
TO: Aberdeen Township Zoning Board of Adjustment

FROM: Coppola & Coppola Associates

SUBJECT: "Use" Variance Request
Centex Homes, LLC (V06-135)
Villages At Aberdeen
Block 114/Lot 4
Along The Northeast Side Of State Route 34, Just South Of Wellington Drive

As requested by the Township, we have reviewed the above captioned application and related materials, and we offer the following observations and comments for the Zoning Board's information and consideration. This memorandum report supercedes our previously issued Memorandum 32-2007, dated July 5, 2007.

A. **Materials Forwarded & Reviewed**

1. "Concept Plan", one (1) sheet, prepared by Schoor DePalma and dated October 3, 2006, with revisions through August 16, 2007;
2. "Use Variance Analysis", prepared by Schoor DePalma and dated October 4, 2006, with revisions through June 29, 2007;
3. "Planning Report", prepared by Burgis Associates, Inc. and dated August 27, 2007;
4. "Floor Plans", one (1) sheet, prepared by Centex Homes and dated March 23, 2006;
5. "Environmental Impact Statement", prepared by Trident Environmental Consultants and dated January 2007;
6. "Trip Generation Comparison", prepared by Schoor DePalma and dated September 14, 2006, with an update dated August 22, 2007;
7. A colored building elevation and floor plan, prepared by Pinnacle Design and dated July 7, 2007; and
8. Steep Slope Analysis, prepared by Schoor DePalma and dated July 27, 2007.

B. Description Of The Subject Tract Of Land

1. The subject tract contains approximately 7.8 acres of land and is located on the northeast side of State Route 34, just south of Wellington Drive.
2. The subject tract is partially wooded and currently is used to store truck trailers.
3. The subject tract contains areas of steep slopes 15% and greater in topographic grade.
 - a. The areas of steep slopes appear to be concentrated in the eastern portion of the tract, are up to 73% grade in some areas, and the steep slopes continue onto the adjacent property, south of the subject tract.
 - b. The areas of steep slopes now have been specifically delineated on the "Concept Plan".
 - c. From the information currently provided by the applicant, 22.6% of the site, or approximately 1.73 acres, is encumbered by steep slopes 15% and greater in grade.

C. Existing Land Uses In The Vicinity Of The Subject Tract

As a result of the new submission, and the contentions made by the applicant regarding the existing land uses in the vicinity of the subject property, we expanded our existing land use survey to be more extensive and detailed than previously addressed in our prior memorandum.

1. To the northwest of the subject tract is a townhouse development on Wellington Drive in the adjacent "APT/TH" Apartment/Townhouse zoning district.
2. To the northeast are single family detached dwellings on Juniper Place in the "PC" Residential zoning district .
3. To the east are woods.
4. Traveling southeast along Route 34, towards the municipal boundary with Marlboro Township and within the "HC" Highway Commercial zoning district, are the following uses, all of which are permitted land uses in the "HC" district:

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- a. An office building containing a dentist, a physical therapist, a title company, and another office;
 - b. A large tract of land, approximately 19 acres in area, containing a lawn maintenance and garden supply company (Jody Vacarella);
 - c. A wooded vacant tract of approximately 7.45 acres;
 - d. A "N.J. American Water Company" tank; and
 - e. Wooded lands.
5. Directly across Route 34 in the "APT/TH" zoning district is a townhouse development on Randall Way.
 6. Traveling southeast along Route 34 from the townhouse development to the municipal boundary is a home with a trucking business, a "Kinder Care", and a "Children of America Educational Child Care Center", which is under construction; all of these uses, with the exception of the truck use, are permitted uses within the "HC" zoning district.
 7. To the northwest of the townhouses on Randall Way is an "Avis Rent-A-Car" business in the "HC" zoning district and, further to the northwest, is the "Parker Boarding Home For The Aged" in the "R-100" zoning district, adjacent to single-family homes along Woodbrook Drive.
 8. Further northwest from Woodbrook Drive along Route 34 are the "Happy Hour Day Care Center", multi-family dwellings along West Aspen Way, the "Heritage Square Apartments", and a 2-story office/retail building (with a wine and liquor store located on the first floor).
 - a. The apartments, townhouses and multi-family uses all are conforming uses in the "APT/TH" zoning district.
 - b. The day care center and the home for the elderly are nonconforming uses in the "R-100" zoning district.
 - c. The bulk of the "Avis Rent-A-Car" business is in the "HC" zoning district and is a conforming use.
 - d. The office/retail building is in a "RC" zoning district and is a conforming use.

