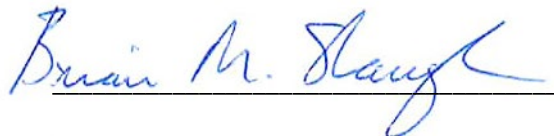


Review 1  
Preliminary and Final Major Site Plan  
w/Variances  
101 Bayonne, LLC

Block 359, Lot 4.03  
101 East 2nd Street  
Heavy Industrial (I-H) District

*Prepared for the City of Bayonne by:*



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March 7, 2023



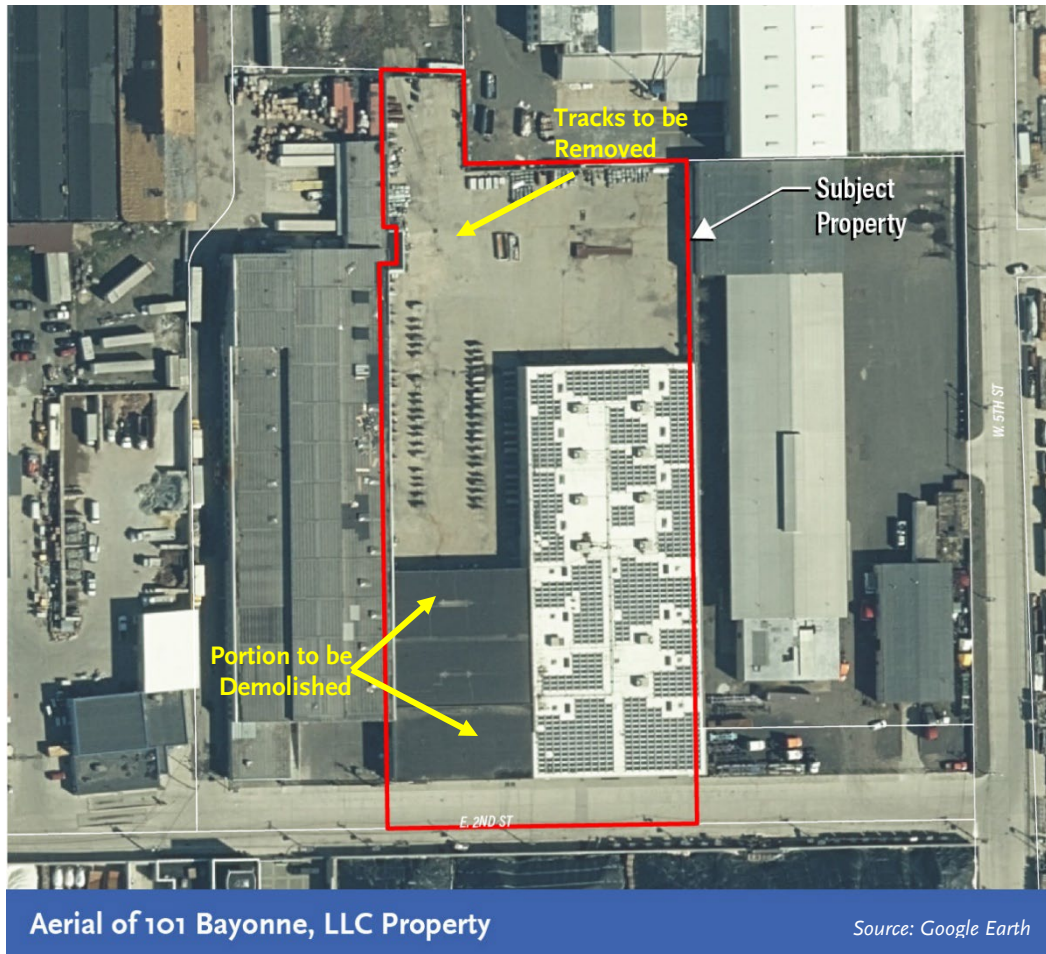
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# Table of Contents

