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IN THE MATTER OF THE APPLICATION
OF V2 PROPERTIES ENTITY 7, LLC,
FOR PRELIMINARY AND FINAL MAJOR
SITE PLAN APPROVAL, CONDITIONAL
USE APPROVAL, VARIANCES AND
WAIVERS FOR BLOCK 3404, LOT 7

OCEAN CITY PLANNING BOARD

APPLICATION NO. PBA 26-006

DECISION AND RESOLUTION

BACKGROUND OF DECISION AND RESOLUTION

1. V2 PROPERTIES ENTITY 7, LLC ["Applicant"] is the owner of certain lands and premises located in the City of Ocean City known as Block 3404, Lot 7 as shown on the current official tax map for the City of Ocean City, New Jersey commonly known as 3400-02 West Avenue, Ocean City, New Jersey ["Property"].

2. The Applicant has made application to the Ocean City Planning Board for **(i) preliminary and final major site plan approval** to construct one (1) new two and one-half story mixed-use building consisting of grade level parking and two (2) first floor commercial units, three (3), three (3) bedroom second floor residential units, and one (1), five (5) bedroom residential unit located in the half-story, **(ii) conditional use approval** for the four (4) residential units, **(iii) variances** for (a) parking buffer to the building because a minimum of four (4) feet is required and zero (0) feet is proposed; (b) project development without the installation of a truck berth, and **(iv) § 25-1700.31.5** design

waiver from the requirement that a trash enclosure be separated from parking areas or an access drive by curbing. The Applicant also seeks completeness waivers.

3. The application to the Ocean City Planning Board as aforesaid was deemed complete and a public hearing in respect of the aforesaid application was held before the Ocean City Planning Board on August 12, 2026.

4. Ocean City Planning Board Members Stell, Halliday and Birch recused themselves and did not participate in the public hearing in respect of the aforesaid application that was held before the Ocean City Planning Board on August 12, 2026.

WITNESSETH

NOW, THEREFORE, the Ocean City Planning Board based upon the exhibits submitted and the analysis by the Planner for the Ocean City Planning Board, Randall E. Scheule, A.I.C.P. & P.P. [“Planner”] and the Engineer for the Ocean City Planning Board, David S. Scheidegg, P.E., P.P., C.M.E. [“Engineer”] and the testimony presented makes the following findings of fact:

1. Paragraphs 1 through 4 set forth above in the Background of Decision and Resolution are incorporated by this reference as if specifically set forth herein at length; all appropriate applications have been filed; all required application fees have been (or will be) paid; and, all notices required by law have been given.

2. The Applicant has submitted and the Planner and Engineer have reviewed the plans and documents identified and delineated by the Planner in the Planner’s Report dated July 16, 2026 [“Planner’s Report”] all of which are incorporated by this reference as if specifically listed herein at this place and identified and delineated by the Engineer in the Engineer’s Report dated July 20, 2026 [“Engineer’s Report”] all of which are

incorporated by this reference as if specifically listed herein at this place. The Planner's Report is attached to this Decision and Resolution as Exhibit A and expressly made a part hereof and the Engineer's Report is attached to this Decision and Resolution as Exhibit B and expressly made a part hereof.

3. The Applicant was represented by Avery S. Teitler, Esquire at the time of public hearing on August 12, 2026. Mr. Teitler presented the Applicant's application for preliminary and final major site plan, conditional use approval, variances, completeness and design waiver in respect of the Property. The Property is located in the 34th Street Gateway (GW) Zone and is identified as Block 3404, Lot 7 as shown on the current official tax map for the City of Ocean City, New Jersey. The street address of the Property is 3400-02 West Avenue, Ocean City, New Jersey. Mr. Teitler provided a history of prior proposed development applications at the Property which applications were heard and denied by the Ocean City Planning Board on May 7, 2025 and February 11, 2026. Mr. Teitler outlined significant revisions which were made by the Applicant in comparison to the prior applications. Mr. Teitler noted the further reduction of the number of stories and number of residential units in comparison to the previous applications. Mr. Teitler indicated that it was the Applicant's intention to construct a new mixed-use building on the subject Property. The Property is vacant and is located on a corner lot with dimensions of 100 feet by 100 feet. The Applicant proposes to construct grade level parking with two commercial units on the first floor, three (3) residential units on the second floor and one (1) residential unit on the half-story floor. A **Conditional Use** approval is required for the four (4) residential units. **Variances** for (a) parking buffer to the building because a minimum of four (4) feet is required and

