

Via: Email & Hand Delivery

January 23, 2023

Zoning Board of Adjustment
Township of Lyndhurst
253 Stuyvesant Avenue
Lyndhurst, NJ 07071

Re: Site Plan Review – Proposed 16-Unit Apartment Building
Riverside Avenue
Block 48, Lot 4
Township of Lyndhurst, Bergen County, New Jersey
NEA No.: LYNDSPL23.010

Dear Honorable Board Members:

As requested, The Neglia Group (“Neglia”) has reviewed the submitted documents related to the proposed site development of the lot located along the western side of Riverside Avenue. The Applicant proposes the construction of a new sixteen (16) unit residential apartment building. Specifically, we have reviewed the following:

- Signed and sealed Architectural Plans consisting of six (6) sheets entitled, “New Multi-Family, Riverside Avenue, Lyndhurst, NJ,” prepared by Anthony Guzzo, A.I.A., of Guzzo & Guzzo Architects, LLC., dated February 23, 2022;
- Signed and sealed Site Plans consisting of seven (7) sheets entitled, “Preliminary and Final Site Plan, 291 Riverside Avenue, Tax Lot 48, Block 4, Township of Lyndhurst, Bergen County, New Jersey” prepared by Adnan Khan, P.E., C.M.E., of AWZ Engineering, Inc., dated February 23, 2022;
- Application for Use Variance and Related Variances, prepared by Malcom J. McPherson, Jr. Esq., undated.

1. Project & Site Description

The subject property is located on a rectangular shaped lot located along Riverside Avenue. The property in question, Block 48, Lot 4, is located within the R-A Single Family Residential Zone. The property is currently developed with a paved asphalt lot used for car sales by the adjacent Car Dealership, across Riverside Avenue. Additional site features include, concrete driveway aprons, fencing, and lighting.

The Applicant proposes to construct a three (3) story, sixteen (16) unit apartment building. The ground floor would feature the building’s trash room, utility rooms, elevator, stairwell, lounge, and mailroom. The ground floor would also contain the site’s off-street parking. The sixteen (16) units consists of entirely one-bedroom layouts. The three existing structures are proposed to be demolished to accommodate the improvements. Additional proposed site improvements include a new concrete driveway, landscaping, lighting, streetscape, and drainage.

The proposed site is located entirely within the AE Special Flood Hazard Zone. As such, the Applicant shall submit all materials to the NJDEP for review and permitting regarding the proposed use. NJDEP’s input is critical to this application.

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Aerial Site Mapping

2. Completeness Review

Neglia Engineering Associates (NEA) completed a review of the submitted documents as it relates to completeness established within Appendix A entitled “Completion Checklist - Subdivision and Site Plan Application (Section 19-6)” of the Township of Lyndhurst Ordinance.

The following requirements are missing or incomplete and shall be submitted or a waiver shall be requested. The Applicant shall request a waiver from supplying requirements that are not applicable.

REQUIREMENTS FOR SITE PLAN APPLICATIONS:

- 2.1 Item 9: Certification of any necessary approvals by the HMDC, DEP, and County Planning. The Applicant shall acquire review letters from the necessary regulatory bodies. The Applicant shall provide testimony stating if said approvals are being pursued.
- 2.2 Item 13: Proposed plans for storm water management and calculations: The Applicant has not provided a Drainage Plan or Stormwater Management Report.
- 2.3 Item 15: Certified property survey including owner’s name: The Applicant has not provided a signed and sealed survey of the property.

3. Zoning Analysis

Based upon Neglia’s initial review of the application materials, we offer the following findings regarding zoning compliance:

a. *Use / Jurisdiction*

Permitted Principal Uses in R-A:

- Single family detached dwellings / Public parks and playgrounds / recreational, administrative, and service buildings / Firehouses and other governmental functions / Public and private elementary and secondary schools / Places of worship including parish house, rectory, parsonage, convent and other religious buildings / Any agricultural or horticultural use not involving the raising, keeping of poultry or livestock or the erection or alteration of commercial greenhouses.

Permitted Conditional Uses in R-A Zone:

- A professional office / Nonprofit clubs, lodges, and fraternal organizations / Community residences for the developmentally disabled and victims of domestic violence as defined by N.J.S.A. 40:55D-66.1 for more than six residents excluding resident staff subject to provisions of subsection 21-5.12.

