

Community and Land Use Planners

To: City of Hoboken
Planning Board

From: Eileen F. Banyra PP, AICP
Board Planning Consultant

Subject: Amended PUD Preliminary and Final Site Plan
Final Site Plan Development Block G
Shipyards Associates, LP

Date: July 6, 2012

EFB#: HO-11-14

A. Introduction

The applicant, Shipyards Associates, LP, has submitted plans requesting amended preliminary site plan approval for the overall project and final site plan approval for a property identified as Development Block G (alternatively, Block G) which is located within a Planned Unit Development (PUD) known as The Shipyards. The Shipyards was the first of three PUDs developed within the I-1 W zone, which largely abuts the Hudson River.

Shipyards received its original preliminary site plan approval on January 7, 1997. Since that time the project has been before the Planning Board many times for final approval of the various Development Blocks A through F, as well as for minor amendments. Additional approvals included the location and relocation of a ferry stop, marina and de minimis applications to expand a health facility and for a dinner cruise line (no approval given). Prior to the current submission, the last development block approved for Final Site Plan was Development Block F, approved in 2007.

The following report responds to the revised plans and information submitted by the applicant dated May 24, 2012. This report has been amended and/or revised where necessary from the previous report by Eileen F. Banyra dated February 17, 2012. While there is duplication in the reports, there is also new and/or additional information provided in this report. Specific responses to the February EFB memo have been indicated in bold.

As of the date of this memo, there is still disagreement regarding the definition of development block and the resulting variances which has muddled the application and all of the resulting calculations. These issues have been identified in prior reports and letters to the Board Attorney but no variance application has been filed with the Board Secretary. Such a disagreement regarding an interpretation could also result in an application to the Board of Adjustment, but no application has been filed with that Board.

Summary

The Shipyards project was the first Planned Unit Development Project (PUD) in the City. The tract consists of approximately 45 acres subdivided into seven (7) Development Blocks and the connecting vehicular and pedestrian circulation system. The project is principally situated between Hudson Street to the west and Frank Sinatra Drive to the east, and between Twelfth and Fifteenth Streets. The original

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development received preliminary site plan and major subdivision approval in January of 1997. The approvals created a high-rise development with 1160 dwelling units, 1466 parking spaces, commercial, retail and recreational amenities with buildings varying between eleven and thirteen stories. From the PUD's inception, the property identified as Block G was represented as open space and a private tennis facility. The facility was to consist of three regulation sized tennis courts, a one-story tennis pavilion and 44 public surface parking spaces.

The application before the Board involves the northernmost portion of the Shipyards development, which is identified as Block G. The proposal changes the intended use of this property from a recreational to a residential use, which requires an amendment to the project's overall Preliminary Site Plan and Final Site Plan for Block G.

The following items have been reviewed in conjunction with the preparation of this report:

- a. Amended Preliminary Plan consisting of eighteen (18) sheets prepared by Eric R. Ballou, P.E., of Birdsall Services Group, dated August 23, 2011; and last revised May 22, 2012;
- b. Final Site Plan consisting of eighteen (18) sheets prepared by Eric R. Ballou, P.E., of Birdsall Services Group, dated August 23, 2011; last revised May 22, 2012;
- c. Architectural Plans consisting of fourteen (14) sheets prepared by Robert R. Siegel, RA., of Gwathmey, Siegel Kaufman & Associates, LLC, dated December 8, 2011; last revised June 5, 2012;
- d. Color Architectural Renderings prepared by Gwathmey Siegel Kaufman & Associates, LLC, not dated or signed;
- e. Landscape Plans consisting of eleven (11) sheets prepared by Thomas B. Bauer, of Melillo + Bauer Associates, revised through August 23, 2011; last revised May 22, 2012;
- f. Traffic report for Monarch at Shipyard, Proposed Residential Development, North Platform, Block 264.2, Lot 1 prepared by Gary W. Dean, P.E., P.P., Dolan and Dean, Consulting Engineers LLC., dated May 23, 2012;
- g. Responsive/transmittal letter from Josiah A. Wuestneck, of Shipyard Associates, L.P., dated May 23, 2012;
- h. Shipyards PUD Calculations prepared by Madonna Designs Architects, LLC prepared by Thomas A. McGinty, AIA;
- i. Survey consisting of one (1) sheet prepared by Frank J. Barlowski, P.L.S., of Birdsall Services Group, dated April 29, 2011;
- j. Report entitled "Neighborhood Impact Report, Monarch at Shipyard", prepared by Phillips Preiss Grygiel LLC, dated August 2011;
- k. Amended Preliminary Site Plan & Final Site Plan Application Checklist dated August 23, 2011;
- l. Planning Board Resolution for Preliminary Site Plan and Subdivision Approval undated, stamped as received January 29, 1997;
- m. Transmittal letter from Josiah A. Wuestneck, of Shipyard Associates, L.P., dated August 25, 2011;
- k. Transmittal letter from Josiah A. Wuestneck, of Shipyard Associates, L.P., December 9, 2011;
- l. Developers Agreement dated 12/4/97.

