



Planner Report #1

To: Mendham Borough Joint Land Use Board

From: Jessica Caldwell Dykstra, PP, AICP, LEED-GA
Joint Land Use Board Planner

Subject: V-Fee Mendham Apartments, LLC
Request for Interpretation of Use
Block 801, Lot 20
84-90 East Main Street
Borough of Mendham, Morris County, New Jersey

Date: May 5, 2023

JLUB #: 23-22

Introduction

1. This report will review and provide the Board guidance with respect to the requested interpretation of the proposed automobile sales / service use with premium parking and the cell tower conditional use variance set forth in JLUB #23-22 and submitted by V-Fee Mendham Apartments, LLC. The subject property is located in the EB-AH, East Business Zone – Affordable Housing Zone.

Documents Reviewed

- Request for Interpretation Report, prepared by John P. Inglesino, and dated April 13, 2023.
- Planning Report for 84-88 East Main Street, prepared by Philip Abramson, AICP/PP and Golda Speyer, AICP/PP of Topology, dated November 10, 2022, and Revised March 8, 2023.
- Twenty-Eight (28) sheets of site plans entitled "Preliminary and Final Site Plan for V-Fee Mendham Apartments, LLC Proposed Multi-Family Residential Development Block 801, Lot 20 84-90 East Main Street Borough of Mendham Morris County, New Jersey" prepared by Stonefield Engineering & Design dated October 20, 2022





- Eleven (11) sheets of architectural plans entitled "Preliminary & Final Site Plan 84-90 East Main Street Borough of Mendham, Morris County, New Jersey V-Fee Mendham Apartments, LLC Proposed Multi-Family Residential Development Block 801; Lot 20" Prepared by Marchetto, Higgins, Stieve Architects and dated October 24, 2022.
- Copy of application, checklist and additional supporting documents.

Existing Conditions

The Site

2. Below is a description of the subject property:

(a) 13.27 Acres (577,865 square feet)

(b) The site is currently developed with a functioning retail shopping center with a supermarket anchor, tennis club which appears to be closed, and a wireless telecommunications tower.

(c) Four (4) one story buildings which contain 133,666 square feet of retail space.

- Kings Supermarket
 - One-story masonry constructed Building
 - 27,504 square feet
 - Center of the site with the frontage facing East Main Street
- Two strip mall retail buildings
 - Frame-constructed 1-story buildings
 - 24,440 square feet & 28,528 square feet
 - Multiple tenants with buildings facing each other towards the center of the site.
- Tennis Club
 - Frame and metal constructed building
 - 53,914 square feet
 - Back portion of the property on the north side
 - In-ground pool and play areas on the back of the site
- Wireless Telecommunications Facility/Tower



Zoning

- The subject property is located within the **EB-AH, East Business Zone – Affordable Housing Zone**

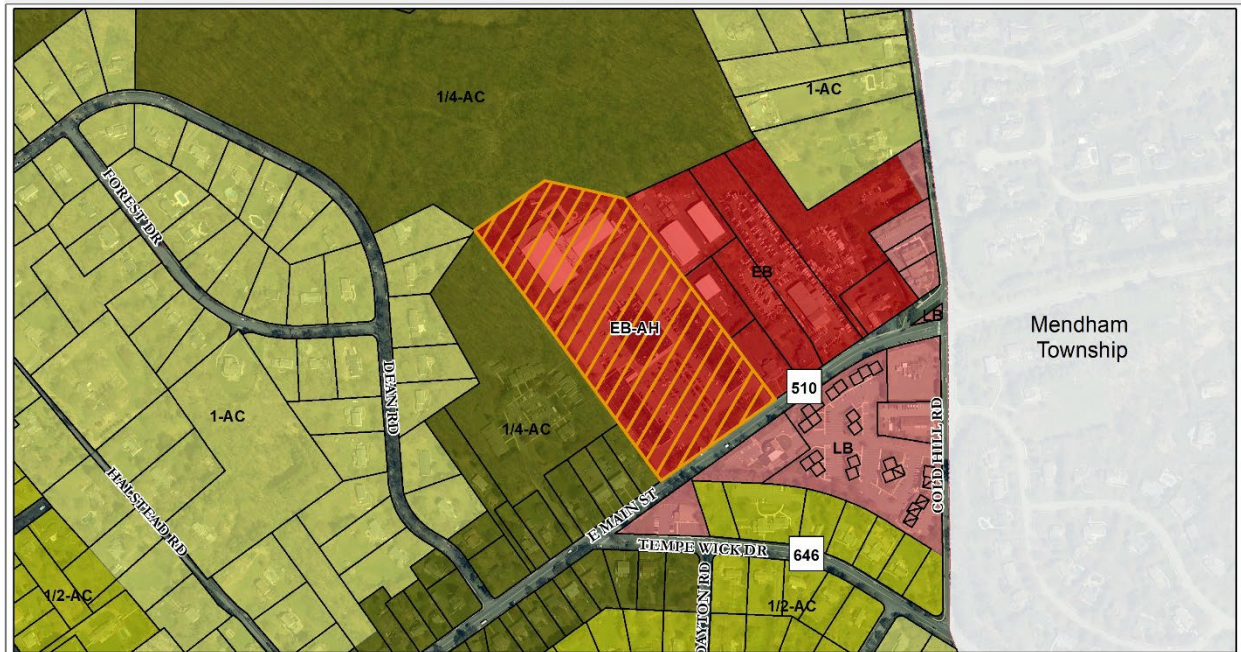
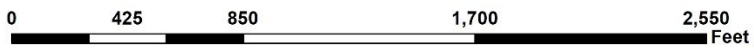