Permitted Accessory Uses in R-A Zone:

- Accessory Uses and Structures customarily incidental to Principal Use / Fencing / Private Garage / Private Swimming Pool / Signage / Driveways and Parking Areas / Recreational playground facilities or equipment

b. *Bulk Deficiencies*

The following table reflects the R-A Zone Bulk Requirements (Section §21-6) as they pertain to the proposed three-story apartment building:

Description	Required	Existing	Proposed	Status ⁽¹⁾
Use	As Defined Below	Auto Sales Lot	Multi-Family Dwelling	Non-Conforming⁽²⁾ (Variance)
Minimum Lot Area (square feet)	5,000 sf	14,539.19 sf	14,539.19 sf	Conforming
Minimum Lot Width (feet)	50 ft.	143.78 ft.	143.78 ft.	Conforming
Minimum Lot Depth (feet)	100 ft.	91.92 ft.	91.92 ft.	Existing Non-Conformity
Minimum Front Yard Setback (feet)	20 ft.	N/A	5.00 ft.	Non-Conforming (Variance)
Minimum Rear Yard Setback (feet)	20 ft.	N/A	5.80 ft.	Non-Conforming (Variance)
Minimum Side Yard Setback – Interior Lot (each) (feet)	6 ft.	N/A	5.00 ft.	Non-Conforming (Variance)
Maximum Principal Building Coverage (%)	30%	N/A	>30%	Non-Conforming (Variance)
Total Lot Coverage ⁽³⁾ (%) (Impervious Coverage)	70%	98%	81%	Non-Conforming (Variance)
Maximum Building Height ⁽⁴⁾ (feet/stories)	35 ft. / 2.5 stories.	N/A	42 ft. / 3 stories	Non-Conforming (Variance)

1. Each item with a status of “non-conforming” above will require a new variance / design waiver.
 2. Permitted uses within the R-A Zone include single family homes and Uses and Conditional Uses allowed in Any District; "Dwellings" are defined as residential units having a minimum of 700 square feet. The proposed use is not stated as a permitted use. Therefore a **D(1) Use Variance** will be required for this application.
 3. The total lot coverage in R-A zones shall not exceed 60%. The maximum total lot coverage shall increase 5% for every 500 square feet in area over 5,500 square feet, but in no event shall exceed 70%.
 4. The maximum height for dwellings located in Zone AE on the flood maps adopted under Ordinance Section 23-3.2 shall be 35 feet. The proposed building height of 42 feet is more than 10% of the maximum height permitted in the R-B Zone. Therefore a **D(6) Height Variance** will be required for this application.
- c. Additional Variances / Waivers
- §21-5.14(a)(3): Flat roofs shall not be permitted in the R-A as stated in of the Township ordinance. Therefore, a design waiver shall be required.
 - §21-5.9: Except for permitted driveways and walkways, all parts of any front yard or side yard which abut the street shall be landscaped with grass or plant material and shall not be covered by concrete, bituminous macadam or similar or artificial nonporous substances. The grass or planting area must be maintained in front side yards for a minimum distance of eight feet from the back line of a sidewalk, with the exception that one side yard may have a driveway with a width not to exceed eight feet leading to the back yard parking area or garage(s). Therefore, a design waiver shall be required.
 - §21-8.8: Off-street parking spaces shall not be located in any required front yard, except for one family and two family homes as permitted by subsection 21-8.14. No off-street parking areas shall be located any closer than five feet to any lot line, except for one or two family dwellings. No tandem parking shall be permitted in the R-A and R-B Residential Zoning Districts. Therefore, a design waiver shall be required.

4. Parking and Loading Requirements

The table provided below identifies parking requirements associated with the Applicant’s new three-story 16-unit apartment building:

Regulation	Ordinance Section	Units	Required/Permitted	Proposed	Status ⁽¹⁾
Schedule of Off-Street Parking	§21-8.18	2 Spaces per Dwelling Unit + 1 Visitor Space per 5 Units	16 Units x (2 Spaces/Unit) = 32 Spaces 16 units x (1 Space/5 Units) = 4 spaces	28 parking spaces	Non-Conforming⁽²⁾
Total Required Parking Spaces 36 Parking Spaces w/o Make Ready Credit			Total Required Parking Spaces 32 Parking Spaces w/ Make Ready Credit		
Minimum ADA Parking Spaces	Department of Justice	26 to 50 Parking Spaces require 2 ADA Spaces	2 ADA Spaces w/ 1 Van Accessible ADA Spaces	2 ADA Parking Spaces (1 Van Accessible)	Conforming

1. Each item with a status of “non-conforming” above will require a new variance / design waiver.
2. All parking space calculations for shall be rounded up to the next full parking space.