B. Amended Preliminary Site Plan and Final Site Plan Block G

In my initial completeness memo dated October 7, 2011, technical checklist items and substantive issues were raised. The applicant responded to that memo with revisions to the plan set as well as a point-by-point response letter from Mr. Josiah Wuestneck P.E. dated December 9, 2011. The current submission

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included a response memo by Mr. Josiah Wuestneck P.E., dated May 23, 2012, which addresses both the planning and engineering concerns. Many of these responsive issues are addressed **in bold** in this memo.

I have reviewed the revised documents, plans and responses provided by the applicant to my memo dated February 17, 2012. While the revised plans have responded to many of the issues raised in my earlier report, there are threshold issues that remain (development block, street and/or walkways) which are critical to determining both variances and the area used to calculate the residential floor area.

As previously noted the current application/submittal represents not only a change in use for Block G, but significant changes to the information previously presented to the Planning Board in the applications submitted over the past 10 years. The plan now represents changes to the following: use of the property, property easements, the calculated residential floor area, provision of public parking and design changes to the walkways and streets. While documentation/verification for some of these items has been provided, additional information has been requested as outlined elsewhere in the report. This report serves as the second comprehensive planning review of the project based on the zoning ordinance, revised plans and information set submitted and dated May 23, 2012.

C. Review Comments

1. **Property Description.** The property in question is identified on the City tax maps as Block 264.2 Lot 1, and is located on Frank Sinatra Drive Extension and at the eastern terminus of 15th Street. The development is located in the I-1(W) zone which has been developed as a Planned Unit Development (PUD), and is a principal permitted use within this zone district. The proposed site is identified as Block G (the northernmost parcel within the Shipyard's PUD) and has a total lot area of 1.8 acres. The property is rectangular in shape with 150 feet of frontage along Sinatra Drive/Shipyard Lane and a depth of 526 feet running north and parallel to Hudson Street. The application indicates that the property consists of both upland and platform area. The upland area is identified as 150 feet by 175 feet and 0.6 acres, while the platform area is 150 feet by 350 feet and 1.2 acres. The property's current upland area is shown at an elevation of +/- 10 ft. with some utility improvements. The survey indicates that the platform is at the water elevation, with a varied surface consisting of assorted piles of dirt, concrete and other debris.

Represented on the preliminary site plan's aerial photograph and cover sheet is an east/west pier, formerly known as the 15th Street Pier, which lies perpendicular to the subject site and extends eastward into the river. The 15th Street pier was the subject of a residential development proposal in 2000, but was withdrawn by the applicant without formal action by the Planning Board.

2. **Proposed Development.** There are two related applications before the board, which for the purposes of this review are being handled together. The first application is for an amended preliminary approval for the overall project due to changes to Block G which differ from the original preliminary site plan approval for the PUD. The second application is for Final Site Plan approval for Block G.

The proposal is to develop the 1.8-acre site with 70 dwelling units. These units are divided between two 10 story residential towers on either end of the base structure, which also contains parking and related improvements. The parking garage serves as the first floor and base of the project. On the

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second floor and garage roof stands a central single story lobby, which connects to each tower via a hallway appendage. This second floor also includes a terrace area with potted planters. Proposed for the top of the lobby roof is a swimming pool surrounded by hardscape.

