Preliminary and Final Major Site Plan
745-747 Broadway, LLC

745-747 Broadway
Block 139, Lots 18 and 19
Central Business District (CBD)
Application No. P-22-028

Prepared for the City of Bayonne by:

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INTRODUCTION

1. Project Summary and Site Description

1.1. Proposal. The applicant is requesting preliminary and final major site plan approval with bulk variances to develop a six-story mixed-use building consisting of a commercial retail shop and residential amenity space at the ground level and 27 residential units above. The proposal includes a 960 sf. rear yard space, and two terraces on the fourth floor that are each 126 sf. The building would also include a roof deck, elevator and plantings at the side along the street frontage. Lighting is proposed in the front and rear of the building and a fence is proposed around the rear yard. The property is located in the Central Business District (CBD) and is 5,884± sf. or 0.14± acres. No parking spaces or curb cuts for driveways are proposed.

1.2. Existing Conditions. Lots 18 and 19 form a rectilinear lot on the west side of Broadway between W. 33rd Street and W. 24th Street. The site does not contain a building at this time (though two mixed-use buildings were located on the site as recently as 2016 but were then...
damaged and subsequently torn down after a fire\(^1\), with the only existing improvements consisting of a chain-link fence, concrete pad and gravel. The site is a “void” in the otherwise developed Broadway streetscape.

Portions of the site are overgrown, and debris is located in the rear of the site in the form of broken bricks, old furniture, a dilapidated fence and other materials.

1.3. **Neighborhood Context.** The site is 1,000± ft. (< 1/5 of a mile) from the 34\(^{th}\) Street Hudson-Bergen Light Rail Station. NJ Transit Bus Route 81 has a stop on the corner of Avenue C and W. 34\(^{th}\) and W. 35\(^{th}\) Streets with stops in Bayonne and Jersey City. Bus Route 120 has stops in Jersey City and downtown New York City. Other uses on the street along Broadway include fully residential and commercial buildings, as well as other mixed-use buildings with commercial uses on the bottom floor and residential uses above. The properties immediately adjacent to the site to the north and south on Broadway consist of three-story mixed-use buildings. The rear of the site abuts the rear yard and detached garage of a multifamily building that fronts on W. 33\(^{rd}\) Street. W. 33\(^{rd}\) Street contains a mixed of residential and commercial buildings, including a 4-story multifamily building located in the middle of the block, and a two-sided row of townhomes that contains 18± dwellings. W. 34\(^{th}\) Street contains a mix of residential buildings, though many of them are single- and two-family dwellings, none of which are greater than three stories.

One building on the same street across from the subject property, 744 Broadway, is of a similar width to the proposed building, and contains a mix of uses, including a retail service on the ground floor, medical offices, and residential units, but is only four stories. Another building, located on the corner of 34\(^{th}\) Street and Broadway (766-768) on the east side of Broadway is similar in scale, though it conforms to the building story limit of five stories.

\(^1\) https://www.nj.com/hudson/2016/01/massive_bayonne_blaze_under_control_fire_chief_say.html
1.4. **Relief Required.** A comprehensive list of the required relief and recommended conditions of approval are found in Section 17 of this report.

Buildings of similar scale include 744 Broadway (left) are across the street from the property in question and 770 Broadway (right) is located one block north.

Broadway in the Vicinity of the Subject Property.
ZONING

2. Use Standards

2.1. Permitted Uses: Ground Floor Retail Commercial. Per §35-5.10.a.3, retail commercial uses are permitted. The plan complies.

2.2. Permitted Uses: Apartments Above Ground Floor Commercial Uses. Per §35-5.10.a.10, apartments on floors above the street level are permitted provided that each apartment has a minimum of 600 square feet of habitable floor area and no more than two bedrooms. The plan proposes 27 residential with 21 studios and five two-bedrooms units. All units are 600 sf. or greater in size. The plan complies.

