

FORT LEE PLANNING BOARD
OCTOBER 17, 2022

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

ABSENT: M. Kaplan.

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

NOTICE OF MEETING:

Chairman Greenberg 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. 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 – SEPTEMBER 12, 2022:

Mr. Forshner stated: The word "retail" at the bottom of the first page is spelled wrong.

A motion was made by Ms. Cooney, seconded by Mr. Ferris, and passed on a vote of 7 to 0 by members Marshall, Ferris, Suh, Cooney, Sargenti, Forshner and Greenberg, to approve the minutes as amended for the meeting of September 12, 2022. Mr. Pohan and Ms. Kative abstained from the vote.

RESOLUTION AUTHORIZING THE ISSUANCE OF REQUESTS FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES TO THE PLANNING BOARD FOR THE YEAR 2023

Chairman Greenberg stated this is to approve a resolution to authorize the issuance of requests for qualifications for professionals for the year 2023.

A motion was made by Mr. Pohan, seconded by Ms. Kative, and passed on a vote of 9 to 0 by members Pohan, Marshall, Ferris, Suh, Cooney, Sargenti, Forshner, Kative and Greenberg, to approve the Resolution Authorizing the Issuance of Requests for Qualifications for Professional Services to the Planning Board for the year 2023.

RFQ SELECTION COMMITTEE

Chairman Greenberg requested volunteers for the RFQ Committee. The committee will be made up of Mr. Pohan, Ms. Kative, Mr. Ferris and Chairman Greenberg or Ms. Cooney.

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PUBLIC HEARINGS:

DOCKET #2-22 ASCEND NEW JERSEY, LLC
469 West Street
BLOCK 5751, LOT 1

AMENDED PRELIMINARY & FINAL MAJOR SITE PLAN – CANNABIS RETAIL ESTABLISHMENT

Jason Tuvel, Esq. stated: The Applicant is here seeking amended site plan approval and conditional use approval. In June, the Mayor & Council amended the cannabis ordinance to include retail cannabis. Ascend was before this Board earlier this year. They have been open for about a month and a half. We are back before your Board because they Mayor & Council passed the amended ordinance, and we have to meet certain criteria. We are not proposing any site improvements. The parking, signage and circulation are the same. Tonight, we will talk about the operations, parking and traffic. We submitted a traffic report. All the employees will park off site and be shuttled over to allow for additional parking.

Chairman Greenberg questioned: How many employees?

Mr. Tuvel stated: Forty-five at peak shift.

Michael Conway, 395 Bloomfield Avenue, Montclair, was sworn in as a representative of the Applicant to speak on operations and a regional VP for Ascend New Jersey, but must appear at future hearing.

Sheet A-130 – Floor Plan – Existing

Mr. Conway stated: I oversee medical use, retail use, parking, employees and maintenance. Our hours of operation are 9:00 a.m. to 8:00 p.m., seven days a week. There are a maximum of forty-five employees at a time.

Chairman Greenberg questioned: How many employees do you have now?

Mr. Conway stated: Right now, about sixty-five to eighty. Fifty percent of them are part time for one or two shifts.

Ms. Cooney questioned: How many are on the floor?

Mr. Conway stated: The forty-five consist of the parking lot, the floor or the back. When they check in, they go to the kiosks, pull the QR code for medical, check out, leave the dispensary, and exit to the parking lot. Adult use passes allotment, they check in, scan QR code. It will be appointment only to start. The purchases will be in alphabetical order behind the register once they are pulled from the back and they will check out and leave. For security, someone must have their ID scanned if they are over 21 and have a valid ID. The customer can only be under 21 if it is for medical use and is supervised by an adult. We have sixty-three cameras (four sided). There are no blind spots, and they are check by the state and are set up so that they can zoom in whenever they want. The card strike has hard access and key access into the back and vault, there are all different levels of security. We met with the Chief of Police a few weeks ago and toured him around and spoke about traffic. We feel he was satisfied. All of the product is in the vault which has to be regulated and approved by the state. There is a certain amount of time that it has to take to cut through. It is DEA

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classified. It is secured by key strike and can't be drilled into without alerting security. There is no drive thru and no visible product from the street. We have frosted windows. There is no product to be consumed on site.

Mr. Ferris questioned: Are deliveries made inside or outside of the building?

Mr. Conway stated: There is a door in the front, and they will back into the door. There will be an off-duty police officer to supervise.

Mr. Tuvel questioned: Will you increase deliveries from medical to retail?

Mr. Conway stated: No, it will be about the same.

Mr. Tuvel questioned: Are refuse and recycling the same.

Mr. Conway stated: Yes.

