

FORT LEE PLANNING BOARD
JANUARY 25, 2021

PRESENT: M. Marshall, R. Ferris, B. Suh, M. Sargenti, N. Forshner, R. Kative, H. Greenberg, J. Cooney.

ABSENT: A. Pohan, M. Kaplan.

ALSO PRESENT: Glenn Kienz, Esq., Board Attorney; Michael Jovishoff of Phillips Preiss Grygiel Leheny Hughes LLC; M.Tiberi of Boswell Engineering, B. Intindola of Neglia Engineering.

The meeting was held remotely, by means of communication equipment. The foregoing Electronic Public Meeting is recommended due to the current situation involving COVID-19 Virus and directives of State and County governments. The meeting was conducted using the Zoom operating system.

NOTICE OF MEETING:

Vice Chairwoman Cooney stated: Let the minutes reflect that adequate notice of this meeting has been provided in the following manner: On December 14, 2020 this Body, by Resolution, adopted a Schedule of Regular Public Meetings for 2021. The time, date, and location of said schedule was posted on the Bulletin Board at 309 Main Street. A copy of said schedule was mailed to the RECORD, JERSEY JOURNAL, STAR LEDGER, SPECTRUM, posted on the Borough's Website and was filed with the Borough Clerk. A written notice of the time, place and proposed Agenda was posted on the Bulletin Board at 309 Main Street and mailed to the RECORD, JERSEY JOURNAL, STAR LEDGER, SPECTRUM, posted on the Borough's Website and was filed with the Borough Clerk. Copies have been mailed to all persons who have prepaid the \$35.00 fee fixed for the year 2021 to cover the cost of mailing.

APPROVAL OF MINUTES – JANUARY 11, 2021:

A motion was made by Chairman Greenberg, seconded by Mr. Ferris, and passed on a vote of 7 to 0 by members Marshall, Ferris, Suh, Sargenti, Kative, Greenberg and Cooney, to approve the minutes for the meeting of January 11, 2021. Mr. Forshner abstained from the vote.

PUBLIC HEARINGS:

DOCKET #4-20 DEV'S FOODS 2, LLC
FORT LEE BURGER KING
811 PALISADE AVENUE
BLOCK 552, LOT 1
MINOR SITE PLAN – DRIVE-THRU & SIGNAGE
(continued from the Public Hearing of December 28, 2020)

Vice Chairwoman Cooney stated: I would like to start with the Board's professionals this meeting to find out if the plans submitted are acceptable and if the applicant adhered to the requests that were made.

Mr. Jovishoff stated: We have worked with the applicant though out this whole process to help them create this drive thru despite the site. They addressed most of what we asked of them except for the most critical part which is the pull up space. There were a number of proposals submitted. The applicant last submitted a revision of the site plan through email to have the pull up space at the west end which requires the driver to

FORT LEE PLANNING BOARD

January 25, 2021

Page 2

pull out and around to the space. As a planner, I don't find that this is an acceptable option. We think this plan can be made to work under optimal conditions. If there is a problem or issue, I'm not quite sure. This is just my opinion.

Mr. Intindola stated: As Michael Jovishoff introduced, this is an awkward site and needs to be optimal to work. This is a left-handed site with a right-handed use. We need to square off this errant order area. Right now, it is almost a curve. If it is squared off, there would be a five-foot sidewalk that way the car cannot go into the area. We could stripe off this area and if the server asks you to move into this spot then you are out of the way which is all we are looking for. The benefit of this location is that it is a neighborhood location and not a highway. If someone gets it wrong after once or twice, they won't make the error again. It will be awkward for two to five months but then it will work. There will be a period of assimilation.

Ms. Tiberi stated: I would like to make four points, three of which are all circulation. First, there is no bypass lane. If you get in line you cannot get out. Second, the errant order space. I agree with Brian's comments. They will come out and turn left instead of looping around and following the traffic pattern. Third, there is a concern for queuing. So much so that it could go into Palisade Avenue. With what they have, there is a lot of room if they follow the traffic pattern but if they just pull forward, they are shortening the queuing. Fourth, the site plan is due to the fixed location. The drive thru aisle is very restrictive. It is inches into the property on Warren and with that there can be no barrier between the drive thru without encroaching on the Borough right of way. The aisle just fits on the property. They need the other property for the barrier.