2.3. Required Parking Use. Per §35-5.10.b.1 off-street parking is required, subject to the provisions of §35-17. The retail use, which is less than 2,000 sf., does not require parking. One space is required for each efficiency (or studio) apartment, and 1.25 spaces are required for each two-bedroom unit. The plan requires 28 parking spaces, and no parking spaces are provided. Variance relief is required.

2.4. Required Buffering. Per §35-5.10.b.3, buffers and screening are required, subject to the provisions of §35-4.14. §35-4.14.b.2 requires the fences in commercial districts which abut residential properties (which is the case with the proposed fence in the rear yard) to be composed of solid material, screening the commercial use (in this case, the retail use) from the residential lot. The proposed fence is a solid, vinyl fence. The plan complies.

2.5. Accessory Uses. No accessory uses are proposed. The only accessory structure proposed is a six-foot, solid vinyl fence as indicated above, which is permitted. The plan complies.

3. Area and Yard Requirements

3.1. Bulk Requirements. Compliance with the bulk and lot standards of the CBD Plan is summarized below in Table 1. Variances are required.

<table>
<thead>
<tr>
<th>Table 1: Area &amp; Yard Requirements - Central Business District (CBD)</th>
</tr>
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<tbody>
<tr>
<td><strong>Standard</strong></td>
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<td>----------------</td>
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<tr>
<td>Min. Lot Area</td>
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<tr>
<td>Min. Lot Frontage</td>
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<tr>
<td>Min. Frontage Setback</td>
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<tr>
<td>Min. Rear Yard Setback</td>
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<tr>
<td>Side Yard Setback</td>
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<tr>
<td>Max. structure height</td>
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<tr>
<td>Max. Lot Coverage for principal and accessory structures</td>
</tr>
<tr>
<td>Max. Floor Area Ratio (FAR)</td>
</tr>
<tr>
<td>(V) - Variance Required.</td>
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</tbody>
</table>
* Pursuant to §35-5.10.9, a maximum FAR of 4.5 is permitted if conditions for bonus increases subject to §35-5.10.f.1 are met. The plan meets the bonus requirement for: Development of new compatible signage (.25) and streetscape design improvement (.25).

3.2. Maximum Lot Coverage. Pursuant to §35-5.10.e.7, the maximum permitted lot coverage is 70%. The applicant indicates that 80% is proposed, however, this does not appear to be accurate. The definition of lot coverage found in §33-2.2 states the following:

[Lot Coverage] Shall mean that part of one lot or more than one lot which is improved or is proposed to be improved with buildings and/or other structures, including but not limited to driveways, parking lots, pedestrian walkways and other man-made improvements on the ground surface which are more impervious than the natural surface.

The proposed building encompasses ±4,859 sf. of the 5,884.49 sf. lot, which equates to 82.5% lot coverage. This office notes that the applicant is proposing 252 sf. of what appears to be vegetative cover on terraces on the north and south sides of the 4th floor (as indicated in the image to the right). The plans do not indicate the composition of the terraces and so it cannot be determined whether they are “other man-made improvements on the ground surface which are more impervious than the natural surface...” or less impervious. A variance is required whether it is 80% or 82.5%, but the degree of relief necessary should be clarified by the applicant through testimony or a supplement to the application.

3.3. Maximum Building Height. Pursuant to §35-5.10.e.6, maximum permitted building height is five stories and 55 feet. The definition of building height found in §33-2.2 states the following:

[Building Height] The vertical distance measured from mean finished grade along the side(s) of the building facing the street or street line to the highest point of the roof. This does not include roof appurtenances such as parapets, elevator, or stair bulkheads, required mechanical equipment and semipermanent roof coverings such as awnings, pergolas or canopies. For sloping roofs, it will be vertical distance from finished grade to the average distance between eaves and the ridge level for gable, hip and gambrel roofs.

