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April 12, 2022

Hazlet Township Land Use Board  
1766 Union Avenue  
Hazlet, NJ 07730

Attn: Laura McPeek – Land Use Board Secretary

**Re: Lamar Advertising of Penn, LLC  
Use Variance & Preliminary & Final Site Plan  
Completeness & Technical Engineering Review #1  
Location: 1110 NJSH Route 36  
Block 68.13, Lot 6  
Hazlet Township, Monmouth County, NJ  
Our File: HHZL0068.07**

Dear Land Use Board Members:

In accordance with your authorization, our office has performed a completeness and engineering review of the above-referenced application, including but not limited to, the following:

- Preliminary & Final Site Plan, Proposed Static Billboard, 1110 NJSH Route 36, Township of Hazlet, Monmouth County, NJ, Block 68.13, Lot 6, Tax Map 1.07, Zone BH (Business Highway Zone), prepared by William R. Vogt Jr., P.E., of L2A Land Design, LLC, consisting of five (5) sheets, dated July 21, 2021, last revised January 25, 2022;
- Boundary & Partial Topographic Survey, consisting of one (1) sheet, prepared by Blue Marsh Associates, Inc., dated February 11, 2020, unrevised; and
- Completed Application Forms, including Land Use Board Application, Variance Application, Bureau of Fire Prevention Application, Environmental Assessment Checklist, Development Plan Checklist, W-9 Request for Taxpayer Certification and Proof of Taxes paid through May 1, 2022.

Based on our review, we offer the following:

- 1) The Applicant, Lamar Advertising of Penn, LLC, is seeking Use Variance and Preliminary & Final Site Plan approval with variance relief to construct a double-faced (back-to-back), V-shape billboard sign on the subject property. Each sign face of the billboard will be 672 square feet (14 feet by 48 feet) in size with a 3 foot wide catwalk along the bottom of each. The billboard sign will be a cantilevered single pole mount with 32 foot ground clearance and a total height of 49 feet, and will be setback approximately 25 feet from the Route 36 right-of-way and 14.36 feet to adjoining Lot 12 to the east. The proposed billboard will be erected within an existing curb island in the parking area along the northeasterly property line and will be cantilevered approximately 16 feet above an existing one-story metal building on the property. Three (3) concrete bollards are proposed on the west side of the 36-inch diameter single pole mount billboard sign.



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- 2) The subject 6.625-acre property is situated on the southerly side of NJSH Route 36 within the BH (Business Highway) Zoning District. Currently, the property contains the Extra Space Storage Facility, consisting of six (6) storage unit buildings with drive aisles and a seventh building containing an office located in the front of the property with a paved driveway and parking. A right-in / right-out driveway provides access to the site from NJSH Route 36. The site is bounded to the west by Quick Check Gas Station / Convenience Store, to the east by Neil Michael's Steakhouse and residential properties, to the south by residential properties and to the north by NJSH Route 36. There is no indication of freshwater wetlands on the site, but the property is located in the CAFRA Zone.
- 3) Billboard signs are not listed as a permitted, accessory, and/or conditional use within the BH Zone District, thereby requiring use variance approval.



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- 4) The Applicant has requested a (d1) use variance and the following bulk and sign variance relief:
- a. **Section 181-406:** Schedule B Bulk Regulations. The maximum impervious coverage in the BH Zoning District is 55%; whereas, 66.44% is existing and 66.45% is proposed. We note this is an existing non-conformity.
  - b. **Section 181-410A.15:** General Regulations. No billboard signs are permitted; whereas, a billboard sign is proposed on the property.
  - c. **Section 181-410E.1.b.(i):** Pylon Signs. One sign per shopping center for each street frontage, requiring a 25-foot front yard setback; whereas the property will now contain two signs. An existing pylon sign is located on the property in addition to the proposed billboard sign.
  - d. **Section 181-410E.1.b.(iii):** Pylon Signs. Sign shall not exceed 100 square feet on any one surface; whereas the proposed billboard sign area is 672 square feet.
  - e. **Section 181-410E.1.b.(iv):** Pylon Signs. Sign shall not exceed height of 25 feet; whereas the proposed billboard sign height is 49 feet.
  - f. **Section 181-410E.1.b.(vii):** Pylon Signs. Numerical address required on face of sign or supporting frame; whereas no numerical address is proposed on the face of the billboard sign.
- 5) The Applicant has requested the following submission waivers:
- a. **Preliminary Site Plan Checklist Item 5:** Submission of Environmental Impact Statement.  
*Given the nature of this application and the fact that no environmentally sensitive elements exist on the site, our office has no objection to granting this waiver.*
- 6) The following required Ordinance and/or checklist submission items should be provided or waivers requested:
- a. **Preliminary Site Plan Checklist Item 10:** Disclosure of 10% ownership interest of a corporation or partnership which is 10% owner of the applying corporation or partnership (N.J.S.A. 40:55D-48.2).  
*This item is checked 'YES' on the submitted checklist, but was not received by our office. This item is incomplete and is required prior to deeming the application complete.*
  - b. **Preliminary Site Plan Checklist Item 16:** Complete Soil & Ground Water Testing in accordance with Article VIII. In the case of a Major Subdivision, there shall be provided in conjunction with the preliminary review and approval a report on prevailing soil groundwater conditions. The report shall be generated by a Professional Engineer, retained by the applicant.