1.	PROJECT SUMMARY AND SITE DESCRIPTION .....	1
2.	ZONING.....	2
3.	SITE PLAN COMMENTS .....	4
4.	DESIGN STANDARDS.....	6
5.	AFFORDABLE HOUSING DEVELOPMENT FEES .....	8
6.	ELECTRIC VEHICLE PARKING REQUIREMENTS .....	8
7.	VARIANCE COMMENTS.....	9
8.	MATERIALS REVIEWED.....	10
9.	APPLICANT AND ITS PROFESSIONALS.....	11
10.	LIST OF NECESSARY RELIEF.....	11

## Project Summary and Site Description

- I.1. **Proposal.** The applicant is seeking preliminary and final major site plan approval to construct an addition to an existing warehouse on East Second Street. A portion of the building is proposed to be demolished to make room for the new addition and a driveway leading to the rear of the property (the part without the solar panels on its roof). Existing railroad tracks are also proposed to be removed to the rear property line. The existing building is 47,970 sf. in area and 23.96 feet in height. The proposed addition will increase the total building area to 98,366 sf. and the height of the addition will be 55-feet. Five parking spaces are proposed in front of the addition and 9 are proposed in the rear of the building (these proposed spaces are in addition to 11 existing spaces). Seven loading spaces for tractor trailers with sunken loading docks are proposed in the rear of the addition. Electric vehicle charging stations are proposed in the front and rear of the building. The applicant is also proposing signs, bollards, a generator pad, parking overhang, retaining wall with fence, concrete pad for a transformer, a trash enclosure, and a grass lawn in the rear of the building.



- I.2. **Occupancy.** It appears based on the architectural drawings that two uses will occupy the building: Mango USA and Iconic Footwear. The applicant should testify as to whether these are two distinct uses/businesses, or one business. This matters most directly as

relates to signage – but this information, and general information about the business operation, will help the Board in determining the impact of variance relief.

- I.3. **Existing Site Conditions.** The site is located along East 2nd Street in the Heavy Industrial Zone. It consists of 3.71 acres (161,649 sf.). The existing warehouse is 23.95 feet in height and contains 47,970 sf. of floor area. Eleven parking spaces (including two barrier free spaces) are located in front of the existing building under a parking overhang. The rear of the building contains concrete, an aluminum fence and railroad tracks.



**View of Front of the Property**

*Source: Google Streetview*

- I.4. **Neighborhood Context.** The surrounding properties consist of warehouses and industrial uses. The Kill Van Kull is located to the south of the site, as are commercial docks used for shipping. Leaving the site to the east leads to Ingham Avenue, which turns into 5th Street and leads to U.S. Route 440. A residential neighborhood is located two blocks to the west of the site, including an apartment complex that is run by the Housing Authority of Bayonne.
- I.5. **Environmental Factors.** Pursuant to NJDEP mapping tools, the site does not contain wetlands or known contaminated sites, nor is the site located within a flood zone.
- I.6. **Relief Required.** A list of required variances and exceptions can be found in Section 10 of this report.

## 2. Zoning

- 2.1. **Permitted Principal Use.** Pursuant to §35-5.17.a.1, all principal uses (excepting automobile service stations, car wash facilities and new automobile and motorcycle sales listed as "Other Commercial Uses.") permitted in the IL-A and IL-B zones are permitted in the I-H zone. The IL-B zone permits wholesale storage, distribution and trucking services. The plan complies and the use is permitted.

- 2.2. **Accessory Uses.** Pursuant to §35-5.17.c.1, all accessory uses permitted in the IL-A and IL-B zones are permitted in the I-H zone. The IL-A and IL-B zones permit accessory uses customary to the principal use. The proposed accessory uses and structures include signs, fences, retaining walls, parking for trucks and personal vehicles, and a trash enclosure. These are all permitted as they are customary uses and structures to the principal use.
- 2.3. **Bulk Standards.** The following table indicates the conformance of the plan with the I-H area, yard and structure requirements. Variances are required for the side yard setback, aggregate side yard setback and maximum lot coverage, assuming that the Board's practice is required new variances when the condition changes and improves, but still falls short of the ordinance standard.

