

**FORT LEE PLANNING BOARD**  
**APRIL 12, 2021**

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

ABSENT: R. Kative, 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 April 5, 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 – MARCH 8, 2021:**

A motion was made by Mr. Marshall, seconded by Mr. Pohan, and passed on a vote of 7 to 0 by members Pohan, Marshall, Ferris, Suh, Forshner, Kaplan, and Cooney, to approve the minutes for the meeting of March 8, 2021. Councilman Sargenti abstained from the vote.

**RFQ SELECTION COMMITTEE**

Vice Chairwoman Cooney requested that Mr. Forshner, Mr. Ferris and Ms. Kative join her on the committee on Friday, April 23<sup>rd</sup> at 10 a.m.

**MEMORIALIZATIONS:**

**DOCKET #4-20      DEV'S FOODS 2, LLC**  
**FORT LEE BURGER KING**  
**811 PALISADE AVENUE**  
**APPROVED        BLOCK 552, LOT 1**  
**MINOR SITE PLAN – DRIVE-THRU & SIGNAGE**

Vice Chairwoman Cooney stated: I cannot thank everyone enough for their work on this application, even going through this resolution. We haven't had one this large in a while.

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A motion was made by Mr. Marshall, seconded by Mr. Pohan, and passed on a vote of 6 to 0 by members Pohan, Marshall, Suh, Forshner, Kaplan and Cooney, to adopt the resolution of approval for Minor Site Plan – Drive-Thru & Signage.

**PUBLIC HEARINGS:**

**DOCKET #1-21      69 MAIN ST. FORT LEE URBAN RENEWAL ASSOCIATES, LLC  
69 MAIN STREET  
BLOCK 4355, LOT 17**

**AMENDED PRELIMINARY & FINAL MAJOR SITE PLAN – ADDITION OF TWO (2) DWELLING UNITS**

Robert Travers, Esq. – This application is for the addition of six units at 69 Main Street to satisfy part of the Borough’s obligation with Fair Share Housing. We are going from 77 to 90 affordable.

Vice Chairwoman Cooney stated: You are saying six, but I thought it was two.

Mr. Travers stated: It is six bedrooms.

Mr. Forshner questioned: 77 to 90 units? Is this all in the application? I don’t remember reading that.

Mr. Travers stated: How it works is from reconfiguring. There are market rate units going to affordable and affordable going to special needs. We count beds as units. This application is only for the two additional units.

Mr. Jovishoff questioned: The reconfigured units, are they being reconfigured or changed or did the designation change?

Mr. Travers stated: The designation is changing.

Vice Chairwoman Cooney questioned: What are the total number of affordable units?

Mr. Travers stated: It is the number of beds in each unit. The designation changes from units to beds.

Mr. Jovishoff questioned: Physically, how many units are changing to special needs?

Mr. Travers stated: Four other units.

Mr. Jovishoff questioned: It goes from 77 beds to 90 beds?

Mr. Travers stated: Yes.

Mr. Forshner questioned: We are talking about the addition of two units, but modification of the units/beds is a secondary application to the stated?

Mr. Travers stated: We made the agreement with the Borough Attorney who made it with the state.

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Mr. Kienz questioned: If Michael doesn't have this information and there is no chart, do we have to go back? Michael is this accurate for what you have in your report and chart?

Mr. Jovishoff stated: It is accurate for what is going on tonight. The changes to affordable and special needs, I do not have.

Mr. Kienz stated: My position is this doesn't change the jurisdiction of the Board. This is just a settlement before the court. I just want to make sure we have basis to move forward and am nervous that you don't have that information. If we start, I want to finish.

Mr. Jovishoff stated: As far as I am concerned, we can go forward with tonight, but the change in designation I do not know.

Mr. Kienz questioned: Marisa, are you okay?

Ms. Tiberi stated: Yes, the site is not changing, and they have more than adequate parking. The two units will affect the sanitary conditions and may need additional treatment approval. I think we're okay.

Mr. Kienz questioned: Madam Chair are you okay?

Vice Chairwoman Cooney questioned: I think we're okay. You have the Jovishoff letter of March 20<sup>th</sup>. Have you addressed it?

Mr. Travers stated: Yes.