- Building Height in Feet. The architectural plans indicate that the height of the building from the finished grade of the building façade to the roof structure is 60’ 2”, and to the roof deck is 61’ 9”. This office has contacted the applicant’s architect for additional information regarding the permanence of the roof deck structure. Mr. Garber indicated that the type of system utilized is a semi-permanent structure, and will provide testimony to that effect, and if necessary, provide documentation as a condition of any approval.
- **Height in Stories.** The proposed building is six stories in height. The CBD limits the height in stories to five stories, which requires a variance. Under longstanding City interpretation this requires a “-C” bulk variance and not a “-D(6)” variance.

3.4. **Floor Area Ratio (FAR).** Pursuant to §35-5.10.e.8, the maximum permitted FAR is 4.0. A provision in the ordinance allows for a FAR bonus of .50, for a maximum of 4.50 if certain conditions are met. This office finds that two of the bonus conditions are met: Development of new compatible signage (.25) and streetscape design improvement (.25). This brings the permitted maximum FAR to 4.50, with which the applicant complies.

The application indicates that the FAR bonus is met due to the provision of a “Plaza improvement.” The definition of plaza improvement found in §33-2.2 states the following:

[Plaza] Shall mean an open area for the general public’s use and which is designed for pedestrian access from the street level(s) which it abuts and which is an open area designed in addition to any required yard area or open spaces generated by maximum coverage regulations (quite often an area generated by erecting a building on stilts) and which may have improved surfacing, sitting areas and landscaping.

No such plaza is proposed. As the front yard setback of the building is 0 ft., it is not possible to provide a plaza with the proposed layout. The plans should be revised to indicate the appropriate bonuses as a condition of any approval.

**SITE PLAN REVIEW**

4. **Circulation and Parking Regulations**

4.1. **Minimum Parking Requirement.** Pursuant to §35-17, one space is required for each efficiency (or studio) apartment, and 1.25 spaces are required for each two-bedroom unit. The plan requires 28 parking spaces, and no parking spaces are provided. **Variance relief** is required.

4.2. **Parking Sufficiency.** The applicant is requesting a variance from the provision for any off-street parking. This office notes the following:

- Pursuant to §35-5.10.f.3, applications for developments within the CBD along Broadway are not permitted to utilize curb cuts. This is an interior lot with frontage only on Broadway. In order to provide parking, the applicant would need to provide a curb cut on Broadway, which, as indicated above, is not permitted. Furthermore, the implications of a curb cut and driveway on Broadway would result in mid-block turning traffic onto and off of Broadway and interrupt the walkability of the street by allowing cars to pass over the sidewalk. The Ordinance permits developments of the scale proposed on such interior lots, but also requires parking without permitting a curb cut to access parking.

- As noted in 1.3 of this report, this is a transit rich area of the City, located within close proximity to the 34th Street Light Rail Station and the NJ Transit Bus Routes #81 and #120.
The applicant is proposing 18 bicycle parking spaces on the ground floor in the rear/central room (this is also indicated in the Table located on sheet 1 of the architectural plans). This is not clearly labeled, and only says “Room 18 spaces 110 sf.” and includes images of what appears to be bicycle storage facilities. It is recommended that additional bicycle storage should be provided such that each studio unit has one dedicated bicycle parking space and each two-bedroom unit has two dedicated bicycle parking spaces, for a total of (at least) 31 bicycle parking spaces.

The applicant may wish to testify to possible alternative transportation options such as accommodation of ride-share, storage and charging for e-bikes, or other means of transportation that the site can provide in lieu of parking.

5. Signs

5.1. Proposed Wall Sign. The plan indicates one sign associated with the ground floor retail space. The sign is indicated generically as shown in the following image (indicated within the red box). A sign measurement is not provided. This office utilized software to measure the sign area based on the scale provided on sheet 9 of the architectural plans. It appears to be 18.65 sf. The sign dimensions should be verified by the applicant and indicated on the plans.

Signs are regulated by §35-25 of the Ordinance. Per §35-25.4.C.1, wall signs, not exceeding three sf. for each linear foot of sign frontage is permitted. The plans indicate 11-feet and six inches of linear feet of sign frontage, which permits ±34 sf. of sign area; 18.65 sf. is proposed. The plan complies. As a condition of any approval, the applicant should require any future tenant to have signage in line with what is proposed in the plan and conforming with §35-25. A more accurate detail of the sign at maximum size should be provided so that the Board can understand what the largest permitted wall sign may look like. This should also be included on the plan for the Zoning Officer’s benefit if/when it is time to apply for a zoning permit.

