

LEON S. AVAKIAN, INC. *Consulting Engineers*

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October 4, 2021

Kristie Dickert, Administrative Officer
Zoning Board of Adjustment
Neptune Township
P.O. Box 1125
Neptune, NJ 07754-1125

**Re: Hovsons, Inc. (ZB#21/13)
Hovchild Boulevard
Block 4001, Lots 1, 2, & 3
Preliminary and Final Major Subdivision
Our File: NTBA 21-13**

Dear Ms. Dickert:

We have received and reviewed an application for preliminary and final major subdivision approval for the above referenced project and offer the following report:

1. **Documents Submitted:**
 - A. Preliminary and final Major Subdivision Plan, consisting of 31 sheets, prepared by William A. Stevens, PE, PP, of Professional Design Services, LLC, dated May 25, 2021.
 - B. Architectural Plans, consisting of (9) sheets, prepared by Wade Architecture, dated September 21, 2021.
 - C. Stormwater Management Report for Victoria Gardens, prepared by William A. Stevens, PE, of Professional Design Services, LLC, dated June 24, 2021.
 - D. Traffic Impact Analysis, prepared by John H. Rea, PE, and Scott T. Kennel, of McDonough & Rea Associates, Inc., dated June 23, 2021.
 - E. Environmental Impact Statement, prepared by Trident Environmental Consultants, dated July 2013.

- F. Community Impact Statement, prepared by Ian M. Borden, P.P., AICP of Professional Design Consulting Services, LLC, dated September 9, 2021.
- G. Boundary and Topographic Survey, consisting of one (1) sheet, prepared by Anthony B. Koval, PLS, of FWH Associates, PA, dated September 17, 2012.
- H. Statement of Operation Victoria Gardens dated August 19, 2021.
- I. Litigation Settlement Agreement dated July 31, 2020
- J. Preliminary & Final Major Subdivision Tree Save Plan, consisting of one (1) sheet, prepared by William A. Stevens, PE, PP, of Professional Design Services, LLC, dated May 25, 2021.

2. **Site Analysis and Project Description**

The subject property consists of Block 4001, Lots 1, 2, and 3, totaling approximately 40 acres on the east side of Hovchild Blvd in the C-1 Planned Commercial Development Zone District. Residential uses are located to the east, south, and north of the subject property. Farm qualified property and residential uses are located to the west, across Hovchild Blvd. The property is situated between Route 33 to the south and Route 66 to the north.

The subject property is the subject of a Settlement Agreement between the applicant and the Neptune Township Zoning Board of Adjustment. The agreed upon conceptual plan to be submitted to this Board included 101 for-sale townhouse units with attached garages, which shall be considered for-sale units and shall not be developed as a rental complex. The applicant is proposing to develop the site with 101 residential townhouse units on fee simple lots, as well as a recreation facility containing a 1,200 sq. ft. building, outdoor pool and outdoor recreation area.

3. **Consistency with the Zone Plan**

The subject property is located in the C-1 Planned Commercial Development Zone District. The purpose of the C-1 Zone District is to provide for business uses appropriate to the Route 66 highway corridor. Permitted uses in the zone district include new car dealers, other motor vehicle dealers, automotive parts, accessories and tire stores, furniture and home furnishing stores, electronics and appliance stores, building material and garden equipment and supplies dealers, grocery stores, specialty food stores, beer, wine, and liquor stores, health and personal care stores, gasoline stations with convenience stores, clothing and clothing accessory stores, sporting goods, hobby, musical instrument, and book stores, department stores, other general merchandise stores, miscellaneous store retailers, publishing

industries, depository credit intermediation (banks), real estate, automotive equipment rental and leasing, consumer goods rental, professional, scientific, and technical services, management of companies and enterprises, administrative and support services, technical and trade schools, other schools and instruction, ambulatory health care services, community food and housing, emergency and other relief services, performing arts, spectator sports, and related industries, museums, fitness and recreational sports centers, bowling centers, all other amusement and recreation industries, hotels and motels, restaurants and other eating places, personal and household goods repair and maintenance, personal care services, other personal services, religious, grantmaking, civic, professional, and similar organizations, and public administration. **The proposed 101 residential townhouse units are not a permitted use in the zone district, requiring a d(1) use variance.**