<b>Table 1: I-H Area, Yard and Structure Requirements ~ §35-5.26 (Schedule 1)</b>				
	<b>Standard</b>	<b>Existing</b>	<b>Proposed</b>	<b>Complies?</b>
Minimum area	1 acre	3.71 acres	No change	Yes
Min. lot frontage	125 ft.	274.60 ft.	No change	Yes
Min. lot depth	200 ft.	575.55 ft.	No change	Yes
Min. frontage setback	30 ft.	34.3 ft.	No change	Yes
Min. rear yard setback	50 ft.	~262 ft.	231.67	Yes
<b>Min. side yard setback</b>	<b>25 ft.</b>	<b>0 ft.</b>	<b>2.5 ft.</b>	<b>No <sup>(1)</sup></b>
<b>Min. aggregate side yard setback</b>	<b>50 ft.</b>	<b>2.5 ft.</b>	<b>32.5 ft.</b>	<b>No <sup>(1)</sup></b>
<b>Max. lot coverage</b>	<b>80%</b>	<b>100%</b>	<b>97.93%</b>	<b>No <sup>(1)</sup></b>
<sup>(1)</sup> - A variance from §35-5.26 (Schedule 1) is required.				

- 2.4. **Minimum Side Yard Setback Variance.** Pursuant to §35-5.26, a side yard setback of 25 ft. is required. The existing side yard setback is being increased from 0 ft. to 2.5 ft. alongside the remaining building on its eastern side; however, a variance is still required.
- 2.5. **Minimum Aggregate Side Yard Setback Variance.** Pursuant to §35-5.26, an aggregate side yard setback of 50 ft. is required. The existing aggregate side yard setback is being increased from 2.5 ft. to 32.5 ft. and while a substantial improvement, a variance is still required.
- 2.6. **Maximum Lot Coverage Variance.** Pursuant to §35-5.26, maximum lot coverage of 80% is permitted. The existing lot coverage is being reduced from 100% to 97.93%. This is an improvement over the existing condition; however, a variance is still required.

See additional comment on variances and design/performance exceptions in Section 3.

### 3. Site Plan Comments

- 3.1. **Performance Standards.** §35-5.27.c-i of the Bayonne Zoning Ordinance speaks to the following performance standards: Noise, vibration, smoke, dust/solid particles, odors, glare, solid waste, and liquid waste. Given the industrial nature of the proposal and zone, it is understood that impacts typical of a warehouse/industrial environment will result in some level of noise and waste. The applicant should testify to each of these performance standards and to the extent that impacts will or will not be felt by neighboring properties. The applicant should also testify to glare from existing and proposed lighting, and to waste disposal.
- 3.2. **Off Street Parking and Loading.**
- 3.2.1. **Parking Requirement for Warehouse Uses.** Pursuant to §35-14.6.b.4, warehouse uses require 1 space per 200 employees or 1 per 1,000 sf., whichever is greater. The applicant is proposing 98,366 sf. of space, which necessitates 99 parking spaces. The applicant is proposing 25 parking spaces and receives a bonus of 10 additional spaces for the number of EVSE spaces provided. For the purpose of meeting the ordinance requirement, the applicant is proposing 35 spaces. A variance is required. The applicant should testify as to the anticipated number of employees and other visitors to the site and how the proposed parking meets the demand for parking onsite. This office notes that while the applicant does not meet the parking requirement, in percentage terms the applicant is meeting 35% of the requirement where previously only 23% of the parking requirement was met.
- 3.2.2. **Parking Waiver.** Pursuant to §35-17.7, 50% of the required number of parking spaces may be waived by the Board upon evidence provided by applicant that owing to the nature of use operation, management, employment records or other independent survey shows the calculated number of parking spaces is not required to meet the needs of the applicant. In such case, an area shall be reserved that can readily be converted to off-street parking in accordance with this chapter. Presumably there is no location onsite which can be used for "banked" parking, thus it is likely that the only route to relief for the applicant would be through a parking variance.
- 3.2.3. **Off-Street Loading Requirement.** Pursuant to §35-17.8.c, the applicant is required to provide three off-street loading spaces for the first 60,00 sf. of warehouse space and a fourth space for the balance of the proposed addition. The applicant is providing seven loading spaces, which more nearly double the requirement. The applicant should speak as to how, if at all, this extra loading space may mitigate the need for standard parking spaces (i.e., if there is reason to anticipate more truck traffic for loading purposes rather than traffic from personal vehicles).
- 3.3. **Signs.** The applicant is proposing one wall sign, two canopy signs, and signs related to parking and vehicular circulation. Pursuant to §35-25.5.a, all signs permitted in commercial