zero (0) feet is proposed; and (b) project development without the installation of a truck berth is proposed. The Applicant also seeks completeness waivers and a § 25-1700.31.5 design waiver from the requirement that a trash enclosure be separated from parking areas or an access drive by curbing. Mr. Teitler asserted that the proposed project would serve as a buffer from neighboring residential properties and that the new two and a half (2.5) story mixed use building was within the character of the surrounding neighborhood and would be harmonious in size and height with existing buildings on 34th Street. He further asserted that the requested variances can be granted under the c. (2) criteria as the building is aesthetically pleasing, will satisfy the spirit, intent and purpose of the 34th Street Gateway Zone, will provide more light, air and open space than what was previously proposed and will promote the general welfare as impervious coverage and building coverage have been reduced from previous applications.

Andrew Bechtold, R.A, was the first witness to testify in respect of the application. Mr. Bechtold is a registered architect and was recognized by the Ocean City Planning Board as an expert. Mr. Bechtold is the architect engaged by the Applicant in respect of the preliminary and final major site plan approval, conditional use approval, variances, completeness and design waiver for the Property. Mr. Bechtold provided a general description of the Property and the proposed preliminary and final major site plan, conditional use, and variances for the Property. Mr. Bechtold provided an overview of the project development. Mr. Bechtold testified concerning the conditional use standards applicable for the project development and opined that the project as proposed satisfied the conditional use standards to permit residential dwellings on the second floor

and half-story of the new building. He identified all of the variances required for the project development. He identified the design waiver required by the Applicant.

The Applicant proceeded under c. (2) criteria of N.J.S. 40:55D-70 in presenting its proofs for the variances requested and Mr. Bechtold testified using the c. (2) criteria of N.J.S. 40:55D-70 as the basis for his professional testimony and opinions.

Mr. Bechtold testified that the proposed development will have fully conforming commercial and residential parking at grade which will be screened from view. Access would be attained through the alley and that vehicles exiting the parking area would not be backing out in the alley. He testified vehicles will be exiting the parking area head lights first. He opined that the building meets the spirit and intent of the 34th Street Gateway (GW) Zone.

He testified that the proposed project satisfied several purposes of zoning identified in N.J.S. 40:55D-2 a. (promote the general welfare) c. (more light, air and open space), and i. (promotion of a desirable visual environment). He testified that the proposed project was consistent with the Master Plan for the City of Ocean City and satisfied the purposes of the 34th Street Gateway Zone. Concerning the design waiver requested by the Applicant, he testified that there was no need for the trash enclosure to be separated from the parking area by curbing.

Mr. Bechtold testified that there was no detriment resulting from the proposed preliminary and final major site plan, conditional use approval, variances, and design waiver requested by the Applicant. He testified further that there was a benefit to the public by granting the preliminary and final major site plan, conditional use approval, and variances, especially when taking into consideration the purposes of zoning detailed

in N.J.S. 40:55D-2 identified above, the permitted uses of the Property, including the conditional use proposed by the Applicant, the aesthetic quality of the proposed new building, the enhanced visual environment offered by the proposed project, the intent of the 34th Street Gateway Zone, and the nature of the variances requested by the Applicant. In summarizing the testimony, Mr. Bechtold offered his expert opinion that the positive criteria consistent with N.J.S. 40:55D-70 c. (2) to grant the variance relief requested by the Applicant were satisfied and particularly as to the c. (2) criteria, that the benefits of any deviation permitting the variance relief would substantially outweigh any detriment and that the negative criteria consistent with the standards required in N.J.S. 40:55D-70 were likewise satisfied, indicating that the relief requested by the Applicant, could, in his professional opinions, be granted without any substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

4. Comments from the Planner were received consistent with Planner's Report. The Planner's Report was received by the Ocean City Planning Board. Comments from the Engineer were received consistent with the Engineer's Report. The Engineer's Report was received by the Ocean City Planning Board. The Applicant agreed to comply with (i) the Planner's Report and (ii) the Engineer's Report, as represented by Applicant's counsel, Mr. Teitler.

