

TOWNSHIP OF FREEHOLD



Barbara J. McMorrow

TOWNSHIP COMMITTEE
Lester A. Preston, Jr., Deputy Mayor
Anthony J. Ammiano
Thomas L. Cook
David M. Salkin

"Preserving and Enhancing the Quality of Life"

Office of the Planning Board

December 3, 2019

Peter Licata, Esq.
Sonnenblick Parker & Selvers
4400 Route 9 South
Freehold, NJ 07728

RE: Appeal, Interpretation and Variance Application # 041-18
Freehold Raceway Mall (MS Portfolio, LLC c/o Macerich Co.)
Round One – Bowling & Amusement
Block 69.01, Lot 18.07 – 3710 Route 9, Unit 1100
COMPLETENESS REVIEW

Dear Mr. Licata:

Please be advised that the above referenced application has been deemed complete pursuant to N.J.S.A. 40:55D-10.3. Please note that under the statute, your obligation to prove your entitlement to an approval is not diminished by the declaration of completeness. Please note also that we may require correction of information found to be in error and submission of additional information as may be reasonably necessary for the Board to make an informed decision as to whether the requirements necessary for approval of the application have been met. While your failure to provide any such additional requested information will not affect the declaration of completeness, you should be aware that the absence of the information for the Board's consideration may negatively affect your obtaining the requested approval.

You are also obligated to pay such additional monies for escrow fees as shall be required in accordance with ordinance number 0-85-36 and any amendments thereto.

If you have any questions, please do not hesitate to contact me.

Sincerely,

TODD BROWN
Planning Department

/tb

cc: Timothy P. White, Township Engineer
PB File

TOWNSHIP OF FREEHOLD



MAYOR
Lester A. Preston, Jr.

TOWNSHIP COMMITTEE
Thomas L. Cook, Deputy Mayor
Anthony J. Ammiano
Maureen Fasano

"Preserving and Enhancing the Quality of Life"

Timothy White, PE, PLS, CME
Township Engineer

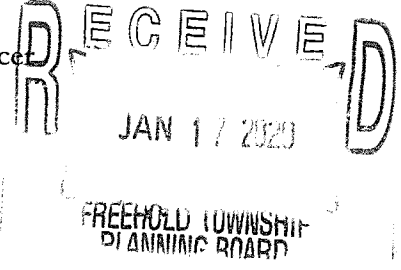
MEMORANDUM

TO: Planning Board, c/o Donna Butch, Administrative Officer

FROM: Timothy P. White, Township Engineer

DATE: January 17, 2020

RE: Round One Bowling & Amusement ("Round 1")
MS Portfolio, LLC c/o Macerich Co.
Block 69.01, Lot 18.07 – 3710 Route 9, Unit 1100 (Freehold Raceway Mall)
Appeal of Zoning Officer's Determination and Interpretation – Application #040-18
Variance – Application #041-18
REVIEW #2



This review refers to the following:

- Notice of Denial, Round One Entertainment, dated October 11, 2018, prepared by Township of Freehold, Director of Zoning & Housing Enforcement, signed by Pasquale Popolizio.
- Architectural Floor Plan with Areas, Round 1 Bowling & Amusement, Freehold Raceway Mall, dated September 5, 2019, prepared by Paradigm Design Architects and Engineers, signed and sealed by Joseph Greco, R.A.
- Architectural Exterior Elevations, Round 1 Bowling & Amusement, Freehold Raceway Mall, dated September 5, 2019, prepared by Paradigm Design Architects and Engineers, signed and sealed by Joseph Greco, R.A.
- Operations Statement, Round 1 Bowling & Amusement, Spo-Cha, five (5) pages, undated, unsigned.
- Application Submission Letter, Freehold Raceway Mall – Round One ("Round 1"), Major Site Plan, Variance Application, dated October 29, 2018, prepared by Sonnenblick, Parker & Selvers, signed by Peter G. Licata, Esq.
- Appeal Letter, Round One Entertainment, Inc. – Notice of Denial, Block 69.01, Lot 18.07, dated October 30, 2018, prepared by Sonnenblick, Parker & Selvers, signed by Peter G. Licata, Esq.
- Variance, Appeal and Interpretation Letter, 18 Freehold Raceway Mall (MS Portfolio, LLC c/o Macerich Co.), Round 1 – Bowling and Amusement, Block 69.01, Lot 18.07, dated October 25, 2019, prepared by Sonnenblick, Parker & Selvers, signed by Peter G. Licata, Esq.
- Colored Renderings, Macerich, Round One @ Freehold Raceway Mall, three (3) sheets, dated October 4, 2019, unsigned.
- Architects Certification of Square Footage, Round 1 Freehold Mall, dated September 5, 2019, signed and sealed by Joseph Greco, R.A.



