

MBD Development LLC

September 1, 2023

Kendra Lelie, PP, AICP, LLA
Kyle + McManus Associates
2 East Broad Street, 2nd Floor
Hopewell, NJ 08525

Re: Monmouth Park
Proposed Mix Use Project

Dear Kendra,

With regard to the above-referenced project, we are in receipt of a review report prepared by Kyle + McManus Associates on behalf of Oceanport Borough. We have reviewed the letter with architect Minno-Wasko and Colliers Engineering.

The project team has revised the development proposal in response to this letter, as well as in response to comments and concerns raised by the Borough Council at the July 25, 2023 meeting.

Specifically, we offer the following responses:

1.0 Project Description

Informational, no response necessary.

2.0 Residential Development

a. Building Height/Stories and Neighborhood Compatibility.

OCEANPORT COMMENT: NJSEA is proposing 12 three-story apartment buildings located directly across Port-Au-Peck Avenue from the existing Jockey Club neighborhood. The Jockey Club is an existing age-restricted community containing 1.5 to 2 story single family dwelling units. The closest three-story building is located within 150 feet of the Jockey Club neighborhood. The proposed layout of the three story apartment buildings contrasts with the existing architectural fabric of the neighborhood. As an alternative, the developer should consider the inclusion of single family detached and attached dwelling units in lieu of the larger apartment buildings to create consistency and compatibility with the surrounding neighborhood.

RESPONSE: The development proposal has been revised to reduce the height of the three (3) closest buildings to the Jockey Club development to two stories. The other multifamily buildings remain at three stories. We believe this is a fair compromise to address the concern of building height in proximity to the surrounding developments. We note that the 3-story commercial building across East Main Street is 125' away from the Jockey Club homes along Main Street. The adjacent property Oceanport Gardens is six stories and 260' away. The proposed buildings are located at greater distances than these two existing structures. We

also note that the Monmouth Park Age Restricted Affordable Housing Overlay District, although not applicable to this property, allows 3-story buildings.

b. Unit Count and Bedroom Distribution

OCEANPORT COMMENT: As noted above, the proposed development includes approximately 25% one-bedroom units, 70% two-bedroom units and 5% three-bedroom units. First, it is rare to see three-bedroom units in an age-restricted community and three-bedroom units are not required for the affordable units as it is an age-restricted community. Typically, in an age-restricted community, there is a larger percentage of one-bedroom units and a lesser percentage of two-bedroom units. If the NJSEA insists on apartment buildings, the building mass can be reduced if the bedroom distribution includes more one-bedroom units and less two-bedroom units.

RESPONSE: The development proposal has been revised to eliminate 3-bedroom units and replace them with 2-bedroom den units. We will defer to our Marketing consultants to determine the ultimate unit mix, but in general the age restricted market targets people who are downsizing from larger homes and desire larger units. We note that if State regulations ultimately require the inclusion of 3-bedroom units to meet the bedroom requirements for affordable housing units, we reserve the right to include 3-bedroom units for that purpose.

With regard to density, the proposal has been reduced to 306 units on the 38.338 acre site, which equates to 7.92 units per acre. The 306 units is inclusive of 61 affordable units. It is our professional opinion that this density is not out of character with nearby zoning, where the adjacent RMO Zone permits 6 units per acre, the VC Zone permits 16 units per acre, and the Monmouth Park Age Restricted Overlay Zone allows for a density of 12 units/acre.

c. Amenity Layout

OCEANPORT COMMENT: The tot lot and dog park are located very close to the intersection of Port-Au-Peck Avenue and Oceanport Avenue. These amenities should be relocated away from this busy intersection and more centrally located so that all residents have easy access to them.

RESPONSE: The plans have been revised so that the play area is now near the tennis court. The dog run has been relocated to the southeast corner of the site.

d. Planting Buffer

OCEANPORT COMMENT: Given the proximity of existing residential neighborhoods and public open space to proposed development, the building and parking improvements should be located outside of a 100-foot buffer. A planted buffer should be provided as a screen of the proposed development from any adjacent residential or public open space area to adequately protect the quality of life for the existing residents and users of the public open space.

RESPONSE: The plans include significant buffering including undulating berms and dense landscaping around the entire perimeter of the site.

e. Affordable Housing Implications

OCEANPORT COMMENT: For this proposed development a 20% set aside of age-restricted units represents 78 affordable housing units and a density of 13 dwelling units per acre. In accordance with the Council on Affordable Housing (COAH) regulations because Oceanport is what is known as a vacant land town, this development would impose a Realistic Development Potential (RDP) obligation of 78 affordable housing units but due to the cap of 25% on age-restricted units, the Borough would only be able to take a credit of 19 units ($78 \times 0.25 = 19.5$ and round down). This would leave the Borough in a deficit of affordable housing units and the need to create a plan to provide 59 affordable housing units ($78 - 19 = 59$) elsewhere in the Borough. Given the lack of land to support an inclusionary development (which would require approximately 5 times the number of affordable units) that would provide 59 affordable housing units, it is very unlikely that the Borough would be able to meet this obligation.

RESPONSE: An analysis of the Borough's Housing Element and Fair Share Plan ("Housing Element") yields a different result. The Housing Element, which was approved by the court as part of a settlement agreement with Fair Share Housing Center, states that the Borough's Prior Round and Third Round obligation totals 291 units. Of those units, the Borough has a Realistic Development Potential ("RDP") of only 33 units, with the remaining 258 units being considered unmet need.