6. Landscaping

6.1. General Requirement. Pursuant to §33-10.11a, landscaping is required for site plans and shall be designed in a total pattern throughout the site.
6.2. Landscaping Proposal. Proposed landscaping is indicated on sheet 6 of the architectural plans and on sheet 2 of the site plan. These plans indicate different proposals. The architectural plans indicate 10 trees/shrubs in the rear yard, with no specific labeling. The engineering plans are more specific and will serve as the basis for review. The plans should be updated to be consistent with one another.

The engineering plans indicate that the rear yard and front façade will be landscaped. The rear yard will consist of five Sky Pencil Holly (*Ilex cretana*) and 10 Virginia Spring Beauty (*Claytonia virginica*), a form of perennial. Presumably the latter will be within planters as they are flowers.

The front façade will consist of six Green Velvet Boxwood (*Bluxus x green velvet*) and six Big Blue Lily Turf (*Liriope muscari “big blue”).

6.3. Landscape Recommendations. This office recommends that the Green Velvet Boxwood plants be replaced with Compact Inkberry (*Ilex glabra ‘compacta’*) due to the limited amount of planting space at property frontage. Furthermore, boxwood is being affected by boxwood blight caused by a fungus, *Calonectria pseudoaviculata*, for which there is no known cure. The applicant should also consider utilizing planters for any landscaping along the property frontage to prevent plant damage from passersby, snowfall and shoveling, and other things that come from heavy pedestrian traffic.

In the rear yard, this office has two sets of recommendations depending on the purpose of the landscaping:

1. If rear yard landscaping is for aesthetic purposes only, this office recommends limiting the number of trees to one tree given the limited space, and that rather than an evergreen Holly, utilize a deciduous tree such as a Redbud (*Cercis canadensis*) or Serviceberry (*Amelanchier canadensis*). Additionally, the use of vines along the fence, such as Baltic Ivy (*Hedera helix ‘baltica’*) would be an attractive addition to the rear yard. Baltic Ivy grows well in urban environments regardless of sunlight.

2. If rear yard landscaping is for screening purposes, it is recommended that Emerald Green Arborvitae (*Thuja occidentalis ‘Smaragd’*) be used in place of the proposed Holly due to its hardiness, ability to grow in close proximity to one another, and utility as a reasonably effective screen when used in conjunction with the proposed vinyl fence.

6.4. Shade Tree. While not required, it is recommended that a street tree be provided in front of the building. If a street tree is proposed, it is recommended that such a tree be able to survive in an urban environment, such as Shademaster Honeylocust (*Gleditsia triacanthos inermis*) and planted utilizing the Silva Cell system or equivalent planting method.
7. Lighting

7.1. Proposed Lighting. Eight lights are proposed on the site, three located in the rear yard and five located in front of the building. Three recessed lights are proposed above the entrance to the building along with two downward facing wall sconce lights. Two bollard lights and one recessed light are proposed in the rear yard. As indicated in the image to the right, the proposed lights are utilitarian and modern. Only the bollard light indicates an LED light source. The other two lights are likely LED; however, the applicant should provide testimony to confirm, and if necessary, update the plan to reflect same.

7.2. Minimum Pedestrian Lighting Requirement. Pursuant to §33-10.10.a.3, lighting in pedestrian areas is required to be a minimum of 1.5 footcandles. Lighting levels are not indicated on the lighting plan (sheet 5 of the architectural plans). The applicant should provide testimony, and if necessary, update the plan to indicate the illumination levels on the sidewalk in front of the building.