To: Planning Board
Re: Round 1
MS Portfolio, LLC c/o Macerich Co.
Block 69.01, Lot 18.07 – 3710 Route 9, Unit 1100
Zoning Appeal/Interpretation (#040-18) and Variance (#041-18)
REVIEW #2

January 17, 2020

- Freehold Raceway Mall – Round 1 Trip Generation Assessment, prepared by Stantec, dated October 19, 2018, signed by Adam Catherine, PE, PTOE, ENV SP.
- Round 1 and SPO-CHA Video Clips.

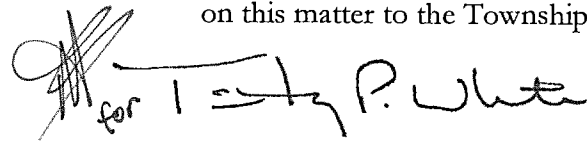
Executive Summary

The subject property is located in the Regional Mall Zone (RMZ-1). The applicant formerly applied for a zoning permit to occupy 66,030 sf of the Freehold Raceway Mall in the current location of the Sears Department Store for a “Recreation/Entertainment Services” use described as Round One Bowling & Amusement Company (Round 1). Round 1 operates approximately 30 locations nationwide and typically includes activities such as arcades, bowling, party rooms with karaoke and provides/serves food, drinks and alcoholic beverages. In addition to the typical Round 1 activities, this facility will also house several sports challenge activities known as SPO-CHA which include batting cages, basketball courts, ping pong, tennis, archery/airsoft range, multi-courts (volleyball, badminton, etc.), dodgeball, indoor soccer, billiards, inline skating, Segway and pocket bike track, trampoline area, and a mechanical bull. The zoning application was denied by the Zoning Officer per T.O. 190-117 which states that “any use not provided for in a zone is considered prohibited.” As such, the applicant is now applying for an appeal of the Zoning Officer’s determination and is requesting that the Planning Board make an interpretation of the ordinance related to uses permitted in the RMZ-1 zone. If the Board upholds the Zoning Officer’s denial, the applicant is subsequently seeking a use variance for the proposed use(s).

Proposed hours of operation are 10am – 2am (or until 5am where local jurisdiction permits) and 365 days per year with approximately 17-27 employees and 3-5 security guards per day. Associated and proposed exterior improvements include façade and signage modifications at three (3) exterior entrances and an 18-foot-tall bowling pin sculpture at the eastern entrance.

The following comments are provided:

1. Applicant shall provide testimony regarding the intended use of the “grayed out” 13,522 sf area on the architectural floor plan labeled as “Game Floor”.
2. At this time, this office has no comments relative to any engineering issues. However, subject to the Board’s determination the applicant shall be required to submit a site plan application for review by the Township and their professionals. It should also be noted that should this improvement/use ultimately be approved, the General Development Plan for the mall would be altered and therefore must also be further amended as Sears would no longer exist as an anchor store. This office defers further comments on this matter to the Township Planner.



for Timothy P. White

TIMOTHY P. WHITE
Township Engineer

TPW/mb

cc: Kate Keller, PP - Phillips Preiss (via email)



Planning & Real Estate Consultants

January 15, 2020

Freehold Township Planning Board
% Donna Butch, Administrative Officer
Freehold Township
1 Municipal Plaza
Freehold, New Jersey 07728

**RE: Appeal of the Zoning Officer's Decision/
Interpretation of Zoning Ordinance APP #040-18
Use "d(1)" Variance APP #041-18
Planner's Review Letter
Round 1 - Bowling and Amusement
Freehold Raceway Mall
MS Portfolio, LLC c/o Macerich Company
3710 Route 9, Unit 1100
Block 69.01, Lot 18.07
RMZ-1 Regional Mall Zone District**

Dear Chairman and Members of the Board:

We have reviewed the above-referenced development application, including the following documents:

- Zoning Notice of Denial for Round One Entertainment, Inc., to Applicant's Attorney, from Pasquale Popolizio, Township of Freehold Director of Zoning & Housing Enforcement, dated 10/11/2018
- ALTA/NSPS Land Title Survey for Freehold Raceway Mall, prepared by Edward S. McConnell, PLS, of Stantec, dated 1/7/2000 and revised through 10/18/2017
- Architectural Exterior Elevations & Floor Plan with Areas for Round 1 Bowling & Amusements Tenant Improvement, prepared by Joseph Greco, RA, of Paradigm Designs, dated 9/5/19
- Proposed Rendering for Round One @ Freehold Raceway Mall, prepared by Macerich, dated 10/4/2019
- Trip Generation Assessment for Round 1 Freehold Raceway Mall, prepared by Adam Catherine, PE, PTOE, of Stantec, dated 10/19/2018