Figure 2 : Zoning Map

Legend

- V-Fee Mendham Apartments
- Parcels
- Municipal Boundaries
- EB-AH, East Business Affordable Housing
- EB, East Business
- LB, Limited Business
- 1-AC, 1 Acre Residential
- 1/2-AC, 1/2 Acre Residential
- 1/4-AC, 1/4 Acre Residential



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Neighborhood Context

- The subject property is located in the northeastern section of Mendham Borough and is within 800 feet of Mendham Township. The property is located at the western edge of a commercial and retail services section of the municipality with a mix of office and retail that spans east to the border with Mendham Township. There are also commercial uses to the southeast of the property along East Main Street and on Tempe Wick Drive, although the uses transition into single family homes going easterly along Tempe Wick Drive. There is a post office on the corner of East Main Street and Tempe Wick Drive. To the south and west of the site are primarily single-family homes although the property directly to the southwest of the property is a 40-unit senior housing community managed by the Mendham Area Senior Housing Corporation. To the north and west of the site are wetlands and forest preserved as part of Mountain Valley Park.

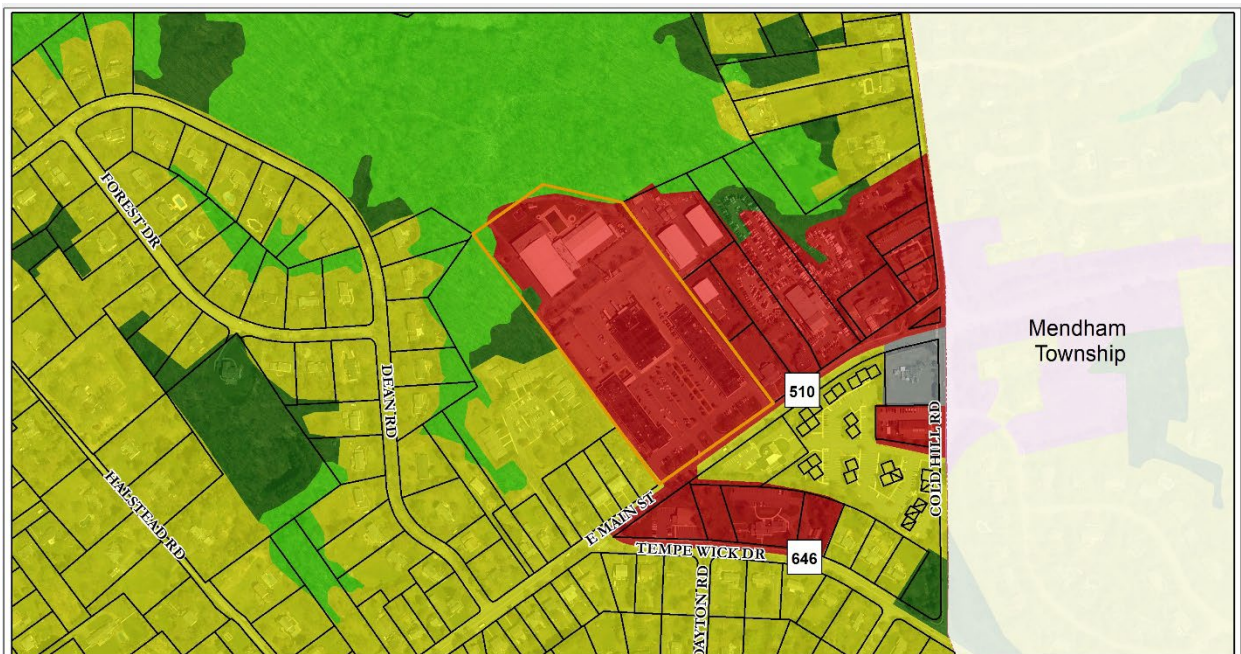


