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February 16, 2021

Ms. Michelle Hack, RMC, CMR, Board Secretary  
Planning Board  
Borough of Riverton  
505A Howard Street  
Riverton, New Jersey 08077

**Re: Application Number: V-08-2020**  
**Applicant/ Owner: 601 Lippincott, LLC**  
**Block 1100 Lot 1**  
**601 Lippincott Avenue**  
**Borough of Riverton, Burlington County, New Jersey**  
**Use Variance**  
**Planning Letter #1**  
**TDG Project No. 2020-110.02P**

Dear Mr. Chairman and Board Members,

Our office has received and reviewed the following submission items:

- **Application**, prepared by Seth Broder, Esq., dated October 29, 2020.

Currently, we offer the following comments:

**A. Site**

1. The subject property is 42,958.1 SF in size and located on the northwest corner of the intersection of Lippincott Avenue and Harrison Street. It is also bordered by South Broad Street and the rail line to the west. The site is within the Neighborhood Business NB District and the Historic and Affordable Housing Overlay Zones.
2. The site currently contains a 3,944 SF, 27-foot high, single-story structure accessed via five (5) overhead doors from an adjoining open yard. The structure lines a portion of the frontage on Harrison Avenue, closest to Main Street. A large portion of the site is a stone surfaced fenced yard with gated access from Lippincott Avenue near its intersection with South Broad Street.

**B. Proposal**

1. The site is currently occupied with a use not permitted in the District. Specifically, the applicant seeks a use variance to permit the building and yard to be occupied by a construction waste transporting company.
2. The application characterizes that three (3) to five (5) trucks currently operate on the site, carrying empty waste containers to construction sites. Once the waste containers are filled, the trucks retrieve the waste and deliver to a designated solid waste or recycling site and return to the property. The application notes that the trucks operate throughout the day, no waste materials are stored on site, and no mechanical work is performed on-site. The trucks and empty storage containers are stored on site. It is also offered that the business employs 10 people.



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3. A site plan waiver is requested, and no physical improvements are proposed at the site.

## C. Surrounding Area

1. Broad Street is lined with angled parking and one-way circulation from Main Street to Lippincott Avenue. The street and railroad platform are located due west of the site, separated by a chain link fence and overgrowth.
2. A retail, professional, and service commercial center is located north of the site in the NB District.
3. Across Harrison Street to the east there is a parking lot within the NB District and residential dwellings within the R-4 District, fronting on Lippincott Avenue.
4. Across Lippincott Avenue to the south there are residential dwellings within the R-4 District. At Lippincott and Broad Street there are commercial uses within the NB District.
5. Please see an aerial image of the site and surrounding area below courtesy of Google 2021 ©.



## D. Land Use Classification

1. The North American Industrial Classification System (NAICS) establishes solid waste collection, as businesses engaged in collecting or hauling solid waste. Liberty Waste & Recycling Inc. is registered as a New Jersey Department of Environmental Protection (NJDEP) approved waste broker at the property address. The NJDEP requires that solid waste transporters register vehicles to ensure that standards for safety are met; and promote the public safety and consumer confidence in the regulated services provided.
2. This type of use is not considered part of the solid waste utility as clearly outlined by the Burlington County District Solid Waste Management Plan (DSWMP), dated July 2008, last revised in June 2009, and amended to 2018. The site is not included in the DSWMP which cites construction waste transport arrangements as private.



3. The American Planning Association (APA) Land Based Classification Standards provide planners with a model for classifying land uses based upon their characteristics of activity, function, structure, site, and ownership. In evaluating the use of construction solid waste transporter, the activity is helpful to classify the land use. As the application notes the site is used for storage of vehicles and empty solid waste containers. The solid waste containers are filled off-site with construction debris and transported to solid waste and/or resource recovery facilities. The land-based classification of the activity is “industrial, manufacturing, and waste related activities”.

## **E. Master Plan and Housing Plan**

1. The 2018 Master Plan Reexamination retains Goal 2, “*provide the opportunity for multigenerational, age, and income diverse population to live, work, and prosper, in the Borough of Riverton.*” Objective 4 as stated, “*seek innovative methods to accommodate the Borough’s fair share of affordable housing,*” was slightly amended incorporating “*in accordance with current COAH regulations*”.
2. Municipal master plans have designated this site as a commercial land use repeatedly. The central or neighborhood commercial district in Riverton has been envisioned to provide small establishments, serving local needs, which have minimal impacts upon traffic circulation and parking demand. These include commercial sales and service, eating establishments, and offices within a relatively compact core.
3. The August 2019 Housing Element and Fair Share Plan added several sites to address the third-round affordable housing obligation. Block 1100, Lot 1 known as the Lippincott Avenue (North) site was included as a mechanism to address the municipal obligation. The ordinance is referenced above (see D.3.), and consistent with the details provided in the Housing Plan.
4. The inclusionary housing development planned for the site, will provide a transition from the commercial uses on Main Street to the residences on Lippincott Street. The Judgment of Compliance and Repose was received on September 22, 2020.
5. The Existing Land Use and Land Use Plan Maps will be updated by the Planning Board in 2021 to effectuate the Housing Plan.