D. **Description Of Proposal & Need For A "Use" Variance**

1. The applicant proposes to construct 62 non age-restricted townhouse units on the tract of land containing approximately 7.8 acres, resulting in a gross density of 7.95 dwelling units per acre.
2. The proposed townhouse units are to be "for sale" condominiums, and eight (8) of the units, or 12.9% of the total 62 units, are proposed to be set aside as COAH affordable age-restricted units.
3. The only differences between the prior "Concept Plan" and the recently submitted plan, revised through August 16, 2007, are as follows:
 - a. Previously, three (3) townhouse buildings, totally 19 units, were located along the northerly property line; these three (3) buildings now contain a total of 24 units.
 - b. The setback of the closest townhouse building to the single-family lots on Juniper Place has decreased from 125 feet to 50 feet.
 - c. A cul-de-sac provided adjacent to the rear of the single-family dwellings on Juniper Place has been removed.
 - d. Two (2) townhouse buildings along the southeasterly property line, which totaled 16 units, have been increased to three (3) buildings, totally 22 units.
 - e. A townhouse building (4 units), previously proposed adjacent to the outdoor activity area, and another townhouse building (7 units), previously located along the easterly property line, have been eliminated, and the 11 units have been relocated within the tract.
4. The subject tract of land is situated within the "HC" Highway Commercial zoning district.
 - a. The "HC" zoning district includes the subject tract of land and additional lands on both sides of State Route 34 to the municipal boundary line with Marlboro Township.

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- b. The "HC" Highway Commercial zoning district permits the retail sales of goods and services, restaurants, bars and taverns, banks, offices, theaters, shopping centers, garden centers, bowling alleys, automobile sales, public purpose uses, storage yards and, as "conditional uses", car washes, service stations, public utilities and amusement arcades; no residential uses are permitted in the "HC" zoning district.
5. Therefore, a "use" variance is required pursuant to N.J.S.A. 40:55D-70 d.(1) of the Municipal Land Use Law, since residential dwellings are not permitted uses within the "HC" zoning district.

E. **Required Proofs For The Requested "Use" Variance**

1. As previously noted, a "use" variance is required since residential dwellings are not permitted uses within the "HC" zoning district.
2. In accordance with N.J.S.A. 40:55D-76 b. of the Municipal Land Use Law, the applicant has chosen to bifurcate the necessary approvals and seek separate approval of the "use" variance prior to submitting an application for site plan approval. Any approval of the requested "use" variance must be conditioned upon subsequent site plan approval by the Zoning Board of Adjustment.
3. In accordance with N.J.S.A. 40:55D-70 d.(1) of the Municipal Land Use Law, in order for a Zoning Board of Adjustment to grant a "use" variance (i.e., permission to locate a use in a zoning district which does not specifically permit the use), the applicant must indicate so-called "special reasons", which may include the advancement of one (1) or more of the purposes for zoning listed at N.J.S.A. 40:55D-2 of the Municipal Land Use Law.
4. Additionally, unless the proposed use is deemed to be "inherently beneficial", in accordance with the *Medici v. BPR Co.* NJ Supreme Court decision, the "applicant must prove and [the] board must specifically find that the use promotes [the] general welfare because [the] proposed site is particularly suited for the proposed use."
5. Moreover, as is true for all variance applications, the applicant must address the so-called "negative criteria" and show to the Zoning Board that the requested variance can be granted by the Board "without substantial detriment to the public good" and that the granting of the variance "will not substantially impair the intent and the purpose of the zone plan and zoning ordinance."

6. However, in addressing the "negative criteria" for a N.J.S.A 40:55D-70 d.(1) "use" variance, the applicant is required to show an *enhanced quality of proof*, so that the Zoning Board has *clear and specific findings* that the granting of the requested variance will not cause a "substantial detrimental to the public good" and will not "substantially impair the intent and the purpose of the zone plan or zoning ordinance".