The applicant is seeking an appeal of the Township Zoning Officer's determination that Round 1, a proposed bowling alley/entertainment center including a restaurant, bar, billiards, arcade, karaoke, sports and other amusements, is not a permitted use in the RMZ-1 Regional Mall Zone District and is therefore denied from locating within the Freehold Raceway Mall. In addition to the appeal of the Township Zoning Officer's



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determination, the applicant is also seeking the Board’s interpretation of the list of permitted uses in the RMZ-1 zone as set forth in Chapter 190-158A of the Township Zoning Ordinance as it pertains to the proposed use. In the event that the Board does not overturn the Zoning Officer’s determination and does not interpret the list of permitted uses in the applicant’s favor, the applicant is seeking a “d(1)” variance to permit the use.

Application History

The applicant submitted a zoning permit with cover letter on October 4, 2018 requesting approval to locate a new tenant, known as Round 1 Bowling and Amusement, within the Sears department store in the southernmost portion of the Freehold Raceway Mall. Round 1 proposed to occupy 64,340 square feet on the first floor and 1,792 square feet on the second floor, which would serve as an entryway to the first floor. The second floor of the Sears store contains Primark and vacant retail space.

Per the Notice of Denial sent to the applicant on October 11, 2018, the Township Zoning Officer at the time determined that the proposed “Amusement/Entertainment type venue” was not specifically permitted in the Township’s RMZ-1 zone and therefore prohibited per Section 190-117 of the Township Ordinance, which states “Any use not provided for in a zone is prohibited.”

Discussion of Appeal and Interpretation

1. The applicant is appealing this denial under Section 40:55D-70a of the Municipal Land Use Law (MLUL), which permits a Zoning Board of Adjustment or Joint Board to “hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance.”
2. The applicant is also requesting an interpretation under Section 40:55D-70b of the MLUL, which permits a Zoning Board of Adjustment or Joint Board to “hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act.” In this capacity, the applicant is requesting that the Board review the scope of the permitted uses in the RMZ-1 zone as of Round 1’s initial application for a zoning permit on October 4, 2018.
3. At this time of the initial application for a zoning permit, the RMZ-1 zone at 190-58A(4) allowed “Theaters and assembly halls, bowling alleys, and similar public



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recreational activities” as permitted uses in the district¹. The Zoning Officer’s denial was predicated on the fact that while some of the proposed components of the Round 1 use (such as bowling alleys) were permitted in the zone, the full scope of activities proposed did not meet ordinance requirements. Per information provided by the applicant, the additional activities initially proposed as part of Round 1’s operation include an arcade; billiards; a bar; darts; games of chance; ping-pong; karaoke; and a children’s play area.

4. The applicant has proposed a number of uses that are not contemplated in the RMZ-1 Zone but are specifically regulated elsewhere in the ordinance, such as billiards. The applicant should provide testimony to support their argument that these comprise similar recreational amenities that were not exhaustively itemized in the Ordinance but fall under the general use of “bowling alleys and similar public recreational activities.”
5. Since initial denial of the zoning permit and subsequent appeal and application to the Planning Board, the applicant has revised the proposed concept to include additional sports entertainment facilities within the leased space, to be known as “SPO-CHA” (sports challenge). The SPO-CHA area is proposed to be ticketed separately from the general bowling & amusement portion of the site and would include batting cages, a basketball court, racquet/tennis courts, and a roller-skating rink, among many other activities. We note that any component of the use that was not proposed at the time of the initial application for zoning permit was not considered by the Zoning Officer in his determination and may not be part of the request for appeal and interpretation.

Zoning Compliance & Planning Comments for “d(1)” Variance

If the Board chooses to uphold the Zoning Officer’s determination per 40:55D-70a and further determines that the RMZ-1 ordinance cannot be interpreted to permit the proposal, the applicant is seeking a “d(1)” use variance to permit the proposed use. In this case, we offer the following comments for the Board:

1. The subject property is located in the RMZ-1 zone, which does not permit the proposed bowling and amusement facility. As such, a “d(1)” use variance is required. The MLUL at N.J.S.A. 40:55D-70d(1) permits a Board to grant a variance to allow “a use or principal structure in a district restricted against such use or principal structure.” Per the MLUL, a “d” variance may be granted only “in

¹ At a meeting held October 23, 2018, the Freehold Township Committee approved an ordinance amending §190-59A(4) that removed “bowling alleys and similar public recreational activities” from the list of permitted uses in the RMZ-1 Zone. As the current application was submitted in advance of this amendment, the Board shall consider the ordinance that was valid as of October 22, 2018 (the date of application) in accordance with NJSA 40:55D-10.5.