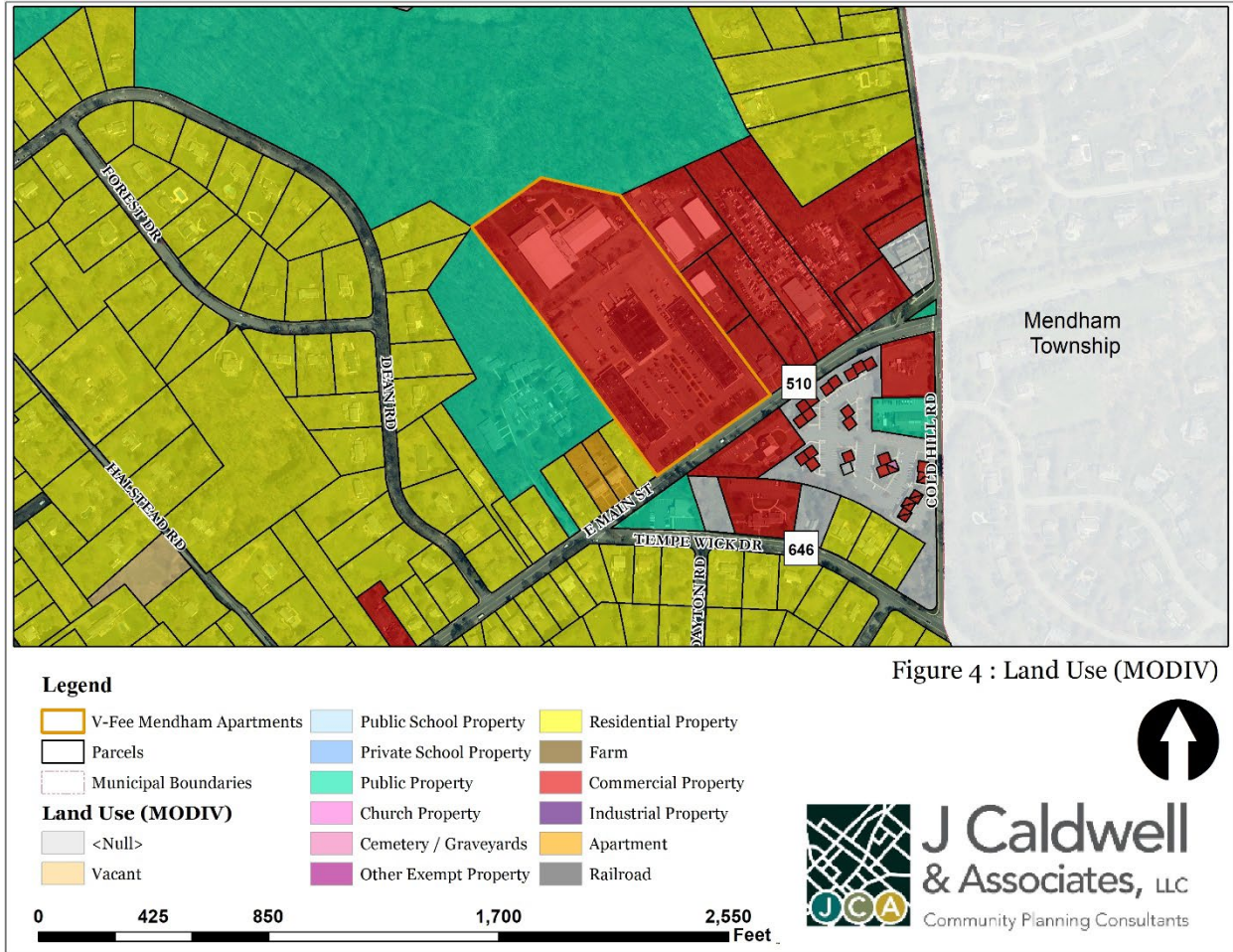
Figure 3 : Land Use / Land Cover (NJDEP 2015)

Legend		
V-Fee Mendham Apartments	Commercial/Services	Water
Parcels	Recreational	Wetlands
Municipal Boundaries	Other Urban or Built-Up	Forest
Land Use / Land Cover (2015)		
Residential	Industrial	Barren Land
	Agricultural	Utilities

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MOD IV Tax DATA – Land Uses





Proposed Project & Interpretation

5. The Applicant proposes to demolish the existing tennis center with all improvements including the inground pool, gravel play area and shed and construct a mixed use site consisting of an **automobile service sales and service business** and a four (4) story (over parking), seventy five (75) unit multifamily residential building which will contain a 20-percent set aside for affordable housing, associated site improvements such as a parking garage, surface parking, a recreation facility including an outdoor swimming pool, landscaping, utilities, site lighting and stormwater management facilities.
6. Following a completeness hearing scheduled on March 21, 2023, the Board found the initial development application incomplete due to two (2) identified use variances pursuant to N.J.S.A. 40:55D-70d(1) and d(3) that the Applicant had not applied for.