districts are also permitted in industrial districts. Wall signs and canopy signs are permitted in commercial districts and are thus permitted in industrial districts.

- 3.3.1. Maximum Permitted Signage. Pursuant to §35-25.4.c, signs shall not exceed 20% of the sign façade area as defined in the ordinance. The ordinance defines this as the floor-to-floor height of the occupied space, or in this case, floor-to-roof height as the building contains one floor. Also, it is unclear whether the warehouse will be serving one business or two - as this would determine what percentage of the frontage can be used for each business' sign. There is enough frontage available such that the proposed signs conform whether there is one or two businesses occupying the space.
- 3.3.2. Wall and Canopy Signs. Pursuant to §35-25.4.c.1, walls signs (canopy signs are regulated as wall signs) are permitted providing that they do not exceed three square feet for each linear foot of sign frontage. Sign frontage refers to the portion of the building frontage facing a street right-of-way or private drive. The 709 linear feet of frontage meets this standard, allowing for 2,127 sf. of permitted sign area. The applicant is proposing 587± sf. of total wall/canopy sign area, which conforms. Additionally, the proposed canopy signs do not extend beyond the edges of the canopy, which conforms.



Proposed canopy sign above and proposed wall sign to the right.



- 3.4. **Accessory Buildings and Structures.** The proposed accessory structures include a trash enclosure, which has regulations unique to that type of use, and parking and loading spaces. As the parking and loading areas are not buildings, they do not have unique setback requirements in this zone. Thus, all accessory uses are permitted and compliant pursuant to §35-4.12.
- 3.5. **Fences and Walls.** The applicant is proposing an aluminum fence on top of a retaining wall to the west of the proposed loading dock. While the fence is permitted, the §35-4.14.c states that walls other than retaining walls are permitted in industrial zones. **It appears that a variance is required for the retaining wall.** The applicant should testify to the need for the retaining wall - which appears necessary given the sunken nature of the proposed loading dock.

- 3.6. **Garbage Dumpsters.** §35-4.20.a indicates that dumpsters shall be housed within a structure consisting of a concrete base and four walls consisting of masonry material that is between 6 and 8 feet in height. Additionally, the structure shall be located at least five (5) feet from a side property line. The proposed masonry walls are slightly taller than six feet in height, which conforms. The wall is less than five feet from the property line; however, the detail of the enclosure seems to indicate the dumpsters are at least two feet from the wall of the enclosure, which would mean the dumpsters themselves meet the setback requirement. The applicant should testify as to whether the dumpsters will be at least five feet from the property line. As a condition of approval the applicant should detail the distance of the dumpster to the property line, which should conform and be at least five feet in length.
- 3.7. **Block and Lot.** There appears to be a discrepancy with the block and lot numbers. The title report indicates Lot 4.03, while the tax map and plans indicates it is lot 4.04. This should be rectified, and the plans should be updated to reflect the correct lot number.

