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July 23, 2024

Marlboro Township Environmental Commission
1979 Township Drive
Marlboro, NJ 07746

Attn.: Rohit Gupta, Chairman

Re: *Mallboro Dream Development, LLC (ZB 22-6793)*
Bifurcated Use and Density Variance Application
Environmental Review
Block 111, Lot 2
Location: 356 Texas Road
Zone: R-60 (Residential District)
Our File No.: HMRZ0111.06

Dear Chairman Gupta and Environmental Commission Members:

Our office received the following information in support of the above-referenced application for Use and Density Variance approval:

- Use Variance Plan (1 sheet) prepared by CPL Partnership, LLC, dated August 25, 2022, last revised March 4, 2024;
- Architectural Floor Plans and Elevations (7 sheets) prepared by CPL Partnership, LLC, dated May 9, 2022, last revised March 4, 2024;
- Supplemental Ridder, dated March 14, 2024;

In accordance with the Township's authorization, we have reviewed this application and offer the following comments, from an environmental perspective (Please note that the background information contained herein is based on our engineering and planning review letter submitted to the Zoning Board, dated April 3, 2024). Environmental comments are found in section 6 below:

1. Project Description

The subject 11.32-acre property is located within an R-60 Zone District and contains 115 feet of frontage along Texas Road and 607 feet of frontage along Ryers Lane. Currently, the property contains a single-family dwelling with a dirt driveway from Ryers Lane; however, a majority of the property is undeveloped. The property is also traversed by freshwater wetlands and the Birch Swamp Brook, both along the western property line, as well as along the northern portion of the property next to Texas Road.



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The Applicant is seeking Bi-Furcated Use Variance approval at this time to remove all existing structures and construct a 43-unit townhouse development on the subject property. The project will consist of 33 market rate units and 10 affordable units and parking for 132 vehicles will be provided on the property through a combination of parking stalls and garage/driveway combinations. Access to the site will be provided from Ryers Lane, which is also proposed to be paved with the application. The Applicant has also identified the location for three (3) stormwater management basins which have not yet been designed.

Residential townhouse developments are not a permitted principal, accessory or conditional use within an R-60 Zone District, thereby requiring the subject Use Variance approval. Additionally, the Applicant has requested a D5 Use Variance as the project density is noted to exceed the requirement of the R-60 zone.

2. Surrounding Uses

Properties surrounding the subject property in all directions are similarly zoned R-60, with the Henry Hudson Trail located to the east within the ROS zone. Properties to the east and south contain residential uses. The property to the north, across Texas Road, contains a vehicle storage yard, while the property to the west remains undeveloped.

3. Zoning Compliance

The subject property is situated within an R-60 Zone District. The table below summarizes the zone requirements and bulk measures for the site.

DESCRIPTION	REQUIRED (R-60)	PROPOSED
Minimum Lot Area	60,000 sf	493,100 sf
Maximum Gross Density [1]	0.58 Lots/Acre	0.10 Lots/Acre
Minimum Lot Frontage	225 feet	114.54 feet (EC)
Minimum Lot Width	225 feet	+/- 115 feet (EC)
Minimum Lot Depth	225 feet	> 225 feet
Minimum Front Yard Setback	50 feet	50 feet
Minimum Side Yard Setback	50 feet	52.99 feet



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Minimum Rear Yard Setback	50 feet	53.75 feet
Minimum Front Yard Setback (Accessory)	50 feet	N/A
Minimum Side Yard Setback (Accessory)	25 feet	N/A
Minimum Rear Yard Setback (Accessory)	25 feet	N/A
Maximum Building Height	35 feet	35 feet
Maximum Building Height (Accessory)	15 feet	N/A
Maximum Principal Building Coverage	6%	7.28% (V)
Maximum Accessory Structure Lot Coverage	900 sf	N/A
Maximum Total Building Coverage	8%	7.28%
Maximum Lot Coverage by Buildings and Structures	15%	7.28%
Maximum Total Lot Coverage (Impervious)	15%	20.0% (V)
Minimum Gross Floor Area	1,800 sf	> 1,800 sf
Minimum Ground Floor Area	1,100 sf	> 1,100 sf



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<p>Minimum Number of Parking Spaces</p>	<p>NJAC 5:21 RSIS Townhouse: 1 BR = 1.8 spaces (2) 2 BR = 2.3 spaces (6) 3 BR = 2.4 spaces (35) = 102 spaces total</p> <p>Marlboro Townhouses in a Multifamily District = 2.5 spaces per unit (43) = 108 spaces total</p>	<p>132 spaces</p>
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(EC) – Existing Condition, (V) – Variance Required

Note [1] – Maximum Gross Density calculations are made after subtracting all wetlands from the total acreage of the property. The total lot area of 493,100 sf shall be reduced by 53,773 sf of wetlands, resulting in 439,327 sf, or 10.09 acres.

