



March 3, 2020

Borough of Atlantic Highlands
Planning Board
100 First Avenue
Atlantic Highlands, NJ 07716

Attn: Christine Burke – Planning Board Secretary

Re: Urban Mane (PB20-02)
Use Variance Application – Review #1
Location: 44-48 First Avenue
Zone: HBD (Historic Business District) / R-1 (Residential)
Block 97, Lot 17
Atlantic Highlands Borough, Monmouth County, NJ
Our File: HAHP0097.05

Dear Board Members:

Our office received the following information in support of the above-referenced application for Preliminary & Final Site Plan, Use and Bulk Variance Approval:

- Survey entitled "Foundation Location Survey for Luxury Rentals, Inc.; Lot 17 Block 97; Boro of Atlantic Highlands, Monmouth County, NJ", prepared by Richard E. Stockton, PLS, dated September 27, 2018;
- Architectural plans entitled "New Fit-Out at: 44 First Ave, Block 97, Lot 17, Atlantic Highlands, Monmouth County, New Jersey", (1 sheet) prepared by Michael Melillo, AIA, dated January 3, 2020, last revised January 21, 2020;
- Zoning Officers denial prepared by Michele Clark, dated January 22, 2020;
- Waiver of site plan requirement request prepared by Urban Mane, LLC, dated January 27, 2020;
- Application for Variance; and,
- Development Plan checklist.

In accordance with your authorization, we have reviewed this application for Use Variance for completeness and offer the following comments:

1. Property Description

The subject property is a through lot located on the eastern side of First Avenue between E Mount Avenue and Ocean Boulevard. The property is approximately 8,675 SF and is split zoned within both the Historic Business District (HBD) Zone and Residential (R-1) Zone. It provides 65 feet of roadway frontage along the eastern side of First Avenue and 25 feet along the western side of Second Avenue. The Applicant is proposing to renovate the interior of the existing building to facilitate use as a Hair Salon; however, personal service is not a permitted use in the HBD zone or R-1 zone. No external improvements are proposed.



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The property in question was previously developed under Application PB 15-07 Luxury Rentals, Inc. Per the associated Resolution granting amended preliminary and final site plan approval with variances, dated January 14, 2016, approval was granted to construct a four-story mixed-use commercial/residential building with three (3) commercial units on the first floor, and thirteen (13) single family apartments on the three upper floors. Variances were granted for: use, as mixed-use is conditionally permitted within the HBD zone and not permitted within the R-1 zone; building height, as up to three stories are permitted; and existing non-conformities for lot frontage and width were continued.

The current application requests use variance as personal service is not expressly permitted within the HBD or R-1 zones.

The applicant requested a waiver of site plan requirements within his letter dated January 22, 2020 as no exterior work is proposed.

2. Surrounding Uses

Surrounding properties to the north, west, and south are similarly zoned HBD and contain a mix of residential, commercial, mixed use commercial/residential, and public uses. Surrounding properties to the east are zone R-1 single family residential use.

3. Zoning Compliance

The subject property is split-zoned as it exists within both the HBD and R-1 Zone Districts, with the existing structure located entirely within the HBD zone. Rear seating area, trash enclosure, and parking spaces are located within the R-1 zone. The proposed use of personal service is a not a permitted use in either the HBD or R-1 Zone District.

Based on the submission it appears that use variance relief is required for the proposed use of personal service, which is not permitted in the zone.

4. The Application requires variance relief from the following ordinance sections.

- a) **Section 150-29(A)(3)(Exhibit 5-4)** – The Applicant proposes a personal service use on the subject property, whereas a personal service use is not expressly permitted within the HBD or R-1 zone districts. This deviation requires use variance approval in accordance with N.J.S.A. 55:70d(1).

5. The Applicant should be prepared to discuss the following issues with the Board:

- a) The Applicant should provide current site photos of the property and adjacent uses.
- b) The Applicant shall provide the land use history of the site including, but not limited to: any prior board approval(s), continuing existing permitted uses, and certificate of occupancy for each existing use. The Applicant should demonstrate continued compliance with prior approvals.



