

DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE : 07.11.2022
TO : Planning Board Commissioners
FROM : Liz Oppen, AICP, Urban Designer
Tanya Marione, PP, AICP, Division Director
CASE : P21-134
PROJECT : 120 Storms Avenue | Block & lot – 15004: 32,33,34,35,36,37,38
FOR : Preliminary and Final Major Site Plan with 'C' Variance

I. DOCUMENTS REVIEWED

- General Development Application
- Architecture Plans
- Civil Plans
- Site Photos
- Statement of Principal Points
- Stormwater and Engineering Reports, Stormwater Management Report
- Survey
- Traffic Report
- Zoning Determination Letter
- Affordable Housing Checklist
- Engineering staff report dated: 03.02.22



- **Existing Conditions:** The site is about 18,000 sf and is located in the located in Zone 1 of the McGinley Square East Redevelopment plan. Located at the corner of Storms Avenue and Nevin Street, the property is currently vacant utilized as surface parking.
- **Proposed Conditions:** New construction of an 8-story multifamily building with 101 total residential units, 39 parking spaces and commercial space on the ground floor. 20 units are income restricted as required and outlined by the Redevelopment Plan.
- **Variances:**
 - Building height: 8 stories/90 feet are permitted and 8 stories/93 feet are proposed
 - Maximum floor to ceiling height: 12 feet maximum are permitted and 15 feet are proposed on the ground floor
 - Minimum front yard setback: 3 feet are required and 1.6 feet are proposed
 - Minimum sidewalk width: 15 feet required and 13'-8" proposed
 - Minimum side yard setback: 0-foot side yard setback from the southern side property line, where a minimum of 10% of the lot width (12 feet) up to a maximum of 6 feet is required
 - Off-street Parking Spaces: 40 parking spaces are required and 39 spaces are proposed
 - Parking Design Standards: ground floor parking adjacent to sidewalk
 - Minimum drive aisle width: 22' required, 21' provided

II. STAFF COMMENTS – 'c' Variances

- Building height and maximum floor to ceiling height: The requested 3' height deviation can be attributed to the 15' floor to ceiling height at the ground floor where 12' is the maximum permitted. In granting the variance for the ground floor ceiling height, the space will be able to better support commercial and amenity spaces. Additionally, this proposed height allows for a stacked parking system. This 3' height deviation is de minimis and does not impair the intent of the redevelopment plan.
- Minimum front yard setback and minimum sidewalk width: While the redevelopment plan calls for a 15' wide sidewalk, the applicant is proposing a 13'-8" wide sidewalk. The proposed building setback and sidewalk width is in line with the other properties on this section of Storms Avenue, a continuous 13-foot-8-inch sidewalk width along the pedestrian right-of-way, advancing the goal of the redevelopment plan.
- Minimum side yard setback: 0-foot side yard setback from the southern side property line, where 6 feet would be required. This deviation is mitigated by the side yard stepback at the 5th story and the one story parking podium allowing light and air to access the adjacent properties on Storms Avenue.
- Off-street parking and Parking Design Standards: The applicant worked to balance the feedback of the community from their original proposal. Increasing the on-site parking and reducing the length of frontage with parking directly behind. The proposed number of parking spaces, 39 rather than the 40 proposed does not result in an impairment of the intent of the redevelopment plan. The proposal responds to Map 3: Required Ground Floor Use which identifies the Storms Avenue Frontage as "Optional Commercial" and "Required residential" on Nevin Street, proposing active uses on Storms and the residential lobby/parking on Nevin Street.
- Minimum Drive Aisle Width: The proposed 21' versus the 22' poses no substantial impairment to the intent and purpose of the zone plan and ordinance. The plan states: "90 degree parking 22' wide two-way aisle". Proposed is 90 degree, 21' wide one-way aisle with one side of the aisle for compact cars.

III. STAFF RECOMMENDED CONDITIONS

All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding. The staff recommends the following conditions to mitigate the negative criteria:

1. All materials and color selections shall be shown on Final Plans. No change to the facade and site design, including materials as well as any changes that may be required by the Office of Construction Code, shall be permitted without consultation with planning staff or approval by planning board.
2. All street trees and landscaping shall be installed in accordance with the Jersey City Forestry Standards prior to the issuance of a Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO).
3. The Applicant shall address comments from the Engineering memo dated 03/02/2022 on signature sets.
4. Per the redevelopment plan's Building Height Bonus Fee, a fee shall be incurred for every square foot above the 8th floor. 1,490 gsf are proposed at the rooftop level. See McGinley Square East Redevelopment Plan section XII.E.2

Building Height Bonus Fee: all floor area above the 8th floor is permitted only as a bonus subject to a fee of \$5 per gross square foot of floor area. In order to address cost increases over time, this bonus fee shall increase annually by the published percentage of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) all items index for the North Eastern United States

(New York - Northern New Jersey-Long Island, NY-NJ-CT-PA), using the standard reference base, compounded each year, with the first increase applying to site plan applications filed in the year 2015. This fee shall be paid by the developer to the City in two (2) installments: (1) fifty percent (50%) of the fee shall be paid upon a final non-appealable site plan approval granted by the City of Jersey City Planning Board, and (2) the remaining fifty percent (50%) of the fee shall be paid prior to the issuance of the first final certificate of occupancy. These contributions shall be specifically earmarked for the construction or improvements of sidewalks, open space, or plaza areas within the Redevelopment Plan area.

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