Ms. Kative questioned: How do I know what I am buying?

Mr. Conway stated: There is a menu online. They only have to put one thing in their cart to make an appointment. When they come in, they can ask questions. They will then have everything in the cart, and we scan their QR code.

Ms. Kative questioned: They are going to go online, place an order and get an appointment? There is no walk-in traffic?

Mr. Conway stated: We will do appointment only to start and then we will allow walk-ins.

Ms. Kative questioned: Tobacco and gummies.

Mr. Conway stated: It is cannabis and cannabis derived.

Chairman Greenberg questioned: There is no retail display?

Mr. Conway stated: No, there are only iPads.

Chairman Greenberg questioned: I have seen on the tv in other stores they have things out. You don't?

Mr. Conway stated: We don't. The product is only in the vault. You check in, go to the kiosk, build your cart virtually, go on line and leave. It works off of the QR code.

Chairman Greenberg stated: The amount of time someone will spend in the store is important.

Mr. Conway stated: We are lucky because we have Rochelle Park as an example. On average, the customer spends eight minutes from door to door, walk-ins and online. On our iPads we have buttons to press depending on what you are looking for which narrow down the items.

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Ms. Cooney questioned: You give out appointments, like specific times?

Mr. Conway stated: We can control a number of things, like time frames and times. We give twenty-minute time frames, they come in and pick up. We can base in on parking as we add walk-ins. We know a lot based on the other stores in New Jersey and we can minimize so we know what we can allow for and if we can't handle the traffic, we have a hand out to go to Rochelle Park.

Ms. Cooney questioned: You are giving everyone twenty minutes based off the number of employees?

Mr. Conway stated: In short, yes. We can control that to the minute. We own that entire process. We have forty-five parking spaces. It allows for six people, per parking space, per hour if we can do it. We have not even reached that at Rochelle Park.

Councilman Sargenti questioned: How many people are on the floor at any given time?

Mr. Conway stated: I don't expect to run twenty-nine people at a time. There about ten to twenty on the register and a total of thirty-eight.

Councilman Sargenti questioned: How does the parking run top to bottom? How many spaces?

Mr. Conway stated: There are twenty-three spots on the top and twenty-two on the bottom.

Mr. Forshner questioned: What is the limit for retail?

Mr. Conway stated: One ounce.

Mr. Forshner questioned: What about payment?

Mr. Conway stated: Cash and debit. No credit.

Mr. Pohan questioned: Rochelle Park and Montclair are similar and started off as medical and are now retail, correct?

Mr. Conway stated: Yes.

Mr. Pohan questioned: Their traffic at the stores, how does the square footage compare?

Mr. Conway stated: Here is twenty percent larger than Rochelle Park. For medical we may do one hundred people a day and for adult use about 1,500 to 1,850 people.

Mr. Pohan stated: We were concerned about parking for just medical.

Mr. Conway stated: We have been seeing about thirty people a day right now in Fort Lee. We took similar steps in Rochelle Park. There was no due harm to the area. We hired parking attendants. We received glowing reviews from the town. I am confident that we will be able to more than manage the traffic and parking. We don't expect to have a lot of New York traffic. We are more money, and they have to pay the toll. There is a Manhattan market with dispensaries.

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Mr. Pohan questioned: How many spaces are in Rochelle Park?

Mr. Conway stated: There are about sixty-five spaces and we do not use the parking in front. That is for the rest of the strip mall or for medical or mobility issues. The parking attendant asks if they are our customer and then loops them around to our parking area.

Mr. Pohan questioned: There are other parking spots than the sixty-five that are yours. How many other ones?

Mr. Conway stated: There are 105 to 120 with the other stores.

Mr. Forshner questioned? Where is the offsite parking?

Mr. Conway stated: 231 Main Street.

Mr. Forshner questioned: You have a van pick up?

Mr. Conway stated: It is a fifteen-person passenger van.

Ms. Kative questioned: Have you ascertained the spots already? The garage is full.

Mr. Conway stated: Yes.

Ms. Kative questioned: How much is an ounce?

Mr. Conway stated: \$480.

Ms. Kative questioned: You can buy 8/8's in any given day? You keep it recorded?

Mr. Conway stated: Yes, there are scanners and Logics point-of-sale system logs it. If they try to buy more, they are logged out.

Mr. Kienz questioned: What other products do you sell?

Mr. Conway stated: Supplemental accessories.

Mr. Kienz questioned: How much square footage does that take up? Will there be other displays to look at?

Mr. Conway stated: The supplemental products to use are pipes, lighters, cones, etc.

Ms. Kative questioned: What can they buy over the counter?