4. **Bulk Requirements**

- A. The applicant has provided the proposed bulk standards for the overall lot. **However, as each unit will be fee simple to be subdivided per the final plat, the proposed bulk standards of each lot shall be provided.**
- B. The bulk requirements of the C-1 zone district as they relate to the overall development and a typical townhouse lot are as follows:

	Required	Overall	Typical Townhouse
Minimum Lot Area	2.5 acres	37 acres	2,604 sq. ft.*
Maximum Density	N/A	2.7 du/acre	
Maximum Floor Area Ratio	0.6	0.1	
Minimum Lot Width	500 ft.	1,640 ft.	28 ft.*
Minimum Lot Frontage	500 ft.	1,540 ft.	28 ft.*
Minimum Lot Depth	600 ft.	1,510 ft.	93 ft.*
Front Yard Setback	50 ft.	60 ft.	23 ft.*
Side Yard Setback	30 ft.	50 ft.	0 ft.*
Combined Side Yard Setback	60 ft.	100 ft.	0 ft.*
Rear Yard Setback	40 ft.	50 ft.	3 ft. -11 ft.*
Maximum Percent Building Cover	30%	10.6%	~63.4%*
Maximum Percent Total Lot Cover	65%	28%	Assumed variance
Maximum Number of Stories	2	2	To be addressed
Maximum Building Height	40 ft.	26 ft.	To be addressed
Minimum Improvable Area (Sq. Ft.)	84,900 sq. ft.	764,000 sq. ft.	
Minimum Improvable Area Diameter of Circle	189 ft.	290 ft.	

- C. All 101 proposed townhouse lots will require variances for at least the following:
- 1) Minimum lot area
 - 2) Maximum floor area ratio
 - 3) Minimum lot width
 - 4) Minimum lot frontage
 - 5) Minimum lot depth
 - 6) Front yard setback
 - 7) Side yard setback
 - 8) Combine side yard setback
 - 9) Rear yard setback
 - 10) Maximum percent building cover
 - 11) Maximum percent total lot cover
 - 12) Maximum number of stories
 - 13) Minimum improvable area
 - 14) Minimum improvable area diameter of circle
- D. **The applicant should revise the calculations and proposed bulk conditions for the overall tract to reflect the remaining area after the subdivision.**

5. **Required Proofs for Variance Relief**

A. **D(1) Use Variance**

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). Testimony is required to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. To obtain a d(1) use variance, the Applicant must show that the proposal meets four separate criteria:

- 1) Positive Criteria
 - (a) *That the site is particularly suited to the use.* The Applicant must prove that the site is particularly suited for the proposed use. This requirement sets a high bar, requiring findings that the general welfare is served because the use is particularly fitted to the proposed location of the use. It requires the Applicant to show why the location of the site within the Township is particularly suited for the proposed use despite the underlying zoning, or the unique characteristics of the site that make it particularly appropriate for the proposed use rather than a permitted use.

- (b) *Special Reasons.* The Applicant must prove that special reasons exist for granting the use variance by demonstrating either that there is an unreasonable hardship in not granting the variance, or that the proposed project furthers one or more of the purposes of the Municipal Land Use Law.

2) Negative Criteria

- (a) *The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.* The Applicant must prove that the proposal does not substantially impair the intent of the zoning ordinance or master plan. This criterion comes out of the basic principle that municipalities should make zoning decisions by ordinance rather than by variance, and that the grant of a variance should not represent a complete departure from the enacted policy of the governing body.
- (b) *The variance can be granted without a 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.

B. **C Variances**

A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the

characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”

- 3) C variances must also show consistency with the negative criteria as well.