The residential units are divided between the two towers, with each tower containing 35 dwelling units. The units are located on floors two through ten, with access to the dwellings from either the first floor garage or second floor lobby. The bedroom unit breakdown indicated includes (2) one-bedroom units, (35) two-bedroom units and (33) three-bedroom units, with the units ranging in size from 1,131 to 2,306 square feet and a typical unit approximating 1,800 square feet.

Vehicular access to the project has been modified and the project is now served by one access point on the south side of the property from Sinatra Drive. The vehicular drive splits on-site with vehicles either entering the base of the building and garage or proceeding under the building to the lobby and drop off area.

The garage reflects controlled access and parking for 88 vehicles, with twelve (12) spaces indicated as tandem parking spaces. To access the lobby drop off, the driveway continues to the west side of the building and goes under the southern residential tower and up a ramp to the second floor circle in front of the lobby between the towers. This drive serves as access to and drop-off for ~~to~~ the lobby. After drop-off, vehicles exit by circling around and back under the building to Sinatra Drive.

3. Building Design and Facade Calculations. The ordinance requires identification of materials as well as façade calculations. The applicant is required to identify the materials, coloration, fenestration and provided façade calculations in a tabular form demonstrating satisfaction with the requirements set forth by §196-27.3. The submission is required to provide detailed information on the following: façade materials and percentages, coloration, vertical and horizontal articulations, and fenestration. The details of the building's design are required for final approval and are commonly identified in the findings of facts for any approval.

- The applicant has not provided sufficient detail to show compliance with this section of the Urban Design Guidelines (§196-27.1) or with the Building Facade ordinance (§196-27.3), which applies to all new residential buildings. The facade ordinance requires more than a fenestration calculation to show compliance. Materials must be specified and patterns of horizontal and vertical details must be remarked on. For the garage design, larger scale drawings should be submitted to show the facade of the garage floors all the way around the building from the pedestrian's point of view. **Addressed.**

Sections/cross sections have been provided on both the architectural and landscape plan, however the landscape plan best represents the relationship between the building and pedestrians. The pedestrian experience still appears dominated by the 1st floor garage walls, which minimize the pedestrian experience around the building.

- The revised architectural plans do not indicate the building's color or details regarding the porte cochere, pool structures, fencing around pool or the type of fencing/enclosure around this rooftop's edge. **Addressed.**

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- §196-27.1 B. (2) “That off-street parking provisions are, at a minimum: (d) The exterior wall materials and design of enclosed parking facilities located within a residential or commercial building shall be designed to the greatest extent practicable, the materials on the exterior walls of the building in which the parking is located or, in the case of a freestanding parking structure, adjacent buildings in the planned development.” **The revised plans indicate the building and base material will be a 4” x 8” stacked white glazed brick. Applicant should confirm in testimony.**

 - The garage windows or base should reconsider use of the louvers in the buildings base as they present an institutional image and negative pedestrian experience. (See louver on Shipyards Lane.) The treatment of the garage base with other type of openings, (i.e. decorative grills) will serve to accommodate ventilation and improve the pedestrian experience on the walkway surrounding the project. **Grille options have been provided with sections shown on the architectural plan sheet A206.**

 - The access and location of the utility appurtenances, such as PSEG transformers, should be reflected on the plan. **The transformers are now indicated within the garage with access from Shipyard Lane extension.**

 - The plans should also provide the location and calculations of the rooftop appurtenances. These should be reflected on the plan to insure ordinance compliance. A rooftop appurtenance calculation has not been provided. The appurtenances should be dimensioned and calculated, as they appear to exceed the permitted 10% rooftop coverage. **The rooftop appurtenances issue has not been addressed and it appears that a variance is required 196-23.A.(1)**

 - Color drawings and an orthographic drawing or model should be provided to illustrate the building’s articulation, particularly the way the multi-level garage rooftop with lobby works, and its relationship to the walkway and to adjacent streets and properties. **This has been addressed with revised plans.**
4. Waterfront Walkway & Landscaping. The waterfront walkway area has been a significant amenity to the community and **important link to the region**. The design of the walkway and adjacent seating and landscaping serves not only this project but the larger community. This walkway is important as active and passive open space, for recreation and to provides shading, cooling and where possible restoring and/or creating habitat along the shoreline. The applicant’s response letter indicated that the landscaping plan is intentionally minimal to showcase the building. However, this is a missed opportunity and inappropriate from a site planning, environmental and locational standpoint.