Ms. Kative stated: The main entrance to this building is now in the front and at the end of the drive thru there is a handicap spot and now a narrow entrance. In my opinion this could be havoc with people and their safety.

Mr. Jovishoff stated: Right now, what they proposed is a curb between the restaurant. They can modify to incorporate that first spot. They need something to separate that bypass area with bollards. I defer to Brian on this. I have a concern a driver may go on the curb to get around.

Ms. Kative stated: This is a facility that attracts kids with parents. We know how a handicap spot works and how people have to use it differently depending on their disability. I think it could be chaos, but I could be wrong.

Vice Chairwoman Cooney stated: I am concerned as to whether or not after all our professionals time, you are taking this seriously.

Mr. Shafkowitz stated: We did our best to get this guidance. They were reluctant to give us this information.

Vice Chairwoman Cooney stated: At the last meeting I believe I spoke about getting rid of the handicap spot.

Mr. Shafkowitz stated: We thought it would be better for them to come out of the drive thru lane and circulate back into the parking lot. To say we are not taking this seriously after all the time and money spent is unfair. We submitted a plan with that spot but couldn't get the feedback we wanted. They wouldn't get back to us. We could easily remove that area. We have been though 76 bollards, landscaping, we are taking responsibility for the maintenance. Everything was put together with this being the only issue.

FORT LEE PLANNING BOARD

January 25, 2021

Page 3

Vice Chairwoman Cooney questioned: If you were willing to do it and told what to do, then why did you not do it?

Mr. Jovishoff stated: I saw the plan they submitted with the separate drive thru back in space. I wrote back with an email explaining what was agreed to. The plan received after, prior to these last plans, did not have it. It was not correct. Despite all that, they came back with this plan that you have before you now. If they think this is better than that is their prerogative.

Mr. Shafkowitz stated: Chet, Joe, if you did not explain, now is the time to explain.

Mr. Staigar was still sworn in from the last meeting.

Mr. Staigar stated: I know there were quiet a few suggestions made by the Board members. There was a suggestion about having a spot to the north of the driveway. I know the Board consultants offered their thoughts. In all honesty, I do not understand what Brian is asking for in reconfiguring the area by the drive thru. There will be people stopping. The ADA requirements for the handicap space are in front. If that's where we put the errant order space, then that goes against the ADA requirements. We think what is being proposed is the best option. If the Board's professionals do not then we are more than willing to take their design.

Mr. Forshner stated: We are going in circles. You have been before the Board three or four times. We say what we want. If they can't do it then they need to come back to us.

Mr. Shafkowitz stated: I think this is an excellent solution. We can have a short phone call with Michael, Marisa and Brian.

Vice Chairwoman Cooney stated: I agree with Mr. Forshner. Here is what is frustrating to me. You met with our professionals to get it all clear. Now we're back right where we were, and it is just frustrating because we are going round and round.

Mr. Shafkowitz stated: We are not here to waist anyone's time. I believe how it has been explained or interpreted is the problem. It is not that it can't be done. The Board has been great, and we want it to be right. We are more than willing to take your experience with the site and the community and get it right for everyone. This was the last issue we couldn't wrap our arms around.

Vice Chairwoman Cooney asked if there was any other testimony being put on.

Mr. Shafkowitz stated no.

Councilman Sargenti questioned how it would work with the errant order space on the left-hand side.

Mr. Intindola explained.

Councilman Sargenti stated: It has to work out perfect for that to happen. Most people are right-handed and it will be hard for them to get in the space enough for someone to get around them. I think it would be better for them to come out, make a left and park in the space in front of the building.

FORT LEE PLANNING BOARD

January 25, 2021

Page 4

Mr. Intindola stated: That would make this aisle a two way.

Councilman Sargenti stated: I just see a lot of problems with squeezing it in here. If you don't think people will shoot across we are kidding ourselves. If you don't think people are going to pull in and go straight, we are kidding ourselves. You have to keep it flowing. They could use the four spaces by the island if we need to. What if the person waiting doesn't move up all the way.

Mr. Intindola stated: This proposal is the same as the last application.

Councilman Sargenti stated: I still think we have to have it flowing. The cars will be able to navigate it fine. You need to keep your eyes moving and give yourself an out. I think it is safest to go to another spot.