Vice Chairwoman Cooney questioned: Michael, was it addressed?

Mr. Jovishoff stated: I have questions after their testimony.

Vijay Kale, of Daibes Design Group, LLC, was sworn in as an Architect.

Mr. Travers questioned: You submitted Sheets 104A through F as part of the submission with a last revised date of March 30, 2021?

Mr. Kale stated: Yes. 104A is an enlarged plan of the fifth floor that we are adding the two units to. There is a four bedroom suite with three and a half baths. There is also a two bedroom suite with two and a half baths. The existing plan has a stair going to the lobby. 104B shows a smaller scale of the overall picture. On diagram 2 there is a partial plan of the fifth floor as it exists and then where the two units will be located. The bottom tables show what was approved and the changes, the project summary as approved and the amended table. 104C shows the full fifth floor plan with the parking. On the left side there are two units on the flat portion of the garage as it is a sloping garage. Everything else remains. 104D shows the elevations of the existing and as built. The bubbles are where the changes are going to occur. 104E is a remainder of the elevations. 104F is how we are going to achieve the construction with a temporary wall on the left side and the construction can go on, so it does not disturb any of the parking activity.

Vice Chairwoman Cooney questioned: What is there now?

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Mr. Kale stated: A portion of it has cars as per the original plan. 8 spaces are being taken away and turned into parking.

Mr. Kale stated: Vice Chairwoman Cooney questioned: Does the 104A floor level exit directly into the parking garage?

Mr. Kale stated: No, you walk in the corridor and then it is connected to the lobby that opens up.

Vice Chairwoman Cooney questioned: The corridor, the half-moon, goes up? That is not an exit?

Mr. Kale stated: To go for convenience if necessary.

Vice Chairwoman Cooney questioned: So, does it exit directly into the garage?

Mr. Kale stated: Yes.

Mr. Jovishoff questioned: What HVAC system will be provided? The statement in the plan says TBD.

Mr. Kale stated: Sheet A104C shows, behind the elevator and stair, an area near the mechanical storage. We are going to put units there to supply what is required by code. The windows need to open by law and are consistent with the requirement.

Mr. Jovishoff questioned: It says the garbage is to be decided by the management?

Mr. Kale stated: Like all other high rises, it is done by chute. On this floor we don't have access to the chute. It will be collected by the management of the entity and taken through the elevator and brought down.

Councilman Sargenti questioned: The management company with pick it up daily?

Mr. Kale stated: Yes, because they are assisted special needs and their mobility is diminished, they have a manager running these units.

Mr. Travers stated: The special needs units need special guidance and consideration. They have a third-party vendor called Penreach that takes care of them and they are approved by the state.

Councilman Sargenti stated: I am trying to picture us in the twenty century, where the management company has to put the garbage on an elevator and take it down. I feel like it's poor planning.

Mr. Kale stated: Everyone has a chute except this floor.

Councilman Sargenti questioned: Why is this excluded?

Mr. Kale stated: I cannot get access where it is located.

Mr. Forshner stated: This level is not part of building. It didn't have access to the chute.

Mr. Kale stated: Yes, it is added.

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Mr. Marshall questioned: Why can't they designated an area for garbage on the floor. They are going to go knock on everyone's door?

Mr. Kale stated: There is.

Mr. Marshall questioned: You have a designated area?

Mr. Kale stated: Yes.

Mr. Jovishoff questioned: The parking spaces required per RSIS is 128. The applicant was approved for 188 but you only have 140. There is a discrepancy in the numbers.

Mr. Kale stated: We are only here for the addition of the two units. I do not know about the original.

Mr. Travers stated: There was a waiver granted in the previous application.

Mr. Jovishoff stated: I am not aware, but I will take your word for it. You meet the parking requirement.

Ms. Tiberi questioned: How many, with the addition of these special needs in the building? 44 and all 44 will have management that gets their garbage?

Mr. Travers stated: Yes.

Ms. Tiberi questioned: Is there a certain portion of the building that has all these units or are they all sperate?

Mr. Kale stated: The sixth and seventh floors I believe.

Mr. Travers stated: All are close to each other.

Ms. Tiberi questioned: With the two new units on the fifth floor, how many spaces did you lose?