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particular cases for special reasons.” These “special reasons” for a use variance may include that the use is inherently beneficial, that the property owner would suffer undue hardship if compelled to use the property in conformity with the permitted uses in the zone, or that the site is particularly suited for the use so as to promote the general welfare.

In addition, a variance applicant must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality. A d(1) variance applicant for a use that is not inherently beneficial is further required to address the “enhanced quality of proof” per Medici v. BPR Co. (107 NJ 1 [1987]): “the grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance.”

2. The applicant should provide testimony describing the nature of the proposed use and how it will function in comparison to permitted uses in the RMZ-1 Zone. Testimony should address hours of operation, number of employees and their shifts, and peak hours as compared to existing uses at the Freehold Raceway Mall. The adequacy of existing parking should also be addressed.
3. The applicant has provided a traffic analysis letter, which indicates that trip generation of the proposed use would not cause additional traffic impacts as compared to general trip generation for shopping centers. We defer further to the Township Engineer and Planning Board Traffic Engineer on this matter.
4. The applicant should be aware that per Section 190-158 of the Township Ordinance, “Development within the RMZ Zones shall be in accordance with a general development plan approved by the Freehold Township Planning Board.” The existing General Development Plan for the Freehold Raceway Mall does not contemplate the proposed use. If the Board chooses to grant the “d(1)” use variance, preliminary and final major site plan approval will be required.

We trust that the above information is responsive to your needs.

Respectfully submitted,

Kate Keller, P.P., AICP

cc: Roger McLaughlin, Board Attorney
Timothy P. White, P.E., Township Engineer

Shropshire Associates LLC

ESBE / SBE Certified

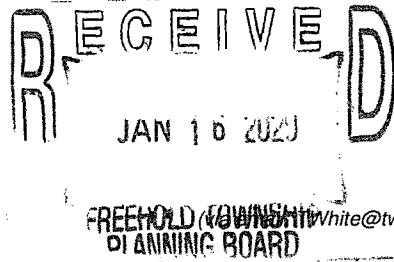
Traffic Engineering, Transportation Planning & Design

277 White Horse Pike, Suite 203, Atco, NJ 08004
P: 609-714-0400 F: 609-714-9944 www.sallc.org

David R. Shropshire, PE, PP
A Andrew Feranda, PE, PTOE, CME
Randal C. Barranger, PE
Nathan B. Mosley, PE, CME

January 15, 2020

Mr. Timothy P. White, P.E.
Freehold Township Engineer
1 Municipal Plaza
Freehold, NJ 07728-3099



Attn: Donna Butch, Administrative Officer

(via email: DButch@twp.freehold.nj.us)

Re: **Freehold Raceway Mall (V# 041-18)**
Round One – Bowling & Amusement
3710 Route 9; Block 69.01, Lot 18.07
Freehold Township, Monmouth County
SA Project No. 19532

Dear Mr. White:

At the request of Freehold Township, a traffic review was performed for the above referenced application. The materials submitted for review include:

1. Cover Letter with Corresponding Application Documents including Operations Statement, Operations Statement, and Mall SF Certification for Freehold Raceway Mall (MS Portfolio, LLC c/o Macerich Co.) Round 1 – Bowling and Amusement; prepared by Sonnenblick, Parker & Selvers dated October 25, 2019.
2. Building Renderings/Exterior Elevations for Round One at Freehold Raceway Mall; prepared by Macerich; dated October 4, 2019.
3. Architectural Exterior Renderings and Floor Plans for Round 1 Entertainment - Freehold Raceway Mall; prepared by Paradigm Design; dated September 5, 2019.
4. Zoning Notice of Denial for Round One Entertainment, Inc.; prepared by Pasquale Popolizio, Director of Zoning & Housing Enforcement of Freehold Township; dated October 11, 2018.
5. Trip Generation Assessment for Freehold Raceway Mall – Round 1; prepared by Stantec Consulting Services, Inc.; dated October 19, 2018

The Applicant seeks Use Interpretation for the proposed conversion of retail space within the Freehold Raceway Mall to a Round One Entertainment facility. The proposal is to convert 66,030 square feet (sf) of shopping center space for use as a Bowling and Amusement facility. Round One Entertainment includes various gaming, sport, and party related activities as well and food and beverage sales. Freehold Raceway Mall is located at 3710 Route 9 on Block 69.01, Lot 18.07 and is in the Regional Mall Zone 2 (RMZ-2). The Round One Entertainment facility will re-occupy the south anchor store of the Freehold Raceway Mall formerly a Sears store. Freehold Raceway Mall has existing access driveways along Route 9,



Route 33 and West Main Street (CR 537). These driveways connect with internal circulation aisles for access to parking and to the various shopping center buildings.