The project is adjacent to and a component of a major city/regional park. Additional landscaping treatment will not only enhance the project but the overall environment of the walkway as well. Landscaping should be perceived more broadly, not just as a design flourish but holistically. The landscaping can serve multiple functions at once without adding significant costs to a project. These include: creating and enhancing habitat, providing wildlife food sources, mitigating environmental impacts (nutrient loading, water and air quality, water retention, shading/cooling etc) and should be considered in the final project design. **The revised plans have added a few additional species to**

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the plant list but have also eliminated trees on the east and west side of the project. While the project's entrance (south side) has substantial landscaping, the balance of the landscape plan is minimal and self-serving.

- The garage rooftop design and landscaping does not comply with the urban design review for planned developments. In §196-27.1B(3)(b)

“Building coverage for any one development block shall not exceed 75%, so long as average building coverage for all development blocks does not exceed 65%; provided, however, that where a parking structure is created under the principal building, up to four stories may cover up to 100% of the development block. Such stories of the building shall be excluded from the calculation of building coverage so long as the following conditions are met:

[1] The rooftop of the parking structure shall be landscaped and designed for the use and enjoyment of occupants of the building; and...”

The purpose of the landscaped garage rooftop (which allows for 100% coverage while exempting it from counting toward the maximum coverage) was to provide a "raised yard" mimicking the common rear yard area of a fully developed Hoboken block. Until now, the garage rooftops in this and other PUDs, have been landscaped and designed in a variety of ways but only with recreational facilities and accessory recreational structures. These areas have not been used for area assigned to the residential space.

In the current proposal, the low-rise area between the two towers is approx. 19,000 sq. ft in area with nominal landscaping. The area is broken up into two levels, with the main lobby/entrance and pool on top of the lobby all within the area typically assigned to the landscaped rooftop. From this lobby structure, which occupies at least 3,500 sq. ft., there are connecting covered "hallways" which lead to each tower, further slicing the private open space into small parcels. Both the lobby and hallways are residential gross use areas that don't belong in the middle of the private open space.

The residential use should be removed from this area or a variance requested. The design is inconsistent with the ordinance and its application throughout the PUD. **The applicant has addressed this and indicates that a variance is not required. However, as the area representing the development block is in dispute, the building coverage and determination of whether or not a landscaped garage rooftop is required is still in question. A variance(s) may still be required.**

- The landscaping plan should be embellished with vegetation, in particular in the area adjacent to the walkway between the garage and the walkway. **While there have been nominal species included, the result represents no significant positive change from the earlier plan.**
- Additional appropriate shade trees should be provided along the street/walkway to address the multiple environmental functions identified above. **Current plan has removed trees.**
- One bike rack is shown along the waterfront walkway. Additional bike racks should be provided

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around the walkway and represented on the plans. **One additional bike rack for five bikes has been identified.**

- There are a number of buildings in the City that have provided green roofs to assist in reducing stormwater runoff, improving water quality, reducing heat and saving on the building's utility bills. The applicant should consider the merits of a green roof but at minimum, a white roof should be proposed. **The applicant has indicated that as there is no requirement for a white or landscaped roof, there is no commitment by the applicant to this request.**

5. Lighting Plan. The architectural plan and the landscaping plans now represent the various lighting fixtures for the building, walkway and surrounding exterior spaces. An isolux plan as well as a point by point of proposed foot-candles is represented in the landscaping plan. The applicant should be advised that the planning board often reduces the wattage where appropriate for exterior lighting to prevent unnecessary light, energy consumption and trespass.