Mr. Conway stated: Nothing with actual cannabis. We don't really allow them to browse. We want to get people out quickly. We don't want people to linger and gum up the parking lot.

Ms. Cooney questioned: A lot of the flow has to do with the employees. What is the training like? Average age?

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Mr. Conway stated: They are trained for five days, eight hours a day. We are looking for retail, beauty, hospitality, Starbucks experience. We do offer continuing education.

Councilman Sargenti questioned: Are they working at other facilities before coming to us?

Mr. Conway stated: They are working in Rochelle Park.

Councilman Sargenti questioned: So, they are familiar with getting people in and out. They are not newbies?

Mr. Conway stated: They are not, and we are starting off with our appointment only model. They are training at the other stores. The average age is twenty-five to forty.

Ms. Cooney questioned: Is there an age that is state mandated to work here?

Mr. Conway stated: Yes, twenty-one.

Ms. Kative questioned: When Rochelle Park and Montclair opened up, they were in the news with lines waiting to get in. Was there any crime of customers getting robbed?

Mr. Conway stated: No.

Ms. Kative questioned: Any crime reported to the police?

Mr. Conway stated: Nothing more than any other store. The Chief of Police testified that there was no uptick besides fender benders.

Exhibit A-1 – Sheet 1 – Traffic Management Plan

Mr. Conway stated: We worked with the Chief on this traffic plan. If you are on Fletcher coming southbound, you take a left onto West Street and our parking attendants' flag in customers then they would go west to Edwin and flag them in there. If they are full, they will hand them a QR code to get directions to Rochelle Park or they can choose a different time to come back. We did this in Rochelle Park as well. We will have permanent parking attendants and we have no plans to stop keeping permanent parking attendants. At peak hours there are seven attendants and there are four at slower times.

Ms. Kative questioned: Edwin is a concern to me not Fletcher. On Edwin there are all families and a school down the road. How are you directing them to exit?

Mr. Conway stated: The parking attendant would direct them. They would go through Executive Drive to Route 4. We will hand them a QR code, and they will have to go.

Ms. Kative questioned: Does your website state parking is limited?

Mr. Conway stated: When the site goes active, we will have all of that.

Ms. Kative questioned: If they go northbound, they can make a left onto Route 4. Why go down Executive Drive?

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Ms. Trentacosti stated: I spoke with the Chief. He, as well as other members of the traffic department, felt that the way they had was going to be a problem, so he asked that they route them through Executive Drive and not Linwood Park.

Ms. Cooney stated: It is hard going north on Fletcher and is tough because there is no left.

Chairman Greenberg stated: Attendants are important, and I would think the key.

Chairman Greenberg asked for questions from the public.

Corey Chase, Dynamic Traffic, 245 Main Street, Chester, New Jersey, was sworn in as a traffic engineer.

Mr. Chase stated: I prepared the Traffic Impact Study. **Exhibit A-1**, shows the locations of the parking attendants. As the Chairman stated, they are the most important. We used Rochelle Park to help with the counts because they are the busiest. Typically, we refer to trip generation but we did our own research counts at Rochelle Park and they were significantly higher than the ITE trip generation numbers so we used those for our research. Rochelle Park is 2700 square feet and it is 3500 square feet here. We ran numbers through post analysis to see if they were detrimental. We studied 9W and Edwin and West and Edwin. We found the numbers acceptable from medical to recreational. The maximum parked at Rochelle Park were twenty-seven on a weekend and you would see thirty-eight at this facility. You have forty-five spots on site. With this expected, site access and circulation will be adequate.

Ms. Cooney questioned: There were twenty-seven per hour on a weekend?

Mr. Chase stated: Three hours at any one time.

Mr. Tuvel questioned: Are you located within 1000 feet of a school?

Mr. Chase stated: Fort Lee School Number 3 is 1,800 feet away.

Mr. Pohan questioned: When did you do the Rochelle Park study?

Mr. Chase stated: 4:30 p.m. – 6:30 p.m. on August 16th and 11:00 a.m.- 2:00 p.m. on August 13th.

Mr. Pohan questioned: How long were they open?

Mr. Chase stated: Around April 21st of 2022, when retail was legal.

Councilman Sargenti questioned: Were they established already with retail?

Mr. Chase stated: Yes, they had been.

Mr. Marshall questioned: You had medical there and they added retail and traffic went through the roof. How do you know that is not going to happen here?

Mr. Chase stated: We have Rochelle Park as an advantage as a case study. We can test the case, get data in real time and apply it here.

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Mr. Tuvel questioned: With that, are you comfortable it will work here?

Mr. Chase stated: Yes.