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- c) The Applicant should confirm the proposed space to be occupied on the previously approved architectural plan, dated March 15, 2017, last revised August 18, 2017. It appears that the Applicant intends to occupy the area shown as Proposed Mercantile #2 and adjacent Storage #1.
- d) The Applicant shall confirm ingress and egress for the proposed personal service use.
- e) The Applicant shall provide testimony on the internal building circulation for the proposed personal service use.
- f) Testimony shall be provided regarding any proposed refuse and recycling storage areas and associated collection procedures for the proposed personal service use.
- g) The Applicant shall provide testimony in support of the required off-street parking requirement for the proposed personal service use per Ordinance Section 150-89 Exhibit 9-2. Specifically, the applicant shall compare the parking demand of all the existing/previously approved use(s) of the site to the proposed use(s). We note the proposed personal service use has the same parking requirement as the existing retail use (1 space per 200 ft gross floor area), however the operations of the proposed use (number of staff, duration of customer visits, hours of operation, etc.) should be clarified.

The January 2016 site plan approval included a parking requirement of 51 total spaces. Two spaces are provided onsite and the remaining 49 parking spaces required were satisfied within a public parking lot located less than 600 feet from the subject property. Subsequently, Chapter 150-89 was amended to limit the use of the public lot to satisfy any parking requirement to 300' to the geometric center of the parking lot and prohibited the public lot from being used to satisfy residential parking requirements.

It is further noted that Section 150-19.F requires contribution be made to the Borough's Parking Fund for applications proposing developments with a parking deficiency limited to developments increasing the ground floor area ratio of an existing structure and for all new or restored residential units in the HBD and CBD zones.

- h) The Applicant shall also clarify if this Application will include any proposed signage, lighting or any exterior modification to the building or site.
- i) A statement of consent from the owner is required in support of filing the application as it appears the applicant would be a tenant within the multi-use building.



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Based upon the above, our office recommends that the application be deemed **CONDITIONALLY COMPLETE**, conditioned upon the Board's approval of the submission waivers and submission requirements outlined above. The Applicant can be scheduled for the next available public hearing.

6. Based upon our review of the subject application, we estimate that the following fees are required:

<u>Ordinance Section</u>	<u>Description</u>	<u>Application Fee</u>	<u>Escrow Fee</u>
168-2H(3)	Site Plan Waiver	\$150.00	\$150.00
168-2H(4)	Use variance (NJSA 40:55D-70d)	\$250.00	\$1,000.00 (min)
Total:		\$400.00	\$1,150.00 (min)

We recommend the Borough collect \$400.00 in nonrefundable application fees and \$1,150.00 in professional services escrow fees from the Applicant prior to deeming the application complete.

7. As the proposed personal service use is not a permitted principle use within the HBD or R-1 zone district, the Applicant must seek a "Special Reasons" to amend the previously granted Use Variance pursuant to N.J.S.A. 40:55D-70d(1). The Applicant shall provide testimony demonstrating compliance with the Medici case consistent with the following:

a) Positive Criteria

- i. That the site is particularly suited to the use.
- ii. There are special reasons that allow a departure from the zoning regulations in this particular case. In general, to show special reasons, the grant of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (N.J.S.A 40:55D-2)

b) Negative Criteria

- i. That the variance can be granted without 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 constitute a substantial detriment to the public good.
- ii. That the variance will not substantially impair the intent and purpose of the Zoning Plan and Municipal Ordinance.

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

Should you have any questions with regard to the above matter, please do not hesitate to call.



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Very truly yours,

CME Associates

Douglas Rohmeyer, PE, CME, CFM
Planning Board Engineer

DMR/DEP

cc: Adam Hubeny - Borough Administrator
Michael B. Steib, Esq. - Board Attorney
Michelle Clark - Zoning Officer
Michael Valeriani - Applicant