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Reply to:  
Somerville Office

May 3, 2022

Allison Witt, Board secretary  
Land Use Board  
Town of Clinton  
43 Leigh Street  
Clinton, NJ 08809

Via email [awitt@clintonnj.gov](mailto:awitt@clintonnj.gov)

**Re: Ansuya Riverbend LLC & Ansuya Enterprise of Clinton LLC (the “Applicants”)  
Route 31 – Block 17, Lot 2 & Block 17, Lot 2.03 (the “Property”)  
Our File # 21-1862**

Dear Ms. Witt,

As you know our office represents the Applicants in the above captioned matter. In response to the review letter issued by James T. Kyle, PP/AICP, Board Planner for the Town of Clinton dated April 28, 2022, please accept the Applicant’s comments in bold below:

Site Plan Comments

Our understanding is that the applicant currently does not have a specific tenant for the proposed fast-food restaurant and they seek only preliminary approval for Phase 2 at this time. As no details are provided on signage, review of that particular issue will need to be deferred to final site plan approval.

Below is a summary of our comments on the site plan, with any variances and/or waivers required noted. While we largely defer comment on stormwater management and circulation to the Board Engineer, we have provided a few comments we feel are worth consideration.

Signage

1. §88-64 in the zoning regulations set forth standards governing signage in the Town of Clinton. The applicant requires (or may require) relief for the proposed signage as follows:
  - a. §88-64B(5)(a) prohibits internally illuminated signs. The applicant previously received bulk variance approval for internally illuminated signs. We assume the additional signage proposed for the mixed-use building will be internally illuminated, requiring variance relief, but this should be clarified. **The Applicant is requesting the approval of a variance for the internal signage illumination and submits that the Board can grant such variance for the same reasons outlined in Resolution No. 2019-06. Testimony will be provided at the hearing with regard to this item.**

- b. §88-64B(5)(b) prohibits the use of neon and LED tube lighting. The applicant was previously granted variance relief to utilize LED tube lighting for internal illumination. Details of internal illumination will need to be provided. A bulk variance may be required. **The Applicant is requesting the approval of a variance for the LED tube lighting for internal illumination and submits that the Board can grant such variance for the same reasons outlined in Resolution No. 2019-06. Testimony will be provided at the hearing with regard to this item.**
- c. §88-64B(5)(g) requires all sign illumination be shut off by 11:00 pm, unless the business the sign advertises is still open, in which case the illumination shall be shut off within 0.5 hour of the closing of the business. The applicant should clarify the hours of operation for the hotel in order to determine compliance with this section. **The Applicant's witnesses will provide testimony that the known closing time for the newly proposed buildings in Phases 2 and 3 of the Project will be 11 PM and that the sign illumination will be shut off no later than 11:30 PM relative thereto.**
- d. §88-64J(2)(a) permits a maximum of one wall sign on each building wall that faces a public street or has public access to the establishment which it advertises. As the applicant proposes a second wall sign facing Route 31, a bulk variance is required. **The Applicant will provide testimony in support of this variance.**
- e. §88-64J(2)(c) states that "Sign area shall not exceed 100 square feet or 10% of the gross area of the building wall, including window and door area, to which it is attached, whichever is less." The two proposed wall signs total 45 square feet in area. **No response to this item is required.**
- f. §88-64J(3)(g) requires ground signs to have plantings entirely surrounding the base of the sign at a ratio of two square feet of planting for every one square foot of sign area. A condition of the prior approval was to work with our office to comply with this requirement. The landscape plan will need to be revised to reflect the required plantings. **The Applicant agrees to work with the Board Planner's office to comply with the landscaping requirement of the prior approval and to reflect the agreed upon plantings on the plans as a condition of any approval.**

#### Parking, Loading, Lighting and Landscaping

1. With respect to parking, §88-62A sets forth applicable standards. The applicant calculates parking demand for Phases 2 and 3 in the Parking Schedule Calculations on sheet 3 of the site plan and notes 100 spaces are required where 157 are provided. We note a discrepancy in the number of hotel rooms, where the site plan states there are 26 hotel rooms proposed but only 20 are noted on the table. While the applicant will not likely require relief as to the number of parking spaces provided, the table should be updated. **The Applicant will not require the approval of relief from the number of parking spaces**

