

RIDER TO THE APPLICATION FOR LAND USE ACTION

Item 3. Disclosure Statement

Pursuant to N.J.S.A. 40:55D-48.1 the names and addresses of all persons owning 10% or more of the stock in a corporation or 10% or more of the interest in any partnership must be disclosed by the applicant. In accordance with N.J.S.A. 40:55D-48.2, that disclosure requirement applies to any corporation or partnership which owns 10% or of the interest.

PB Nutclif Master, LLC, the Applicant, is entirely owned by PB Nutclif I, LLC.

Baupost Private Investments C-3, L.L.C. owns 19.10% interest in PB Nutclif I, LLC.

Baupost Private Investments C-3, L.L.C. is entirely owned by Baupost Limited Partnership 1983 C-1.

There are no individuals or entities who own 10% or more of the interest in Baupost Limited Partnership 1983 C-1.

Baupost Private Investments BVIV-3, L.L.C. owns 36.71% interest in PB Nutclif I, LLC.

Baupost Private Investments BVIV-3, L.L.C. is entirely owned by Baupost Value Partners, L.P.-IV.

There are no individuals or entities who own 10% or more of the interest in Baupost Value Partners, L.P.-IV.

Item 12. Variance Information

In the event that the Zoning Board of Adjustment deems it necessary pursuant to its interpretation of the Code of the Township of Nutley pursuant to N.J.S.A. 40:55D-70.b., Applicant is seeking a (d)(1) use variance from Section 700-21 to permit a private roadway (Road D) on a separate “lot,” and final site plan approval for Road D, Road H, and 150 Metro Boulevard.

Applicant is seeking such additional or other variances, deviations, exceptions, approvals, permits, waivers, or relief from or pursuant to the Code of the Township of Nutley, the Nutley Phase 2A Redevelopment Plan, and the Nutley Hoffman-LaRoche Phase 3 Redevelopment Plan Roadways + Circulation as may be determined to be necessary, including waivers of design standards and/or submission requirements and/or deviations as the Board may deem necessary to develop the Premises in the manner indicated in the application, plans, and materials.

Item 14. The nature of the application

Applicant is seeking an interpretation of the Code of the Township of Nutley pursuant to N.J.S.A. 40:55D-70.b. to confirm that Road D is permitted as proposed and no (d) variance is required to grant final site plan approval to Road D, notwithstanding that Road D was subdivided from Lot 1.01, as it is part of the same lot as the adjacent uses as the term “lot” is defined by

Section 700-3.B. of the Code of the Township of Nutley and N.J.S.A. 40:55D-4 of the *Municipal Land Use Law*.

The Planning Board previously granted preliminary and final major subdivision approval and preliminary site plan approval on September 5, 2018, as memorialized by resolution dated September 19, 2018. The Planning Board then granted amended preliminary site plan approval approving Roads D and H on August 14, 2019 and adopted a resolution on that same date. The subdivision of Block 201, Lot 1, was perfected on December 18, 2019. The Planning Board then granted amended preliminary site plan approval for 100, 150, and 200 Metro Boulevard and Roads D and H to phase the project, and granted final site plan approval for 100 Metro Boulevard, on February 5, 2020, as memorialized by resolution dated March 11, 2020.

Road D was approved as an accessory use to the principal uses on Block 201, Lot 1. The definition of “accessory building or use” in Section 700-3 of the Code of the Township of Nutley is: “A building or use clearly incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.”

The definitions of “lot” in Section 700-3 of the Code of the Township of Nutley and N.J.S.A. 40:55D-4 make it clear that the word “lot”– including when used in the definition of “accessory building or use” in the Code of the Township of Nutley – is not limited to the tax lot on which the accessory use is located. The definition of “lot” in Section 700-3 is: “A parcel of land having frontage on a street and occupied or capable of being occupied by a building or buildings, together with the open spaces appurtenant to such building or buildings. Except for subdivisions approved after January 1, 1979, or those lots or parcels which conform to the Nutley Schedule of Regulations as to Bulk, Height and Other Requirements, all parcels that are situate in the same residential zone and are contiguous, in common ownership and containing only one principal conforming use shall be considered as merged into one lot for the purposes of this chapter, notwithstanding anything to the contrary on the Tax Map or elsewhere.” The definition of “lot” in N.J.S.A. 40:55D-4 is: “a designated parcel, tract **or area of land** established by a plat or otherwise, as permitted by law and to be used, **developed or built upon as a unit.**” (Emphasis added.)

Further, at the time of the application to the Planning Board, private roadways were a permitted use under the Nutley Hoffman-LaRoche Phase 3 Redevelopment Plan Roadways + Circulation and Road D was identified as a permitted use, an access road, under that plan. Access roads in that Plan are specifically designated to serve buildings and uses in the Phase 2A Redevelopment Plan.

In the event that the Zoning Board of Adjustment deems it necessary pursuant to its interpretation of the Code of the Township of Nutley pursuant to N.J.S.A. 40:55D-70.b., Applicant is seeking a (d)(1) use variance from Section 700-21 to permit a private roadway (Road D) on a separate “lot,” and final site plan approval for (i) the 7-level parking garage, 23 at-grade parking spaces, and courtyard that will serve the existing buildings known as 100 Metro Boulevard and 200 Metro Boulevard; (ii) property located at 150 Metro Boulevard; and (iii) Roads D and H.

Applicant is also seeking Final Site Plan approval with regard to the 7-level parking

garage, 23 at-grade parking spaces, and courtyard that will serve the existing buildings known as 100 Metro Boulevard (previously known as Building 1 in the Hoffman-LaRoche (“HLR”) Campus) and 200 Metro Boulevard (previously known as Building 76 in the HLR Campus), for property located at 150 Metro Boulevard, Nutley, New Jersey 07110 and designated on the Nutley Tax Maps as Block 201, Lots 1 (western portion) and 1.01, as well as Final Site Plan approval with regard to the private roadways known as Road D and Road H.

Item 24. List of Maps, Reports, and Other Materials

This application includes the following documents:

1. Twenty-four (24) copies of the completed Application for Land Use Action with Rider annexed.
2. Twenty-four (24) copies of the completed Zoning Board of Adjustment Application Form with Rider Annexed.
3. Twenty-four (24) copies of Site Plan application checklist.
4. Twenty-four (24) copies of the waiver request.
5. One (1) copy of the Declaration of Reciprocal Easements, Covenants, Conditions and Restrictions which covers the properties.
6. Twenty-four (24) copies of the proof of taxes for the properties for the third quarter of 2021.
7. Twenty-four (24) copies of the plan entitled “*As Built Survey – 100/200 Parking Garage & Surrounding Areas – Township of Nutley, Essex County – City of Clifton, Passaic County – New Jersey,*” prepared by MountainView Layout, dated July 13, 2021.
8. Twenty-four (24) copies of the plan entitled “*Phasing Plan – 100 and 200 Metro and 111 Ideation Way – Nutley – New Jersey,*” prepared by GreenbergFarrow, dated January 30, 2020.
9. One (1) Digital Copy of all enclosures listed above.