

FORT LEE PLANNING BOARD

JUNE 24, 2019

PRESENT: A. Pohan, M. Marshall, L. LaMastro, R. Ferris, B. Suh, J. Cooney, M. Sargenti, R. Ketive, M. Kaplan, H. Greenberg.

ABSENT: N. Forshner.

ALSO PRESENT: Glenn Kienz, Esq., Board Attorney; Michael Jovishoff of Phillips, Preiss, Grygiel, Leheny, Hughes LLC.

NOTICE OF MEETING:

Chairman Greenberg stated: Let the minutes reflect that adequate notice of this meeting has been provided in the following manner: On October 15, 2018 this Body, by Resolution, adopted a Schedule of Regular Public Meetings for 2019. On February 25, 2019 this Body, by Resolution, adopted an Amended Schedule of Regular Public Meetings for 2019. 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 2019 to cover the cost of mailing.

APPROVAL OF MINUTES – MAY 13, 2019:

A motion was made by Ms. Cooney, seconded by Councilman Sargenti and passed on a vote of 8 to 0 by members Marshall, LaMastro, Ferris, Suh, Cooney, Sargenti, Kaplan and Greenberg, to approve the minutes of the meeting for May 13, 2019. Ms. Ketive abstained from the vote.

PUBLIC HEARINGS:

**DOCKET #4-19 1616 BERGEN LLC
 1616 BERGEN BOULEVARD
 BLOCK 3452, LOT 3.01**

MINOR SITE PLAN – SIGNAGE – SIX (6) BLADE SIGNS

Chairman Greenberg advised: This is for the public hearing of an application by 1616 Bergen LLC for property located at 1616 Bergen Boulevard, for minor site plan approval. Jason R. Tuvel, Esq. is representing the applicant.

Mr. Tuvel stated: This is an application for sign variances. The purpose of this signage is to promote the new Synergy program that Exxon is running as part of their branding. They are non-illuminated signs. All of the signs are under the canopy. The signs were installed without permits and I apologize on behalf of my client. He owns other gas stations and they were not required to get permits at those locations, so he assumed the same here. It was a mistake and he should have checked with the Zoning Officer. This is an amendment to the previous application to add signage. The zoning officer wanted us to come back to the Board.

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Chairman Greenberg questioned: Did you apply to the Sign & Façade Committee?

Mr. Tuvel noted they did and coordinated with Ms. Trentacosti as well. Neither of them received a letter from the Sign & Façade Committee.

Chairman Greenberg questioned: You installed the signs without approval from them as well?

Mr. Tuvel stated: Yes.

Ms. Kative questioned: You provided us with these pictures and there is a diesel sign here. Do you have approval for that?

Mr. Tuvel stated: Mr. Kienz pointed that out to us as well, and it will be removed.

Ms. Cooney asked what the Sign and Façade Committee had to say.

Chairman Greenberg stated: There has been a disconnect between the Sign & Façade Committee and the Planning Board since the committee was removed from under the Board's prevue. We are going to try to solve the issue. If not, the Councilman is going to speak to the Mayor and Council about it.

Mr. Charles Olivo, of Stonefield Engineering & Design, was sworn in.

Mr. Olivo stated: We are seeking approval for signage under the canopy that stands approximately 9-9 ½ feet tall and are koloa sings. They are red with white lettering. There are around 11,000 sites with Exxon and Mobil.

Mr. Pohan arrived and sat for the public hearing. He was brought up to date on the information that he missed when Mr. Olivo spoke.

Mr. Olivo continued: The 2019 branding of Exxon is this new signage. The signage is red with white lettering and they are unilluminated. They are trying to keep up with the current branding strategies.

Mr. Kienz questioned: Do you agree with Mr. Jovishoff's report.

Mr. Olivo stated yes.

Mr. Kienz questioned: Michael, do you agree?

Mr. Jovishoff stated yes.

Mr. Olivo stated: You can see the detail on the C-5 sheet. This shows the symbol for synergy and the wedge sign. The koloa sign is on the bottom right.

Mr. Kienz stated: There is nothing located on the pumps?

Mr. Olivo stated: Correct.

Chairman Greenberg questioned: There are six of each, wedge and koloa?

Mr. Tuevel stated: Yes. We are under sign height for the koloa signs.

Mr. Olivo stated: The koloa signs are 9- 9 ½ feet off of the ground.

Mr. Tuvel stated: There is no variance needed for the height as we are above the 8 feet required. There is a height variance needed for the height of the wedge sign which is about 4 feet off of the ground.

