

REVISED STATEMENT OF THE APPLICANT

Duke Realty Bayonne Development, LLC (the "Applicant") is the contract purchaser of Block 465, Lot 9 and Block 466, Lot 1, as shown on the Tax Records of the City of Bayonne, New Jersey (the "Property"). The Property, which is approximately 43.96 acres in size, is located in the City's I-H Heavy Industrial Zone District (the "I-H Zone"), which conditionally permits the existing tank farm and bulk storage of flammable or combustible liquids, and permits the other existing uses, buildings, and structures on the Property. The present uses on the Property will remain unchanged and meet all of the I-H Zone's use and conditional use requirements.

The Applicant is seeking preliminary and final major subdivision approval, bulk variance and/or design exception/waiver relief, and a statutory variance from N.J.S.A. 40:55D-35 and N.J.S.A. 40:55D-36 (the "Application"), to subdivide the Property into two (2) new lots: Proposed Block 466.01, Lot 1, which will consist of approximately 37.7581 acres ("Proposed Lot 1"); and Proposed Block 466.01, Lot 2, which will consist of approximately 6.1972 acres ("Proposed Lot 2"). Proposed Lot 1 will be located on the Western portion of the Property and will have frontage on East 22nd Street, Avenue I, and Coleman Way (formerly or also known as Avenue J). Proposed Lot 1 will contain the existing office building, existing storage tanks, existing above-ground pipes, and various other existing site improvements. Proposed Lot 2 will be located on the Eastern portion of the Property and will be a triangular-shaped parcel that is bounded by Proposed Lot 1 and existing rail lines. Proposed Lot 2 will contain existing storage tanks, existing above-ground pipes, and various other existing site improvements. The Application proposes several easements between Proposed Lot 1 and Proposed Lot 2, including easements for vehicular access, drainage, utilities, and pipelines. The Application does not propose any changes to the Property's current uses or structures except as set forth herein.

The Applicant further seeks bulk variances and/or design exception/waiver relief from the City of Bayonne Ordinances (the "Ordinances"), including: minimum lot depth less than required for Proposed Lot 2 (200 feet required; less than 200 feet proposed as Proposed Lot 2 does not abut a street right-of-way, and therefore does not have a front lot line from which to measure lot depth pursuant to the Ordinances); minimum side yard setback less than required for Proposed Lot 1 (25 feet required for one side yard; 17.33 feet proposed to an existing storage tank which may ultimately be demolished); minimum lot frontage less than required for Proposed Lot 2 (125 feet required; 0 feet proposed); and Proposed Lot 2 is not adjacent to a public street or does not have access to an approved private street. The Applicant also seeks a statutory variance from N.J.S.A. 40:55D-35 and N.J.S.A. 40:55D-36 because Proposed Lot 2 does not abut a street giving access to the existing buildings and structures thereon.

Due to its odd shape, the site constraints caused by existing structures on the Property, and the rail lines around the Property, the strict application of the Ordinances would cause exceptional and undue hardship to the Applicant while providing no real safety benefits. The aforementioned access easements are of sufficient size and shape to continue to provide safe, efficient, and convenient access for servicing, fire protection/equipment, ambulances, and other emergency vehicles necessary for the ongoing protection of health and safety. Moreover, the creation of these access easements will promote the future redevelopment of Proposed Lot 1 and surrounding properties.

In terms of the variance for the tank setback, the setback meets the intent of the I-H Zone. The existing tank is neither adjacent to any other use nor user. The existing tank will not impact any neighbors, nor will it affect the way the Property currently operates – safely and efficiently. The setback provides more than sufficient space between existing structures for safety purposes and will be limited in its duration, as the Applicant will likely demolish the structure at some point in the future.

The Applicant requests submission waivers of the following:

(1) Checklist item I.2 – Order of the Administrative Officer because the Municipal Land Use Law permits direct application to this Board.

(2) Checklist item I.13 – Environmental Assessment report because all uses are existing and not changing, and the subdivision application will not impact those issues or environmental conditions on that property.

(3) Checklist Item I.8 – Copies of Protective Covenants, deed restrictions or easements because the survey identifies same. The Applicant has also submitted an electronic title commitment with links to individual deeds, restrictions, and easements. The Applicant can provide hard copies if necessary.

(4) Checklist Item II.16 – Site Photos because this is a subdivision application, and no changes to the improvements are being proposed. The Applicant will present site photos as exhibits at the hearing, should the Board require same.

Expert testimony will be provided at the hearing to support the approvals and relief requested above.