F. **The Applicant's "Particularly Suited" Special Reasons Arguments**

1. As previously noted, the "applicant must prove and [the] board must specifically find that the use promotes [the] general welfare because [the] proposed site is particularly suited for the proposed use."
2. The "Use Variance Analysis" submitted by the applicant addressed the "particular suitability" issue on Pages 3 & 4 of the submission.
3. Essentially, the applicant offers three (3) arguments asserting reasons that the subject tract of land is "particularly suited" for the proposed residential use, including the following:
 - a. The first argument is that the subject tract is "particularly suitable for the proposed use" because it is "located adjacent to residential uses, including condominium units to the north, single-family residential to the east [and] townhome units to the west..."
 - b. The second argument is that the proposed residential use of the subject tract provides "a natural progression of uses", presumably because the subject tract abuts a tract of land within the "APT/TH" zoning district which is are developed with multiple-family residential buildings.
 - c. The third argument is that the subject tract cannot reasonably be developed with any of the permitted "HC" uses because it is "oddly shaped to carry a viable commercial use, as it has a relatively small amount of frontage on Route 34, and is considerably narrow in width and quite deep."
4. Regarding all three (3) of the "particularly suited" arguments asserted by the planners for the applicant, they are potential arguments for a rezoning of the subject property, but they do not indicate that the subject tract is unique in any way.

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- a. It should be noted that if the fact that an adjacent property has been developed with multiple-family dwelling units is considered a reason to grant a "use" variance for the construction of townhouses on the subject property, then any other property adjacent an existing multiple-family development could use the same argument.
 - b. It also should be noted that the subject tract is not "oddly shaped", but is a rectangular-shaped property typical of many other lots along State Routes 34 & 35 which have been developed with permitted uses in the "HC" Highway Commercial zoning district; only one small portion at the rear of the tract is angled, and no units are proposed along that angle.
 - c. Also, the subject tract has approximately 372.8 feet of vehicular access frontage along State Route 34, which is not a narrow dimension.
 - d. Given the wide array of land uses permitted in the "HC" zoning district, the unilateral conclusion that no "viable commercial use" could locate on the subject property is unjustified.
5. The new "Planning Report" submitted by the applicant and prepared by Burgis Associates offers nothing new regarding the "particular suitability" of the site.
- a. Like the previous Schoor DePalma planning report, the Burgis report focuses on the adjacent multiple-family development to the west and south (across Route 34) as a reason for the site being particularly suited.
 - b. However, both reports fail to indicate that there are adjacent office/commercial uses immediately to the southeast of the subject property, and also do not mention the lawn maintenance and supply company, which is on the adjacent property, along the northeast, angled property line of the subject property.
 - c. Both reports also fail to note the "Avis Rent-A-Car" business diagonally across Route 34 in the "HC" zoning district, nor the trucking use and the "Kinder Care" center, also diagonally across from the site.
 - d. These nonresidential, commercial uses are reasons for the site to remain within the "HC" zoning district.

6. To further the argument that the site is particularly suited for the proposed use, the recently submitted "Planning Report" states that "the site's odd physical dimensions, such as narrow linear shape and its reduced amount of frontage on Route 34, make it an odd shape lot to carry a viable commercial use." (Page 15)

a. In examining the merits of this argument, we first compared the physical dimensions of the subject property with the minimum standards of the "HC" Highway Commercial zoning district to see if there is any impediment to development of the site for permitted commercial uses due to the applicable zoning requirements. The comparison is as follows:

	"HC" Requirements	Applicant's Property
Lot Area:	40,000 sf	339,768 sf
Lot Frontage:	150'	385'
Lot Width:	150'	390'
Lot Depth:	150'	794'

b. The comparison of the area and dimensional requirements of the "HC" zoning district versus the area and dimensions of the applicant's property indicates the following:

- 1) The lot area is 749% larger than required;
- 2) The lot frontage is 157% greater than required;
- 3) The lot width is 160% greater than required; and
- 4) The lot depth is 749% greater than required.

c. The comparison of the area and dimensional requirements makes it clear that the property is not negatively impacted for commercial development relative to the applicable ordinance requirements.

d. Additionally, all other applicable requirements of the "HC" zoning district can easily be met with a commercial use on the subject property, including a 50 foot front yard setback, a 30 foot rear yard setback, 20 foot side yard setbacks, 25% maximum building coverage, etc.

e. We also note that the site is virtually a rectangle for a distance of 711 feet from Route 34; the only area of irregularity is the angled portion to the rear of the property which encompasses approximately 1.24 acres.

