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## MEMORANDUM

**To: Town of West New York  
Zoning Board of Adjustment**

**From: Joseph J. Layton, P.P., AICP**

**Date: February 16, 2012**

**Re: Meridia Le Boulevard, LLC  
6609-6615 JFK Boulevard East  
Block 2, Lots 9 and 10  
West New York Application No. 2012-03  
MC Project No. WNZ-070**

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A new application has been filed for 6609-6615 JFK Boulevard East. The prior application for this property has been withdrawn. The following documents submitted in support of the application have been reviewed:

- Board of Adjustment Application Form dated 2/3/12.
- Letter of Denial from Zoning Officer dated 1/9/12.
- Plans entitled “Proposed High-Rise Multifamily Dwelling” consisting of nine sheets; Sheets C-1 through C-4 prepared by Jenne Associates, LLC and dated 1/26/12; Sheets T-1, A-100, A-101, A-102 and A-200 prepared by CPA Architecture and dated 1/26/12.
- Boundary and Topographic Map for Lots 9 and 10 in Block 2, Town of West New York, consisting of one sheet dated 11/30/11 and prepared by Del Norte Land Surveyors LLC.
- 200’ Radius Usage Conditions Map For Lots 9 and 10 in Block 2, Town of West New York, consisting of one sheet dated 2/1/12 and prepared by Del Norte Land Surveyors LLC.
- Planning report For Meridia Le Boulevard located at 6609-6615 Boulevard East, prepared by John McDonough L.A., AICP, PP dated January 31, 2012.
- Traffic Impact Statement For Proposed 123 Unit Residential Hi-Rise Building, JFK Boulevard and 67<sup>th</sup> Street prepared by Staigar & Peregoy, LLC dated January 21, 2012.

### **A. Description**

Applicant proposes to construct a 13 story multi-family structure containing 105 one-bedroom units and 18 two-bedroom units. There will be a 107 space parking garage on three levels with 10 stories of residential units above.



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The subject property consists of two lots at the corner of JFK Boulevard East and 67<sup>th</sup> Street. Combined, the two lots total 13,194 sq. ft. The lots currently contain a former gasoline service station now used solely for auto repairs on Lot 10 and a single-family dwelling on Lot 9. The auto repair shop is directly on the corner while the single-family dwelling fronts on 67<sup>th</sup> Street. Directly across JFK Boulevard is the twenty-two story Versailles high-rise apartment building. Directly across 67<sup>th</sup> Street from the subject property is a six story apartment building. Other nearby properties in Block 2 are predominantly two and three story dwellings.

The subject property is located in the R-M Medium Density Residential District. The opposite (east) side of JFK Boulevard is in the R-H High Density Residential District. The lots facing the west side of the JFK Boulevard in the four blocks to the south of the subject block are also zoned R-H. The Town of West New York border with the Town of Guttenberg lies 1/2 block to the north of the subject property.

## **B. Variances Required**

### **1. Use Variances**

Applicant is seeking “use variances” from the provisions of 40:55D-70d (Municipal Land Use Law) as follows:

- d(4) for an increase in the permitted floor area ratio where a maximum of 3:1 is permitted and 11.5:1 is proposed;
- d(5) for an increase in the permitted density where a maximum density of 80 dwelling units per acre is permitted and 406 dwelling units per acre are proposed;
- d(6) for a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted where a height of 12 stories or 135 ft. is permitted and 13 stories and 150 ft. is proposed.

### **Use Variance Proofs**

The Municipal Land Use Law (MLUL) at NJSA 40:55D-70 sets forth the statutory positive and negative criteria for variance relief for a use variance. NJSA 40:50D-70(d) permits a Board of Adjustment “in particular cases and for special reasons” to grant variances to permit “a use or principal structure in a district restricted against such use or principal structure”. Positive criteria or special reasons must be presented by the applicant’s professionals to support the grant of the variance. The courts have held special reasons include advancement of one or more of the purposes of the MLUL. Applicant should also present testimony regarding the particular suitability of this site for the proposed use.

Regarding Section 70d variances that do not relate to a prohibited use (in this case high rise multi-family dwellings are a permitted use) the court in Randolph Town Center v. Township of Randolph held that in establishing special reasons for a d(4) FAR variance, Coventry



Square v. Westwood Zoning Bd. of Adjustment, 138 NJ 285 (1994) controls. Similar findings have been held for d(5) density variances and d(6) height variances. In essence, as found in the Coventry Square case, the applicant for these types of d variances need not show that the site is particularly suited for more intensive development. Rather, such an applicant must show that the site will accommodate the problems associated with a floor area larger than that permitted by the ordinance, or a density higher than that permitted by ordinance or a height higher than that permitted by ordinance.

