



## TOWNSHIP OF NORTH BRUNSWICK

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### DEPARTMENT OF COMMUNITY DEVELOPMENT

#### MEMORANDUM

**TO:** Peter U. Lanfrit, Esq.  
Borrus, Goldin, Foley, Vignuolo, Hyman & Stahl, P.C.  
2875 Route 1  
North Brunswick, New Jersey 08902

**FROM:** Andrei Alexeev, Zoning Officer

**DATE:** March 25, 2021

**SUBJECT:** Block: 140.01 Lot(s): 5.02 & 7.01  
Street Address: 1460 Livingston Avenue  
Applicant: 1460 Livingston Avenue LLC

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Dear Mr. Lanfrit:

I have reviewed the application for Use Variance and Site Plan Approval for the above referenced property, and I am issuing the following report.

The following application materials were reviewed:

- 18-sheet Preliminary/Final Site Plan prepared by Gregory S. Oman, dated 2/12/2021, revised through 3/16/2021.
- 2-sheet Preliminary Design Architectural Plan prepared by Feldman & Feldman Architects, dated 2/22/2021.

#### Administrative

1. The applicant proposes to construct two new multi-unit warehouse buildings with associated parking and loading areas on the existing site with four existing buildings. Building #1 will consist of 38,960 sq. ft. of warehouse space and 4,350 sq. ft. of office space (6 units, 7218 sq.

each), and building #2 will consist of 38,850 sq. ft. of warehouse space and 4,350 sq. ft. of office space (6 units, 7200 sq. each).

2. The subject property consists of approximately 21.03 acres, and is a split-zone lot located within I-1 Industrial and C-2 General Commercial Zoning Districts. The portion of the lot along Route 1 where the proposed development will be mainly situated is zoned C-2 General Commercial, and warehouses are not permitted in the C-2 zone.
3. The property contains four existing buildings with associated parking, driveways and two access points from Livingston Avenue, one of which is shared with lot 5.03 by a cross access easement agreement. The applicant does not propose access from Route 1. The existing buildings contain different type of uses, such as offices, an indoor recreational facility, warehouse and child-care center. The applicant should provide testimony regarding existing uses on the lot. The proposed warehouse buildings will be a separate principal use on the premises.



Figure 1: Subject property, 2D view.