6. **Review Comments**

- A. The applicant must submit a subdivision plan with the proposed block and lots for all proposed lots.
- B. The layout of the proposed townhomes is recommended to be revised to be staggered to provide more visual interest along the building frontages.
- C. The design of the two (2) 90° turns on the proposed roadway (Victoria Gardens Square) is not recommended. The proposed turning movement could cause accidents and will be an issue in snow plowings.
- D. The subdivision plan indicates 101, 2-bedroom, 2-story, 26' high townhouse units. The Community Impact Statement is written based on 3-bedroom units, AND the Architect's plan shows 4-bedroom units, 3-story and 37' - 43' building height.
- E. The Applicant should also address the proposed square footage of the townhouse units.
- F. Plans show 17 parking spaces with one H/C space adjacent to the recreation area. However, there are no additional H/C parking spaces for the remaining 56 visitor parking spaces.
- G. Plans do not address R.O.W. dedication required for Oakcrest Drive. The setbacks should be measured from required R.O.W. width (25' from centerline).
- H. Plans show an 18" drainage pipe between buildings 1 and 2. The pipe is 2-3' away from the building.
- I. The subdivision plans should be revised to include 200' property owner's list.
- J. Sanitary Sewer System Maintenance – The “Statement of Operation” states that the Township will maintain the system.
- K. Plans should indicate the NJDEP, LOI approval date and number. All wetlands and buffer areas (after averaging) should be preserved in a

conservation easement with survey descriptions and monumented. Any expired approvals will require renewal or new approvals from NJDEP.

- L. The drainage inlets frame and cover details do not meet NJDEP required standards.
- M. The Architectural Plans should include the Architect's name and license number.
- N. The Subdivision Plan's cover sheet should include an "approval signatures" block for the Board Chairman, Secretary and Engineer.
- O. Additional landscape buffering is recommended between buildings 7&8 and Oakcrest Drive.
- P. The Raingarden #6 is too close to existing dwelling on Jeanne Drive with no landscaped buffer.
- Q. There is no proposed street lighting on Hovchild Blvd.
- R. There are no sidewalks proposed along Hovchild Blvd.
- S. The Applicant should address the "warrants" for two (2) four way stop intersections.

7. **Drainage and Stormwater Management Review Comments**

- A. The project site is 17.5 acres. The project will create 4.94 acres of new impervious surfaces. The project must comply with NJDEP Best Management Practices and the Neptune Township Stormwater Ordinance in regard to meeting the goal of maintaining natural hydrology to address green infrastructure, reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, along with reduction in runoff pollutants.
- B. The project is within the Shark River watershed which has been designated as a category one waterway (NJAC 7:9B). Category one waterways have been established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance and exceptional fisheries significance. The Applicant shall testify on how the project will protect the upper watershed of Shark River.
- C. The Applicant has designed the Stormwater Management System to address the NJDEP BMP Manual and Neptune Township Stormwater Management Ordinance, Section 528, (amended under Ordinance No. 21-07), adopted on March 8, 2021. In accordance with the regulations, however the Applicant must address the following:

The Applicant is proposing six (6) open basin raingardens to comply with statutory requirements. Under Ordinance No. 21-07 the raingardens would be classified as large-scale bioretention systems.

1) **Green Infrastructure**

Ordinance No. 21-07, Section IV, Part F, Table 2 allows for large-scale bioretention systems with a waiver from NJAC 7:8-5.3.

NJAC 7:8-5.3 (b) states to satisfy the groundwater recharge and stormwater runoff quality standards at NJAC 7:8-5.4 and 5.5 the design engineer shall utilize green infrastructure BMPs identified in Table 5.1 at NJAC 7:8-5.2 (f) and/or an alternative stormwater management measure approved in accordance with NJAC 7:8-5.2 (g).

In accordance with NJAC 7:8-5.3 (b) and Ordinance No. 21-07, Section IV, Part 0.2 small-scale bioretention system may be utilized with a maximum contributory drainage area of 2.5 acres.

The Applicant proposes the following contributory drainage design:

Raingarden Basin 1	=	3.2 Acres
Raingarden Basin 2	=	3.2 Acres
Raingarden Basin 3	=	4.5 Acres
Raingarden Basin 4/5	=	3.7 Acres
Raingarden Basin 6	=	3.2 Acres

A **design waiver** will be required under Ordinance No. 21-07, Section IV, Part F, Table 2 to exceed the maximum contributory drainage area.

