

MINUTES

CRESSKILL PLANNING BOARD

MARCH 23, 2021

Mr. Ulshoefer opened the meeting at 7:30 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call:

Mayor Romeo, Councilman Kaplan, Mr. Ulshoefer, Ms. Bauer, Mr. Malone, Mr. Mandelbaum, Mr. Rummel, Mr. Sutera, Ms. Tsigounis and Ms. Furio. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Stamos, Board Attorney. Mr. Steve Lydon was also present as the Borough Planner for tonight's Public Hearing.

Ms. Baur made a motion to approve the minutes of the March 9, 2021, meeting, seconded by Mr. Rummel. All present were in favor of the motion. Motion approved.

Correspondence

Memo from the Office of the Fire Chief, dated March 18, 2021, to the Planning Board, regarding 1 Union Avenue. The Fire Chief states, "I am in receipt of the plans dated on 02/05/2021. Obviously, a project like this will have a direct impact on the fire suppression Division and the EMS Division.

"Therefore, the following items must be addressed and incorporated into the approval resolution to ensure compliance.

- 1) Building shall be fully suppressed with a NFPA 13 compliant system.
- 2) Building shall be fully protected by a NFPA 72 Compliant fire alarm system throughout the building with the exception of within the dwelling units.
- 3) An approved rapid access key vaults of adequate size shall be installed on the front of the building and rear exit. Exact location to be determined by the Fire Chief.
- 4) Fire Department Connection for the building's suppression system shall be installed in a location approved by the Fire Chief.
- 5) 2nd floor egress door to be openable from the exterior for the fire department access.
- 6) Elevator shall be designed to accommodate a full-size stretcher utilized by the Cresskill Fire Dep. EMS."

Letter of Introduction from Mr. Bob Rusch, Construction Official, dated March 16, 2021, sending Ms. Xiu Mei Wang to this Board for approval. She would like to open the Laxation Spa Center at 39 Broadway. The business will be a body/back relaxation spa with services including facial care and herbal foot care. No one was present.

Letter of Introduction from Mr. Bob Rusch, Construction Official, dated March 18, 2021, sending Mr. Hubschman to this Board for approval. He is representing Ms. Ashley Norris who would like to build a new single-family house at 67 Westervelt Place. Side yard variances will be required. No plans have been received. Mr. Hubschman was present for the Public Hearing and was made aware that the plans have not been received yet.

Subdivision Committee

Nothing to report.

Report from the Borough Engineer's Office

Nothing to report.

Old Business

None.

New Business

Mayor Romeo got a call today from the owners of Samdan. They would like to construct a tent on the side of the building, which is the grassy area between them and the little league field so they could have some outdoor dining. He told them to come in and talk to the Board. He doesn't think it would be a problem. They are trying to encourage them, and they just have to give us an insurance policy naming us as additional insured so they could do it. The Board didn't have any objections.

Pubic Hearing – Application #1559 – 1 Union Avenue

Mark Madaio, Legion Drive, Bergenfield, was present representing the applicant. He returns this evening with regards to 1 Union Avenue. It is the corner downtown. They started this application last year, then they took a break while they resolved some issues as to unit numbers. They feel they have that resolved in a way that is satisfactory, so they are back here tonight for this project on that corner. They are going to start anew so that the record is clear, and they don't have to rely on what people remember from five or six months ago. They have re-noticed and presented everything to the Board counsel. Mr. Stamos did review the notices that were noticed for the February meeting. There was a communication issue and Mr. Lydon was not available, so we carried the notice to today's meeting. He reviewed the notice, the property owners' list, the green cards and the affidavit of publication, and everything is in order.

Mr. Madaio stated that the existing Connect One Bank was always intended to be built on to, to come up with a project that included retail downstairs and residential upstairs and a two-story bank atrium. That bank included a drive-thru. When that bank eliminated its corner position, the drive-thru became unnecessary, the atrium became unnecessary, and they found that the drive-thru is clearly not one of the municipality's favorite features of this project. He doesn't blame them. Once the drive-thru is established, you don't know what it might be down the road, and the drive-thru is probably the least desirable component, it eats up a lot of space, it in likelihood cues out to the main road, and it is probably just not desirable.

A lot of that is because that project, that previously approved project by resolution #1375, which is of course years ago, involved keeping the old building, some additions, etc. His client has proposed a tear-down, a complete restructuring of the building and where it is located. The original approval was retail downstairs, seven apartments upstairs. They are proposing tonight retails downstairs and eight apartments upstairs, including the one three-bedroom COAH unit that they are obligated to provide. Mayor Romeo stated that they should have two COAHs. Mr. Madaio said it was 1.2 COAHs. Mr. Steve Lydon, explained that they have to do a 15% affordable housing set aside if it's a rental development, which this one is. If you do the math, it comes out to 1.2. If you do one, the applicant is not complying with the ordinance and the set aside. If they do two, he is doing a 25% set aside, which is significantly greater than the 15% that is required. So,

what people have done is used a payment in lieu for that partial unit. Typically, if it is a half of a unit or more, the developer usually provides the additional unit. When it is .2 or .3, towns have generally said give us a payment in lieu and we will put it towards our affordable housing trust fund, and we will use it for something else.