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- f. Summarily, there is nothing unique or irregular about the subject property which would make it particularly suited for a townhouse use as proposed by the applicant.

G. **The Applicant's "Purposes Of Zoning" Special Reason Arguments**

Regarding the contention in the submitted "Use Variance Analysis" that the proposed residential development will advance a number of the purposes of zoning listing in the Municipal Land Use Law, we offer the following observations and comments for the Zoning Board's information and consideration:

1. The applicant contends that the proposed townhouse residential development will "encourage municipal action to guide the appropriate use of development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare." (N.J.S.A. 40:55D-2 e.)
 - a. The planners for the applicant contend that the proposed residential development is appropriate because "approval will allow for the development of an aesthetically pleasing community adjacent to three residentially zoned areas."
 - 1) The planners for the applicant also argue that "sound planning dictates an orderly progression of uses, as follows: residential to the north of the Site, residential on the Site, low-intensity office to the south of the Site, and higher intensity HC to the south of Lot 5."
 - 2) Again, if the fact that an adjacent property has been developed with multiple-family dwelling units is considered a reason to grant a "use" variance for the construction of townhouses on the subject property, then any other property adjacent to an existing multiple-family development could use the same argument.
 - 3) Having different zoning districts in a municipality always results in district boundary lines separating zoning districts which permit different land uses.

- 4) In accordance with N.J.S.A. 40:55d-62 of the Municipal Land Use Law, Aberdeen Township has created its Zoning Map "with reasonable consideration of the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land."
 - 5) Summarily, Aberdeen Township has adopted zoning ordinance provisions to implement the recommendations of its Master Plan, and that includes the subject tract of land and the lands on both sides of Route 34 to the south to be developed with any of the wide array of uses permitted within the "HC" Highway Commercial zoning district.
- b. The planners for the applicant contend that the proposed residential development will not contribute to sprawl because the site has access to municipal water and sewerage facilities.-
- 1) Since, with the exception of the Freneau area, almost the entirety of Aberdeen Township is served by public water and sewerage facilities, the access to such facilities is not a special reason.
 - 2) Moreover, the access to public water and sewerage facilities also could be used to justify the appropriateness of the current "HC" zoning.
2. The applicant contends that the proposed townhouse residential development will "promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment." (N.J.S.A. 40:55D-2 e.)
- a. Essentially, the planners for the applicant argue that the proposed townhouse residential development will "enhance the character of the area by protecting the Site from incompatible, piecemeal commercial development."
 - b. However, the "HC" zoning district provisions do not promote "incompatible, piecemeal commercial development" and the assertion by the planners for the applicant are unsupported.

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3. The applicant contends that the proposed townhouse residential development will "provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens." (N.J.S.A. 40:55D-2 g.)
- a. The planners for the applicant make reference to the "1999 Master Plan Element and Fair Share Plan" in the submitted "Use Variance Analysis".
- b. The subject 1999 Master Plan document is outdated and has been replaced by a new 2005 "Housing Plan Element & Fair Share Plan"; therefore, the notations regarding the 1999 Master Plan document are inappropriate and irrelevant.
- c. However, regarding the efforts of Aberdeen Township to provide its "fair share" of affordable housing units, we note the following for the Zoning Board's information and consideration:
- 1) First, Aberdeen Township has prepared a 2005 "Housing Plan Element & Fair Share Plan", which has been submitted to COAH for "Substantive Certification" under COAH's current rules and which does not include or require the development of the subject tract of land for affordable housing.
 - 2) Second, COAH has been directed by the courts to prepare new "Third Round" "Substantive Rules" by December 31, 2007, and the new rules will require all municipalities, including Aberdeen Township, to modify its current "Housing Plan Element & Fair Share Plan" and resubmit the revised plan to COAH for "Substantive Certification".
 - 3) Third, the applicant is proposing to set aside 12.9% of the total units for affordable housing which, under COAH's current "Third Round Substantive Rules", will not help Aberdeen Township meet its affordable housing obligation; at best, it will only provide the affordable units obligated to Aberdeen Township as a direct result of the proposed development itself.