## **F. Zoning**

1. The permitted uses in the NB District include retail sales and service commercial; eating and catering establishments; government, medical, professional, and administrative offices; funeral homes; libraries and museums; dental and medical laboratories; schools and studios; clubs, lodges, social, and civic clubs, and organizations; and limited breweries.
2. Conditionally permitted uses include automobile repair shops; child-care centers; residential over a permitted commercial use; affordable housing development consistent with §128-39.6, Lippincott Affordable Housing Overlay Zone and §128-39.7 Broad Street Affordable Housing Overlay Zone(s).
3. Per the Housing Plan and Settlement Agreement, and §128-39.6, the Lippincott Affordable Housing Overlay is the property in question. The Overlay District is permitted to contain ten (10) two-story, single-family townhomes in at least two (2) separate buildings, consistent with the lot area and yard requirements.



4. The following standards apply to determine if the prohibited use is noxious, hazardous, or offensive; and where operations are not permitted to:
  - a. *“Constitute a public nuisance beyond the boundary of the site on which the use is located by reason of dissemination of smoke, odor, dust, or toxic or corrosive fumes.*
  - b. *“Result in noise of vibration exceeding the average intensity of noise or vibration occurring from other causes at the boundary line of the site on which the use is located.*
  - c. *“Endanger surrounding areas by fire or explosion.*
  - d. *“Produce objectionable heat or glare.*
  - e. *“Result in electrical disturbances to nearby residences.*
  - f. *“Contribute to the pollution of waters or air.*
  - g. *“Create an objectionable traffic condition in the street or in an adjacent area.*
  - h. *“Create any other objectionable condition in an adjoining area, which will endanger public health and safety, or be detrimental to the proper use of the surrounding area.”*
5. Further, the following uses are prohibited in all districts:
  - a. *“Junkyards.*
  - b. *“Sanitary landfills’*
  - c. *“Used car lots.*
  - d. *“All other uses not expressly permitted are prohibited in all districts”.*

## **G. Variance**

1. A use variance is required pursuant to N.J.S.A. 40:55D-70(d) to permit the construction waste and removal company.
2. For a “d(1)” use variance, the Applicant must prove, and the Board must specifically find that the use promotes the general welfare because the proposed site is particularly suitable for the proposed use. Testimony should be provided regarding the unique attributes of the site that makes it “particularly suitable” for the proposed non-permitted use, and how locating the proposed use on this particular site in this zone specifically promotes the purposes of planning.

The Applicant must prove, and the Board must also find that the proposed use will not cause a substantial detriment to the public good. Any perceived detriments must be shown to be mitigated to the greatest extent possible.

The Applicant should provide testimony regarding whether the use will substantially impair the intent and purpose of the Master Plan or Zoning Ordinance. Such findings must satisfactorily reconcile the grant of a use variance with the Township’s continued omission of the use(s) from the zone.

## **H. Comments**

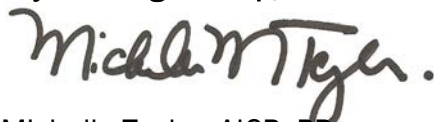
1. The Housing Plan, Master Plan, and Zoning Ordinance envision the development of the site to include uses which complement the developed residential character of the neighborhood and community. The Housing Plan specifically designates the site for an inclusionary development of market rate units with an affordable housing setaside and the Zoning Ordinance reflects the amendments.



2. Testimony should be provided upon the following:
  - a. The number of registered and/or unregistered trucks and containers stored on the site.
  - b. The use of the building; including employee access, offices, restrooms, and accessibility.
  - c. Prior approvals.
  - d. Daily or weekly delivery, container relocation, employee, and visitor trips, as well as typical on-site movement of the stored trucks and equipment.
  - e. Hours and days of operation.
  - f. Storage area surfacing and dust control measures.
  - g. Material or fluids spills or leaks; and cleaning of trucks and containers.
  - h. Existing on-site or building lighting including overnight operation and energy saving measures such as motion sensors, switches, or timers.
  - i. Security of trucks, containers, and any other identified equipment.
  - j. Buffers and condition of the fencing, including the presence of a barbed wire top, which is expressly prohibited per §128-56:A.
3. Any required site plan should provide the following:
  - a. If security lighting is proposed it should be full cutoff and shielded, and motion sensors provided.
  - b. The proposed methods of surface stabilization.
  - c. Stormwater management should be addressed.
  - d. The area should be surveyed ensuring that there are no encroachments upon surrounding properties or public property.
  - e. Appropriate nuisance landscape buffers and/or solid fencing should be provided between the site and adjoining parcels.
  - f. Missing street trees should be replaced.

If you have any questions or require additional information regarding this application, please do not hesitate to contact our office.

Respectfully submitted,  
Taylor Design Group, Inc.



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