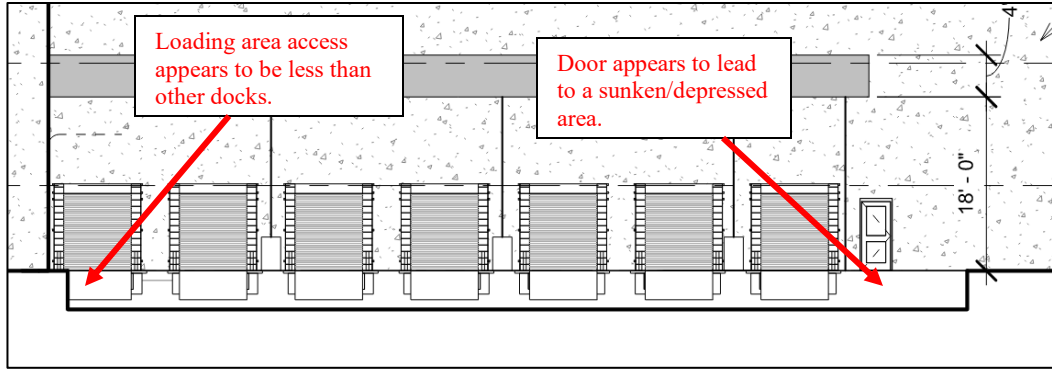
#### 4. Design Standards

- 4.1. **Sidewalks.** Pursuant to §33-10.4.P, sidewalks shall be required for residential, commercial, and industrial areas and shall not be less than four feet in width. According to information from Google Earth aerials, there appears to be a type of depressed sidewalk along the property frontage that connects to the existing sidewalk on either side of the building. The applicant should be prepared to testify as to the suitability of this depressed sidewalk as serving the function of a sidewalk as intended by the ordinance. Given the request for the parking variance, it may be assumed that employees may walk to work and so appropriate pedestrian facilities may be of interest to the Board.
- 4.2. **Off Street Parking and Loading.** §33-10.9 discusses the design requirements for parking areas. While the discussion of the pavement, curbing and similar items is deferred to the Board Engineer, this office will discuss items relating to landscaping as well as two items relating to the proposed loading area:
- 4.2.1. **Landscaping in Parking Area.** Pursuant to §33-10.9.a.2, 10% of the proposed parking area shall be landscaped and one shade tree shall be required for every 20 spaces. There is a proposal for a lawn at the rear of the building, which at 3,900± sf. more than meets the 10% requirement. No shade trees are proposed, nor do any exist. Two would be required based on the parking provided. It is unlikely that shade trees would survive or make practical sense on the site. A design exception for lack of shade trees is still technically required.
- 4.2.2. **Loading Space Dimension.** Pursuant to §33-10.9.c.2(a), loading spaces are required to be 60 feet long, 10 feet wide and 14 feet high. The spaces meet the requirements for length and width, though the spaces only appear to be 12.5± feet in height. A design exception is required for the height of the loading berth.





4.2.3. Access to Loading Docks. The loading dock to the left (east, directionally) appears to have less access relative to the retaining wall than the other loading docks. Also, the door located to the right (west, directionally) appears to lead to a sunken area, which may render it unusable. The applicant should testify as to the access to the door and leftmost loading dock and clarify if this is related to the need to show other information in the architectural elevation or if it is designed that way for a specific reason.



Loading Dock Illustration from the Architectural Plans

4.3. **Lighting.** The applicant is proposing 18 lights: 16 wall mounted lights and two freestanding, pole-mounted lights. §33-10.10 Illumination Standards sets the City’s standards. Conformance with the standards is shown in the following table.

Table 2: Lighting Standards in Industrial Zones ~ §33-10.10				
	Standard	Existing	Proposed	Complies?
Min. Avg for Parking Area (footcandles)	1.5	Unknown	2	Yes
Min. Avg for Driveway Entrance (footcandles)	3	N/A	3	Yes
Min. Avg for Loading Areas (footcandles)	5	Unknown	Unknown	?
Max. Illumination at Property Lines (footcandles)	1	Unknown	.9	Yes

4.3.1. Loading Area Lighting. As indicated in the preceding table, lighting levels are not provided for the loading area. The loading area is sunken and hangs beneath a 21-foot-six-inch roof. The plans indicate that this is lit internally. The applicant should testify as to the lighting levels beneath the roof and the illumination table should be updated to reflect the illumination levels in footcandles.

4.3.2. Height of Lighting Fixtures. Pursuant to §33-10.10.c.2, lighting poles for parking areas with fewer than 25 spaces are permitted lighting poles with a maximum height of 20-feet. The proposed lighting poles are 20-feet. The plan complies.