Mr. Kale stated: We lost seven cars.

Ms. Tiberi questioned: How may do you have now that you lost the seven?

Mr. Kale stated: 140.

Ms. Tiberi questioned: What are the total required spaces here?

Mr. Travers stated: Under RSIS is 128.

Vice Chairwoman Cooney questioned: When you say RSIS is 128, is that just the assisted living or the total complex?

Mr. Kale stated: The whole complex.

Vice Chairwoman Cooney questioned: Do you have a breakdown for what is needed for these 2 ½ floors?

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Mr. Kale stated: No, not only those. The people in those units don't really use cars. It doesn't impact parking at all.

Mr. Kienz questioned: Who else is testifying?

Mr. Travers stated: There is a traffic engineer and planner from Stonefield.

Mr. Kienz stated: I want you to think about density.

Vice Chairwoman Cooney asked for questions from the public.

Dr. Daniel Leitman, 150A Cedar Street, stated: I think this reflects poor planning on the developer. It will negatively impact traffic and parking that is very crowded. If this is really ideal the developer would have come with this originally.

Vice Chairwoman Cooney stated: At the end of the hearing, you can talk. This is for questions of the professional only.

Amit Patel, 150 Cedar Street, Unit B, questioned: What is the allotment of spaces with regards to converting two bedrooms to one bedroom apartments and why are we doing it?

Mr. Kale stated: It is .8 cars, 1.3 cars per unit, and it goes on. Those two extra units don't have an impact.

Mr. Patel questioned: You're going up to 90 units?

Mr. Kale stated: No, what was explained earlier was total beds. Special needs are by beds.

Mr. Patel questioned: Can we split it up?

Mr. Jovishoff stated: There is nothing in the requirement per bed. It is only by units increasing that the calculations change. The number of beds increasing is irrelevant.

Jeff Martell, of Stonefield Engineering, Inc., was sworn in as an Engineer/Planner.

Mr. Travers stated: You prepared a study, dated March 25, 2021.

Mr. Martell stated: Yes, as the Board knows this application is to add two units to this project. It's going from 140 units to 142 units. The current proposal is for 140 spaces and the original was 188 spaces. It is two units for special needs and will close the gap between the number of spaces. There was a 63 space surplus and now there will be a 12 space surplus of parking. We are still providing enough. I prepared a report showing the traffic at the peak hour with an increase of one trip in or out of the site, morning or evening. One trip is negligible. There are the same access points in and out. There is no negative impact from the traffic. The number of spaces still maintain compliance and it is a better use of the extra spaces. We were asked to speak of density from 140 to 142 units. The increase in density will not have a negative impact. One trip has no negative impact. There is no change to the footprint, height or setbacks. The external impact would be negligible or none.

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Vice Chairwoman Cooney questioned: Mr. Intindola do you have any comments as far as the parking goes?

Mr. Intindola questioned: It is a negligible impact with respect to traffic. From a traffic perspective it's two units and the trip generation is negligible. They are representing this as overparked and my question is, over the years how do you find the parking experience of supply versus demand on this site now?

Mr. Martell stated: The applicant's belief is this is not warranted or needed as parking. The surplus of parking has no benefit to the facility. This is a better use of the area.

Mr. Intindola stated: To summarize, the overage is not needed and there is no existing condition or circumstance that they are aware of that would need this overage to construct these two units.

Mr. Martell stated: That is correct. We are taking from a surplus that we don't believe is needed.

Vice Chairwoman Cooney questioned: Do you foresee the applicant coming back in the future because you're knocking down the surplus for additional units?

Mr. Martell stated: No, I think we are comfortable that we're there and won't be back.

Vice Chairwoman Cooney questioned: Didn't you think that before?

Mr. Martell stated: Architects and engineers over design and there's things you don't need. There is a flaw in the trash area so to repurpose the area for trash works. I don't think there will be a change in the future.

Mr. Jovishoff stated: I concur on density. There is no specific density requirement in the R7 zone for the number of units. There is no minimum or maximum, but it is fixed at 140 units. They do need a variance for the increase in the number of units.

Mr. Kienz questioned: Are you traffic and planning?

Mr. Martell stated: Yes, I am both.