Regulation	Ordinance Section	Required/Permitted	Proposed	Status ⁽¹⁾
EV Parking Requirement	P.L. 2021, c.171	36 required parking spaces * 15% = 6 required EV spaces ⁽²⁾	5 EV Parking Spaces	Non-Conforming
ADA EV Parking	P.L. 2021, c.171	6 required EV parking spaces * 5% = 1 required ADA EV parking spaces ⁽²⁾	1 ADA EV Parking Spaces	Conforming
Total Required Parking Spaces 32 Parking Spaces w/ Make Ready Credit				

- Each item with a status of “non-conforming” above will require a new variance / design waiver.
- All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.

5. Affordable Housing Requirements

The table provided below identifies affordable housing requirements associated with the Applicant’s new three-story 16-unit apartment building:

Regulation	Ordinance Section	Required	Proposed	Status ⁽¹⁾
Lyndhurst Affordable Housing Ordinance	§21-20.3(a) – §21-20.5	20% of Market Rate Units = 4 Units ⁽²⁾	To be Determined	To be Determined

- Each item with a status of “non-conforming” above will require a new variance / design waiver. If the proposed amount is unknown, the Applicant shall provide testimony stating the number of affordable units that will be available.
- All Affordable Housing calculations shall be rounded up to the next full parking space.

6. Standards for Granting Variance Relief

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70 sets forth the standards for variance in particular cases for special reasons to allow departure from regulations pursuant to Article 8 of this act to permit: **(1) a use or principal structure in a district restricted against such use or principal structure**, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to section 54 of P.L. 1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in section 3.1 of P.L. 1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in section 3.1 of P.L. 1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot of lots for detached one or two dwelling unit buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision or **(6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.**

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c set forth the standards for variances from the bulk regulations of a zoning ordinance. A “c (1)” variance is for cases of hardship due to (a) exceptional narrowness, shallowness or shape of a specific property, or (b) 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 structures lawfully existing thereon.

A “c (2)” variance may be granted where the purposes of the Municipal Land Use Law would be advanced by deviation from the zoning ordinance requirements, that the variance can be granted without substantial detriment to the public

good, that the benefits of the deviation would substantially outweigh any detriment and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The benefits identified in granting a “c (2)” variance must include benefits to the community as a whole, not only the Applicant of the property owner.

No variance of any other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such a variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

7. Planning and Engineering Comments

- 7.1 The Applicant’s professionals shall provide testimony in support of all requested / required variances.
- 7.2 At such time as a hearing is scheduled regarding this matter, a representative or owner of the project site shall be present to address questions from the Board.
- 7.3 The Applicant shall provide testimony addressing trash removal and disposal procedures associated with the proposed development. NEA recommends private hauling.
- 7.4 The Applicant is responsible for providing testimony addressing any comments or concerns from the Township Police and Fire Departments as it relates to fire apparatus and emergency services.
- 7.5 The Applicant is proposing to construct new sidewalk and streetscape along the site frontage within the right-of-way. Mayor and Council approval will be required for this information.
- 7.6 The Applicant shall be responsible for the expenses related to any reconstruction of pavement, curb, sidewalk, storm drainage or other public property damaged during construction activities to the satisfaction of the Township and Township Engineer, and in accordance with current design standards. A note stating the same shall be provided in the site plans.
- 7.7 The Applicant shall provide testimony that all ADA accessible routes, points of ingress/egress, parking spaces, etc. will conform to the current ADA Standards for Accessible Design provided by the Department of Justice, latest revised.
- 7.8 The Applicant is proposing to construct a new ADA curb ramp along the site frontage at the intersection of Valley Brook Avenue and Riverside Avenue. The Applicant shall confirm that the ADA ramps that are installed opposite of the proposed ADA ramp is ADA compliant and in good condition. The Applicant shall be responsible for replacing opposite ramps if not compliant.
- 7.9 Neglia recommends that the Applicant provide material boards and color renderings during the Board presentation to demonstrate that the proposed building and improvements will be aesthetically acceptable. This shall include any rooftop screening should rooftop mechanical equipment be required. The rendering shall include a view of all sides of the building.
- 7.10 The Applicant shall provide testimony addressing Section 21-5.14(a)(2) of the Township Ordinance.
- 7.11 The Applicant shall provide testimony with respect to the building articulation, façade materials, colors, traditional design elements, visual access, entrances, lighting, and roofing.
- 7.12 The Applicant shall provide testimony as to whether the on-site parking will feature any screening.
- 7.13 The Applicant shall ensure that all disturbed work areas are stabilized with topsoil, seed, hay, and straw mulch to ensure lawn growth. A note stating the same shall be provided in the site plans.