- The amount of lighting on the western side of the building around the lobby appears excessive and commercial rather than residential in its presentation. As the building appears to contain large amounts of glass, the applicant should identify if the building materials and lighting have been evaluated to address adjacent properties and minimize dark sky considerations such as glow, glare and light trespass to the extent possible. **The applicant has provided a cumulative lighting plan that includes adjacent street lighting as represented on the landscape plan sheets numbers (L-9 thru L-11). The wattage proposed is represented as 150 watts and should be reduced. Applicant's professional to provide testimony.**
- The project's lighting should be examined to reduce the impacts on the adjacent properties, waterfront walkway and streets. Consideration should be given to the reflective quality of the building's materials, the fact that it is surrounded by water, and whether or not the water will amplify the lighting proposed. **Applicant's professional to provide testimony.**
- A note on the architectural plans indicates that the lighting at the garage entrance will be 50-foot candles (sheet A 301). **Addressed.**
- The wattage of the decorative light fixtures is not indicated on the plans. **Addressed, however the applicant's professional to provide testimony.**
- The applicant should examine existing and ambient lighting around the site, particularly at the intersection with Sinatra Drive, Shipyards Lane and 15th Street, to ensure that the area is not over-lit. **Applicant's professional to provide testimony.** (See above)

6. Circulation Plan. The Board Engineer will address the circulation plan, however I offer the following comments:

- The project's access has been changed from two points of intersection to one at Sinatra Drive and the driveway throat and radii have been reduced. The proposed site access from a planning perspective has reduced conflicts and improved pedestrian movements.

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- The connection between Sinatra Drive and 15th Street is represented as a private roadway with a different ROW and connecting with two County roadways. The applicant's professional should indicate if the proposed design has been approved by the County and/or identify their status with the County approvals. Board engineer to evaluate whether this intersect/linkage of a private street segment between two County/public streets with differing ROWs is acceptable.
 - The ROW of 15th Street and whether it is 50 or 55 feet in width should be represented on the plans.
 - A bike storage area within the garage is represented on the plans. **No bike storage is shown on the plans. Applicant's professional to address.**
7. Calculation of "Development Block" and "Gross Use Area". Since this is the first time Block G is under review for a residential proposal, the site plans have been carefully examined to insure that the numbers utilized in all calculations are correct. The urban design guidelines mandate that a PUD begin by laying out streets in order to create development block areas, which create the framework for all the applicable bulk regulations in the district. Most critically, the total development block area is the foundation of the calculation of the maximum permitted residential gross use area. The definition of these terms is also used to determine the "range of ratios", which is the ratio of total residential gross use area to public/commercial gross use areas. The definitions are located in 196-6 of the City ordinance and are as follows:

*Development Block - "The area in a planned unit development **bounded** by existing public streets and/or public or private streets created in accordance with the Urban Design Review guidelines."* (Emphasis added)

*Gross Use Area - "In planned unit development where ranges of ratios of residential and nonresidential uses are specified, "gross use area" represents both (i) the gross floor area of all buildings devoted to a particular use and (ii) the gross area of open land, platform or pier devoted to a particular use. In either case, the calculation of **gross use area shall exclude streets** as well as square footage devoted to accessory off-street parking, whether located within the principal building, within a separate accessory building or in open area on the land, platform or pier. Open areas such as areas developed as passive or active recreation, riverfront walkway, marina or waterborne transportation may be included in the calculation."* (Emphasis added)

Based on these definitions the development block must be bounded by a "street" and the gross use area exclude streets.

- After reviewing the revised plans calculations and definitions and applying them to Development Block G, it is my opinion that Block G is not a properly constituted development block and is incorrectly calculated for the following reasons:
 - The "bounding" of streets required to create a development block are instead inappropriately but partially contained within the lines of development Block G.