Based on review of the plans and documents provided, the following traffic comments are offered:

Access:

No changes are proposed for access driveways to the Freehold Raceway Mall.

No access related comments.

Circulation:

Vehicular circulation within the Freehold Raceway Mall and for access to parking will remain as configured. Pedestrian access improvements are proposed for three (3) entrances on the east, west and south sides of the 66,030 sf building. Specific site improvements are not provided at this time. Additional comments will be offered upon review of site plan improvements should the application proceed beyond the use interpretation.

- 1. Proposed improvements to the building entrances shall include ADA compliant amenities.***
- 2. Entrances shall be provided with traffic devices such as bollards, planters, landscaping or other traffic control measures to prevent vehicle intrusion into gathering areas near building entrances.***
- 3. Emergency access to the building shall comply with Freehold Fire Department requirements.***
- 4. Fire lanes shall be maintained as previously established. New pavement markings and/or signs may be required by the Freehold Township Fire Department to ensure future compliance.***

Parking & Loading:

The proposal is to convert 66,030 sf retail space (former Sears store) into a Round One Entertainment facility. Based on information provided there will be no net change in the occupiable square feet of the Mall. Parking and Loading for the building will remain as currently configured for the Mall.

- 1. Parking calculations shall be provided for the site plan application should the application proceed beyond use interpretation. Parking calculations shall indicate existing parking in the vicinity of the site and parking requirements for other Freehold Raceway Mall tenants sharing those parking areas. Additionally, the parking calculations shall include a parking demand for the proposed Round One Entertainment based on the facility, staffing, maximum expected patron use at a given time, etc. Surplus or deficit parking within the vicinity of the proposed Round One Entertainment shall be noted.***



- 2. The Applicant shall provide information regarding maximum staffing and maximum patron occupancy. Based on the operations information maximum shift overlap could have 27 employees at the facility and up to five (5) security guards for a total of 32 staff. The Applicant shall confirm maximum staffing. Patron occupancy would depend on full use of the facility such as multiple parties or some equivalent special event.**
- 3. Adequate number of handicap parking spaces shall be provided for the Round One Entertainment facility. Handicap parking spaces shall be ADA compliant. Handicap parking spaces for the Round One Entertainment facility shall be located adjacent to either of the facility's three (3) entrances.**
- 4. Loading docks exist for the building. The Applicant shall provide information regarding the type and frequency of delivery trucks to supply the Round One Entertainment facility.**

Traffic Report:

A brief Trip Generation Assessment was provided for the proposed Round One Entertainment facility. The report indicates that the Sears retail space and the Round One Entertainment are both consistent with the Institute of Transportation Engineers (ITE) Land Use Code 820: Shopping Center. As such the conversion from Sears store to the Round One Entertainment would result in similar trip generation intensity with no changes to building size, thus a full traffic impact study would not be necessary.

Based on ITE data provided for shopping centers, the proposed Round One Entertainment is most similar to uses found in shopping centers from which traffic data was obtained. Therefore, since the size of the building will not change and thus trip generation will remain similar, a waiver can be granted from providing a full traffic impact report.

Additionally, should the application proceed to Site Plan, the Applicant shall obtain all required approvals including, NJDOT, Monmouth County, Freehold Fire Department and any other outside agency approvals.

Sincerely,
Shropshire Associates LLC


A Andrew Feranda, PE, PTOE, CME
Traffic Consultant
AAF/jab

TOWNSHIP OF FREEHOLD



MAYOR
Barbara J. McMorrow
TOWNSHIP COMMITTEE
Lester A. Preston, Jr., Deputy Mayor
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"Preserving and Enhancing the Quality of Life"

TO: The Freehold Township Planning & Zoning Board

FROM: Margaret B. Jahn, Health Officer

DATE: December 30, 2019

SUBJECT: Freehold Raceway Mall
Round One – Bowling & Amusement
MS Portfolio, LLC c/o Macerich Co.
3710 Route 9, Unit 1100
Block: 60.01 Lot: 18.07
Variance #041-18

We have reviewed the information regarding the Appeal, Interpretation and Variance application for the above referenced plan. The Board of Health has no issues to the proposed variance and will defer public health related comments for the site plan approval.

RECEIVED
DEC 30 2019

FREEHOLD TOWNSHIP
PLANNING BOARD