

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 (the “I-H Zone”) and consists of tanks, pipelines, office space, and other improvements and structures. 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 and variance approval to subdivide the Property into 2 new lots of approximately 39 acres (Proposed Block 466.01, Lot 1) and approximately 6 acres (Proposed Block 466.02, Lot 2) (the “Application”). Proposed Lot 1 will have frontage on East 22nd Street, Avenue I, and Coleman Way (Avenue J). Proposed Lot 2 is triangular-shaped parcel that is bounded by Proposed Lot 1 and rail lines. The Property will contain various easements to accommodate vehicular access, utilities, and pipelines.

Because Proposed Lot 2 does not abut a street, the Applicant requires a statutory variance from N.J.S.A. 40:55D-35 and -36. Further, to the extent necessary, the Applicant requests bulk variances from §§35-4.8, -5.17(e)(2), of the Bayonne Zoning Ordinance (the “Ordinance”), both of which relate to street frontage. Ord. §35-4.8 requires that “[e]very building or structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located as to provide safe and convenient access for servicing and fire protection.” Ord. §35-5.17(e)(2) requires that all lots in the I-H Zone have a minimum lot frontage of 125 feet. Proposed Lot 1 further requires bulk variance relief from Ord. §35-5.26, which established a minimum lot depth of 200 feet for the I-H Zone. Proposed Lot 1 cannot meet this requirement due to the existing shape of the Property.

The Applicant also seeks bulk variance relief from Ord. §35-5.17(e)(5) for Proposed Lot 1, which establishes the I-H Zone’s minimum side yard setback – one side requirement of 25 feet. The side yard setback violation is for an existing storage tank, which the Applicant plans to subsequently demolish.

Due to its odd shape and the site constraints caused by existing structures on the Property as well as the rail lines around the Property, the strict application of the street requirement 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 not adjacent to any other use or user and will not impact any neighbors. Nor will it affect the way the Property currently operates. The Property will operate tomorrow as it does today: 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 demolish the structure at some point in the future.

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

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.