

## DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE : 01.31.2022  
TO : Planning Board Commissioners  
FROM : Liz Oppen, AICP, Urban Designer  
Tanya Marione, PP, AICP, Division Director  
CASE : P20-175  
PROJECT : 682 Route 440 + 11 Bennett Street  
Preliminary + Final Major Site Plan with "C" Variances

### I. DOCUMENTS REVIEWED

- General Development Application Form: originally submitted 12.29.2020, updated 10.05.2021
- 682 Route 440 Principal Points
- 682 Route 440 Updated Architectural Plans, dated 11.23.2021
- 682 Route 440 Topo Survey, dated 04.30.2020
- 682 Route 440 Stormwater Management Report, dated 06.06.2021, revised 10.30.2021
- 682 Route 440 Traffic Study, dated 10.05.2021
- GAR Worksheet

### II. APPLICATION BACKGROUND + PROPOSAL

#### Existing Conditions:

The site is composed of two lots, one of which is a paved parking lot. The other lot is flag shaped, part of which contains a one story masonry commercial building along with front yard surface parking. The total site area is 29,755 sf and falls within the Water Street Redevelopment Plan, Zone 4: Highway Mixed-Use (high rise). The site is located within a "jug-handle" with a predominant frontage on Route 440N. One-way traffic wraps around the site starting on Ege Avenue to the south, Bennett Street to the east, and Virginia Avenue to the north. A portion of the site is located within the AE flood zone.



- **Proposed Conditions:**

The Applicant proposes to demolish the existing structure and surface parking lot to construct a new fifteen (15) story mixed use building with 218 residential units, 105 parking spaces (18 of which would be eliminated upon the development of the planned Route 440 Boulevard. A 60' front yard setback is required to accommodate the planned Route 440 Boulevard. With a lot depth of approximately 160', this 60' required setback greatly reduces the buildable footprint of the site. The project complies with the maximum permitted FAR of 7.7. As the site is located within the AE flood zone, a GAR of .25 is required and the proposal meets these requirements with a GAR of .26 by providing on-site detention, green roofs, and landscaped areas.

- **Variances**

- **Maximum number for stories**

- Permitted: 12

- Proposed: 15

- **Maximum floor to ceiling height for commercial**

- Permitted: 15'

- Proposed: 22'

- **Parking spaces between the building and the property line**

- Permitted: Not permitted

- Proposed: 18 temporary parking spaces

- **Minimum number of parking spaces**

- Required: 111 (.5 per unit + 2 for commercial)

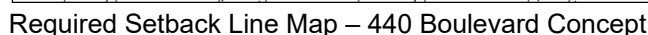
- Proposed: 87 permanent spaces (with the 18 temporary spaces = 105 spaces proposed)

### III. STAFF COMMENTS

- **'c' Variance**

- As explained in the Applicant's Principal Points Statement, the variances related to the number of stories and the variance for a taller floor to ceiling height for commercial uses would not exceed the maximum permitted height of a 12 story building as permitted in the current zoning. Staff does not see substantial detriment in granting these two variances as they would not result in a building taller than permitted in the Redevelopment Plan.

- Staff does not see substantial detriment in temporarily permitting 18 parking spaces between the building and the Rt. 440 property line. Currently, the Route 440 Boulevard widening is a "concept" that property owners along 440 need to plan for and contribute land to when/if the Boulevard concept is implemented. As this applicant will be contributing a significant amount of their property to this widening (60' of a 160' deep lot), these temporary parking spaces allow them to increase their parking counts in the interim and provide parking access to ground floor commercial uses. The future widening is planned to include parallel parking spaces on a service road parallel to route 440, so the concept already contemplates and recognizes the need for parking along the 440 frontage. See below for 440 Concept drawings.



- Staff does not see substantial detriment in not meeting the minimum number of parking spaces required as there is access to public transit via the light rail and the bus. The Route 440 concept also envisions a Bus Rapid Transit (BRT) lane in each direction which will also reduce the need for private vehicles. Staff also acknowledges the difficulty to include parking on this site due to the 100' depth. The applicant is proposing an automated parking system, if more parking were to be included in this building, the maximum permitted height would be exceeded and the variance related to group floor commercial heights will be exaggerated. Additionally, many new adjacent developments are currently providing shuttle services for their residents to/from the Journal Square PATH Station. With future improvements to public transportation, these types of shuttle services will hopefully become much less prevalent, as will the need for private automobile ownership.

#### IV.

2. Applicant shall provide an affidavit from the architect of record representing that the constructed project is consistent with final approved plans.

3. All street trees and landscaping shall be installed in accordance with the Jersey City Forestry Standards prior to the issuance of a Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO).
4. In response to the Engineering memo dated 12/1/2021, the Applicant shall coordinate with Engineering and revise plans accordingly. Specifically, the memo from Engineering indicates that the direction of travel within the parking area may need to be reverse. It is also important to note that state DOT will need to weigh in on this application due to its location. A memo shall be provided by the applicant documenting their communications with City Engineering and DOT on decisions made regarding the travel direction of the parking area and the agreed upon solution shall be represented on signature sets. All other Engineering Comments shall be addressed on signature sets.

## APPENDIX : REQUIRED PROOFS FOR VARIANCES

### ▪ 'C' VARIANCE

#### **Required Findings for 'C' Variance Standard/Deviations under N.J.S.A. 40:55D-70(c)(2):**

1. The justifications must relate to a specific piece of property;
2. The purposes of the Municipal Land Use Law would be advanced by the deviation from the zoning ordinance requirement;
3. The deviation can be granted without substantial detriment to the public good;
4. The community benefits of the deviation would substantially outweigh any detriment and;
5. The deviation will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

#### ▫ **Negative Criteria**

##### **No relief may ever be granted unless it can be done**

##### **1. without substantial detriment to the public good. and**

##### **2. without substantially impairing the intent and purpose of the zone plan and zoning ordinance**

#### **1) Substantial detriment to the public good – Balancing Requirement.**

The focus of this first prong of the negative criteria is on the variance's effect on the surrounding properties. The board must weigh the zoning benefits from the variance against the zoning harms. In many instances, conditions of approval address the negative criteria standard and help to mitigate the impact of the variance.

#### **2) Substantial impairment to the intent and purpose of the zone plan and ordinance.**

The focus of this second prong of the negative criteria is on the power to zone based on ordinance and not variance