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- The development block area identified by the applicant only deducts for the west and north street/walkway areas. By definition the area attributable to any “street”, inclusive of ROW, must lie outside the boundaries of a development block. The total area of Block G must therefore be reduced by the area assigned to streets/walkways (“bounding it”) to properly calculate the residential gross use area.
 - The area assigned to “streets”/walkway for the eastern side of the project is not deducted and appears double counted toward the public/commercial gross use area and toward the residential gross use area.
 - The proposed plan represents a significant change in both the use and utility of this parcel from what was originally approved in 1997. These changes make it appropriate for the parcel to be reviewed pursuant to current case law and changes that have occurred since the original PUD approval.
- A recalculation of the maximum permitted residential gross use area has been provided in a supplemental report by Madonna Design, however the source of this information to verify these calculations has not been provided. As the development block is in dispute, its resulting area cannot be determined. It appears that the gross use area for residential area exceeds the maximum permitted.
 - While the range of ratios may change with alteration and/or corrections to the calculations, it appears that they will still fall within acceptable limits.
 - The walkway on the east side has been counted toward public/commercial gross use area and also serves as the “street”. Further, this area is counted toward the calculation of the gross use area for residential. It appears to be that there has been a double counting of this area.
 - Since the original submission and in each of the revisions to the plans, the values identified as “Proposed Residential Floor Area” for Development Blocks A thru F have been amended downward since the prior 2007 application calculations. The revised submission again has further reduced the gross use area for residential based on calculations identified by Madonna Design as indicated above. The applicant should provide documentation or “as-builts” to reflect where these values come from, as they have **not** been represented on any previous submissions or approved plans. It should be noted that these calculations of floor area are to be represented in gross, not net area calculations.
8. Establishment of the Street System. The original PUD approvals represented Block G as including a 20-foot waterfront promenade on the east and north sides of the project and, a 55+ foot wide area which included a 30-foot wide public roadway, perpendicular parking for 44 vehicles (public) and sidewalk area. In the current application, the applicant has identified a 16 foot and 18 foot cartways on the east and north sides of the building and a 22 ft wide cartway on the west side serving as a private street for the project. The Board Engineer will address the adequacy of the system but the applicant appears to have chosen minimal widths and descriptors to avoid deducting these areas.

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As noted, the identification of the “street” system and the determination of its width and ROW is critical for the project’s calculations including: setbacks, gross use area and remaining residential gross use area for the subject site as amplified below. The applicant should demonstrate that the following bulk controls have been applied:

- 196-27.1 B. (3) a. *“Rear walls of residential buildings shall not be more than 70 feet from the street line of any public or private street [except in the case of residential buildings located within 150 feet of the intersection of two streets, which buildings may have rear walls located not more than 125 feet from the street line]”. **What constitutes a street is in question, so it cannot be determined where to measure setbacks from and whether or not a variance is required.***

The ordinance states the maximum distance is to be measured from a street line to the rear wall. §196-6: "street line: the edge of the street right-of-way forming the dividing line between the street and a lot." It would be clearer if the applicant proposed a subdivision to put the streets on separate lots, as was done elsewhere in the PUD. The applicant has graphically depicted the setbacks, however compliance with this ordinance cannot be determined and the applicant was advised to seek variance relief.

- 196-27.1 B.(3) (b) *“Building coverage for any one development block shall not exceed 75%, so long as average building coverage for all development blocks does not exceed 65%; provided, however, that where a parking structure is created under the principal building, up to four stories may cover up to 100% of the development block. Such stories of the building shall be excluded from the calculation of building coverage so long as the following conditions are met...”*

As the proposed "streets" lie entirely within the development block boundaries rather than around it, the concept of building coverage within the development block is altered. The current development block G is both a single lot and a single block with the street improperly counted toward the block area. **The applicant's calculation of block G coverage has included the area of the streets, which is incorrect. The applicant should demonstrate satisfaction of this requirement or seek variance relief.**

- 196-27.1 B.(1)(a)[4]- *“Creates and maintains view corridors (at street level) of the Hudson River primarily along the lines of adjacent east-west streets south of and including Fifteenth Street, and view corridors of Weehawken Cove — primarily along the lines of adjacent north-south streets west of and including Hudson Street.”*

While the proposal has set the building back, it still does not maintain the view corridors of Weehawken Cove as was established with the street line of the adjacent north/south street, which is Shipyard Lane. **The ROW lines for both Shipyard’s Lane and 15th Street should be represented as the residential buildings still appear to lie within these site lines¹. Shipyards**

¹ Hudson Street was the easternmost street at the time of the adoption of the PUD design guidelines (June 1989). Shipyard Lane was created east of Hudson Street at a later date within the subject PUD. The original approval and design of the tennis facilities were well outside the north-south street line.