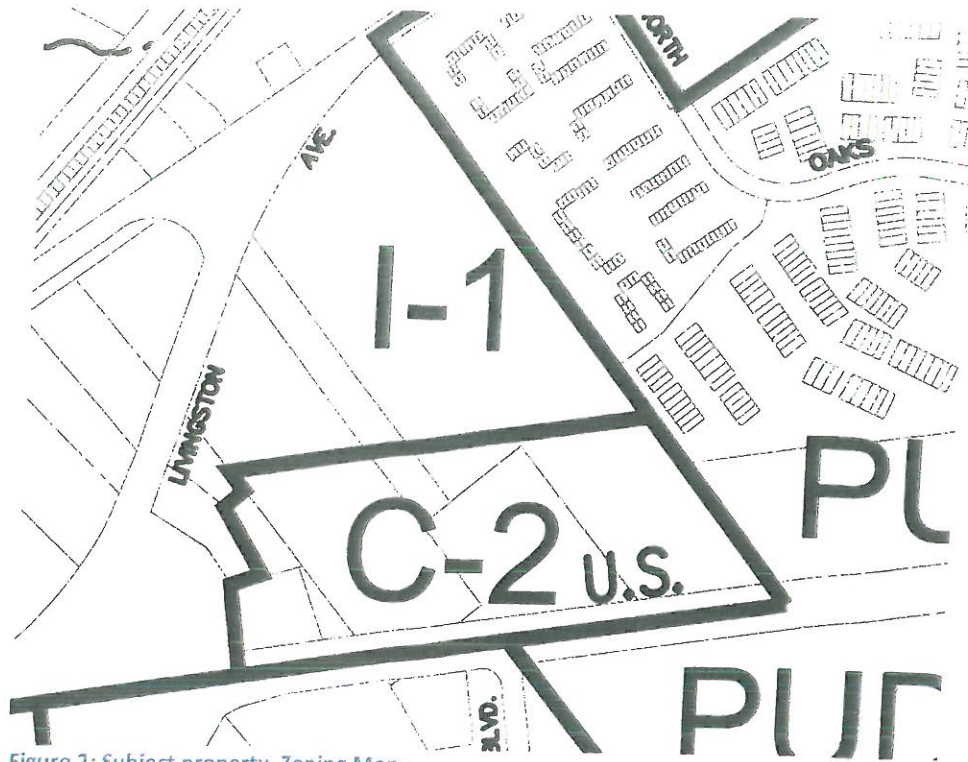


Figure 2: Subject property, Zoning Map.

4. Variances regarding the proposed development are summarized in the following table(s):
- a. The proposed development requires the following “D” variance(s):

| Description | Permitted                   | Proposed  | Variance                        | Ordinance    |
|-------------|-----------------------------|-----------|---------------------------------|--------------|
| Use         | As provided in § 205-67 (A) | Warehouse | V (pursuant to 40:55D-70(d)(1)) | § 205-67 (A) |

- b. The proposed development requires the following “C” variance(s):

| Description        | Max. Permitted /Min. Required | Proposed | Variance | Ordinance    |
|--------------------|-------------------------------|----------|----------|--------------|
| Residential Buffer | 30 ft.                        | 7.67 ft. | V        | § 205-68 (B) |

V = Variance

### Technical

1. **Site Plan Approval** from the North Brunswick Zoning Board of Adjustment is required (§205-9.1).

2. **Variances:**

- a. **Use, Warehouse** – The applicant proposes to construct two new multi-unit warehouse buildings with associated parking and loading areas on the existing site within the C-2 zone, whereas warehouses are not permitted in the C-2 zone (§ 205-67 (A)). Therefore, a “D-1” use variance pursuant to 40:55D-70(d)(1) is required. The applicant should justify this variance by presenting testimony sufficient to satisfy the Board that the proposed use inherently serves the public good, and/or the property cannot reasonably be adapted to a conforming use and the refusal to allow the project would impose on the applicant an undue hardship, and/or the unique characteristics of the site make it particularly appropriate for the proposed use rather than a permitted use, and the requested variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance as a result of the deviations from the zone requirements.
- b. **Residential Buffer** – The applicant proposes to remove the existing parking lot and replace it with a new parking area to serve new warehouses. The parking area is proposed to be located 7.67 ft. from the side property line, whereas an additional thirty-foot buffer strip, designed in accordance with the requirements of Article XXVI, shall be added to any required rear or side yard which abuts a residential use (§ 205-68 (B)). The applicant should justify this variance and provide testimony to demonstrate that they meet the “C” variance criteria.

3. **Miscellaneous:**

- a. As per § 205-68 (G), any portion of a nonresidential use which lies within 300 feet of either a residential zone or a lot developed for residential use which is not separated from the residential zone or lot developed for residential use by a noise abatement wall, shall comply with the following restrictions in those portions of the rear or side yard areas which lie within 300 feet of the residential zone or use:
  - (1) Loading/unloading and the operation of forklifts outside of the building within 300 feet of a residential property line shall be prohibited during the hours of 8:00 p.m. to 7:00 a.m. Monday to Friday and 8:00 p.m. to 9:00 a.m. Saturday and Sunday.
  - (2) The idling of truck engines for more than three consecutive minutes when the vehicle is not in motion shall be prohibited except for the following: (a) A motor vehicle at the vehicle operator's place of business where the motor vehicle is permanently assigned may idle for 30 consecutive minutes; (b) A motor vehicle may idle for 15 consecutive minutes when the vehicle engine has been stopped for three or more hours; (c) Motor vehicles whose primary and/or secondary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion, passenger compartment heating or air conditioning; (d) Motor vehicles while engaged in the process of connection, detachment or exchange of trailers; and (e) Motor vehicles manufactured with a sleeper berth while being used by the vehicle's operator for sleeping

or resting in a nonresidential area located a minimum of 300 feet from a residential property line.