5. Upon completion of Mr. Teitler's presentation on behalf of the Applicant, receipt of the Planner's Report and the Engineer's Report, and receipt of comments by the Planner and the Engineer, the meeting was then opened to the public. The following

members of the public testified and offered comments in respect of the application as follows:

Pat DeHart, 3429 Haven Avenue--- Asked questions about the number of parking spaces and location of the trash enclosure.

Michelle Morrison, 3424 West Avenue--- Questions and comments regarding handicap ramps, location of trees and traffic control.

6. Upon conclusion and closing of the public portion of the meeting, Mr. Teitler and Mr. Bechtold provided a summary of the Application, reasons for approval and responded to questions raised by the public. Thereafter there was further discussion and deliberation by the Ocean City Planning Board.

NOW, THEREFORE, the Ocean City Planning Board hereby makes the following conclusions of law based upon the foregoing findings of fact. The Applicant has made application to the Ocean City Planning Board for **(i) preliminary and final major site plan approval** to construct one (1) new two and one-half (2.5) story mixed-use building consisting of grade level parking and two (2) first floor commercial units and three (3), three (3) bedroom second floor residential units and one (1), five (5) bedroom residential unit on the half-story at the Property which is located in the 34th Street Gateway Zone; **(ii) conditional use approval** for the four (4) residential units; and, **(iii) variances** for (a) parking buffer to the building because a minimum of four (4) feet is required and zero (0) feet is proposed; and (b) project development without the installation of a truck berth. The Applicant also seeks completeness waivers and a design waiver from § 25-1700.31.5. of the Ocean City Zoning and Land Development Ordinance requiring enclosed refuse areas, if located within or adjacent to a parking area or access drive, be separated from such parking area or access drive by

curbing.

Under the Municipal Land Use Law, N.J.S. 40:55D-1 *et seq* and particularly, N.J.S. 40:55D-60, a Planning Board, when considering a subdivision or site plan, as in this case, may grant variances as provided for in N.J.S 40:55D-70 c. The Applicant has the burden of proof to satisfy both the positive and negative criteria necessary to grant the variance relief requested. The Applicant must satisfy certain specific proofs which are enunciated in N.J.S 40:55D-70 c. Specifically, pursuant to N.J.S 40:55D-70 c. (2), the Applicant may be entitled to relief, if the Applicant can demonstrate that in a particular circumstance relating specifically to the Property, the purposes of the Municipal Land Use Law would be advanced by allowing a deviation from the Ocean City Zoning and Land Development Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, variance relief may be legally granted. The categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or c. variance relief. Finally, the Applicant must also show that the variance relief requested can be granted without any substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and Ocean City Zoning and Land Development Ordinance. It is only in those instances when an applicant has satisfied the statutory criteria, that a Planning Board acting pursuant to statutory and case law can grant relief. The burden of proof is upon the Applicant to establish these criteria.

Based upon the application, plans and documents, reports, and testimony of all witnesses, including the expert opinions furnished by Mr. Bechtold and the comments offered by the members of the public, the Ocean City Planning Board finds that the

Applicant **has met** the minimum requirements of the Municipal Land Use Law, case law and the Ocean City Zoning and Land Development Ordinance so as to grant the relief requested. Specifically, as it pertains to the c. variance relief sought by the Applicant, the Ocean City Planning Board finds that: 1. The c. (2) criteria to grant the variances for (a) parking buffer to the building because a minimum of four (4) feet is required and zero (0) feet is proposed; (b) project development without the installation of a truck berth **have been satisfied** and, specifically as to the c. (2) criteria, the purposes of the Municipal Land Use Law would be advanced by a deviation from the Ocean City Zoning and Land Development Ordinance and the benefits of the deviation would substantially outweigh any detriment, taking into consideration the purposes of zoning detailed in N.J.S. 40:55D-2 a. (promote the general welfare) c. (more light, air and open space), and i. (promotion of a desirable visual environment) the permitted uses of the Property, including the conditional use proposed by the Applicant, the aesthetic quality of the proposed new building, the enhanced visual environment offered by the proposed project, the intent of the GW, Gateway Zone, and the nature of the variances requested by the Applicant; and, 2. There is no evidence whatsoever before the Ocean City Planning Board that the preliminary and final major site plan, conditional use approval, variances, and design waiver as requested, if approved and granted, would have a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and the Ocean City Zoning and Land Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Ocean City Planning Board on August 12, 2026 that the application made by the Applicant, V2 PROPERTIES ENTITY 7, LLC requesting land use approvals is determined as follows: **(i)**