The first identified use variance was a d(1) use variance related to the proposed automobile service sales and service business that in the original submitted application included "climate-controlled automobile storage" available to the general public. The Board made the determination that this use was not a permitted principal or accessory use in the zone and that a use variance pursuant N.J.S.A. 40:55D-70d(1) was required. Further, the Board made a determination that the proposal to locate a residential structure adjacent to an existing cell tower on the site, which is the same site as the proposed application, creates a variance pursuant to N.J.S.A. 40:55D-70d(3) because it violates at least one of the conditions of the conditional use approval for the cell tower. The Board determined that the application was incomplete until it was amended to include the variances listed above. Subsequently, the Applicant submitted an interpretation along with an amended Planner's Report to ask the Board to interpret its ordinance to determine if the two "d" variances are still required.

7. In the revised Topology Planning Report dated on March 8, 2023, the proposed uses in the Barn Structure are amended to include an automobile sales and service operation and accessory parking for the proposed multifamily structure including:
 - A. A parking facility and showroom. The parking spaces are proposed to be utilized by both the automobile services use and as accessory parking for the multifamily structure. They are proposed to be separated by a partition wall.
 - B. The proposed automobile sales and services use is proposed to be limited to uses permitted within the scope of the ordinance definition.
 - C. The proposed indoor tenant parking is proposed as only an accessory use to the permitted apartments proposed.
 - D. Based on the representations in the revised Topology Planning Report dated March 8, 2023, the proposed uses listed above are generally



permitted in the zone. The Board may have comments on the proposals for shifting between uses with the accessory parking and the car sales, however overall, I believe the application can move forward without a use variance for the car sales and accessory parking. Because the revised Topology Planning Report is new, and if the Board agrees, the Applicant must amend their application to include the uses as listed in the current Topology Planning Report as shown below:

The Car barn is proposed to contain both an automobile sales operation (as further defined below) and a variety of uses accessory to the proposed multifamily structure. The Car Barn will have the following physical and operational characteristics:

- *Applicant proposes an open-span, high-bay structure, like a barn or stable, with a footprint of approximately 20,700 SF (inclusive of the covered drop-off area).*
- *Much of the Car barn will be utilized as a parking facility and showroom. All parking spaces will be capable of accommodating a hydraulic lift, which will allow each space to accommodate two vehicles in height. This indoor parking area will be used as auto sales showroom and will also provide “premium” accessory parking for multifamily residential tenants. These two uses will be physically divided by a movable partition wall.*
- *At the outset of operations, interior parking spaces will be divided equally between premium parking and auto sales – each occupying 20 surface spaces. Applicant reserves the right to expand the area dedicated to accessory parking up to 100% of interior spaces, if required to accommodate resident demand.*
- **No third-party vehicle storage will be provided on-site.**

Areas dedicated to automotive sales include:

- *Ground floor management office and meeting space.*
- *20-40 indoor spaces will be dedicated for showroom use at outset of operation. This number may be reduced to accommodate additional accessory parking for multifamily use. Each space may contain a hydraulic lift to double capacity of 20 proposed “floor spaces.”*
- *2 external-parking spaces will be dedicated to employees.*

Areas dedicated for multifamily accessory uses include:

- *20-40 indoor parking spaces will be dedicated for premium tenant parking (climate controlled) at outset of operation, although number of spaces may be increased to accommodate tenant demand. Each space may contain a hydraulic lift to double capacity of spaces.*



- *First floor: Tenant bicycle parking.*
 - *Second floor: Second storage area for multifamily tenants measuring approximately 11,450 SF.*
8. Under the conditional use variance determination for the cell tower on the site, I would note that the cell tower is located on the Applicant's property. The subject property contains within a single undivided lot, Lot 20, Block 801, the shopping center, a tennis/fitness club and a telecommunications tower. The tower was approved in 2017 as a conditional use, based in part on its compliance with a 250-foot setback from the nearest residential dwellings, as required by Ordinance §215-12.6B(7) and (8). The Applicant is now proposing to add to Lot 20 a 75-unit residential building that will replace the tennis/fitness club, and stand within 250 feet of the cell tower.
9. The property owner is proposing to materially change the conditions under which the cell tower approval was granted without seeking to address any of the potential concerns with respect to the conditional use criteria. While the site was zoned for the use, it is incumbent on the Applicant to address the various uses on the property and determine if they will continue to be proposed adjacent to one another in compliance with the ordinance.
10. Because the Applicant has not chosen to remove or relocate the cell tower, it is incumbent on the Board to revisit the conditional use approval to determine if the basis for its prior approval has been significantly altered. I agree with the Board Attorney's review of the requirement to review the d(3) conditional use criteria and compatibility of the two proposed uses together on the same lot.

Very truly yours,

Jessica C. Caldwell Dykstra, P.P., A.I.C.P., L.E.E.D. – G.A.
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