Mr. Intindola stated: I would make the front aisle a two-way aisle and you would then pull into spot 7. It won't be frequent that we need use of this spot, but we have to define and force the right turn into the driveway. I do want to clarify; I heard the applicant's attorney state that I was reluctant to share. I was not. I called Mr. Staigar on Monday, but he wasn't feeling well. He took the call.

Vice Chairwoman Cooney questioned: Now I am more confused. Are there any other comments? If we went back and revised plans for this space are there any other issues that need to be addressed?

Mr. Jovishoff stated: That is the only major issue. There are other minor ones.

Ms. Tiberi stated: There is minor additional information needed but I see no issues with those.

Mr. Forshner stated: I am a little concerned with what was just discussed having two-way traffic and cross traffic. I think it will be dangerous. We have to maintain that lane going one way. Making it two ways will be a big problem.

Ms. Kative stated: I agree with Mr. Forshner. It is a family restaurant with a lot of children, and we have to keep their safety in mind.

Mr. Shafkowitz stated: We would like to keep the traffic pattern the way it is and force them to follow it. We don't think we will see these issues often.

Mr. Marshall questioned: The area where they are proposing, can a car pass by or do they have to wait?

Vice Chairwoman Cooney stated: That is what we are talking about now.

Mr. Marshall questioned: So what happens?

Mr. Intindola stated: If they pull over, they can pass. If they pull in then a car can exit. That is the point of the pickup space. So the car won't get stuck. Concept A has the pickup near the drive thru and out of the way. Concept B allows the car back into the site following the traffic patterns. This is up the applicant to advocate either way and let the Board decide.

Mr. Marshall stated: To create two ways makes it dangerous.

FORT LEE PLANNING BOARD

January 25, 2021

Page 5

Mr. Kienz stated: I keep thinking of all of the way's restaurants are now allowing for people to take out with options for people to pick up. You need signs to say five or ten minutes for pickup and then direct them to it. I don't think you all should worry about the stuff you are worrying about.

Mr. Shafkowitz stated: Thank you for that comment. We have marked and designated it on the site plan.

Mr. Kienz stated: Maybe it is in a different location.

Mr. Shafkowitz stated: Maybe it is the four spots by the island. Brian as far as advocating the fourteen-foot-wide sidewalk, there is just a lot going on there in front when trying to implement the change.

Ms. Tiberi stated: The plan we have from the applicant is basically Concept B. The one thing I would add to that is safety. I'd like to see bollards so there is a safety barrier for people walking up to the building.

Vice Chairwoman Cooney questioned: Is it an issue for you to do that?

Mr. Shafkowitz stated: No.

Vice Chairwoman Cooney questioned: Where is the bus stop and how are you protecting that?

Mr. Intindola showed a Plan A exhibit, drawn with striping.

Mr. Intindola stated: When this goes to the county the bus stop will have to be vetted. It is part of the problem.

Mr. Ferris stated: It is right in front, almost to the corner.

Mr. Intindola stated: It is about where the curb changes from old to new.

Mr. Kienz questioned: Do you suspect the county will accept this?

Mr. Intindola stated: We should recommend in the resolution of approval that the county evaluate it so it is evaluated.

Mr. Kienz questioned: If the bus stop is not there where is it?

Mr. Intindola stated: We don't know.

Mr. Jovishoff questioned: Where did that plan come from?

Mr. Intindola stated: Chester drew it up from what I said and sent it over to me. This is the Plan A consideration.

Mr. Di Lorenzo, still sworn from last meeting.

Mr. Di Lorenzo stated: Plan C will bollards.

FORT LEE PLANNING BOARD

January 25, 2021

Page 6

Mr. Kienz stated: We will mark it as **Exhibit Plan C, Scene A** for discussion purposes.

Mr. Forshner stated: People are making comments in the chat and should be notified it is inappropriate. They should not put comments.

Mr. Kienz stated: I did not notice. We will strike them and when it is open to the public, they can state their issues.

Mr. Shafkowitz questioned: Is this the plan that we think will work best?

Mr. Kienz stated: You should submit to the county and carry this so once and for all there are no comments from Fort Lee side. This will give you a chance to see that the county planning board comes up with.

Mr. Kienz questioned: Are you scheduled to go before the county?

