 2 FT (scaled) with Lot 16.
 - b. Testimony should be provided to determine where the proposed automobile storage areas to are to be located and where, if any, will automobiles requiring repair to be parked.
 - c. A variance may be required.
 6. Per §16-4.12f5, no parking area, loading area, driveway or other structure shall be permitted within the first 25 FT adjacent to any street line nor within the first 15 FT adjacent to any other property line and such areas shall be planted and maintained in lawn area or ground cover and shall be landscaped. The plans show parking within 25 FT adjacent to a street line; and asphalt extending to two other lot lines. This is an existing non-conforming condition.
 7. Per §16-4.12h, each principal building or group of buildings shall provide a minimum of one off-street loading space at the rear or side of the building or within the building. Any loading dock shall be 15 FT x 40 FT. No unloading is to be from the street. No loading areas are provided. A variance is required.
 8. Per §16-5.3b, no wall or fence shall be erected so such fence shall be over four (4) feet in height. The plans show a 6 FT fence is proposed. A variance is required.
 9. Per §16-6.4d6(a), no person shall engage in prohibited uses within the floodway, stream corridor area, etc. All uses not specifically permitted by this subsection are prohibited. An approximately 430 SF trash enclosure is proposed to be constructed within the Township Stream Corridor. A variance is required.
 10. We defer to the Board Planner for any further Variances or Waivers that may be required.

The Applicant has the burden of proof to justify the variance, by testimony or other means, by using either the c(1) or c(2) proofs.

For c(1) variances the Applicant must demonstrate that strict application of the zoning requirement would have “peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant arising out of:

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

For c(2) variances the Applicant must demonstrate that:

- a. The purposes of the Municipal Land Use Law (MLUL) would be advanced by a deviation from strict application of the zoning requirement;
- b. The variance can be granted without substantial detriment to the public good;
- c. The benefits of the deviation would substantially outweigh the detriment; and
- d. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

Waivers

11. Per §16-5.6d3 requires a minimum of 14 trees per acre of gross tract shall be planted throughout the site in the case of non-residential development. The parcel is approximately 2 acres in size, thus requiring 28 trees to be planted. The site is existing, with mature landscaping provided. Three (3) trees are proposed. A design waiver is required.
12. Per §16-5.14c1(d) sidewalks shall be provided along all existing streets upon which all residential and non-residential development abut. No sidewalk exists at either the Route 206 or Wall Street frontages. A design waiver is required.

General Comments

13. The applicant should discuss:
 - a. Hours of Operation
 - b. Anticipated timing of deliveries
 - c. Anticipated timing of trash pickup
 - d. Anticipated number of employees
14. Truck turning templates should be provided, including car carriers, delivery vehicles, emergency vehicles.
15. The applicant should discuss where and how vehicle delivery will occur.
16. The plans show a proposed driveway easement, which may be further defined on the provided survey. It is recommended that this proposed easement be hatched to define its area. It does appear that this easement ends at the existing trash enclosure.
 - a. Testimony should be provided regarding which properties this easement serves.
 - b. The legal description, including depicting the metes and bounds of the proposed easement, should be provided for review by the Board Professionals.
 - c. There are parking spaces within this easement area, including some that straddle both Lot 15 and Lot 10. If parking is to be restricted to either lot, or for a specific use, it should be so noted.
 - d. The applicant should provide an explanation of the “easement within an easement” at the Wall Street access.
17. Per §16-4.12g7, automobile sales shall provide at least 10 parking spaces for customer convenience which shall be separated from vehicle display areas and not used by employees. Testimony should be provided

stating how this condition will be met. If there is to be signage designating employee and customer parking, this should be depicted on the plan. It is noted that 10 spaces are proposed for customer parking.

- a. The parking table on Sheet 2 indicates that there are 13 spaces allocated for “service.” The applicant should discuss if vehicle service it anticipated. The architectural plans do not show any area for the proposed service.
18. Per the NJ State Statute and §16-5.21d2(d), as a condition of preliminary approval, each application involving a parking lot shall install at least four (4) make ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 parking spaces. There are 111 parking spaces available on site. No electric vehicle charging stations are proposed. The plans should be revised to comply with the Township Ordinance.
 19. The sidewalk fronting Building G should be dimensioned. If the width is less than 5 FT, wheel stops should be provided to prevent vehicle overhang on the sidewalk.
 20. The applicant should discuss the condition of the following improvements:
 - a. Parking Lot asphalt
 - b. Driveway
 - c. Sidewalk
 - d. Curbing
 - e. Landscaping
 - f. Wall (at Building H)

A note should be added to the plan indicating that repairs and/or replacement will be made should the Township Engineer recommend it.

21. The applicant should discuss if the existing trash enclosure is to be removed as part of this application as another is proposed.
22. The proposed trash enclosure should be dimensioned.
23. The location of the proposed fence appears to possibly reconfigure the parking spaces on both sides of the fence. To the west, the striping will permit 11 spaces, which are included in the parking count for the site. However, there is a note stating “possible parking re-striping (contained within easement) to the east of the fence. Clarify the intent at this location and show the striping and size of these spaces. It is recommended that the area between the proposed fence and the head of the “possible parking restriping area” be landscaped. There is space ranging from approximately 13 FT to 5 FT.
24. This project does not trigger the Stormwater Management rules of N.J.A.C. 7:8 or the Township Ordinance as the total limit of disturbance is less than 0.5 acres and there is no increase in impervious coverage. The applicant should discuss the existing drainage patterns on-site. It is recommended that all inlets be cleaned and inspected.
25. This office defers to the Fire Marshal for comments regarding site circulation for safety and emergency vehicles.

Permits & Approvals

26. The applicant shall secure any and all other approvals, licenses, and permits required by any other board, agency or entity having jurisdiction over the subject application or over the subject property, if required:
 - a. Somerset County Planning Board, application submitted August 30, 2023.
 - b. Somerset-Union Conservation District, application submitted September 13, 2023, request for determination of Non-Applicability.
 - c. Delaware and Raritan Canal Commission, application, dated August 30, 2023.

d. Any and all others as required.

Administrative

27. The applicant shall pay all taxes, fees and required escrow deposit which may be due and owing.
28. We reserve the opportunity to make further comments if additional information is presented.
29. All future resubmissions of the plans shall clearly indicate a revision date and be accompanied by a point-by-point response letter to the comments of the Board's professional staff.

Should you or the applicant have any questions, please do not hesitate to contact this office.

RRD/mbs

Cc: Stellar Land Assets, LLC, Applicant, (charlie@carcogpap.com)
David J. Schmidt, PE, Applicant's Engineer (dave@dsepc.com)
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