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Lanes street line was approved for 45 foot ROW and consistency with the existing dimension should be maintained or the applicant should seek variance relief.²

- 196-27.1 B. (3)(c) *“Any development block within a planned development containing one or more residential buildings shall contain an open area for light and air [having no dimension less than 30% of the block width] commencing no higher than the level of the lowest residential floor facing the interior of the block. Open areas above buildings or structures, on-grade parking lots, driveways, sidewalks and other surfaces may satisfy this requirement.”*

The applicant should add this requirement to the zoning table’s bulk criteria and physically dimension on the plan set how this criteria is achieved. This requirement also goes back to the definition of development block and its dimensions. Until that is resolved, it is impossible to determine if the project meets this requirement. **It appears that the applicant will be able to satisfy this requirement and no variance will be required.**

- The area calculation for what the applicant believes constitutes a street with its associated ROW should be represented on the plans and the appropriate items recalculated in the zoning and Gross Use tables. **The applicant has amended the plans and recalculate areas, however I disagree with the calculations as they fail to deduct the area on the entire eastern side of the project and the determination of streets and what constitutes an appropriate width for these deduction for these streets still requires determination.**
- It is unclear what the NJDEP walkway’s ROW is and if it is on the plans. The applicant’s plans should reflect this ROW. **The plans have been amended and the determination of the DEP walkway requirements for a platform and connector is now represented on the plans.**
- On the original survey as well as the 2007 survey from the 2007 plan set an easement to the City’s property on the north of this site was identified. The original survey represented a 40-foot wide easement while the 2007 survey represented a 30-foot wide easement. The response letter appears to indicate that this easement has been vacated. The applicant’s surveyor/professionals should identify the disposition of this easement, the terms of its vacation, how and when this was done and whether the City was notified of the easement vacation.

If the property easements were vacated, the Board Attorney should advise whether the property owner has the ability to control the future development of a City property/tract by regulating the width and utility of the access roadway to the site. **Engineer and Board Attorney to report whether or not this has been addressed.**

- As noted in my earlier memo, in discussing this “street”/walkway with the Board Engineer, it was my understanding that the street as proposed did not meet RSIS standards. This size or type of street has not been proposed before in the city. Both the Planning Board and planner will be guided by the Board Engineer’s determination of what constitutes an appropriate street

² Street Line- The edge of the street ROW forming the dividing line between the street and a lot.

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for the purposes of development Block G from the perspective of RSIS, City Ordinances and emergency access. **This issue remains valid.**

- It is important that appropriate access to the City property be maintained so as not to limit future development potential of the City tract. It should be noted that in the preparation of the 2011 Open Space Plan, the original/recreational use on proposed Block G was considered along with that of the City's property when placing them on the map as open space/recreation. Plans now reflect a 30-foot wide ROW. Board Engineer should advise as to adequacy.

9. Findings for Planned Unit Development. The Planned Unit Developments for the City require adherence to specific urban design guidelines, which were developed for review of such projects. Prior to the granting of an approval for a PUD, both the City's ordinance and Municipal Land Use Law (MLUL) require specific findings of the Planning Board. The City's ordinance and the relevant section of the MLUL (NJSA 40:55D-45) are copied below to assist the Board in their findings.

- a. *§196-27.1 B -Action by the Planning Board - "The Planning Board shall review an application for urban design review in accordance with procedures for site plan review set forth in 196-2. Prior to approving any planned development, the Planning Board shall find the facts and conclusions required under NJSA 40:55D-45 and make such further findings as area required under any other provisions of the municipal Land Use Law. In its review, the Board shall also find that the applicant meets the following requirements..."*

(1) That the development creates a vehicular and pedestrian circulation system of streets (either public or private), pathways and public open space which advance the following:

(a) Creation of a street system which:

[1] Interconnects with existing and adjacent streets in a design demonstrated by applicant's traffic studies to optimize traffic flow in and out of the planned unit development;

[2] Where a planned unit development is adjacent to any western bypass road (as discussed in the Circulation Plan Element of the City Master Plan) as may be constructed, it shall provide a linkage to such road thereby permitting access to the northern waterfront sector of the district by passing beneath the Park and Willow Avenue viaducts. If such bypass road has not been constructed at the time the subject planned unit development application is submitted, the layout of the planned unit development shall not preclude any future linkages.

[3] Creates a development block pattern which provides the framework for the application of § [196-27.1B\(3\)](#).

[4] Creates and maintains view corridors (at street level) of the Hudson River primarily along the lines of adjacent east-west streets south of and including Fifteenth Street, and view corridors of Weehawken Cove — primarily along the lines of adjacent north-south streets west of and including Hudson Street.