**required but notes that twenty-one (21) new hotel rooms are proposed – 11 on the second floor and 10 on the first floor. The Applicant agrees to amend the plans to correct any discrepancy as a condition of any approval.**

2. With respect to loading, §88-62C(1) requires a loading space of 14'x60' for each Phase. The applicant originally received approval for a 12'x30' loading space for both the hotel and office buildings and was granted a variance for a 10'x30' loading area for the hotel. As the applicant proposes a 10' wide loading space for the proposed mixed-use building and no loading space for the fast-food restaurant, a variance is required. **The Applicant will provide testimony in support of these variances.**
3. §88-44B(1)(j)[3] requires aisle width of 25' where parking stalls are less than 20' in length. As the applicant proposes 9'x18' parking stalls across the entire site and a drive aisle of less than 25' in Phases 2 and 3, a waiver is required. **The Applicant will provide testimony in support of this waiver.**
4. §88-44B(1)(g) sets forth standards for lighting and light intensity and a 0.3 footcandle minimum is required anywhere and illumination shall average a minimum of 0.5 footcandle over the entire area. The applicant proposes a combination of 15' pole mounted LED fixtures and 3.5' bollard LED lights and a minimum of 0.3 footcandle is provided in developed areas. The lighting plan should be revised to specify the minimum and an average value should also be provided. We note that the requirement is a minimum and there is no maximum specified. **The Applicant agrees to amend the plans to reflect this information as a condition of any approval.**
5. §88-44B(1)(g)[5] states that light intensity shall not exceed 0.5 footcandle along any property line or 0.3 footcandle in the case of a residential property line. While it appears that light levels at residential property lines to the north are 0.0 footcandle, one value along the eastern property line appear to be greater than 0.5 footcandle. As this lighting plan is "new", a waiver is required but we note similar relief was already granted in 2019. **The Applicant is requesting the approval of a waiver for this item and submits that the Board can grant such waiver for the same reasons outlined in Resolution No. 2019-06. Testimony will be provided at the hearing with regard to this item.**
6. §88-44B(1)(g)[7] requires a reduction in light intensity to the minimum needed for security when the facility is not in operation. The applicant should specify the hours of operation for all proposed uses so that appropriate reductions in light intensity can be determined. **The Applicant's witnesses will provide testimony that the known hours of operation for the newly proposed buildings in Phases 2 and 3 of the Project are 11 AM - 11 PM and that the sign illumination will be shut off no later than 11:30 PM relative thereto.**
7. §88-58.2E requires a buffer along any common property line with a residential zone with a minimum depth of 75'. Landscaping is required to provide year-round screening with a minimum opacity of 85%

within three growing seasons for the first 10' of elevation of any building or improvement and deciduous screening with 25% opacity within the first five growing seasons for the second 10' of elevation of any building or improvement. The applicant has installed the buffering as required in accordance with the site plan approved in 2019. **No response to this item is required.**

8. The site plan should be revised to provide handicap accessible parking in the area of the proposed meeting space. **The Applicant agrees to amend the plans to reflect this information as a condition of any approval.**

#### Consideration of Bulk Variances

As noted, the applicant is requesting bulk variance relief related to aisle width, loading areas and setback for the proposed trash enclosures. The Board has the power to grant c(1) or hardship variances “(a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.” The Board may also consider the grant of c(2) variances where the purposes of the New Jersey Municipal Land Use Law would be advanced and the benefits of the deviation would substantially outweigh any detriment. In either case, the Board cannot grant “c” or bulk variances unless the negative criteria are satisfied, or that there is no substantial impact to surrounding properties (first prong) and the grant of the variance will not cause substantial impairment to the zone plan (master plan) or zoning ordinance (second prong). **The Applicant will provide the requisite testimony in support of each of the variances and waivers requested and notes that many of them were previously granted by the Board by way of Resolution No. 2019-06.**

Very truly yours,  
McNALLY, YAROS, KACZYNSKI & LIME, LLC

  
Kara Kaczynski

KAK/kv

cc: Client and Project Team, Via email  
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