- 7.14 The Applicant shall protect any perimeter fencing, curbs, walkways, plantings, and walls on adjacent properties during construction, if approved. The Applicant shall be responsible for any damage done to neighboring properties during the installation of proposed improvements. A note stating the same shall be provided in the site plans.
- 7.15 The Applicant shall provide testimony addressing the height of the building as it relates to the heights of existing buildings within the neighborhood.
- 7.16 The Applicant shall illustrate the utility trench widths on Riverside Avenue. The trenches shall be backfilled and the roadway repaired to the satisfaction of the Township.
- 7.17 The Applicant is responsible for ensuring that any and all soils imported to the site are certified clean soils as identified by the current NJDEP Residential Standards, with a copy of the said certificate provided to the Building Department and NEA for all soils. No recommendation for a Certificate of Occupancy / Construction Completion will be provided without this certification, where applicable. A note stating the same shall be provided.
- 7.18 The Applicant shall ensure that the operations of soil movement vehicles are not to be utilized in a way that would deposit soil on any street, sidewalk, public place, or within any other private property. A note stating the same shall be provided in the site plans.
- 7.19 Based on FEMA Map Number 34003C0235H, dated August 28, 2019, the subject property is located within an area of Special Flood Hazard Zone AE of the Passaic River. The Applicant's Engineer shall provide testimony addressing the measures proposed on-site to prevent and / or mitigate potential damage from floodwaters. The Applicant shall discuss existing flood elevations as they relate to the proposed first floor elevations of the buildings and off-street parking facilities.
- 7.20 The subject site is located within a flood hazard area a requires New Jersey Department of Environmental Protection (NJDEP) Land Use Permitting. The Applicant shall provide copies of all correspondence and approvals from the NJDEP to the City and this office. Testimony of the same shall be provided.
- 7.21 Per Township Ordinance Section §23-4.1(4), the Applicant shall provide testimony detailing the extent to which any watercourse will be altered or relocated as a result of proposed development.
- 7.22 The Applicant shall revise the Concrete Sidewalk detail to illustrate a ¾-inch clean stone subbase in lieu of a dense graded aggregate subbase.
- 7.23 In the event of a flood, parked vehicles within the on-site parking lot may receive significant water damage. The Applicant shall provide a narrative detailing a management plan regarding the protection of tenant vehicles in the event of flood forecasting.

8. Grading, Drainage and Utility Comments

- 8.1 The Applicant shall ensure that on-site grading does not negatively impact any adjacent properties. Applicant shall ensure runoff is not directed onto adjacent property along property line. A note stating the same shall be provided in the site plans.
- 8.2 The Applicant's proposed building coverage does not represent the full square footage of the proposed building outline. The Applicant shall revise this calculation accordingly.
- 8.3 The Applicant does not illustrate drainage improvements as well as the location of proposed roof leaders within the submitted site plans. The Applicant shall provide a drainage plan and provide testimony addressing how stormwater will be managed.

- 8.4 All roof leaders shall be piped to the adjacent curb line or directly into to a stormwater, dry well system, or any other underground system per Section §21-5.8 of the Township Ordinances.
- 8.5 The Applicant proposes improvements that will result in a decrease in impervious coverage of 2,367.81 square feet, as compared to the existing conditions. The proposed site improvements do not classify the project as a “Major Development” as defined under the Stormwater Management Adopted New Rule: N.J.A.C. 7:8 by disturbing less than an acre of land, and by not increasing the property’s impervious coverage by more than a quarter acre. Therefore, the Applicant is required to maintain post-development runoff rates based upon current existing runoff rates. The Applicant shall provide a Stormwater Management Report showing that there will be no increase in stormwater runoff.
- 8.6 The Applicant shall ensure that all runoff is directed into proposed storm water collection structures and is not directed towards adjacent properties. The Applicant is responsible for any negative impacts to adjacent properties due to on-site improvements. Should a negative impact be identified upon completion of the project, the impact shall be addressed immediately. A note stating the same shall be provided in the site plans.
- 8.7 The Applicant shall provide testimony regarding any potential rooftop HVAC equipment, appurtenances, noise levels, screening, and sound proofing.
- 8.8 The Applicant is responsible for addressing any off-site utility upgrades to accommodate the proposed improvements at the sole cost of the Applicant.
- 8.9 The Applicant shall illustrate the location of all gas and water meters that will service the building. These meters shall be located in or around the building where they are not visible from the site frontage and shall be screened.
- 8.10 The Applicant shall secure and supply will serve letters for all utilities to ensure capacity and adequate service to the proposed development. The Applicant shall construct all on-site and off-site improvements as deemed necessary by said utilities.
- 8.11 Per Township Ordinance Section §23-5.1(c), For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. The Applicant shall provide testimony describing how this was achieved.
- 8.12 Per Township Ordinance Section §23-5.2(a), New construction and substantial improvement of any residential structure located in an A or AE Zone shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated at or above the more-restrictive: base flood elevation (published FIS/FIRM) plus one foot, the best available flood hazard data elevation plus one foot, or as required by ASCE/SEI 24-14, Table 2-1. The proposed utilities do not comply as they are illustrated to be located on the ground floor. A variance / wavier will be required.