(3) Appropriate signs shall be posted both at the rear of the building and on the buffer located to the rear of the parking lot. Said signs shall indicate the following: "The idling of engines for more than three minutes in a rear or side yard is prohibited and subject to a fine not to exceed \$1,000."

(4) Truck access restrictions applicable to warehouse/distribution operations. Truck access to loading/unloading facilities in rear or side yards abutting residential zones shall be restricted during the hours of 8:00 p.m. to 7:00 a.m. Monday to Friday, and 8:00 p.m. to 9:00 a.m. Saturday and Sunday by the installation of a fence with a gate. Said gate shall remain closed during prohibited hours to keep trucks out of rear or side yard areas. However, trucks stored at the vehicle operator's place of business shall be permitted to be parked overnight in side yard areas subject to truck idling restrictions of this section.

(5) Inside operation of forklifts. The inside operation of forklifts and inside loudspeaker system between the hours of 8:00 p.m. to 7:00 a.m. Monday to Friday and 8:00 p.m. to 9:00 a.m. Saturday and Sunday shall be prohibited unless all overhead doors within 300 feet of a residential use or residential zone remain closed.

(6) Outside loudspeakers prohibited. The installation of outside loudspeakers shall be prohibited.

The Applicant should provide testimony regarding compliance with these requirements.

- b. Whenever an off-street loading and unloading area shall be located next to a residential zone, said loading and unloading area shall be suitably screened and buffered subject to approval by the Planning Board and in accordance with the requirements of Article XXVI. The Applicant should provide testimony regarding compliance with these requirements.
- c. The Applicant should provide testimony regarding existing uses on the lot.
- d. The Applicant should provide testimony regarding whether there are any vehicles that are not related to uses located on the site being stored on the site.
- e. The Applicant should update the plan to reflect the existing zone boundaries on the plan.

The Township reserves the right to further comment based upon the testimony at the public hearing.

Completeness

1. Checklist:

The following **Submission Waiver(s)** from the checklist entitled "Site Plan Completeness Checklist" have been specifically requested by the applicant:

None

The application is administratively **deemed incomplete** since the following items from the checklist entitled "Site Plan Completeness Checklist" have not been satisfied and/or submitted, and no waiver is requested:

**Item 5:** See required fees below.

**Item 6:** See required escrow fees below.

**Item 7:** W-9 form.

**Item 35:** Preliminary architectural plans for proposed buildings shall indicate materials and colors to be used in construction.

**Item 55:** Letter of Intent.

**As per 205-135.2:** CD with revised plans.

2. Fees and Escrow Deposits (§ 205-139):

**B. (3) Land Use Application Fees:**

|                    |                 |
|--------------------|-----------------|
| Site Plan:         | \$1,000.00      |
| Use Variance (D1): | \$750.00        |
| C Variances (x1):  | <u>\$200.00</u> |

**TOTAL: \$1,950.00**

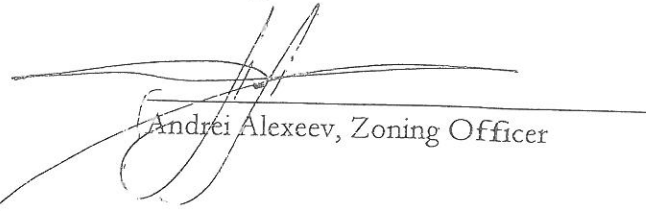
**C. Technical Review Escrow Deposit:**

|                    |                 |
|--------------------|-----------------|
| Site Plan:         | \$18,726.00     |
| Use Variance (D1): | \$2,000.00      |
| C Variances (x1):  | <u>\$300.00</u> |

**TOTAL: \$21,026.00**

Note: You will be notified regarding the status of your application with respect to a Board hearing, for which proper notification will be required. If you have any questions, you may contact Kristen Olcsvay, Secretary to the Zoning Board, at 732-247-0922, extension 440.

Sincerely,



Andrei Alexeev, Zoning Officer

c: Mayor and Council  
Michael Hritz, Director of Community Development  
Tom Vigna, Planner  
Zoning Board of Adjustment