2) **TSS Removal**

Under Ordinance No. 21-07, Section IV, Part Q, Subsection 4 – The design must address water quality design storm for 1.25 inches of rainfall in two hours. Likewise, in accordance with NJDEP BMP Manual, Chapter 10.1 (bioretention systems (large-scale)) page 5, for the WQDS (water quality design storm), the maximum depth of runoff is 12 inches in a flat bottom bioretention system.

The Applicant proposes the following TSS Removal design. The bottom of each raingarden will be utilized for TSS Removal.

Location	Basin Bottom	2 yr. Storm Elev.	Maximum Depth
Raingarden 1	89.0	90.46	17.52 inches
Raingarden 2	87.0	88.91	22.92 inches
Raingarden 3	86.0	89.21	38.52 inches
Raingarden 4/5	88.0	86.69	(design error)
Raingarden 6	92.0	91.80	(design error)

The Applicant has designed the basin to contain and recharge the 2-year storm event exceeding the allowable design method of 12 inches.

The design does not comply with the NJDEP BMP Standards of Chapter 10.1, the Applicant's engineer should address storage volume.

- a) Page 5, Storage Volume, Paragraph 2, the invert of the lowest quantity control outlet is set as the water surface elevation of the WQDS.
- b) The maximum depth of runoff is 12 inches in a flat bottom bioretention system.

3) **Groundwater Recharge**

Ordinance No. 21-07, Section IV, Part P, Subsection 2 states the following:

The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section V, either:

- a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site or;
- b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm.

The Applicant is proposing to store the entire 2-year storm within each raingarden system. Details and chart shall be provided to confirm the design is set two feet above the estimated seasonal high-water table.

Sheet 3 of the plan indicates the following:

Location	Basin Bottom	Test Pit	ESHWT
Raingarden 1	89.0	B-8 PDS 7	(No log information) 83.4
Raingarden 2	87.0	PDS 8	82.9
Raingarden 3	86.0	PDS 10	83.7
Raingarden 4/5	88.0	PDS 11 PDS 12 PDS 13 PDS 14	86.5 85.5 86.8 85.5
Raingarden 6	92.0	A-6 PDS 1	89.5 89.7

As discussed under TSS Removal, storing the 2-year storm within the raingarden basin cannot exceed a maximum water height of 12 inches.

4) Stormwater Runoff Quantity Standards

Under Ordinance Section 529.F.B.(3).c.() and amended Ordinance No. 21-07, Section IV, Part R – the Applicant proposes the following stormwater pre vs. post construction runoff rates.

Storm Event	Pre-Developed Peak Flows	Allowable Peak Flow	Post Developed Peak Flow
2	0.1	0.05	0.03
10	0.4	0.3	0.3
100	6.2	5.0	2.4

In accordance with Ordinance No. 21-07, Section IV, Part R 93) – The stormwater runoff quantity standards shall be applied at the site’s boundary to each abutting lot, roadway, water course, or receiving storm sewer system.

The Applicant shall provide additional charts to address compliance for the basins that drain to Hovchild Boulevard and Basin 6 that drains into the downstream wooded area. Offsite calculations shall be provided to ensure piping on Hovchild Boulevard can properly handle the proposed flows.

D. Under Ordinance Section 528.F.1.B (3).c (1), the Applicant must comply with the 2-, 10- and 100-year pre vs. post construction stormwater runoff rates. Our office recommends the 2-, 10- and 100-year date set for the NOAA Atlas 14-point precipitation station Long Branch, Oakhurst.

2 year	=	3.50 in/24 hrs.
10 year	=	5.42 in/24 hrs.
100 year	=	9.28 in/24 hrs.

E. Ordinance 21-07, Section IX, Part A, 91) requires whenever an Applicant seeks municipal approval of a development subject to this ordinance, the Applicant shall submit all of the required components of the checklist for the Site Development Stormwater Plan at Section IX.C below as part of the submission of the application for approval. The Applicant shall submit a compliance checklist as required.