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***This item is checked 'NO' on the submitted checklist with a note indicating that a geotechnical report will be provided under separate cover upon site plan approval and final location of billboard foundation. Should the Board act favorably on this application, this should be made a condition of approval.***

- c. **Final Site Plan Checklist Item 4:** Payment of Performance Guarantee in favor of the Township, prepared by the Township Engineer and approved by the Township Attorney.

***This item is checked 'YES' on the submitted checklist, but was not received by our office. Should the Board act favorably on this application, this should be made a condition of approval.***

- d. **Final Site Plan Checklist Item 5:** If applicable, Soil Removal Permit signed by the Township Engineer.

***This item is checked 'YES' on the submitted checklist, but was not received by our office. Should the Board act favorably on this application, this should be made a condition of approval.***

Based on our review of the submitted information, our office recommends that this application be deemed **INCOMPLETE**, due the above required submission item not being provided. The Applicant must submit to the Board the documents noted in Item 6a to address the outstanding submission requirements and technical deficiencies.

7) The Applicant should be prepared to discuss the following issues with the Board:

- a) The application is for a d-1 use variance since the proposed billboard sign is not listed as a permitted, accessory or conditional use within the BH (Business Highway) Zone District.
- b) The Applicant must satisfy positive criteria in order for the Board to grant the d-1 use variance. Per the State Supreme Court's decision in the case of *Medici v. BPR Co.*, the Applicant must be prepared to provide testimony demonstrating that there are "special reasons" to permit the not permitted use through the d-1 variance and that the site in question is **particularly suited** to the use. In general, to show special reasons, the granting of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (NJSA 40:55D(2)), and should promote the purposes of the municipality's Master Plan and the State Development and Redevelopment Plan. Additionally, in the case of *Price v. Himeji, LLC*, the Court held that a Zoning Board should not determine that a property is particularly suited to the use simply because it is the most suitable site in the municipality for the use. The use should be appropriate and especially beneficial based on the unique conditions of the site and its surrounding area.
- c) The Applicant must also satisfy negative criteria in order for the Board to grant the d-1 variance. Testimony is required to demonstrate to the Board that the Use Variance can be granted



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without any 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 be detrimental to the public good. Testimony must also be provided demonstrating that the intent and purpose of the Hazlet Township Land Development Ordinance and Master Plan will not be substantially impaired.

- d) The height of the proposed billboard is 49 feet, which is substantially higher than the 25 feet permitted in the BH Zoning District. If considered a principal structure, this would require a d-6 height variance. The billboard is considered a principal use and therefore must be granted a d-1 variance to permit its construction where it is not a permitted use. A d(6) height variance is required. Where a variance for height for a non-permitted principal structure is required, the standards enunciated in Medici would apply. Under that standard the applicant must prove and the Board must find by an enhanced quality of proof that there will be no substantial impairment of the intent and purpose of the zoning ordinance and zone plan.
- e) It appears that at the maximum permitted height of 25 feet, the billboard may create a nuisance for the restaurant use to the northeast of the billboard's proposed location. The Applicant should still address why the height of the proposed billboard is 49 feet rather than a lower, less non-conforming height. The impact of a 49 foot tall billboard on the townhouse residential uses to the northeast should also be discussed.
- f) The Applicant also requires five (5) supplemental zone variances. For these, the Board has the power to grant a c(1) hardship variance or a c(2) benefits vs. detriments variance.
  - i. An applicant requesting a c(1) variance must show that (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of 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 structure lawfully existing thereon, the strict application of any would result in particular and exceptional practical difficulties or undue hardship upon the developer of such property.
  - ii. An applicant requesting a c(2) variance must prove that granting of the variance will advance the intent and purposes of the Municipal Land Use Law and that benefits of granting of the variance will substantially outweigh the detriments.
  - iii. With both c(1) and c(2) variances, negative criteria must be addressed. No variance may be granted without showing that such a variance can be granted without substantial detriment to public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.
- g) The location of other signs of similar size / setbacks along Route 36 in Hazlet Township.



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- h) Whether the billboard is to be part of a lease area on the subject property, and if so, the need for metes and bounds description of the lease area. Also, the term length and conditions of any lease agreement should be reviewed with the Board.
- i) Testimony should be provided as to the content and types of advertising the billboard sign will display.
- j) Whether the sign will have any reflective material which sparkles, glitters or reflects light that may cause a hazard to traffic.
- k) The billboard sign is proposed to be internally illuminated. Testimony should be provided as to the intensity of the illumination and demonstrate that same will not be obtrusive or a distraction to motorists or surrounding properties.
- l) Whether landscaping around the base of the sign is to be provided.
- m) The plans should be revised to indicate the power source for the lighting of the billboard sign.
- n) Any other permits and/or approvals for the proposed billboard sign required by any outside agencies should be submitted to the Board and our office.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Very truly yours,  
**CME Associates**

Trevor J. Taylor, PE, PP, CME, CFM  
*Land Use Board Engineer*

TT:LZ

Enclosure

cc: Greg Vella, Esq., Board Attorney  
Sharon Keegan, Zoning Board Officer  
Extra Space Property Seventy One, LLC, Owner  
Lamar Advertising of Penn, LLC, Applicant  
William R. Vogt, PE, Applicant's Engineer  
Reginald Jenkins, Jr., Esq., Applicant's Attorney