

**FORT LEE PLANNING BOARD**  
**MARCH 8, 2021**

PRESENT: A. Pohan, M. Marshall, R. Ferris, B. Suh, N. Forshner, R. Kative, M. Kaplan, J. Cooney.

ABSENT: M. Sargenti, H. Greenberg.

ALSO PRESENT: Glenn Kienz, Esq., Board Attorney; M. 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. On March 1, 2021, an updated notice with the Zoom Information was posted at 309 Main Street and mailed to the RECORD, JERSEY JOURNAL, STAR LEDGER, SPECTRUM, posted on the Borough Web Site and 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 25, 2021:**

A motion was made by Mr. Ferris, seconded by Mr. Marshall, and passed on a vote of 6 to 0 by members Marshall, Ferris, Suh, Forshner, Kative, and Cooney, to approve the minutes for the meeting of January 25, 2021. Mr. Pohan and Mr. Kaplan abstained from the vote.

Mr. Pohan and Mr. Kaplan stated on the record that they certified to watching the January 25, 2021 Zoom recording for PB#4-20 – Dev's Foods 2, LLC – 811 Palisade Avenue. It was stated that affidavits would be signed for the file.

**RESOLUTION AUTHORIZING THE ISSUANCE OF REQUESTS FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES TO THE PLANNING BOARD FOR THE YEAR 2021 FOR CONFLICT ATTORNEY**

Ms. Trentacosti stated that Lee Cohen, Borough Attorney, had retired and Brian Chewcaskie, Esq. had been appointed as the new Borough Attorney. Per the MLUL, he advised he is not able to serve as the Conflict Attorney to the Board.

Mr. Kienz stated that if the administration agrees, and as other towns do, the Planning Board Attorney could serve as conflict to the Zoning Board and vice versa.

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The Board stated they would agree to that. Mr. Forshner motioned, Ms. Kative seconded, with the Board in agreement.

The Board also voted on the issuance of the RFQ if the administration would like to continue that way.

A motion was made by Mr. Marshall, seconded by Mr. Kaplan, and passed on a vote of 8 to 0 by members Pohan, Marshall, Ferris, Suh, Forshner, Kative, Kaplan and Cooney, to approve the Resolution Authorizing the Issuance of Requests for Qualifications for Professional Services to the Planning Board for the Year 2021 for Conflict Attorney.

**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 January 25, 2021)**

Vice Chairwoman Cooney stated: At the end of our last meeting our Borough Attorney suggested that you be heard before the County Planning Board before we proceed incase there are any changes which was why we carried you to this date. Were you able to be heard?

Mr. Di Lorenzo stated: We submitted but were not before them yet. They did submit comments regarding the drainage but that was all.

Vice Chairwoman Cooney questioned: Please send a copy of the letter to Chris for our files. Mr. Shafkowitz, you have no other professionals or comments?

Mr. Shafkowitz stated: Yes, that is correct. The email sent by Mr. Jovishoff on February 9, 2021 was addressed. We resent our plans and received an email saying that we addressed everything. We conclude our presentation and submit all of our exhibits.

Vice Chairwoman Cooney questioned: Do our professionals have comments?

Mr. Jovishoff stated: We have worked with the applicant for many months, and we all agree that this is a difficult site and not terribly suitable for the drive thru, but we believe we created a safe and useable drive thru. They have complied with all of our suggestions.

Ms. Tiberi agreed.

Mr. Intindola stated: This was a collaborative effort. The most recent revision should be stated on the record. From a traffic perspective they made it as least awkward as possible and made it work.

Vice Chairwoman Cooney asked for the recent changes to be presented.

Mr. Di Lorenzo stated: First was the errant order pick up area. We delineated it with stripping to make the

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turn back out easier. It is not curbed, just stripped for pulling in and out. There are safety bollards along the west side next to the errant order area all the way down to the end of the area. The detail of the bollards is shown on the plan. The zoning table was corrected, the parking requirement was changed to reflect the correct number of 25 required and 30 spaces proposed. There are elevations of the new curbing and shows that the drainage will work. We have delineated the concrete areas and showing the concrete form the stripping, so it is clearer. It shows the correct lot coverage of 83.2%. There is a note that all the trees and shrubs in the right of way are to be maintained by the applicant and we will have an arborist make sure all of the trees are healthy and will replace non healthy trees. We also replaced the titles in the plan sheets to match the drawing list. All ADA ramp locations are shown. Everything on the list has been addressed. I also spoke with Marisa today and had changed the signature area to reflect Borough of Fort Lee instead of Township per her request.

Mr. Jovishoff stated: In the event this is approved the County Letter should be submitted.

Mr. Di Lorenzo stated: Okay.

Mr. Kaplan questioned: I am concerned about the drive thru lane itself and it being so narrow. Is a car able to go around now?

Mr. Di Lorenzo stated: No, it is a single lane but still maximized.

Mr. Kaplan questioned: This is my prime outstanding issue that I am zoned in on for the moment. I believe that it will create a hazardous situation. What if there is an emergency on the line? Can we limit the number of cars being queued?

Mr. Di Lorenzo stated: The maximum it can hold is seven by geometry.

Vice Chairwoman Cooney questioned: How high are the shrubs looking at the lane?

Mr. Di Lorenzo stated: They are hedges and are 3 feet high with bollards in them.