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*[5] Where a developer chooses to make streets private he shall provide permanent public easements over all such streets in order to insure public access to the water's edge.
[Added 10-18-1995 by Ord. No. R-146]*

(b) Creates a pedestrian circulation system and open space system which provides public access to and along the edge of the Hudson River and Weehawken Cove, built in conformity with at least the minimum standards of the New Jersey Department of Environmental Protection per Section 7:7E-8.11 "Public Access to the Waterfront," N.J.A.C. 7:7E-1.1, et. seq.

b. N.J.S.A. 40:55D-45-Findings for Planned Developments.

a. *That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to the zoning ordinance standards pursuant to subsection 52c of this act 40:55D-65;*

b. *That the proposals for maintenance and conservation of the common open space area reliable and the amount, location and purpose of the common open space are adequate;*

c. *That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment are adequate;*

d. *That the proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;*

e. *In the case of a proposed development which contemplates construction over a period of years that the terms and conditions intended to protect the interests of the public and of the residents occupants and owners of the proposed development in the total completion of the development area adequate."*

10. Other Planning Comments:

a. The applicant should provide documentation regarding the changes indicated to the Gross Floor Area (residential) as well as a recalculation of the Gross Use Area. **This requires additional attention as indicated in this report**

b. While identified in prior reports, the plans still incorrectly use the heading of "Floor Area Calculations" which differs from Gross Use Area (residential) as identified and required by the PUD ordinance (196-17[5]).

c. A zone table with all the requirements of the Urban Design Review for Planned Development 196-27.1 as well as for the Building façade 196-27.3 and their calculations should be provided on the plans. **Addressed.**

d. It is my understanding that the NJDEP approved the previous plan set dated 8/23/11, which

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reflected a 20-foot wide Pedestrian/Emergency Access Street. The applicant should indicate:

- Whether the NJDEP permit recognized and acknowledged that the waterfront walkway was to also serve as the “street system” for the high rise residential project; and
 - If it was not indicated as a street to NJDEP, does this require a permit change;
 - Does the NJDEP Waterfront permit received in December of 2011 allow for a reduction in the walkway from 20 to 16 feet without further approval. **The applicant has indicated that while suggested, there is no requirement for the HRWW around the platform; changes to the plans resulting from the Planning Board process will be submitted to NJDEP; and that the NJDEP permits a 16 ft connector to the HRWW.**
- e. The applicant has indicated that they will make no commitment to Green initiatives or LEED certification. The Planning Board should encourage the applicant to evaluate all major building systems (envelope, HVAC, storm/sanitary/potable water supply, energy consumption) as well as the building’s commissioning for reduction in both long and short-term environmental impacts. **The applicant makes no commitment regarding utilization of LEED certifications at this time.**
- f. The applicant executed a Developer's Agreement with the City on December 4, 1997 in connection with the 1997 preliminary site plan and subdivision approval. On page 2 of the Developer's Agreement, it requires the following "...construct this development project in strict accordance with the plans as presented to the Planning Board, which plans were marked into evidence." Additionally, paragraph 16 of the Developer's Agreement indicates that any alterations or amendments thereto must be reduced to writing and signed by the Applicant/Developer and the City. The pending amended application significantly differs from the original approval for private open space/tennis courts and there does not appear to be any amendment to the developer’s agreement submitted. The applicant should provide any such amendment(s) and the Planning Board Attorney should evaluate these agreements and advise the Board accordingly. **The applicant’s and Board attorneys have had correspondence and have conflicting opinions regarding the Developer’s agreement.**
- g. The Planning Board Attorney has indicated that the Ordinance No. P-6 adopted May 15, 1988, Section 196-68, *et.seq.* of the Zoning Ordinance has not been repealed and still remains in effect. In short, this ordinance requires a 10% affordable housing set-aside for on-site development or 1.5 units for off-site units in lieu of each required on-site affordable unit *and* that each residential developer also submit a "Plan of Compliance" to the Planning Board. **The Applicant indicates that the affordable housing ordinance is not a checklist item and it is improper to delay the application. The applicant’s and Board’s attorneys have had correspondence and have conflicting opinions regarding this matter.**
- h. A listing of satisfaction of the conditions of approval is required by ordinance. **The applicant indicates that all conditions have been satisfied however a listing has not been provided.**