Mr. Olivo stated: There is no additional light internally from this sign. It promotes a creative visual environment; we are not seeking the more elaborate synergy sign that is offered. The applicant just wants to call to attention the fact that they have this fuel source. It also helps to promote the flow of traffic because it shows they are up to date. They also help to promote health, welfare and safety and do not cause any substantial detriment.

Ms. Cooney questioned: What is the purpose of the koloa sign?

Mr. Olivo stated: Consistent styles, uniformity, and as part of the branding package.

Councilman Sargenti questioned: Were all of these signs up already or are you asking for additional signage?

Mr. Tuvel stated: Yes, they were all up already, there is no additional signage.

Mr. Jovishoff questioned: The koloa signs have advertisements in them. Is it changeable, will it change, does it only advertise products on site?

Mr. Tuvel stated: That insert can change and it will always relate to the products on site.

Mr. Jovishoff stated: Under the ordinance you are limited to three colors.

Councilman Sargenti questioned: Is there mobile pay or Wi-Fi in the signage?

Mr. Tuvel stated: No.

Ms. Kative questioned: From the photos on page 5 under Koloa signs, is that for garbage?

Mr. Tuvel stated: Yes, they are.

Mr. Jovishoff stated: In the event the Board chooses to approve, if there are no additional signs or construction going up we recommend that we waive site plan.

Chairman Greenberg questioned: Do we have a motion to approve?

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Ms. Kative stated: I will make a motion to approve if the koloa signs be restricted to Exxon related synergy advertisements and they are red, white and blue color.

Mr. Tuvel stated it was acceptable.

Mr. Kienz stated: No freestanding A-frame signs are permitted as well.

Mr. Tuvel stated: We agree.

A motion was made by Ms. Kative, seconded by Councilman Sargenti, and passed on a vote of 5 to 0 by members Pohan, Suh, Cooney, Sargenti and Kative, to approve the application for Signage. Mr Marshall, Mr. LaMastro, Mr. Ferris and Chairman Greenberg abstained.

Chairman Greenberg stated: Please tell your client not to do this again. It has caused a lot of problems for us. Let any other clients you may have know they must speak with the Zoning Officer before putting up any signage.

PROPOSED AREA IN NEED OF REDEVELOPMENT

1350 FIFTEENTH STREET

BLOCK 2252, LOT 1

SHOULD THE STUDY AREA BE DETERMINED TO BE AN AREA IN NEED OF REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A-5 ET. SEQ.

STUDY PREPARED BY PHILLIPS PREISS GRYGIEL LEHENY HUGHES LLC – DATED: JUNE 2019

Michael Jovishoff stated: There was a request made by the Mayor and Council to see if the property between 15th and 16th Street, located on the west side of Fort Lee, meets the statutory requirement to be deemed an area in need of redevelopment. It is one large tax lot and is adjacent to Palisades Park, the Fort Lee Community Center and is north of the Fort Lee Police Department. There are a number of condos located to the west and south west. The R-10 zone is on the west side and the C-2 zone on the east. It is also located within the nodes and corridors overlay district. The development has a residential tower with 212 units, commercial buildings and paved parking areas. If approved to be an area in need of redevelopment, it would be a non-condemnation area, but all other items are available to the developer. We inspected the area and did research. We found a large number of code violations and a few have been attached to our report but not all of them. The redevelopment law provides eight criteria. If the condition of the property meets one of the criteria it can be deemed an area in need of redevelopment. We find that it qualifies under criteria D. It is under the deleterious criteria. The deterioration of the structure in the parking garage has been documented by the Borough as only having band aids, not fixed. The fire code violations have mostly been mitigated but show an ongoing pattern. There are a significant number of vacancies, approximately forty percent. Poor locations of stores, odd configurations, dated designs, etc. show conditions that are adversely affecting the community. Under the safety, health and welfare of the community this can be deemed an area in need of redevelopment and the Borough can draft a redevelopment solution and plan.

Chairman Greenberg questioned: Will the tenants in the residential section be disposed?

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Mr. Jovishoff stated: Not necessarily. There are issues raised about the conditions of the building. Cosmetically they have changed some things. We are in new territory, but we can probably craft

something to work for everyone. What they are looking to do is build a new 167-unit building, a new parking garage that appears to be about 5 stories with 44-spaces per story, a new parking area with a park and pedestrian area, as well as enhanced retail spaces.

Councilman Sargenti questioned: When would the rehab take place on the original building? Is that their first priority or their last?

Mr. Jovishoff stated: I have only seen their concept, but we can do the plan if deemed an area in need.