7.3. Lighting at Property Line. Pursuant to §33-10.10.b.1, maximum lighting at property lines (not including the front property line where pedestrian access occurs) shall not exceed one footcandle. The applicant should provide testimony, and if necessary, update the plan to indicate the illumination levels at the property lines, particularly as concerns the lighting in the rear yard which shares a boundary with a residential use in the R-2 zone.

7.4. Light Shielding. Pursuant to §33-10.10.b.2, lighting is required to be shielded to direct light away from adjoining properties. The recessed lighting and wall sconces are downward facing and likely comply with the requirement. More information should be provided regarding this light fixture, so the Board is able to understand any potential impact.

7.5. Lighting Plan Discrepancy. The lighting plan on the architectural drawings indicates different proposed lighting than sheet 7 of the site plan. The plans should be reconciled, and the correct proposed lighting fixtures should be indicated on both plans.

8. Architectural Design

8.1. Building Design - Exterior. The proposed building consists of six floors and a rooftop amenity space. The façade consists of taller “shop windows” associated with the commercial space on the bottom floor, with gray pin letters composing the sign. There are three entrances on the façade, the one on the left appears to be a service entrance, while the double doors in the center serves the commercial use and the double doors to the right is reserved for residents. An axonometric rendering of the building, provided by
the applicant, is depicted below. Below this depiction is a close up view of the street level frontage.

Axonometric Drawing of Proposed Building

Storefront Detail at the Ground Level

The storefront entrance consists of black or charcoal gray metal panel, glazed doors and floor-to-ceiling shop windows.

The building façade above the ground level consists of a brick wall exterior in a running bond pattern. The window framing above the ground appears black, but the material list provided on sheet 9 of the architectural plans indicates a dark brown metal panel (anodized dark bronze, perhaps?). The building sides, elevator penthouse and staircase located on the roof are gray stucco.
The rear façade consists of the same brick material, with a similar window pattern, though the windows only contain vertical panels, not the horizontal panels located on the front façade.

The proposed rooftop consists of several seating areas and outdoor cooking appliances.

The proposed building is attractive, and the brick finish and glazed storefront are in line with a modern interpretation of the City’s historic, industrial architectural style. The applicant should confirm that the proposed brick material is modular brick, and not thin brick, Plygem or similar material and commit to using modular brick as a condition of any approval. We make this point because of the proven track record of modular brick to withstand urban stresses over many decades whereas thin brick or Plygem do not have such an extensive, positive, record.

8.2. **Building Scale.** The applicant is requesting variances relating to building height and lot coverage. As such, understanding the scale of the building relative to the existing built environment is instructive. The applicant provided the following image, which shows that the proposed total height (taking into account the allowed stair and elevator penthouse structures) is twice as tall as the other buildings on the west side of Broadway between 33rd Street and 34th Street. Since the lot width is as least as wide as the widest lots, its mass is also the largest in the block. As indicated in 1.3 of this report, there is one building on the east side of Broadway between 33rd Street and 34th Street of a similar scale, and one to the north on the corner of 34th Street that is smaller, but of a similar scale.

8.3. **Building Design – Interior.** The interior design consists of three floor plans. The first is for the ground floor commercial and amenity space, the second is for the second and third floors, and the third is for floors four through six. The ground floor contains three entrances/exits to Broadway. The leftmost entrance leads to a stairwell with access to the residential units. The center provides access to the commercial space. The rightmost entrance is also for the residents, leading to the elevator and separate staircase that accesses the residences above, as well as residential amenities on the ground floor. There is a bike storage room, trash room, and utility rooms, in addition to a 1,149 sf. “amenity space”, which at this time is not specified. The commercial portion of the building consists of a 1,484 sf. space, two bedrooms and a storage closet. The applicant should testify to the
proposed function of the amenity space, and if information is available, the anticipated tenant of the commercial portion of the building.

The second and third floors contain six residential units each, all of which are studios. There is a central corridor which runs horizontally, connecting the two stairwells and the elevator, and providing access to the six units. There is a shared trash room and a mechanical room.