Councilman Sargenti questioned: With the amount of traffic that we have here on a Saturday, it might be best for this site to stay as appointment only. You also might want to consider cutting from 20 minutes to 15 minutes because of the traffic and the numbers you are talking about. Rochelle Park is in a shopping center where you can stagger cars. You have limited parking spots here. Instead of saying you are going to try appointment only for the beginning I think you should stay that way.

Mr. Tuvel stated: We understand your concern and we will be by appointment only for the first thirty days. To make you feel comfortable, after thirty days we can have Neglia do an analysis, open for regular business and have them do another review in thirty days. They can have a look back at the traffic management plan.

Mr. Pohan questioned: When was the CO issued in Fort Lee?

Mr. Tuvel stated: I believe in August.

Mr. Pohan stated: We insisted on a year after medical only for the traffic review. I think we definitely do not want to wait a year here.

Mr. Tuvel stated: We have no issue doing a look back about thirty or sixty days in to make sure everyone is comfortable.

Ms. Cooney questioned: Only after thirty or sixty days, that's the beginning. Can we do that for a year or year and a half, on a quarterly basis?

Mr. Tuvel stated: I understand. Neglia can evaluate.

Ms. Cooney stated: We want them to take the counts when they normalize.

Ms. Kative questioned: Can you go over the questions that Neglia asks in their review letter? They wanted testimony on the intersection of West and Route 9W.

Mr. Intindola stated: There was a traffic report submitted by the applicant and that answered my questions. What we know is they are going to be busy. We had done a site visit for a couple of hours. Not to compliment the applicant, but it worked well. On average, they had people in and out in eight minutes. The ITE has five data points. When you bring a new land use to Bergen County it is amped up. They provided the data that I needed to evaluate. It is not so detrimental that queuing will back out. They figured it out in Rochelle Park. You are greeted twice before you go into the retail area. They are wearing the proper reflector vests. It is well run. There was one que on Route 17 for a minute. Friday is the busiest from after lunch until 5:00 p.m. Our data meshes with their data so far.

Ms. Kative questioned: It says they acquired seventy-five off-site spaces in your report. Is it forty-five spaces or seventy-five spaces?

Mr. Intindola stated: It is forty-five off site spaces. It was a typo on our part.

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Ms. Kative questioned: Was it walk-in and retail when you observed?

Mr. Intindola stated: They walked in, and it was retail and medical use.

Mr. Marshall questioned: If you get approved by this Board to add retail, what if it doesn't work? Can you go back?

Mr. Intindola stated: From a traffic engineering perspective what we have is 60 customers at peak hour with no appointment, medical and retail. What causes traffic congestion is if you don't know where you are going what your transactional purpose is. Here you are greeted with a traffic safety vest on the corner. All the concerns I would have as a traffic engineer, they are managing. This is managed to the nth degree. I think it will be assimilated because it is managed. It is like a soft opening, you will have a spike, have your concern and we will monitor that closely. They will probably be fully staffed. They will normalize and find their market share. If there are issues, maybe they need to go back to appointment only until they figure it out. That is what we are here for.

Mr. Pohan questioned: Why would an establishment that is 3,500 square feet vs. 2,500 only generate 30 medical customers? Isn't it immature?

Mr. Intindola stated: Already accounted for in their analysis.

Mr. Chase stated: We adjusted up. This facility is larger than Rochelle Park.

Mr. Pohan questioned: You used Rochelle Park peak hours times 1.3 or whatever the number?

Mr. Chase stated: Correct.

Mr. Pohan questioned: What are we being asked to do? Retail by appointment or chance to come back?

Mr. Tuvel stated: I was suggesting the application be approved with reasonable conditions. Start with by appointment only and let Neglia and Police Chief evaluate them quarterly or more frequently when open to the public. If there were issues, we would have to mitigate based on the traffic engineer and Police Chief.

Mr. Pohan questioned: You don't want to open and come back to the Board in thirty to sixty days?

Mr. Tuvel stated: That's not what we want but it's up to the Board.

Mr. Kienz questioned: The Neglia report says you need a variance for parking. Are you in agreement?

Mr. Tuvel stated: I disagree. There was a variance granted with the initial approval.

Mr. Kienz stated: You need six per thousand, so eighty total per Neglia.

Mr. Grygiel stated: Based on square footage not changing, we don't think a variance is needed since the previous variance granted runs with the land.

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Mr. Kienz stated: That is accurate, however, they are seeking site plan approval and with site plan approval they are seeking variance relief, so you have to reprove the negative criteria. You have heard all of this for the past hour and a half. You can give them preliminary site plan approval so they can open up. You can withhold final site plan approval until you find they proved to you what you need to give final site plan approval. The Board could grant the preliminary approval and hold for final. They can open but they need to be responsible to Fort Lee.