Applicant or his professionals must also present testimony regarding the negative criteria demonstrating that the proposed use can be granted “without substantial detriment to the public good and that granting of the use variance will not substantially impair the intent and purpose of the Zone Plan and the Zoning Ordinance”.

**Bulk Variances Required**

The bulk variances required for the plans as presently proposed are as follows:

<u>Standard</u>	<u>Proposed</u>
1. Minimum Lot Area (414-15A(1)) Required – 40,000 SF	13,194 s.f.
2. Minimum Lot Width (414 Attachment 1) Required – 200 FT	100 ft
3. Minimum Front Yard (414-15A(5)) Required – 15 FT	0
4. Minimum Side Yard (414-15A(5)) Required - 17 FT	0
5. Maximum Lot Coverage by Buildings (414-15A(4)) Required - 75%	95.5%
6. Minimum Loading Spaces (414-25K) Required – 1	0
7. Minimum Parking Space Size (414-11B) Required – 9.5 ft x 20 ft	8.0 ft x 17 ft
8. Minimum Aisle Width (414-11B) Required – 24 ft	22 ft



- 9. Identification signs (414-23C(1)(c))  
One not exceeding 6 s. f.

Two signs proposed  
124 s.f. freestanding sign  
70 s.f. attached sign

10. Parking Requirements:

Parking Required	Total	
West New York	132	107
RSIS	107	107

- 11. The parking space size required by ordinance is 9.5 ft. x 20 ft. (414-11B)

8.0 ft. x 17 ft.  
7.5 ft. x 15 ft. (compact cars)

Of the spaces, 2 are tandem spaces.

- 12. Fences and walls (414-15P(1))  
May not exceed 4 ft. in front yard

8 ft.

**C. Design Waivers**

The following design waivers are requested by the applicant:

- 358-36B: Handicapped parking space of 12'x20' required; 8' wide is provided with adjacent 5' stripped area (8' for van), as per ADA standards.
- 358-36F: Two driveways for 700' frontage allowed; 4 driveways proposed.
- 358-36F: 24' driveway width required for 2-way traffic; two at 22' proposed.
- 358-36F: Access driveways to be at least 50' from intersecting street line; northern most driveway on JFK Boulevard East is proposed at 26' from 67<sup>th</sup> Street curbline.

**D. Comments**

1. The Zoning Data Table on Sheet T-1 of the site plan should indicate a minimum side yard required of 17 ft. (as per §414-15, Note A 1.(5)).
2. No on-site loading space is proposed. A loading space on 67<sup>th</sup> Street is proposed but at 30 ft. in length it does not meet the required loading space dimension of 12 ft. x 35 ft.
3. The notes on Sheet T-1 indicate a variance for parking within 3 feet of a property line. This standard is for a surface parking lot and does not apply in this case.
4. A sun shadow diagram should be provided in testimony before the Board so that the shading effect of this building on neighbors can be assessed.



5. There are a number of shade trees on adjacent Lot 11 to the south, at least two of which are close to the property line. How will the construction of the proposed building impact them?
6. How deep is the reflecting pool in front of the building?
7. Will the proposed residential units be for sale or rent?
8. Has applicant or property owner performed any soil contamination testing on the service station property?
9. How will trash storage and pick-up be handled?
10. Will bicycle racks be provided in bicycle storage areas?
11. The proposed Silver Maple street trees should be replaced with October Glory Red Maples.
12. The use of Shadblow in pots in front of the building should be rethought. Shadblow can have a spread of 8 to 12 feet.
13. Landscaping in general is lacking on the plan especially along JFK Boulevard.
14. There is a parking space right off the entrance driveway from JFK Boulevard that requires a vehicle parked there to back out into the entrance drive. Not a safe situation.
15. Sheet C-1 is very busy and hard to read. Although it is titled Layout, Grading, Landscape and Utility Plan it contains the lighting plan also. The information contained on Sheet C-1 is better presented on two sheets.
16. There is no scale shown on Sheet C-1.
17. Sheets C-2 and C-3 are lacking the lot numbers.
18. Sheet C-4 indicates the Limit of Disturbance is 16,225 s.f. but the lot only contains 13,194 s.f. Is the additional area of disturbance within the street right-of-ways?
19. Sheet T-1 should include a Zoning Map and a North Arrow on the Location Map.
20. In his report, on page 6, Mr. McDonough indicates that floor area bonuses may apply for this project in accordance with the objectives of §414.15.H.(3). It is my interpretation that the building as designed does not qualify for floor area bonuses since wider side yard setbacks or enhanced pedestrian circulation are not provided as required.



Should you have any questions on the above comments, please do not hesitate to contact me.

JJL:dc

cc: George Garcia, Esq.  
Thomas Lemanowicz, P.E.  
J. Alvaro Alonso, Esq.  
Meridia Le Boulevard LLC

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