The fourth, fifth and sixth floors each contain three studios and two two-bedroom units. The layout is similar to floors two and three. Three studios face the street, and the two two-bedroom units are in the rear, separated from the studios by a central corridor that connects the units, stairwells and elevator, and shared trash and mechanical rooms. The two-bedroom units on the fourth floor are adjacent to the two terraces. It does not appear that the terraces are accessible by any units. The applicant should confirm whether there is any access to the terraces.

9. Trash and Recycling

9.1. Trash/Recycling. Per §33-10.13, there shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimension of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located. A 148 sf. trash room is located on the ground floor, into which the shared trash chutes from each floor feed into. The applicant should testify to the sufficiency of the trash and recycling facilities, per the Ordinance requirements. The applicant should also testify to the separation of waste and recycling, and each of separation for tenants.

9.2. Waste Removal. The applicant should provide testimony as to the process for trash removal from the building, and whether waste will be removed by public or private haulers.

10. Additional Comments Regarding the Use of the Site

10.1. Package Delivery. The applicant should provide testimony as to the process that is intended to be used for package delivery to the proposed residential and commercial uses. This office notes that a package room is indicated on the most recent iteration of the architectural plans.

10.2. Loading For Residents Moving In and Out of the Building. The applicant should provide testimony as to the process for future residents to move into and out of the building.

10.3. Use of Amenity Spaces. The applicant should provide testimony regarding the use of the shared amenity spaces, including the back yard, ground level amenity spaces, and rooftop amenity space.

10.4. Project Staging. The applicant will be required to meet, should the application be approved, in a pre-application meeting as directed by the City, on how the project would be staged for
construction purposes and will be required to file a plan with how that will be accomplished with the appropriate officials.

11. Development Fees for Affordable Housing

11.1. Development Fee: The applicant is responsible for development fees to be paid to the City’s housing trust fund. The applicant will be required to pay these fees per the requirements of the development impact fee ordinance of the City of Bayonne as a condition of approval.

12. Consideration of the “C” Variance

12.1. 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.

12.2. 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.

12.3. 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.

12.4. Planner’s Analysis of Variance Request. This office does not find that the application has provided sufficient proof to justify the requested height variance as it relates to stories, and by extension, feet. The applicant’s planner provided justification in the “Statement of Application” prepared by John McDonough, LA, PP, AICP.
The Planner’s document states (this office is only citing the applicant’s arguments for the height variances):

1. “The project will improve the site aesthetic with an attractive building that will add value and quality to the Broadway corridor and fill a void in the CBD. The building height is in line with the Master Plan recommendations for building heights of 4 to 6 stories for non-catalyst projects on Broadway and 8-10 stories for catalyst projects on Broadway, and with new development on the corridor.”

The City has not designated the Station Area Plan around the 34th Street Station as a redevelopment area. While the 2017 Master Plan does make recommendations for a two-tiered zoning classification (catalyst and non-catalyst) with density and height bonuses based on size and location, this has not been codified in the Zoning Ordinance. Furthermore, the Master Plan lists five criteria for catalyst development, only two of which are met by the applicant.

This would mean that the project would be considered non-catalyst by the Master Plan’s standards. The recommendation for such projects is 4-6 stories. The CBD is consistent with this recommendation, as it allows for five stories.

2. “The statutory negative criteria for height relief are satisfied because the relief can be granted without substantial detriment to the public and without substantial impairment to the zone plan. The additional height of 5.16 feet will not violate any planning purposes for height control: the added height will not block any scenic views, will not create any adverse shadow effects, and will not result in an obtrusive or imposing structure.”

3. “Relief for the number of stories is interrelated to height relief and justified for the same reasons. The relief relates to only one additional story, which adds to the value and quality of the development and will be visually unperceivable as nonconforming based on the site’s context and zoning. The additional story will not create an obtrusive or imposing structure on Broadway.”

The connection between height and stories is interrelated, but in reverse of the way it is stated by the applicant’s planner. The additional height in feet is necessitated by the addition of a sixth story, something not permitted under the Ordinance. The additional story exacerbates the parking variance by creating more units, and thus a need for more parking, further intensifying the nonconforming aspect of the project.