Mr. Di Lorenzo stated: Not yet we anticipate February.

Mr. Kienz stated: I don't want to find out you have to redesign the entrance after all of this work. I am not trying to delay you, but we don't know what they are going to do.

Mr. Shafkowitz stated: We all appreciate what you are doing, and we are working hard to get this done but we want to leave with the consensus that this is it.

Vice Chairwoman Cooney asked for any questions from the Board or Professionals.

Vice Chairwoman Cooney asked for questions from the public.

Lee Wasserman, 221 Warren Avenue.

Mr. Wasserman questioned: How high is the curb around the side of the building?

Mr. Di Lorenzo stated: It is six inches high and then the hedges with the bollards in them.

Mr. Wasserman questioned the snow removal being done in such a tight area.

Mr. Di Lorenzo stated: They have a maintenance company.

Mr. Wasserman questioned: They plow from the north to the south side of the lot. How are they going to remove it?

Mr. Di Lorenzo stated: They will have a front loader to pick it up and remove it.

Mr. Wasserman questioned: Is this going to be an issue for us to park?

Mr. Di Lorenzo stated: You would do it how you do it now.

Mr. Wasserman stated: We never had a problem before, and I hope it stays that way.

FORT LEE PLANNING BOARD

January 25, 2021

Page 7

Vice Chairwoman Cooney stated: We all understand the agreement and the applicant will work towards keeping it the same.

Mr. Wasserman questioned: On the Warren Avenue side, we are observing cars. Can we have a barrier to block from lights, exhausts and idling?

Mr. Di Lorenzo stated: There is a four-foot by three-foot hedge proposed as well as the pine tree.

Mr. Wasserman stated: I'd like to not see cars.

Vice Chairwoman Cooney stated: I think we've addressed that in the plans.

Elizabeth Garitta, 219 Warren Avenue.

Ms. Garitta questioned: Who plows Warren Avenue by the Burger King? The strip of sidewalk.

Ms. Kative stated: Sidewalks are a property owner responsibility.

Vice Chairwoman Cooney asked if there were any other questions.

Vice Chairwoman Cooney stated: The applicant should discuss this one more time with our professionals. Submit the plan for final review and get comments.

Mr. Di Lorenzo questioned the need for the employee spots to be marked.

The Board's professionals stated there was not a concern and they did not need to be marked as employee only spots.

Mr. Shafkowitz stated: We will revise the plan to address all the concerns and submit the plans ten days before the next hearing. They will be crystal and clean.

Mr. Jovishoff questioned: You will address the comments on grade and parking calculations as well?

Mr. Shafkowitz stated yes.

Mr. Kienz stated: I think we should carry this to the first meeting in March.

Ms. Kative questioned: Will we know about the bus stop?

Mr. Kienz stated: This will give time for the county to hear it hopefully.

Mr. Wasserman questioned: If they don't reserve employee parking they can't park on the street. There is no room.

Vice Chairwoman Cooney stated: There was no discussion about them parking on Warren Avenue.

Mr. Jovishoff stated: Under the ordinance they only need 26 spots. They have I think 31. They have

FORT LEE PLANNING BOARD

January 25, 2021

Page 7

sufficient parking so there shouldn't be any issue.

Ms. Kative stated: They just removed the designation of employees; not that they wouldn't park in one of the spots.

Mr. Kienz stated: This application will be carried to the meeting of March 8, 2021. No notice is required. You extend time for the Board to act Counselor?

Mr. Shafkowitz stated: Yes.

NEW BUSINESS

Vice Chairwoman Cooney stated: We did take under advisement the letter to the Mayor about the Sign Committee Liaison. It is being revised. The Borough Administrator did reach out to Chris and he spoke with the Chair and expressed our concerns and said he understood but we will proceed with the letter.

Mr. Kienz stated: I did want to put on the record, although the attorney has signed off some of the applicant's professionals are on, a number of the Board members have visited this site and are as familiar with it as they are the back of their hand. I just wanted to put that on the record, so all are aware.

ADJOURNMENT

A motion was made by Councilman Sargenti, seconded by Mr. Forshner, and passed without objection to adjourn this meeting at 9:02 p.m.

Respectfully submitted,

Christen S. Trentacosti

Christen S. Trentacosti

Recording Secretary