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- 4) Fourth, until COAH adopts its new "Substantive Rules", it cannot be known if the 12.9% setaside percentage of affordable units will even satisfy the "growth share" obligation for affordable units generated by the proposed market rate units in the proposed development.
4. The recently submitted "Planning Report" asserts that the proposed development furthers one of the goals of the 1983 "Land Use Element" portion of the Township's Master Plan, which was reiterated in both the 1998 and 2006 Reexamination Reports, which is that "scattered commercial uses should continue to be phased out". (Page 9)
- a. The applicant contends that "if the subject property was to be developed as zoned, additional scattered site commercial uses would be multiplied instead of eliminated." (Page 9)
- b. However, the subject goal was to eliminate, over time, the existing nonconforming commercial uses in residential zoning districts throughout the Township, and not to prevent additional commercial uses to be developed where zoned in accordance with the recommendations of the Master Plan and the implementing zoning ordinance provisions.
- c. More particularly, the term "scattered commercial uses" refers to retail development which is nonconforming in nature to the zones in which they are located, and phasing out such development is the way the Municipal Land Use Law encourages municipalities to deal with nonconforming uses.
- d. The goal is not applicable to permitted retail commercial development, since such development would be concentrated in appropriate areas as planned and zoned by the Township.
- e. Finally, the subject 7.8 acre property is part of an approximately 42.35 acre contiguous land area along Route 34 which is zoned within the "HC" Highway Commercial zoning district; clearly, it is illogical to conclude that the development of this land area for retail commercial uses as zoned will create "scattered commercial uses".

5. The recently submitted "Planner's Report" also notes that, southeast of the subject property, "a number of parcels...are proposed to be required for open space and recreation purposes" and "the location of the lot in relation to its surrounding uses may give use to increasing scattered commercial development, not reducing same." (Page 9)

a. Actually, only one (1) property in the "HC" zoning district (i.e., Block 114/Lot 7.01) is proposed for possible open space acquisition.

b. The property contains approximately 7.45 acres, is largely wooded, and is located southeast of "Jody Vacarella's Lawn Maintenance and Supply Company".

c. Its acquisition for open space would not break up the "HC" zoning district so as to produce "scattered commercial uses".

d. It also should be noted that the potential open space property is located approximately 675 feet southeast of the applicant's property.

6. For other special reasons aside from furthering the goals of the Aberdeen Township Master Plan, the recently submitted "Planning Report" indicates that the proposed townhouse development will further purposes of the Municipal Land Use Law, including the provision of "adequate light, air and open space" and the promotion of "a desirable visual environment through creative development techniques and good civic design and arrangement".

a. Actually, the permitted commercial development of the subject property also will further these purposes of the Municipal Land Use Law.

b. And, regarding "creative development techniques", lining townhouses up in a straight line on both sides of a property will result in a rather monotonous development, with little creativity.

H. **Relatively Recent Changes To The Aberdeen Township Master Plan**

1. A "Master Plan And Development Regulations Periodic Reexamination And Land Use Plan Update Report" (the "Reexamination Report") recently was adopted by the Aberdeen Township Planning Board on May 3, 2006.

2. The Reexamination Report made numerous recommendations for zoning changes, none of which proposed residential development for the subject tract of land or within its vicinity.
3. The only recommendations made in the Reexamination Report regarding the Route 34 corridor in the vicinity of the subject tract of land was to rezone two (2) lots (Block 104/Lot 25 & Block 115/Lot 10) from the "APT/TH" Apartment/Townhouse zoning district into the "HC" Highway Commercial zoning district.
4. The section of the Reexamination Report addressing the Township's affordable housing obligation showed that the subject property was not necessary for meeting the Township's currently calculated "fair share" housing obligations.

I. **The Applicant's Negative Criteria Arguments**

1. The planners for the applicant contend that the proposed townhouse residential development will not impair the intent and purpose of Aberdeen Township's Zone Plan because the proposed townhouse residential development "will be more harmonious with the existing neighborhood than a permitted HC use."
2. The recently submitted "Planning Report" adds a fiscal impact study and a demographic study for the Zoning Board's consideration.
 - a. First, it is our understanding as land use planners that "use" variances should not be granted by a Zoning Board because of economic considerations.
 - b. The Zoning Board may wish to consult with its Board Attorney regarding this issue.
3. The applicant also offers a "negative criteria" argument that the traffic from the proposed townhouse development will be less than the traffic which would be generated from the retail commercial development of the property.
 - a. While this may be the case, the zone plan will have all commercial traffic generated by the development of the subject property proceeding only to and from Route 34, which is an appropriate roadway to handle commercial traffic.