The following existing conditions would appear to remain pertinent to the site:

- a. **Section 220 Attachment 9 (Table 1)** – The minimum required lot frontage is 225 feet; whereas the existing lot frontage along Texas Road is 114.54 feet.
- b. **Section 220 Attachment 9 (Table 1)** – The minimum required lot width is 225 feet; whereas the existing lot width is approximately 115 feet.

As part of the Use Variance approval, the Applicant must demonstrate that the following deviations from the Zone District requirements would be subsidiary to the granting of the Use Variance and therefore subsumed within said Use Variance, if approved.

- a. **Section 220 Attachment 9 (Table 1)** – The maximum required principal building coverage allowed is 6%; whereas the proposed principal building coverage is 7.28%.
- b. **Section 220 Attachment 9 (Table 1)** – The maximum total lot coverage allowed is 15%; whereas the proposed total lot coverage is 20.0%.



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- c. **Section 220-35F(6)(a)** – Stream corridors and stream corridor buffers shall remain in their natural state with no altering of waterways, regrading or construction or any clearing or cutting of trees and/or brush; whereas it appears the proposed building and associated disturbance are located within a stream corridor buffer.

The Applicant has not requested any design waivers with the application; however, it appears the following are required:

- a. **Section 220-169H(1)** – The minimum drive aisle width shall be 25 feet; whereas the proposed drive aisles are 24 feet wide.
 - b. **Section 220-184D** – The minimum paving width for a two-way local street is 36 feet; whereas the existing street within Ryers Lane is proposed to be extended and is only 24 feet wide.
4. As the proposed residential townhouse development is not a permitted principal, accessory or conditional use within an R-60 Zone District and the Applicant has identified that the required maximum gross density will be exceeded, the Applicant must seek a “Special Reasons” Use Variance pursuant to NJSA 40:55D-70d. The Applicant shall provide testimony demonstrating compliance with the Medici case consistent with the following:
 - a. Positive Criteria
 - i) That the site is particularly suited to the use.
 - ii) There are special reasons that allow a departure from the zoning regulations in this particular case. In general, to show special reasons, the grant of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (NJSA 40:55D-2).
 - b. Negative Criteria
 - i) That the variance can be granted without substantial detriment to the public good. This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
 5. This application is subject to the requirements of the Residential Site Improvement Standards (RSIS) adopted as NJAC 5:21-1 et. seq. The Applicant has not requested any waivers or de minimus exceptions from the RSIS requirements. An agreement to exceed



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said requirements should be filed with the DCA for any improvements which exceed the RSIS.

6. Environmental Review

The following comments will need to be addressed when the Applicant returns for Site Plan approval.

- a. All site development plans require an Environmental Impact Report (as found within § 220-159 of the Ordinance).
- b. The site appears to be historically farmed, as such the Applicant needs to conduct soil sampling and analysis in accordance with Ordinance § 220-159.1 (Site investigation and soil sampling reports).
- c. The stream corridor and the associated 100-foot buffer have been identified on the plan. There are proposed improvements located within both the 100-foot buffer. Additionally, buffer averaged compensation has not been provided to offset the areas of reduction.
- d. A note should be included on the plans stating that any imported fill meets the definition of Clean Fill, as defined within the NJDEP's Technical Requirements for Site Remediation (as found at N.J.A.C. 7:26E-1.8).
- e. The Applicant must submit all approved NJDEP Permits pertaining to the Freshwater Wetland Protection Act Rules and/or Flood Hazard Area Control Act Rules once received.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant. If you have any questions regarding the above matter, please do not hesitate to contact this office.

Very truly yours,

Austin Bazuk
Consultant to the Commission

AB
cc:

CPL Partnership – Applicant's Engineer
Donna Jennings, Esq. – Applicant's Attorney (djennings@wilentz.com)