

FORT LEE PLANNING BOARD
SPECIAL MEETING
JUNE 30, 2022

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

ABSENT: M. Marshall, R. Kative, H. Greenberg.

ALSO PRESENT: Glenn Kienz, Esq., Board Attorney, Paul Grygiel of Phillips Preiss Grygiel Leheny Hughes LLC, Alvaro Gonzalez of Boswell Engineering.

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 November 22, 2021 this Body, by Resolution, adopted a Schedule of Regular Public Meetings for 2022. 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 June 28, 2022, a special meeting notice agenda was published in the Record and Jersey Journal, posted 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 2022 to cover the cost of mailing.

APPROVAL OF MINUTES – JUNE 13, 2022:

Vice Chairwoman Cooney stated: There are two corrections needed. The first is on page one after Notice of Meeting, it should say "Vice Chairwoman Cooney" not "Chairman Greenberg" and on page two about half way down the word should be "states" not "stays".

A motion was made by Mr. Pohan, seconded by Mr. Ferris, and passed on a vote of 4 to 0 by members Pohan, Ferris, Suh and Cooney, to approve the minutes as amended for the meeting of June 13, 2022. Councilman Sargenti, Mr. Forshner and Mr. Kaplan abstained from the vote.

MEMORIALIZATIONS:

DOCKET #2-21 PROPERTIES CAS INC.
2239 JONES ROAD
BLOCK 5551, LOT 6

AMENDMENT TO RESOLUTION – MINOR SUBDIVISION – TWO (2) LOTS

A motion was made by Mr. Pohan, seconded by Mr. Ferris, and passed on a vote of 4 to 0 by members Pohan, Ferris, Suh and Cooney, to approve the Memorialization of the Resolution of Approval for Amendment to Resolution – Minor Subdivision – Two (2) Lots.

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REFERRAL FROM THE GOVERNING BODY:

ORDINANCE NO. 2022-13

“AN ORDINANCE TO AMEND PART II, GENERAL LEGISLATION, CHAPTER 410, ZONING OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FORT LEE”

Vice Chairwoman Cooney stated: Mr. Grygiel, can you give us a summary please.

Mr. Grygiel stated: Yes, of course. I prepared a memo dated June 27, 2022. I have outlined the statutory requirements for referring this. Around a year ago we saw the original Ordinance for the medicinal cannabis. Essentially this change allows for recreational distribution, to modify the prior Ordinance to broaden the category for the sale to people over 21. This is and remains in the C-5 Zone. This project was received at the Board. This new law now expands to allow one user to have a Class 5. The Ordinance also includes the same conditions, adds conditional use standards and there is additional information to say if it is expanded what goes into the process. You are to report back to the Mayor & Council with the consistency to the Master Plan and any other findings.

Vice Chairwoman Cooney questioned: Is it consistent or inconsistent?

Mr. Grygiel stated: Prior to 2021 there was no discussion in the Master Plan and then we added alternate treatment center. In 2021 we didn't go into detail about it. It was more of a statement of facts. On the one hand you can say it is inconsistent because there is no recommendation. On the other hand, you can say it is consistent because it doesn't say. It is your call to make, and I can give you guidance. This is for a modification of what is in the Ordinance.

Mr. Pohan questioned: Before we get into whether or not it is consistent with the Master Plan, I am trying to figure out if it is consistent with itself. At section B you go to get a permit. Under section A, once you have a permit if medical to go to retail, they don't have to go to the Planning Board they don't have to do anything, there is no traffic study, etc. Is it consistent to have a use to go from one use to what I consider a very different use without any Planning Board oversight? We spent a ton of time on testimony and hearing about appointments and timing and we asked for a traffic study after six months. Isn't traffic important to the Master Plan? There is regulation from medical to retail but no Planning Board oversight.

Mr. Grygiel stated: Compared to typical uses it is regulated at the State level, but yes I understand, not at the local Planning Board level which is contrary to every other use you would typically review.

Mr. Pohan stated: The traffic, I understand going from selling mattresses to pillows, but operating an ambulatory care to a movie theatre, we would want to know about it. We don't know what this is really like, do we? Sitting here? We also don't know how different it will be from a medical use to a retail use. We also don't know how different it will be. People that I know that pass the Montclair facility say the line goes halfway down the block. I don't think it is consistent with the whole idea of planning to say that there is no oversight anymore once they have a medical license, we have nothing more to say about it.

Mr. Grygiel stated: Yes, the only other thought is if they leave and someone else goes in you go through that process, but assuming things go from one to the other yes.

Mr. Pohan stated: Also known as bait and switch.

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Mr. Kaplan questioned: Having read several Master Plan revisits, it seems an underlying purpose is how best to foster commercial development in Fort Lee in a way that is conducive to what Fort Lee may one day see from those commercial services, correct?

Mr. Grygiel stated: Yes, from a land use point of view to try to eliminate conflicts between uses but have the types of uses that you think are consistent with the character of the area.

Mr. Kaplan stated: It seems that when the referendum pertaining to this service was heard, Fort Lee residents had a large majority in favor of legalization.

Vice Chairwoman Cooney questioned: Were you part of putting this Ordinance together?

Mr. Grygiel stated: No, not this one. The Master Plan yes, not this one.