Vice Chairwoman Cooney stated: I can address your comment based on years of emergency experience. If something happened on the line, the ambulance would park on Warren and go through the hedges. If it is a physical emergency, it is not a deterrent.

Mr. Kaplan stated: My second issue is motorists being able to escape.

Vice Chairwoman Cooney stated: I don't think you will get an escape route.

Mr. Kaplan stated: I would like to minimize the number of cars that are directed in that area at one time.

Mr. Jovishoff stated: In terms of limiting, I don't know how you could police that and would hesitate to put it in the resolution. In terms of accidents fire related, it is not advisable that people drive out. They would get out of their cars and vacate the area. It would create more accidents and more problems.

Vice Chairwoman Cooney stated: I am not sure there is a desirable solution.

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Mr. Kaplan stated: I am just trying to get to a yes, with feeling comfortable.

Mr. Intindola stated: I have gone through thousands of accident reports for drive thrus. Since you are at a low speed there are minor fender benders where they take out a sensor or headlight. It is an almost slow-motion accident. For a fire situation you can request that there be a sufficient fire extinguisher for car fires at the back building exit besides a building fire extinguisher.

Mr. Kaplan stated: That would make me comfortable enough. I would ask that my colleagues consider this as a condition of approval.

Ms. Kative questioned: On page two of the plan where the ADA ramps are, I do not see the detail. Can our experts point them out?

Ms. Tiberi stated: The details are on the construction detail sheet with the depressed curb.

Ms. Kative questioned: Where is the depressed curb?

Ms. Tiberi stated: In the width of the stripped area.

Ms. Kative questioned: Is this the entrance for the building or access for the handicap to get in? How is the public going to walk into the building and how wide is that stripped area?

Mr. Di Lorenzo stated: It is 8 feet wide.

Ms. Kative questioned: There is no step? It is all flat to the door?

Mr. Di Lorenzo stated: The ramp takes us over the curb. The island going into the parking lot is 5 feet 2 inches.

Ms. Kative stated: I have concerns about the access to the building from the parking lot.

Mr. Di Lorenzo stated: It has been the same layout for 20 years.

Ms. Kative stated: Yes, but there was no drive thru with cars on the east side.

Mr. Di Lorenzo stated: We are bringing the cars around the parking area.

Ms. Kative questioned: I understand that. I am not going to argue. How long is it from the entrance to the oval?

Mr. Di Lorenzo stated: About 31 feet.

Mr. Intindola stated: For clarification, the ADA stripped area can also be used for people. It has a dual purpose.

Vice Chairwoman Cooney asked for comments/questions from the Board and public.

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Vice Chairwoman Cooney asked for comments from the public.

Mr. Marshall moved to approve the application and stated: They have done all we have asked for throughout this application.

Mr. Forshner seconded the motion and stated: I agree. They have done an admirable job with a difficult site. While it is not perfect, it is as perfect as it can get.

Mr. Pohan voted yes and stated: Our professionals have worked very hard to make this fit.

Mr. Ferris voted no and stated: I appreciate all that has been done but I cannot vote yes.

Mr. Suh voted yes.

Ms. Kative questioned: Does this include the fire extinguisher?

Mr. Kienz stated: Yes, if the Board approves this I will talk about the resolution at the end. Mr. Jovishoff has his list of conditions and I have my notes.

Ms. Kative voted no and stated: I have a problem with the door facing north, the traffic stacked and the restaurant accommodating seniors and families.

Mr. Kaplan voted yes and stated: Thank you for clarifying the conditions. I had a number of concerns when we started this process such as the quality of life of the neighboring residents, the stipulation of settlement and safety, but they were all addressed.

Vice Chairwoman Cooney voted yes and stated: This is not an easy site. It was begun before coming to the Board and it made it more difficult. I still have major concerns as far as the County is concerned. I thought as soon as you got the letter you would have sent it to us and not made us request you to send it to us. Our professionals have done a wonderful job and I cannot thank them enough. I would like the stipulation of agreement mentioned in the resolution and I hope not to see you after you go to the County.

A motion was made by Mr. Marshall, seconded by Mr. Forshner, and passed on a vote of 6 to 2 by members Pohan, Marshall, Suh, Forshner, Kaplan and Cooney, to approve the application for Minor Site Plan – Drive-Thru and Signage. Mr. Ferris and Ms. Kative voted to deny the application.

Mr. Kienz stated: I will draft the resolution and circulate it amongst our professionals first, then to the Board and Mr. Shafkowitz.

Mr. Jovishoff stated: Almost all of our conditions have been met.

Mr. Kienz stated: We will review it all on the side.

## **NEW BUSINESS**

Vice Chairwoman Cooney stated: You all received the 69 Main Street application. This would be the only item on the next March agenda. I would respectfully request that we do an administrative review for

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acceptance and completeness.

Mr. Jovishoff stated: Yes, we've done this before.

Vice Chairwoman Cooney questioned: Is this acceptable to everyone?

The Board agreed.

Mr. Pohan questioned: Are they going to clarify what they are doing here?

Mr. Jovishoff stated: Yes, I have questions too and will clarify everything before the hearing in the plan review. There will be some explanation in the completeness memorandum as well.

**ADJOURNMENT**

A motion was made by Mr. Kaplan, seconded by Mr. Ferris, and passed without objection to adjourn this meeting at 8:23 p.m.

Respectfully submitted,

*Christen S. Trentacosti*

Christen S. Trentacosti

Recording Secretary