4.3.3. Light Shielding. Pursuant to §33-10.10.b.2, lighting shall be installed with shields to limit light spillage onto adjacent properties. The lighting details provided by the applicant indicate light shielding and the light spillage at the property lines is at a level that conforms to ordinance requirements. The plan complies.

4.3.4. Glare. Pursuant to §35-5.27.h, proposed lighting should have no direct or sky-reflected glare visible beyond the property lines. The plan does not indicate BUG ratings or other measurements of glare. The applicant should testify as to potential glare from the proposed lighting and if necessary, update the plans to reflect the measurements indicating the level of glare from the proposed lighting.

4.4. **Fences and Walls.** §33-10.16 provides standards for fencing, including the height of fencing permitted in side and rear yards. The plans indicate a proposed fence on top of a retaining wall in the rear of the building, though no height is given. The applicant should provide the height of the proposed aluminum fence, and if greater than six feet, **a design exception is required.**

4.5. **Industrial Design Standards.** §33-10.20 provides the following design standards for industrial areas:

*Internal use screened through high end materials like decorative fencing and landscaping. High decorative, spiked fence provides security without being visually detracting. Use of uniform, decorative lighting fixtures create attractive streetscape along narrow sidewalk. Comprehensive design of parking, signage, security and landscaping creates an inviting entrance. Use of landscape island at vehicular entrance to separate traffic flow provides attractive traffic calming element. Deciduous landscaping partially screens industrial building from building view.*

This office notes that none of the language in the above standards include the word “shall”, which indicates that these are recommendations rather than requirements. The existing site contains a large wall that provides screening, and the proposed lighting is uniform in design and illumination. Landscape treatments do not appear feasible given the amount of impervious coverage on the site. Parking and signage are designed in a sensible, utilitarian fashion, which is sensible given the proposed industrial/warehouse usage of the site. The applicant should testify as to security measures on site.

## 5. Affordable Housing Development Fees

5.1. **Affordable Housing Fees for Nonresidential Development.** The applicant should, as a condition of approval, be required to pay any nonresidential affordable housing development fees required by the City ordinance.

## 6. Electric Vehicle Parking Requirements

6.1. **Electric Vehicle Parking Requirement.** Pursuant to N.J.S.A. 40:55D-66.20, there is a statutory requirement that a minimum number of parking spaces be developed as electric vehicle parking spaces in order to obtain preliminary site plan approval. Pursuant to



N.J.S.A. 66.20.3(3).b(2)(a), new parking lots with 50 or fewer parking spaces require one make-ready EV parking station. The applicant is proposing to have a total of 25 parking spaces. The applicant is proposing 11 EVSE parking spaces, well above the requirement. The plan complies.

- 6.2. **Accessible Electric Vehicle Parking Requirement.** The applicant is not required to provide accessible electric vehicle stations as they propose fewer than 100 spaces.
- 6.3. **Reduction in Parking Requirement if Providing EV Spaces.** Pursuant to N.J.S.A. 40:55D-66.20.3.e, a parking space prepared with electric vehicle supply equipment or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement (up to a maximum of 10% of the requirement). The applicant is providing 11 EV parking spaces, which count as 10 spaces in meeting the municipal parking requirement.

## 7. Variance Comments

- 7.1. **Overall Comment.** The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts. We defer to the Board Attorney for any additional comment on the “c” variance criteria.
- 7.2. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:
  - By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
  - By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
  - By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
  - Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:
  - Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.
- 7.3. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial



impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

- 7.4. **Consistency with the Master Plan.** The City Master Plan includes several recommendations, of which, the following may be relevant to the Board's consideration of this application. The following goals can be found on pages 98 – 99 in the 2017 Master Plan Reexamination Report (other goals may be identified by the Board or other professionals, the following are those considered by this office to be most relevant to this application):