Much of what is proposed is permitted as the City envisions such development within the CBD. The proofs offered by the applicant apply generally to multifamily, mixed-use, multistory development in the zone, but not specifically to the request for the additional story, and by extension, additional height. The applicant will need to provide proof that the extra story and height meet the standard for the “-c(2)” variance, not the project as a whole, much of which is already permitted.
All buildings on Broadway between 33rd Street and 34th Street conform to the height requirements of the CBD. This building would be the only exception, this includes the two buildings of a similar size and scale indicated elsewhere in this report.

Finally, this office notes that the CBD Zone has been updated several times since the adoption of the 2017 Master Plan Reexamination, most recently on October 19, 2022 pursuant to Ordinance #O-22-35. This would suggest that the City has considered the recommendations in the Master Plan and codified what was determined to be acceptable within the parameters indicated within the plan, namely that 5 stories is permissible in the zone, which is consistent with the 4-6 story recommendation, but that 6 stories is not a height the Municipal Council wishes to see in the CBD.

13. Consideration of the Design Exceptions

13.1. The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses criteria for granting exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:

The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

We defer to the Board Attorney for any additional comment concerning the granting of design and performance exceptions.

SUMMARY

14. Plan Discrepancies

14.1. **Graphic Scales are Incorrect.** The graphic scales on the architectural and engineering plans do not appear to correctly indicate measurements on the plan. These should be corrected.

14.2. **FAR Bonus Discrepancy.** As indicated in §3.4 of this report, the architectural plans should be revised to correctly indicate the FAR bonuses.

14.3. **Discrepancies Between Architectural and Engineering Plans.** The architectural and engineering plans contain discrepancies from one plan to the other. These should be corrected, and the plans should reflect the same proposed conditions.

15. Applicant / Owner / Consultants

15.1. **Applicant/Owner.** 745-747 Broadway, LLC. 745-747 Broadway, Bayonne, NJ 07002.
15.2. **Attorney.** Michael Miceli, Esq. Prime & Tuvel. 1 University Place, Suite 500, Hackensack, NJ 07601. Tel: 201.402.0674. Email: mike@primelaw.com.

15.3. **Civil Engineer.** Edwin A Reimon, P.E., C.M.E., 11 Park Avenue, Rutherford, NJ 07070. Email: reimon5@msn.com. Tel: 201.939.0001.

15.4. **Traffic Engineer.** Lee Klein, Klein Traffic Consulting, LLC. 156 Walker Road, West Orange, NJ 07052. Email: lee@kleintraffic.com. Tel: 973.985.3464

15.5. **Architect.** Richard Garber, AIA, RA, GRO Architects, 125 Maiden Lane, Suite 506, New York, NY 10038 Email: richard@groarc.com Tel: 212.346.0705.

15.6. **Planner.** John McDonough, PP. John McDonough Associates, LLC. 101 Gibraltar Dr., Suite 1A, Morris Plains, NJ 07950. Tel: 973.222.6011. Email: jmcdonoughpp@gmail.com.

16. **Materials Reviewed**


17. **Relief Required**

17.1. **Variances:**

§35-5.10.b.1 – Parking requirement.
§35-5.10.e.6 - Height in feet.
§35-5.10.e.6 – Height in stories.
§35-5.10.e.7 – Maximum lot coverage.

17.2. **Design and Performance Exceptions:**
§33-10.10.a.3 Lighting in pedestrian areas (note, this may not be required pending testimony).
§33-10.10.b.1 – Lighting at property line (note, this may not be required pending testimony).

17.3. Conditions of Approval:

- Any applicable affordable housing development fee.
- Future commercial tenants to comply with applicable sign regulations.
- Utilization of real brick for the building façade.
- Plan corrections as indicated herein.

Note that additional variances and exceptions may be identified by the Board or the other professionals employed by the Board. The same applies to the conditions of approval.

We would be pleased to answer any questions regarding this report.