F. **The Applicant shall address the following design concerns:**

- 1) For a bioretention system, the plans do not address soil bed and vegetation plantings. Minimum vegetation density shall be set at 85% per NJDEP BMP Chapter 10.1.
- 2) Time of concentration shall be shown on the drainage maps. Please provide calculations on how 15 minutes was achieved for pavement areas.
- 3) With the calculation postings, the basin outfalls do not match the plans for all basins. Likewise, spillways and outfall pipes shall be included in the routings.
- 4) The plans shall be updated to include water surface elevations in each basin/raingarden for the 2-, 10- and 100-year storm events.
- 5) In accordance with NJDEP BMP Manual, Chapter 10.1, Page 2, Paragraph 3, the Applicant shall address hydraulic impacts. A groundwater mounding analysis should be provided.
- 6) The routing calculations shall include hydrographs in accordance with NJDEP BMP Manual Page 43, Chapter 5.
- 7) NJDEP BMP Manual, Chapter 10.1, Page 5 allows bioretention systems to have a maximum side slope of 3 to 1. Basins 1 & 2 utilize retaining walls.

G. The Applicant shall provide a stormwater maintenance manual in accordance with NJDEP BMP standards. Within the manual, the following maps (11" x 17") shall be provided:

- 1) Grading Plan
- 2) Drainage and Utility Plan
- 3) Landscape Plan and Details
- 4) Soil Erosion Seeding Notes
- 5) Manufacturer Treatment Device Manual for Maintenance

The report should also address the use of fertilizer, riparian areas, and vegetation.

H. The following notes shall be added to the Grading and Drainage Plan:

- 1) Stormwater management facilities shall be regularly maintained to ensure they function at design capacity and to prevent health hazards associated with debris buildup and stagnant water.
- 2) Responsibility for operation and maintenance of the stormwater facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with the owners or owners of the property. Maintenance shall follow the operations maintenance manual approved by the Board.
- 3) In the event that the facility becomes a danger to public safety or public health, or if it is need of maintenance. The owner shall affect such maintenance and repair of the facility in a manner that is approved by the Township Engineer.

I. As outlined in Ordinance 21-07, Section IV, Part M – Any stormwater management measure authorized under the Municipal Stormwater Management Plan or Ordinance shall be reflected in a deed notice recorded in the Office of the Clerk of the County of Monmouth. The Township will require quarterly reports of drainage maintenance as compliance of this approval and maintenance manual.

8. **Conditions of Approval**

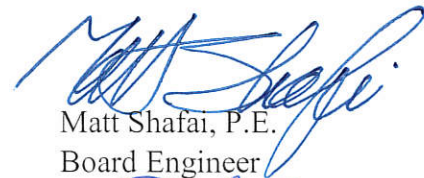
- A. NJDEP Wetlands approvals renewal, if required.
- B. NJDEP Buffer Averaging Plan
- C. The Applicant should obtain New Jersey American Water and NJDEP WQM approval for proposed water system.
- D. Freehold Soil Conservation District
- E. Monmouth County Planning Board

- F. Neptune Township Tree Removal Permit
- G. The Neptune Township Sewerage Authority and NJDEP Treatment Works approval for proposed sanitary sewer extension.
- H. Neptune Township Developer's Agreement
- I. Neptune Fire Official
- J. Submission and approvals of "Final Plat" including Sight Triangle and Conservation Easements
- K. Posting of Performance Guarantee and Inspection Fees
- L. Borough of Tinton Falls approvals of all improvements within Hovchild Blvd.
- M. Tax Assessor Approvals of new lot and block numbers.
- N. Payment of required Tax Map Revision Fees.
- O. NJDOT Access Permit or exemption for Route 33 and Route 66
- P. Submission and approval of the Stormwater Operation and Maintenance Manual.

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Matt Shafai, P.E.
Board Engineer



Jennifer C. Beahm, P.P.
Board Planner

MS:clb/mes

cc: Monica Kowalski, Esq., Board Attorney

Guliet D. Hirsch, Esq., Applicant's Attorney (ghirsch@archerlaw.com)

Ian Borden, P.P., PDS, LLC

NTBA/21/21-13