#### SUSTAINABLE DESIGN RECOMMENDATIONS – Project Selection and Design

- Develop in close proximity to existing infrastructure with adequate capacity to accommodate new projects;
- Employ cost-effective, appropriate technologies available for wastewater treatment, storm water management, site construction, and water conservation;
- Establish and manage an erosion and sedimentation control plan during construction;
- Recommend pervious surface or storm-water management systems be required for any proposed development to reduce the impacts of the City's sewer system.
- Pervious surface and / or storm-water management systems will be required for any proposed development to reduce the impacts to the City's sewer system. Infrastructure improvements would include but not be limited to green roofers, planter boxes and trays, permeable pavers, and above or below grade stormwater management systems.
- The improvements shall be provided in order to ensure that the post-construction peak runoff rates for the 2 year, 10 year, and 100 year storm events are a maximum of 90 percent of the pre-construction peak runoff rates.

## 8. Materials Reviewed

The following materials were reviewed in the preparation of this report:

- Application No. P-22-025, dated August 15, 2022, with attachments.
- Statement of Applicant, Prepared by Insite Engineering, LLC, dated July 18, 2022.
- Stormwater Management Report, prepared by Jason L. Fichter, PE, PP, Insite Engineering, LLC, dated July 18, 2022.
- Architectural Plans for Addition & Alteration, 3 sheets, prepared by Antonio Scalise, AIA, Parallel Architectural Group, dated July 18, 2022.
- Preliminary and Final Major Site Plan, 9 sheets, prepared by Jason L. Fichter, PE, PP, Insite Engineering, LLC, dated July 18, 2022, revised to October 14, 2022.
- Drainage Area Map, 3 sheets, prepared by Jason L. Fichter, PE, PP, Insite Engineering, LLC, dated July 18, 2022.
- Letter from Zoning Officer, prepared by Tracey Tuohy, dated September 15, 2022.

- Boundary and Topographic Survey, 1 sheet, prepared by Justin J. Hedges, PLS, CFS, Insite Engineering, LLC, dated January 24, 2022.
- Traffic Impact Statement, prepared by Gary W. Dean, PE, PP and Rianna S. Kirchhoff, PE, Dolan & Dean Consulting Engineers, LLC, dated October 17, 2022.
- Construction Official Comments dated January 17, 2022.
- Fire Sub-Code Official Comments dated January 18, 2023.
- Historic Preservation Committee Comments dated January 10, 2023.

## 9. Applicant and Its Professionals

- Applicant/Owner: 101 Bayonne LLC, 101 East 2nd Street, Bayonne, NJ 07002. Telephone: 212-575-2075.
- Attorney: Donald M. Pepe, Esq, Scarinci Hollenbeck, 331 Newman Springs Road, Building 3, Suite 310, Red Bank, NJ 07701. Tel: 732-568-8370.
- Engineer: Jason Fichter, PE, PP, CME, Insite Engineering, 1955 Route 34, Suite 1A, Wall, NJ 07719. Tel: 732-531-7100.
- Architect: Antonio Scalise, AIA, Parallel Group, 494 Broadway, Suite #3, Long Branch, NJ 07740. Tel: 732-229-4400. Email: ascalise@parallelgrp.com.

## 10. List of Necessary Relief

Based on our initial review, the following variances and exceptions are required or may be required, depending on the additional information submitted by the applicant. This list is not exhaustive and may be augmented by analysis performed by other Board professionals.

### 10.1. Variances:

- §35-4.14.c Retaining wall in industrial zone.
- §35-5.26 Minimum side yard.
- §35-5.26 Minimum aggregate side yard.
- §35-5.26 Maximum lot coverage.

### 10.2. Design Exceptions:

- §33-10.9.a.2 Shade trees in parking area.
- §33-10.9.c.2(a) Height of loading berth.

### 10.3. Conditions of Approval:

- Dimension the distance of the dumpster to the side property line and provide at least five feet of separation between them.
- Payment of all non-residential development fees.



We would be pleased to answer any questions concerning this review.

Cc. Alicia Losonczy, Land use Administrator  
Richard N. Campisano, Esq., Board Attorney  
Robert J. Russo, PE, PP, CME, Board Engineer  
Suzanne T. Mack, PP, AICP, CTP, FITE, AHP, City Planner  
Tracey Tuohy, Zoning Officer

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