Councilman Sargenti stated: When we on the Board voted for a 6-month traffic study review, it was for medical use only and the State of New Jersey was only allowing that. Two weeks ago, the company came to us saying the State will be ready to open recreationally when they are ready to open their business and they want to be ready. That's why they came to the Mayor and Council and why it is here now. I abstained from that vote. Let's not kid ourselves, this is in a residential area. I have fielded probably about twenty calls from residents there. There are only two ways in or out, Fletcher or Linwood Park. The question is how much traffic will we incur and how much traffic will it bring to Fort Lee or that area? There are all multiple highways there. I think that is where the inconsistency comes in, the extra flow of people coming in and out. I want them to be successful, I really do. There is a fine line of what we were being sold in the beginning and what we have now. We put this parking study in the resolution, but based on this, we don't have a say in the traffic study anymore. I don't want my Police Station being taxed. In Rochelle Park they are in a major shopping center with a lot of parking. Here they are limited on parking. Recreational coming into play is going to be a different animal. I'm not looking for this to go away but we need to have a say in where this is going.

Mr. Forshner questioned: Is this a change for the possibility for a recreational storefront on Main Street or a change for just this?

Mr. Grygiel stated: It is still for the C-5 Zone which is this section on Fletcher and a little highway area, not Main Street.

Mr. Forshner stated: We had a long discussion before. I think this is going to cause trouble. They went out of their way to give us information and say it was strictly medical and not retail.

Mr. Grygiel stated: You are not dealing with just that use there it can be anywhere there is a C-5 Zone but your recommendation can say it needs to be stricter near a residential zone, etc.

Mr. Pohan stated: The same issues at this site would be the same issues anywhere. They can say only medical and then it not be and not worry about the parking and so on. I'm not saying they shouldn't expand or there be a marijuana ban. We are talking about the traffic and the use of land and how it relates to the adjacent uses to the zone and overall plan of the town and now we are saying we are going to sign off on any oversight, no plan with the change of use from medical to retail.

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Mr. Forshner questioned: If I opened a clothing store on Main Street that's fine, we are talking about a clothing store. Do we have the ability to say any cannabis use planning on going into Fort Lee must go before the Planning Board or Zoning Board? Is that feasible?

Vice Chairwoman Cooney stated: I will see after we let Mr. Ferris speak.

Mr. Ferris stated: To Mr. Forshner's point, I see it as a challenging situation. Montclair having lines around the block might be a pimple compared to what we could be dealing with here especially with access to New York City, etc. If this was part of the application when they came before the Board, I would have voted no. I voted yes specifically because it pertained to a medical dispensary. I think this is not consistent and not the best for the town based on quality of life and other things.

Vice Chairwoman Cooney questioned: What are our alternatives as a Board? I believe they are voting on this July 7th. Can we say we don't want them to vote on this until we talk to them?

Mr. Grygiel stated: You can say anything you want. You have 35 days to act, statutorily. I suppose you can wait it out. Typically, you can say consistent or everything that you have said and say this is the recommendation we have ask them to table it or discuss it, consider it.

Mr. Pohan stated: My letter would be simple. I don't think it is consistent with the Master Plan in the following respect. There are all kinds of regulations for the initial setting up of this type of establishment, but the Planning Board has been taken out of the process of reviewing the change from a medical establishment to retail establishment. We think that is wrong and that the opportunity for the Planning Board to review that change to retail should be just the same as if it was a retail application from the beginning.

Mr. Kienz stated: I just had a Board reject a zoning change because they did not include enough uses. The Governing Body said okay, and the next Planning Board meeting we got revised changes and they sailed right through it. We could do a letter. Listening to your position, I think Armand stated best, what the main gripe is. You don't have to go through all the weeds.

Mr. Kaplan questioned: Am I understanding what you said earlier, how our vote is not binding on the Governing Body?

Mr. Kienz stated: Yes, but they have to go on the record as to why they don't want to follow the recommendation and why they are going against it.

Mr. Grygiel stated: It is not binding but procedure must be followed. They could take it or leave it but they have to say why.

Vice Chairwoman Cooney questioned: They have their meeting on July 7th. Can we get something by Tuesday to send to them?

Mr. Kienz stated: Yes, I am sure Christen can get a letter done and passed around to everyone. If you have no response that is fine, but there should be a deadline to submit your comments by.

Vice Chairwoman Cooney questioned: Do we vote?

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Mr. Kienz stated: We are authorizing here to do a letter to the Governing Body and voting on just what Armand said. The vote is it is not consistent with the Master Plan because it takes it out of the Planning Boards hands.

Councilman Sargenti stated: If there is change, we need to be part of the change.

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

A motion was made by Mr. Pohan, seconded by Mr. Ferris, and passed on a vote of 5 to 1 by members Pohan, Ferris, Suh, Forshner and Cooney, to vote that Ordinance 2022-13 is inconsistent with the Master Plan and to have a letter prepared and sent to the Governing Body. Mr. Kaplan voted against this motion. Councilman Sargenti abstained from the vote.

ADJOURNMENT

A motion was made by Mr. Forshner, seconded by Mr. Kaplan, and passed without objection to adjourn this meeting at 8:02 p.m.

Respectfully submitted,

Christen S. Trentacosti

Christen S. Trentacosti
Recording Secretary