When calculating the Borough's RDP, the Borough explicitly excluded all land within Monmouth Park through a vacant land adjustment. The Housing Element states:

Similar to Fort Monmouth, the Borough does not have jurisdiction over the zoning of the lands under control of the Sports and Exposition Authority (SEA). These lands consist of the Monmouth Park Racetrack along Oceanport Avenue, as well as surrounding streets. The Monmouth Racetrack recently, in 2012, signed a 40-year lease with the SEA for the continued use of the site. The statute that created the SEA speaks directly to the power to zone. Specifically, the powers of the authority (5:10-5 Powers of Authority) states the following:

To determine the location, type and character of a project or any part thereof and all other matters in connection with all or any part of a project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate...

The Housing Element also states that "[d]ue to this lack of jurisdiction, all lands under the jurisdiction of the SEA have been excluded from the vacant land adjustment."

The development of Monmouth Park, in part, with age-restricted housing does not change the fact that the land remains under the jurisdiction of the New Jersey Sports and Exposition Authority and is not subject to local zoning. As such, if a

vacant land adjustment excluded Monmouth Park from Oceanport's RDP previously, the Borough could continue to exclude Monmouth Park from its RDP going forward.

By the logic of Oceanport's own Housing Element, any affordable housing created at Monmouth Park would go towards potentially satisfying some of Oceanport's unmet needs and would not increase its RDP. As an example, Oceanport's Housing Element already assumed that 37 age-restricted affordable housing units might be built on a portion of Monmouth Park and that those units would assist the Borough with fulfilling its unmet need, without increasing the Borough's RDP.

3.0 General Site Plan Comments

a. Parking

OCEANPORT COMMENT: Given that the residential development is located on over 30 acres of area currently devoted to overflow parking for special racetrack events and the site plan does not provide another location for that overflow parking, it can be assumed that there would not be enough parking for special events at the racetrack and that negative parking implications within on County and Borough streets would result.

RESPONSE: The development proposal provides parking for the residential use in excess of RSIS requirements, and for the commercial uses in accordance with ITE recommended parking supply figures. Monmouth Park racetrack will be left with approximately 5,600 on-site parking spaces which is sufficient for the vast majority of operating days.

As they have in the past, Monmouth Park will continue the practice of securing off-site parking and providing transportation accommodations for those patrons who park off-site.

b. Traffic Impacts

OCEANPORT COMMENT: A traffic impact analysis should be provided to adequately assess the traffic impacts on the surrounding road network and provide the necessary recommendations regarding off-tract improvements required due to the proposed development.

RESPONSE: A Traffic Impact Study has previously been prepared and is currently being revised to reflect the updates to the development proposal. A copy of the revised report will be submitted upon completion.

4.0 Master Plan

OCEANPORT COMMENT: The Borough adopted a Land Use Element Plan of the Master Plan in 2016. There are several goals and objectives within the Master Plan that support the use of Monmouth Park land for emergency operations and housing in the case of a natural disaster. A recommended policy to reduce human vulnerability to emergencies and natural disasters is provided on pages 28-29 and reads:

"The Borough and County do not have the necessary resources to help residents that are in need of longer term housing (beyond 30 days) while the damage to their dwellings is being addressed. The State and Federal government usually help to

provide longer term emergency housing. While the Borough has limited capacity to help with the longer term housing, adequate plans should be in place that address the preferred location for longer term housing within the Borough. As part of the Monmouth Park Racetrack Redevelopment Plan, the Borough is providing a locational and schematic layout addressing longer term housing, parking, food and medical distribution services and other service needs."

And

"Monmouth Park Redevelopment Plan - Provide emergency long-term emergency housing location and layout plan at Monmouth Park Racetrack's west parking lot for State and Federal officials use in the setup of long-term emergency shelter."

As indicated, the NJSEA development plan for the west parking lot includes permanent residential housing and would not be available for a long-term emergency shelter or housing. As part of any development plan for Monmouth Park it is recommended that it include accommodations for emergency operations and housing in the case of natural disasters.

RESPONSE: The Land Use Element Plan of the Master Plan for 2016 requires that part of Monmouth Park be set aside for emergency long term housing. This element cannot be binding upon the property because the Borough has no right to encumber property which it does not own or control.

A municipal Master Plan, or for that matter, any land use ordinance, cannot burden or encumber property for emergency housing on property the municipality does not own or control. There is no authority under the Municipal Land Use Law or any other law for a local government to designate property for a public use absent ownership or control of that property by the local government. In this case, Oceanport does not have ownership or control of Monmouth Park.

All previous accommodations that Monmouth Park have made with regard to disaster relief were in the spirit of being a good member of the community, and it will continue to be a good neighbor and will consider requests for accommodations when the need arises.

Please do not hesitate to reach out if you have any questions or comments on these items.

Sincerely,

MBD DEVELOPMENT LLC

Morris B. Jerome

Morris B. Jerome
Principal

CC: Jeanne Smith, Planning Board Secretary
Kevin Evans; Gibbons P.C.
Jennifer Phillips Smith, Gibbons P.C.
Nicholas Talvacchia; Cooper Levenson