- b. Moreover, any development of the subject property will be subject to State jurisdiction, and appropriate improvements to the highway may be required by the State to mitigate any adverse impacts to the traffic flow.
3. Summarily, all of these arguments are not "negative criteria" arguments; they are arguments for rezoning the subject property, which is not the subject of a "use" variance application and not under the authority of the Zoning Board of Adjustment.
4. It is our opinion that the proposed condominium residential use is not in conformance with the current Zone Plan of Aberdeen Township and will "substantially impair the intent and purpose of the zone plan and zoning ordinance."

JOHN H. ALLGAIER, 1983-01
DAVID J. SAMUEL, P.E., P.P.
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ERNEST J. PETERS, JR., P.E., P.P.
BEHRAM TURAN, P.E.

VIA FAX & MAIL

September 21, 2007

Ms. Maxine Rescorl, Board Secretary
Township of Aberdeen Zoning Board
One Aberdeen Square
Aberdeen, NJ 07747

Re: **Amended Site Plan Review
Bifurcated Use Variance Application
Centex – Villages at Aberdeen
Block 114, Lot 4
Case No. SD 06-135
Our File No. PABZ0114.03**

Dear Ms. Rescorl:

As per your request, this office has reviewed the following documents relative to the above referenced minor subdivision application:

- A. Concept Plan, prepared by Schoor Depalma Engineers and Consultants, dated October 3, 2006, revised August 16, 2007, consisting of one sheet;
- B. Trip Generation Comparison, prepared by Schoor Depalma Engineers and Consultants, dated August 22, 2007;
- C. Steep Slope Plan, unsigned, unsealed, dated July 27, 2007, consisting of one sheet;
- D. Front/Rear Rendering; and
- E. Cost Summary, Spec and Notes, dated October 2, 2006;
- F. Front/Rear Street Elevation and Rendering; and
- G. Planning Report prepared by Burgis Associates, Inc. dated August 27, 2007, unrevised.

The application is for a use variance located in the HC zone for 62 townhome style homes (four of which will be affordable units) and a 10,000 +/- sf activity area. The site consists of existing Block 114, Lot 4 on the easterly side of Route 34, just south of Woodbrook Drive. The application is being presented in bifurcated form, as the Applicant is first requesting a use variance and, if and when approved, will follow with a site plan application. The bifurcated application for use variance has been deemed complete per our correspondence of May 15, 2007.

Based upon our review of the submitted documents, we offer the following comments:

1. **Planning**

We defer planning and use variance comments to the Township Planner; however, we note the following:

1.1. **Variance Checklist**

Item M – Approval Signature Lines – Waiver Requested.

Item P – Locations of Structures within 200' of the Tract – Waiver Requested.

Item Q – The Location and Width of Utility Easements – Waiver Requested.

Item S – Proposed Buffer and Landscape Areas – Waiver Requested.

Item T – Delineation of Flood Plains, Wetlands, Steep Slopes – marked "topographic conditions to be provided in site plan." However same shall be addressed.





Item U – Contours – Waiver Requested; however, provided on untitled plan. Should be transferred to Concept Plan.

Item V – Marshes, Ponds, and Hydric Soils with 100' of the Tract – Waiver Requested.

Item X – Tax Collector Certification – marked "x" but shall be provided.

Item Z – Road Right-of-way Dedication and Improvement – Waiver Requested.

Item AA – Sight Triangle Easements – Waiver Requested.

Item BB – Deed Descriptions – Waiver Requested.

Item CC – Provisions for Recyclable Materials – Waiver Requested.

Item DD – Environmental Impact Statement – Waiver Requested; however, EIS has been provided.

1.2. Variances

1.2.1. **Use** – Residential dwellings are not allowed in the HC zone.

1.2.2. **Parking** – 189 required where 179 proposed.

1.2.3. **Disturbance of Steep Slopes**

1.3. Waivers

Waivers from providing the following items have been requested:

1.3.1. Locations of Structures within 200' of the Tract. No exception taken.

1.3.2. The Location and Width of Utility Easements. A note should be shown on the plans as to existence or non-existence of any easement as the location of same could affect the developability of the site. A deed search shall be performed.