Councilman Sargenti stated: The neglect from the ownership is the reason these people are living the way they are.

Mr. Jovishoff stated: The implication is the son is taking over and trying to change their reputation.

Councilman Sargenti stated: We watched that garage burn down and the owners did nothing afterwards. It sat for years with trash and infestation and the owner did nothing.

Chairman Greenberg stated: I am concerned about the people living there. If it is rent controlled and they knock the building down, then what?

Mr. Kienz stated: If you displace the people the municipality could be responsible.

Mr. Jovishoff stated: I do statutory relocation and if the public project displaces them, they have to take care of them.

Ms. Cooney stated: This report was excellent. This is the eleventh redevelopment area. Two of them were abandoned buildings, four were vacant parcels, two were turned into low income housing and one is a no-tell, motel that we got rid of. This is the first one where there is an existing owner looking for redevelopment. Page 16 states that they could get tax exemptions. It is a 1960's building and what is to preclude other buildings from letting their building go into a state of disrepair, as was stated on page 19. I used to ride the ambulance and after we left a call from this building, we would want to take a bath. They have a plan of what they would like to do but there is an ongoing pattern of neglect. How do we know they would keep up with this? What is the message we are sending to other owners?

Mr. Jovishoff stated: If this is deemed an area in need of redevelopment then it is different. This is a crummy building and the Council knows that. The owner will not do this themselves. The town needs the COAH and they could get 20% out of it. Yes, they are getting a little bit of a pass, but the Borough could get a lot out of it.

Ms. Cooney questioned: If it was granted a redevelopment area, could you prohibit current ownership from being the redeveloper?

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Mr. Kienz stated: I think there are other ways to get to where you want to get. It's all on one lot. Michael, you focused on criteria D, which is right, but I believe it fits criteria A & B as well. You should consider recommending it to the Mayor & Council and state you are willing to do so, including the 212-unit building which would need to have substantial work done to it. You would be able to take care of

the phasing. You do not want brand new things being done in town and then have this existing “issue” sitting there.

Mr. LaMastro stated: I agree this was an excellent report by Michael. I second what Janet said. It seems to be more of a rehabilitation area than a redevelopment area. I would like to see this redeveloped, but I do not want to reward the owner with tax abatements. It has been an eye sore for 30 years and on page 4 it says how unsafe it has been and talks about the vacate order that we have no idea what happened with. I do not want to see ZAKA get anything from the Borough. It’s like the wild west over there.

Mr. Pohan questioned: If this is designated, there is no absolute right to a tax abatement, correct?

Mr. Kienz stated: That is correct.

Mr. Pohan questioned: The building is mostly rented. Most of the areas that need to be redeveloped are not money producing. Can’t we deem the retail portion an area in need and not the rest of the lot?

Mr. Jovishoff stated: Yes, but that was not our instruction. They may be making money but the residential could be compensating for the commercial and so on.

Mr. Pohan stated: To reward bad behavior and establish the precedent to let the building run down and cut a deal, I cannot see.

Chairman Greenberg stated: I am worried about displacing 212 units and the municipality becoming responsible.

Mr. Jovishoff stated: It is up to how the development plan is crafted.

Mr. Kienz stated: If you are going to do redevelopment of a new 167-unit building, and you are producing affordable housing of 20%, why not say as you build the 167 units offer them to the people in the 212-unit building so they can start rehabbing the old building.

Mr. Pohan stated: I doubt they will build a new building and put old rent control in the new building.

Ms. Kative stated: Yes, the building is under rent control. It was never given an abatement. I was on the Rent Control Board and rents were constantly being rolled back. My biggest concern is an occupied rent control building without a rent schedule and now a new construction that will be on an abatement and I guarantee the hands do not match. I have real concerns.

Chairman Greenberg stated: We may approve this, but the buildings need to be upgraded properly.

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Mr. Jovishoff stated: I believe we can craft something in phase one where the building needs to be reviewed before they can move on to the rest of the development.

Chairman Greenberg stated: But it won’t be viable to the owner because of rent control.

Mr. Jovishoff stated: Yes, but you force his hand. Then the redevelopment goes nowhere, or they sell it and you get a new redeveloper.

Mr. Kaplan questioned: You talked about the loss of Shop Rite and what led to it?

Mr. Jovishoff stated: Well, the Shop Rite is now the Fort Lee Community Center. You have no anchor there now and you need to redevelop to help the area.

Ms. Cooney questioned: What is the difference between rehabilitation and redevelopment?