9. Landscaping & Lighting Comments

- 9.1 The Applicant shall provide testimony addressing any proposed landscaping or lighting improvements.
- 9.2 The Applicant shall provide testimony ensuring that the proposed lighting fixtures above the parking lot will not have any glare into any neighboring properties.
- 9.3 The Applicant shall provide lighting for the proposed walkways.

- 9.4 Landscape design should include consideration of a watering and maintenance plan, which includes a planting schedule for any seasonal plants.

10. Traffic & Parking Comments

- 10.1 The Applicant shall provide testimony addressing vehicular circulation for package deliveries and mail, trash/recycling, parking circulation, security measures, and other operational issues that may be deemed relevant to the application.
- 10.2 The Applicant shall obtain and address any comments from the Township of Lyndhurst Fire, EMS, and Police Departments regarding emergency on-site site access, site safety, or other concerns.
- 10.3 The Applicant proposes 28 parking spaces but does not meet the required 36 parking spaces per Section §21-8.18 of the Township Ordinance. The Applicant shall provide testimony in support of the required variance.
- 10.4 Per P.L. 2021, c.171, "Prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces." The Applicant to install 5 EVSE spaces which does not meet the required 6 EVSE spaces. The Applicant shall provide testimony addressing the non-conformity.
- 10.5 The Applicant shall provide vehicle maneuvering templates illustrating the full circulation of the proposed parking area.
- 10.6 The Applicant shall provide the sight distance triangles for each proposed driveway. The sight distance triangles shall conform to Bergen County and AASHTO standards.
- 10.7 The structural support columns are illustrated to encroach within the standard 9 foot by 18 foot parking stall. The Applicant shall provide testimony ensuring that all parking stalls are compliant with
- 10.8 The Applicant shall provide testimony to confirm the anticipated site generated trips that would be created from the proposed development.
- 10.9 The Applicant shall provide testimony addressing the impact the level of service to the traffic signal at the intersection of Riverside Avenue and Valley Brook Avenue.
- 10.10 The Applicant shall note that Riverside Avenue is a Bergen County roadway and is designated as County Route 507. Therefore, the Applicant shall submit the plans to Bergen County for review and/or exemption. All correspondence from Bergen County shall be forwarded to the Board and Board Professionals upon receipt.

11. Final Comments

- 11.1 The Applicant shall obtain any and all approvals required by outside agencies, including but not limited to Bergen Country Planning, NJDOT, NJDEP, Bergen County, and Bergen Soil Conservation District, as well as the Township of Lyndhurst Police Department, Fire Department, Emergency Services and Department of Public Works. It is the Applicant's responsibility to determine what outside agency permits are required. Copies of said approvals shall be provided upon receipt.
- 11.2 New and revised materials shall be filed with the Township and shall not be sent directly to the Board's professionals. The Township will forward the application to and related materials to the Board's professionals when they are finished with their review. Materials submitted directly to NEA will not be reviewed.
- 11.3 Revised reports, plans and exhibits which are to be considered at the hearing should be submitted ten days prior to the scheduled hearing.

11.4 The above comments are based on a review of materials submitted and/or testimony provided to date. NEA reserves the right to provide new or updated comments as additional information becomes available.

We trust you will find the above in order. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Very truly yours,
Neglia Engineering Associates



Brian A. Intindola, P.E., P.P., C.M.E., C.P.W.M.
Zoning Board Engineer
Township of Lyndhurst

Very truly yours,
Neglia Engineering Associates



David Juzmeski, P.E., P.P.
Zoning Board Planner
Township of Lyndhurst

Cc: Daniel R. Lagana, Esq. – Board Attorney (*via: email*)
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