1.3.3. Proposed Buffer and Landscape Areas. Appropriate and adequate buffer areas must be provided as per the Township's ordinances.

1.3.4. Contours. Contours have been provided on plan dated July 27, 2007.

1.3.5. Marshes, Ponds, and Hydric Soils with 100' of the Tract. No exception taken.

1.3.6. Road Right-of-way Dedication and Improvement. No exception taken.

1.3.7. Sight Triangle Easements. No exception taken; however, if approved, shall be provided.

1.3.8. Deed Descriptions. No exception taken; however, if approved, shall be provided.





- 1.3.9. Provisions for Recyclable Materials. No exception taken; however, if approved, shall be provided.

2. Environmental Comments

- 2.1. It should be clarified whether or not basements are proposed, as the submitted geo-technical report indicates much of the site has a shallow seasonal high water table. This condition may also impact the proposed stormwater management facilities.

3. General

- 3.1. The owner must sign the plan and/or submit an owner's consent form.
- 3.2. Floor plans for the proposed units must be provided.
- 3.3. The garages and driveways are not shown on the Site Plan or Floor Plans; same shall be addressed accordingly.
- 3.4. The Concept Plan and the untitled steep slope plan do not agree as to proposed roadway/building layout. The Applicant shall clarify what is actually proposed.
- 3.5. The Applicant shall indicate whether decks will be proposed as same may impact the setbacks.
- 3.6. All proposed balconies shall be shown on the plan.
- 3.7. The Architectural Plans shall be revised per the above and signed and sealed.
- 3.8. An appropriate buffer from the rear of units 25 through 46 to the adjoining HC Zone shall be shown.
- 3.9. A note indicating steep slopes exist on the concept site shall be provided and contours shall be shown.
- 3.10. The Applicant shall address the Steep Slope Disturbance per the following:
- 3.10.1. The Developer shall demonstrate that the disturbance of the critical steep slope area is necessary for the proposed development of the subject tract, indicating that such development can be in accordance with Sections 25-4 and 25-6 of the Ordinance.
- 3.10.2. The developer shall demonstrate that the proposed development has utilized the "non-critical areas" of the tract as reasonably practicable and has attempted to minimize the disturbance of the critical steep slope areas by limiting development to either isolated area(s) of steep slopes and/or those slopes with less of a steep grade prior to the disturbance of more environmentally sensitive "critical areas".
- 3.10.3. Appropriate revegetation and landscaping of the disturbed steep slope areas shall be provided to adequately stabilize the slopes and enhance the attractiveness of the site, if necessary, and shall be in accordance with accepted soil conservation and stormwater management techniques as promulgated by the Soil Conservation District and the Township Engineer.





- 3.10.4. The proposed disturbance of the steep slope area should minimize the impairment of the visual quality of the site. Moreover, the higher elevations which present visual amenities should be protected, where possible.
- 3.10.5. The environmental impacts shall be satisfactorily controlled by the development proposal in a manner acceptable to the Township Engineer so that soil erosion, excess stormwater, run-off, degradation of water quality, concentration of stormwater and water flow, and flooding do not occur.
- 3.10.6. The developer shall demonstrate that:
- 3.10.6.1. The geologic disturbance, including blasting, cutting or excavating, resulting from the development of any "critical" steep slope area shall be satisfactorily mitigated; and
 - 3.10.6.2. The cost of providing and maintaining public facilities and services to those areas where critical steep slopes may be disturbed shall not be substantially increased as a result of such disturbance.

3.11. Utilities

- 3.11.1. Sanitary – In general, the Applicant shall address downstream capacity of the existing sanitary sewer system to handle the increased flows.
- 3.11.2. Storm Drainage System – In general, the Applicant shall address downstream capacity of the existing storm drainage system and the impacts of the proposed development thereon.

The proposed development appears to be intense. Should the Board approve the use variance, same shall be conditioned upon the following: submittal of a site plan conforming to the Township's Land Development Ordinances; those comments noted above, and any comments of the Board; payment of any taxes, fees, escrows, liens or any other monies due the Township; compliance with the Township's Affordable Housing requirements; and any other condition as imposed by the Board.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

Timothy W. Gillen, P.E.
Office of the Zoning Board Engineer

TWG/ADG/lm

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Cindy Coppola
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Centex Homes, LLC