Mr. Jovishoff stated: Rehabilitation has lesser proofs and is required for specific situations. Some take abatements. This could qualify as an area of need of rehabilitation, but we were asked to look for it to be an area in need of redevelopment.

Ms. Kative stated: The Urban Enterprise Zone exists for ten years and cannot be changed, added to or broken away from. Rent control, I am personally against and I believe that this is a perfect example of why it does not work and what it causes, and/or a landlord that doesn't maintain its property even if they were allowed fair market rent. I think if the Brough wants to change this to the zone they want to, then they need to use vacancy decontrol with the rent control and tie it into the tax abatement so when each apartment is vacated, they have to renovate the apartment and get fair market value but the town can get the money back from the tax abatement.

Chairman Greenberg questioned: I agree. I do not know how to proceed with our recommendation. Councilman Sargenti, what do you think?

Councilman Sargenti stated: I think it is deplorable what the owners have done. I think the owners should be in jail. But I do believe we need to deem this an area so that we can continue to take the town in the direction that the Mayor and Council have been going in.

Chairman Greenberg stated: We agree with your findings, but we have concerns.

Ms. Kative questioned: Are there existing, outstanding violations?

Ms. Trentacosti stated: I believe they were all taken care of when they came before the Zoning Board two years ago.

Chairman Greenberg questioned: Did they proceed with the approval from the Zoning Board?

Mr. Jovishoff stated: No, not that I know of.

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Ms. Kative stated: If vacancy decontrol can work, upon vacating the unit it be rehabbed as affordable housing in the older building, not the newer one.

Chairman Greenberg stated: High-end and low-end rehab is not much different in pricing.

Mr. Jovishoff stated: Affordable housing is what the Brough needs to meet. That would take too long and it would be uncontrollable.

Mr. LaMastro stated: If we send a recommendation to the Mayor & Council then we should have qualifiers and one should be the current owner does not have a major say in what we do.

Ms. Cooney questioned: Can we do that legally?

Mr. Kienz stated: It is a great idea but would be a push. The developer's agreement has specific safeguards.

Mr. LaMastro stated: Michael even stated on page 19, that although the violations and deficiencies appear to be remediated it does not assure that they will be maintained in the future.

Ms. Cooney stated: We never see the developer's agreement. After the Mayor & Council passes it then our hands are tied.

Mr. Kienz stated: We can ask to see if before they approve it.

Chairman Greenberg stated: We all agree it needs to be redeveloped, but we all have concerns.

Mr. Jovishoff stated: We can work it out in the redevelopment plan.

Mr. Marshall stated: I am all for the plan. People are suffering, the Brough needs it for COAH and under the redevelopment plan the town has certain control.

Mr. Kienz stated: You can declare it an area in need of redevelopment but include comments the Board has.

Mr. Jovishoff stated: When I first looked at this it was an existing building and I was thinking why are we doing this? After we dove into the examination and we found all of these things going on and met with the property manager, at which time there was no water in the building, I though Fort Lee is a nice place, but this place is a dump. I think you are being given a chance to do some good redevelopment here.

Chairman Greenberg stated: This is a downtrodden area.

Ms. Kotive stated: There is vacant retail and vacant retail all over. Retail is on the decline, why are we creating more?

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Chairman Greenberg stated: We all understand retail, but Main Street has no vacancies.

Mr. Jovishoff stated: Also, the proposed garage can service the area and we can create the rules.

Mr. LaMastro questioned: Can we request a sub-committee for this project?

Councilman Sargenti stated: I can ask, but I doubt it.

Mr. LaMastro stated: I would like to motion to make this an area in need of redevelopment.

Chairman Greenberg stated: Yes, pursuant to Michael Jovishoff's findings and a copy of the transcript from this meeting be sent to the Mayor and Council with our findings for their review.

A motion was made by Mr. LaMastro, seconded by Mr. Ferris, and passed on a vote of 6 to 3 by members Marshall, LaMastro, Ferris, Suh, Sargenti and Greenberg, to recommend to the Mayor and Council that 1350 Fifteenth Street be deemed an area in need of redevelopment. Mr. Pohan and Ms. Cooney voted no stating it sets a bad precedent and Ms. Kative voted no until the rent control in a redeveloped area is clarified.

Chairman Greenberg thanked Mr. Jovishoff for a wonderful report.

ADJOURNMENT

A motion was made by Ms. Kative, seconded by Councilman Sargenti, and passed without objection to adjourn this meeting at 9:17 p.m.

Respectfully submitted,

Christen S. Trentacosti

Christen S. Trentacosti

Recording Secretary