Mr. Pohan stated: We were going to bring it back in a year for medical only so I don't think we should wait that long this time.

Mr. Tuvel stated: I don't disagree with all of this. I am just thinking about state level approval.

Mr. Kienz stated: The temporary CO should be good.

Mr. Tuvel stated: I agree.

Ms. Cooney stated: I would like it done over four quarters. I think it is important.

Mr. Kienz stated: Have the report done each quarter and come back one time not four times. Are you good with four times?

Mr. Tuvel stated: Yes.

Ms. Cooney stated: The Phillips Preiss Grygiel report requires testimony on the lighting.

Mr. Tuvel stated: The lighting has not changed.

Ms. Cooney questioned: What are the hours of illumination?

Mr. Conway stated: I believe 8:00 a.m. to 9:00 p.m. with only security lighting on after. Ascend is illuminated until 9:00 p.m.

Mr. Kienz stated: The name on the sign has to be identical to the state licensing name.

Mr. Tuvel stated: I will verify that.

Mr. Kienz stated: You can keep the sign as is and make the rest of it very small on the sign. That is what we did in my other towns.

Mr. Tuvel stated: I will verify that. That is fine.

Chairman Greenberg asked for questions from the public.

Chairman Greenberg asked for comments from the public.

Dr. Alfred Kulik, M.D., 1 Bridge Plaza North, 2nd Floor, Fort Lee – questioned: What was the traffic there? Staples is a place you browse. They talked about Rochelle Park and the benefits. As a doctor, medical is

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good. Recreational people will go up Route 4 to Paramus. We will see different types of people but medical will stay. What do we know about Staples? What was it like there?

Mr. Chase stated: We chose to discount that information and consider it vacant land. Staples is browsing and destination. We didn't want to take credit.

Franklin Puello, 2183 Edwin Avenue, stated: We were talking about the same thing. They never said open to the public. They said medical and appointments. How are they trying to change it? They never answered when they were asked to go back to medical if it doesn't work. I live there and have two kids, twenty and twenty-three, and we have a lot of kids there. They can go out and buy it. My neighbor is selling his apartment because he has little kids and don't want them to grow up in this area. We have been here many, many years. Everyone knows we have the busiest bridge in the whole world. I am a businessman in New York. It can take me thirty to forty minutes in traffic and eight minutes with no traffic. The traffic light on Fletcher Avenue, north to south, they don't let you go. I am doing this for my neighborhood.

Chairman Greenberg stated: That road is a county road. That should have a light. That doctor has been dealing with medical marijuana patients and understands what is going on.

Mr. Kienz stated: I would say the Board heard enough for the preliminary site plan approval and can proceed with state level. You can carry the final approval. Every three months we should get reports to our experts and carry final until this time next year. They can get a temporary CO but they have to satisfy the negative criteria and conditions of approval.

Mr. Tuvel stated: We got county approval before and will get a waiver from the county after this.

Mr. Kienz stated: In the event that any of the quarterly reports need modification, they will come back but have conditional approval until then.

Ms. Kative questioned: They will have to come back every three months?

Mr. Kienz stated: No, only in one year unless there is a problem but there will be reports every three months.

Mr. Pohan questioned: We are all concerned for a traffic nightmare. Can we have the reports the first month, fourth month, seventh month and tenth month?

Mr. Kienz stated: You will get preliminary site plan approval which allows you to occupy. You can get a temporary CO. You will get a resolution memorializing this within thirty days.

Mr. Pohan stated: and month one starts after you open for retail. Then the fourth month, seventh month and tenth month after that.

Mr. Kienz stated: We will schedule the final for seven months from now and get a letter of extension to carry it to twelve months.

Ms. Cooney stated: I would like to see it go a full year, but I value my members opinions.

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A motion was made by Councilman Sargenti, seconded by Mr. Ferris, and passed on a vote of 9 to 0 by members Pohan, Marshall, Ferris, Suh, Cooney, Sargenti, Forshner, Kative and Greenberg, to give preliminary site plan approval for 469 West Street, Fort Lee, and schedule final site plan approval hearing for seven months from now with an extension for twelve months, while also submitting traffic reports the first month after opening for retail business and then four months, seven months and ten months later.

NEW BUSINESS

ADJOURNMENT

A motion was made by Councilman Sargenti, seconded by Ms. Kative, and passed without objection to adjourn this meeting at 9:23 p.m.

Respectfully submitted,

Christen S. Trentacosti

Christen S. Trentacosti

Recording Secretary