

## DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE : 06.13.2022  
TO : Planning Board Commissioners  
FROM : Liz Oppen, AICP, Urban Designer  
Tanya Marione, PP, AICP, Division Director  
CASE : P22-019  
PROJECT : 245 12<sup>th</sup> Street | Block 8603, Lot 1  
FOR : Preliminary & Final Major Site Plan with 'c' Variances

### I. DOCUMENTS REVIEWED

- General Development Application\_245 12<sup>th</sup> Street
- Site Photos\_245 12<sup>th</sup> Street
- 245 12<sup>th</sup> - GAR Spreadsheet
- 245 12<sup>th</sup> – Site Plans
- 245 12<sup>th</sup>\_Location and Topographic Survey
- 245 12<sup>th</sup> – Traffic Impact Study
- Exterior Elevations
- Site Photos\_245 12<sup>th</sup>
- Principal Points
- Notice package, affidavits, water certificate, 10% disclosure, 200' list

### II. APPLICATION BACKGROUND + PROPOSAL

The site is located in the Jersey Avenue Tenth Street Redevelopment Plan within the Commercial Strip District. The application includes the demolition of an existing car wash and convenience store. A new drive-through restaurant and convenience store are proposed (along with site improvements). The site is located in the AE flood zone, a GAR of .25 is required.



▪ **Existing Conditions:**

Located at the southeast corner of 12<sup>th</sup> Street and Jersey Avenue, the site contains a gas station, convenience store and a car wash. The property has two driveways on 12<sup>th</sup> Street and one driveway along Jersey Avenue. 12<sup>th</sup> Street has east-bound traffic leading toward the Holland Tunnel entry. This portion of 12<sup>th</sup> Street is lined with similar uses, serving the surrounding neighborhood along with those entering the Holland Tunnel.

▪ **Proposed Conditions and Amendments:**

Re-use of the existing gas station, construction of a new convenience store and construction of a drive-through fast food restaurant. Five existing trees will be retained and five new trees will be planted.

▪ **Variances + Waivers**

GAR: .25 required, .23 proposed

Maximum lot coverage: 85% permitted, 86.3% proposed

Street trees on 12<sup>th</sup> Street: 3 required, 0 proposed

Maximum signage: 1 exterior sign at 5% of the storefront area, 4 exterior signs at 2.9% of the storefront area

Maximum illumination at property line: .5 footcandles permitted, 2.9 footcandles proposed

▪ **STAFF COMMENTS – ‘c’ Variance**

- Staff does not see substantial detriment to the public good in granting a variance for not complying with the required green area ratio (.25 proposed vs .23 provided). Staff acknowledges that the applicant has proposed multiple site improvements to approach the required GAR. Staff recognizes that the permitted, proposed uses and location on 12<sup>th</sup> Street do not lend themselves to reaching the .25 GAR.
- Staff does not see substantial detriment to the public good in granting a variance for exceeding the permitted maximum lot coverage. The deviation requested is de Minimis (510 sf on a 31,500 sf site) and provides for an improved, safer pedestrian environment.
- Staff does not see substantial detriment to the public good in regards to not providing street trees on 12<sup>th</sup> Street. There are currently no street trees along this strip of 12<sup>th</sup> Street leading to the Holland Tunnel, street trees would limit visibility and sidewalk usage.
- Staff does not see substantial detriment to the public good related to the proposed signage. As the property is a corner lot, the site essentially has two frontages, therefore providing additional signage does not substantially impair the intent and purpose of the zone plan where one sign is permitted assuming a mid-block condition.
- Staff does not see substantial detriment to the public good to the proposed illumination at the 12<sup>th</sup> Street property line. This is a highly trafficked route, the proposed illumination is consistent with the corridor and allows for greater visibility for/of pedestrians.

**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 06/09/2022 on signature sets.
4. The Applicant has coordinated and received comments from PANYNJ on the proposed site plan. The Applicant shall continue to coordinate with PANYNJ as needed.

## **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