Mr. Kienz questioned: The definition of density is per the gross area of land. Michael already said there is no number. The increase in the permitted density would create a use variance which would be ridiculous. My legal position is that we are increasing density as defined by the section of the ordinance not the MLUL. The density variance needed is a "c" variance not a "d" variance and does qualify, I believe. Michael, do you agree?

Mr. Jovishoff stated: I did not call out a "d" variance, so I do believe the "c" variance is correct.

Mr. Forshner stated: When you first came before us, I brought up my concerns. I was concerned about the location and situation for the entrance and exit. I was ignored but I'll bring it up again. If you're coming out of the garage, there is no requirement that you cannot make a left. I would be very concerned going in and out with people turning left instead of right. I'd like to hear Mr. Martell's evaluation on this.

Mr. Martell stated: I understand your concern but there is no proposal to change that here. This doesn't move the needle and we ask to keep it as is.

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Mr. Forshner stated: I want this reflected in the minutes, if and when there is an accident, we have it down.

Vice Chairwoman Cooney asked for questions from the public.

Amit Patel, 150 Cedar Street, Unit B, questioned: There are 142 units and 128 spaces. You said this was sufficient and meets regulations but what about the guest parking?

Mr. Martell stated: We meet the parking requirement and there is a guest parking consideration in the amount. 128 is what is determined to be required. There is no designation between special needs or market rate. It meets the requirement, including allocation of guest parking.

Dr. Daniel Leitman, 150A Cedar Street, questioned: With the parking and reallocation to affordable housing, does that increase the handicap spaces? Do you lose more spaces? Was that taken into consideration?

Mr. Martell stated: It was. The number of ADA spaces is based on the total number of spaces needed. Yes, we would be in compliance.

Amit Patel, 150 Cedar Street, Unit B, stated: People are taking a left turn as you come down and there are Amazon trucks parked on the side. I think it is just time before an accident will occur.

Vice Chairwoman Cooney asked for comments from the Board.

Vice Chairwoman Cooney asked for comments from the public.

Dr. Daniel Charles Leitman, 150A Cedar Street, stated: I just think it was poor planning on the developer in the beginning. The Board made the decision to approve the project and now they are back peddling. I think this sets a bad precedent for developers going forward. I have no problem with special needs housing or affordable housing, but I think it needs to be done in the right way. This is a crowded place, but Fort Lee is awesome.

Vice Chairwoman Cooney stated: If other developers want to do something they have to come before us and we have to weigh it. Have a little faith in us knowing what we are doing.

Dr. Leitman stated: I do, I just felt the need to weight in.

Mr. Forshner questioned: Why are you doing this? To get more units or we asked?

Mr. Travers stated: It was a negotiation between my client and Fort Lee to satisfy Fort Lee's third round COAH obligation.

Mr. Forshner stated: I just wanted to get that on the record. You are not just adding two units.

Mr. Travers stated: No, that is not what we are trying to do.

Mr. Kienz questioned: Michael, this is a "c" variance under "c"2. Is it a waiver of site plan or amended preliminary and final major site plan?

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Mr. Jovishoff stated: It is a waiver of site plan since there is no real site.

Mr. Kienz stated: There is a “c”2 variance and waiver of site plan. It is almost inherently beneficial as Neal was saying.

A motion was made by Mr. Forshner, seconded by Mr. Pohan, and passed on a vote of 8 to 0 by members Pohan, Marshall, Ferris, Suh, Sargenti, Forshner, Kaplan and Cooney, to approve the application for Waiver of a Minor Site Plan – Addition of Two (2) Dwelling Units.

**NEW BUSINESS**

Vice Chairwoman Cooney stated: I was informed that the Mayor approved us getting a liaison to the Sign and Façade Committee. Our letter worked. Anyone interested in the position?

Mr. Kaplan questioned: When do they meet?

Vice Chairman Cooney stated: Chris can find out the information of when they meet and how they meet and any other information we may need. We will discuss it at the next meeting.

**ADJOURNMENT**

A motion was made by Mr. Forshner, seconded by Mr. Ferris, and passed without objection to adjourn this meeting at 9:00 p.m.

Respectfully submitted,

*Christen S. Trentacosti*

Christen S. Trentacosti

Recording Secretary