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## DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE :	07.26.2022
TO :	Planning Board Commissioners
FROM :	Liz Opper, AICP, Urban Designer Tanya Marione, PP, AICP, Division Director
CASE :	P22-095 (subdivision) P22-094 (site plan)
PROJECT :	Urby Phase II- 195 Hudson Street and 215 Hudson Street
FOR :	Preliminary and Final Major Subdivision with 'C' Variances Preliminary and Final Major Site Plan with 'C' Variances

### I. DOCUMENTS REVIEWED

#### Site Plan

- General Development Application P22-094
- Civil Engineering Plans dated 7/13/22
- Landscaping Plans
- Architectural Plans dated 7/13/22
- GAR calculator
- Principal Points Statements
- Site Survey
- Access & Circulation Review Traffic Report
- Stormwater Management Report
- Site Photos dated 4/28/22
- Affidavits: ownership, performance, submission
- Staff Engineering memo dated 7/18/22

#### Subdivision

- General Development Application P22-095
- Subdivision Prior Resolution
- Subdivision Plan dated 4/28/22
- Site Survey
- Affidavits: ownership, submission
- Staff Engineering memo dated 7/18/22

### II. APPLICATION BACKGROUND + PROPOSAL

- **Previous Applications and Approvals:** P12-005 preliminary and final major subdivision approval with deviation (lot area)
- **Existing Conditions:** Currently, the majority of the site is comprised of a surface parking lot. On the southern end of the site, there is a green area with a dog run and playground. The northern end of the site is a privatized portion of Bay Street. To the west of the site is Greene Street (1-way, NB), to the north is Urby Phase I, to the east is Hudson Street (1-way, SB) and the Harborside HBLR station, to the south is a walkway/plaza leading to Harborside Financial Center.



- **Proposed Conditions:** Applicant proposes the subdivision of two lots for a lot line adjustment in connection with the proposed mixed-use development. Proposed development includes two towers consisting of 1,606 units (164 units may be used as hotel) a health club, and commercial uses; and 272 parking spaces (with a valet option). The lot line adjustment will create a wider Bay Street right-of-way.
- **Variations:**
  - Minimum lot size
  - Maximum permitted number of stories
  - Forestry Standards
  - Building base- maximum height of building base
  - Building base- relief that the base be constructed only out of masonry material
  - Building base- relief from percentage of glazing required on the base facade
  - Exceeding maximum number of signs permitted in the redevelopment plan

### III. STAFF COMMENTS – ‘c’ Variance

- **Minimum lot size:** The redevelopment plan calls for a minimum lot area of 1-acre in this zone. Currently the lot area for Bay Street is .273 acres, the proposed subdivision would create a lot of .305 acres. As this deviation has already been granted at a smaller area, the increased area would not pose any detriment to the public good or intent of the redevelopment plan. The street will remain privately owned and maintained. The zoning for this area did not contemplate private ownership of road, therefore regulating for large lot sizes for large scale development.
- **Maximum permitted number of stories:** The redevelopment plan permits a maximum of 50 stories, the applicant is proposing 69 stories. The redevelopment plan permits additional stories under certain conditions (this proposal does not meet those conditions), and caps the height to a maximum of 800’.

**Maximum height**

*Fifty (50) stories, however any story where a minimum of eighty percent (80%) of that level's gross floor area is used for parking and/or mechanicals shall not be considered in the maximum number of stories permitted. In no case shall any structure exceed 800 feet.*

The Redevelopment Plan originally adopted in 1983 anticipated a majority of office uses in this area. The plan permits an FAR of 15 with a maximum height of 50 stories. The applicant is proposing residential towers which tend to have smaller floorplates than office towers. The proposal is within the permitted FAR (14.89) and under 800' (677'-10") in height, therefore aligning with and not impairing the intent of the redevelopment plan. Additionally, Phase I of Urby was approved and built at the proposed height of Phase II. The two additional towers proposed would create a consistent landmark of three towers equal in height.

The additional number of stories requested would not result in substantial detriment to the public good as the additional number of stories will result in slimmer towers allowing for more light and air access to adjacent structures and properties.

- **Forestry Standards:** Underground utilities and access to loading, parking garage entry/exit and trash are located on the Greene Street side of the project. As such, street trees would not be able to be planted along Green Street. With about 125' of building frontage on Greene without street trees, approximately five street trees would be required on Greene Street. The applicant is proposing planting additional trees elsewhere in the proposal to offset the absence of trees proposed on Greene Street. As the applicant is proposing to offset the five street trees required on Greene Street with additional trees on site, the variance can be granted without substantial detriment to the public good. See conditions below.
- **Building base- maximum height of building base:** the maximum permitted base height is 85 feet, the applicant is proposing an amenity deck at 83'-10", a pool deck at 88'-10" and the top of the parapet was at 92'-7". The applicant is seeking four additional feet in height to accommodate a pool deck. Staff sees no substantial detriment in granting this variance as the additional height would be negligible and does not result in more habitable enclosed square footage within the building base.
- **Building base- relief that the base be constructed only out of masonry material:** The applicant is proposing to utilize a variety of materials including masonry, glass and metal similar to the base in Urby Phase I. Staff does not see substantial detriment in granting this variance as the design would be in keeping with the first phase of this development.
- **Building base- relief from percentage of glazing required on the base façade:** 75% required to be glazing. The base of the building has multiple programmatic functions limiting the use of glazing, including parking and utility areas. No substantial detriment to the intent of the redevelopment plan would occur in granting this variance, the applicant is following the intent of this regulation in having an active ground floor with high visibility (glazing) on 3 of its four frontages.
- **Exceeding maximum number of signs permitted in the redevelopment plan:** The redevelopment plan permits one sign for residential uses, one sign for parking and one sign for commercial uses fronting on a public street. The redevelopment plan would permit three signs in total given the proposed ground floor plan and the two frontages facing a public right of way. The applicant is proposing nine signs. The language in the redevelopment plan does



## 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