preliminary and final major site plan approval to construct one (1) new two and one-half (2.5) story mixed-use building consisting of grade level parking and two (2) first floor commercial units and four (4) residential units, three (3) residential three (3) bedroom units on the second floor, and one (1), five (5) bedroom residential unit on the half-story **(ii) conditional use approval** for the four residential units; and, **(iii) variances** for (a) parking buffer to the building because a minimum of four (4) feet is required and zero (0) feet is proposed; (b) project development without the installation of a truck berth and § 25-1700.31.5 design waiver from the requirement that a trash enclosure be separated from parking areas or an access drive by curbing and completeness waivers are **APPROVED AND GRANTED**.

IT IS FURTHER RESOLVED that the above approvals all as aforesaid are **GRANTED** with and subject to the following terms and conditions:

A. Prior to the issuance of any construction permit, reimburse the City of Ocean City for all professional fees and other expenses incurred by the City of Ocean City as a result of processing Applicant's application in accordance with the Ocean City Zoning and Land Development Ordinance.

B. The Applicant will comply with the Planner's Report and the Engineer's Report.

C. The Applicant shall comply with all the representations and agreements placed on the record by the Applicant's counsel, professionals, and/or other representatives at the time of public hearing on August 12, 2026.

D. The Applicant shall obtain the approval of all other municipal, county, state or federal agencies or boards having jurisdiction over the proposed site plan in

respect of the Property, including but not limited to approval from the Cape-Atlantic Soil Conservation District, if necessary.

E. The Applicant shall cause all plans and documents to be revised consistent with the above referenced conditions and all of the representations and agreements placed on the record by the Applicant's counsel, professionals, and/or other representatives at the time of public hearing on August 12, 2026 which revisions include, but are not limited to, (1) the revisions contained in the Engineer's Report dated July 20, 2026 and Planner's Report dated July 16, 2026; and (2) revision of Drawing No. PB-1 to PB-7 to clearly label the location of the ventilation system, water vault location, location of trash enclosures on elevations, location of designated specific parking space for Electric Vehicle Supply Equipment and clearance height in parking area.

F. The Applicant shall comply with Article 1600 of the Ocean City Zoning and Land Development Ordinance in respect of Guarantees and Improvement Procedures.

G. The Applicant's requests for the checklist waivers and design waiver identified in the Planner's Report and the Engineer's Report are granted.

H. If applicable, the Applicant (or future owner) shall satisfy the legal requirements of § 25-1900 (Affordable Housing Development Fees) for any development of the Property.

I. The Applicant shall provide utility letters from all utilities.

J. The Applicant agrees to have the Board Engineer prepare an Engineer's cost estimate and to schedule a pre-construction meeting.

K. Eating establishments including but not limited to cafes, coffee shops, luncheonettes, pizzerias, restaurants and snack shops, candy, nut, confectionery stores, and bakeries shall not be prohibited or limited at any time or by any means including, but not limited to, conditions contained within a master deed, deed restriction, Certificate of Occupancy, Mercantile License, Certificate of Zoning Compliance or other instrument.

L. The Applicant shall comply with all provisions of the Ocean City Zoning and Land Development Ordinance, including without limitation **§ 25-1500.8.3 and § 25-1500.10.3** thereof, and any and all other municipal, county, state, or federal laws or regulations relating or applicable to the proposed project development at the Property.

This Decision and Resolution was adopted upon a motion, to be considered in the affirmative to approve the Applicant's request for land use approvals as aforesaid, made by Ocean City Planning Board Member Adams and seconded by Ocean City Planning Board Member Bekier on August 12, 2026 ["Adams Motion"]. The vote on the Adams Motion was six (6) in favor of and zero (0) against with Ocean City Planning Board Members, Bekier, Adams, Barnes, Sheppard, Jessel and Loeper all voting in the affirmative.

OCEAN CITY PLANNING BOARD

Dated: September 2, 2026

JOHN LOEPER,
CHAIRPERSON

CERTIFICATION

I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Decision and Resolution was duly adopted at the meeting of the Ocean City Planning Board held on August 12, 2026 memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on September 2, 2026. This resolution has been filed in the office of the Board and is available for inspection upon request.

JAIME M. FELKER,
Secretary, Ocean City Planning Board