Mayor Romeo asked what Ms. Shirley Bishop thinks about this, is it one or two, because he just got the approval and has it in writing. If it's one and a partial, what's the partial worth. Mr. Lydon stated that he has not spoken with Ms. Bishop specifically on this. He believes because of other conversations he has had on Cresskill applications she would be good with it. As far as the dollar amount, if you use a number they have come up with in Cresskill before, then the affordable unit is worth \$208,000, and you take two-tenths of that, you come up with \$41,600. Mayor Romeo stated that he is concerned that we are doing something here that COAH will get upset with. He wants to make sure that they don't have to have two full apartments. He remembers that he thought it said two. That needs to be checked out. Mr. Lydon noted that if it was 11 apartments, he would absolutely say it would be two. This unit would be going to the Borough's unmet need obligation and COAH does provide a different sense of latitude and flexibility with the unmet need. He is sure Ms. Bishop would be comfortable because it is unmet need. If it is going towards RDP, Ms. Bishop's answer would be different.

Mayor Romeo believes both of them, but he wants something that says that, and he will go with that. He asked if there was a requirement for a three-bedroom here. Mr. Lydon said there is. Mayor Romeo thought we met that when we did the group home. Mr. Lydon said we met it for that one and they are requiring it here too. Mayor Romeo wants this figured out because he doesn't want this project built and then be short a COAH.

Mr. Madaio noted that for the record, they are building a three-bedroom unit, that has never been in any proposal in the past and they are building that only because it satisfies the COAH unit. Mayor Romeo wanted to know how they knew about it. They already had it on the books that it was approved for smaller apartments. Why all of a sudden do they know about this? Mr. Madaio stated that they may have spoken with Ms. Bishop and the Borough's Planner in conjunction with planning the project. The only thing worse than talking to them is not talking to them and then saying that we are short. He thinks at some point, very early on, they probably both had some dialogue with the court appointed master or COAH to ask what their obligation was here if they did "X." Mayor Romeo noted that when they approved the plan eight years ago, that was fine with two units. Now when they changed it, somehow they were notified. Mr. Lydon explained that you have to report building activity each year to DCA. DCA has those numbers and they are reviewed by COAH, and more importantly they are reviewed by Court Master and the Fair Share Housing Center. Mayor Romeo asked Mr. Lydon if he thinks this is unmet need so it doesn't really matter, it is not the RDP. Mr. Lydon stated that it does matter. It gives us a little bit of flexibility of the .2 unit. He believes you could do a cash contribution. It seems a little onerous when it is only a .2% obligation to have a developer do a .5% set aside. Their obligation is 15%, 25% is a bit much.

Mr. Madaio explained that they have included a three-bedroom unit because they understand that that is what the planner wants and ultimately what affordable housing really wants. The other units are a mix of ones and twos, or significantly twos, and that is pretty consistent with what they have done. The prior number of units when they had the drive-thru and all of that stuff was seven. They are getting rid of all of that and they are asking for eight. Their sense of it is that's a fair trade-off for getting rid of the drive-thru that you might regret forever. By the same token, it's not as aggressive as prior applications and they think it is fair. The project then was developed in this manner. He will have his planner, engineer, and architect here to discuss this, but the Mayor and Planner also touched on something and they agree to the contribution to the fund of the .2 of the unit.

As you move forward, Mr. Madaio thinks he expressed this last time, that this was approved about eight years ago. When it was approved, it was approved approximately with this exact same footprint. This building is not significantly any largely or smaller. It is the same and virtually the same number of retail square footage. The building is approximately the same number of residential square footage. What's missing is the big two-story bank and atrium and the drive-thru. What he would also like everybody to understand is, when this was approved eight or nine years ago, they got married. The developer at that time and the Borough got married and they provided an easement agreement and the ability to provide that

municipal parking lot that benefits all those stores. That parking lot, to the benefit of everyone, is part and parcel of this eight-year-old approval. The flip side of that eight-year-old approval is they would build this add-on sort of building. They think this is a better building and the Borough still gets that right to use that parking area, the easement agreements, etc.

Mr. Madaio marked as Exhibit A1 the old Resolution #1375 and passed them out. He marked as Exhibit A2 the Easement Agreement from August 2009 that made the collective use of the common parking area possible. Copies of that were passed out as well. They contributed in that and just because they didn't build the building for the last 11 or 12 years, doesn't mean they forgot about it or the Borough was able to use that common parking and they don't somehow get to finish the building. Their intention this evening is to proceed forward first with Mr. Michael Hubschman to talk about the engineering, then their architect and then their planner. He doesn't want anybody to have a misunderstanding about the fact that this is a new approval or that they are starting from zero.

Mayor Romeo looked at the old Resolution from the prior approval and read #8 – The second floor will consist of seven residential units, consisting of four market rental units and three low- or moderate-income units. This is why he is concerned about this. He is not even looking for this. All he wants is no trouble from COAH. He thought it was always two. Mr. Madaio noted that that was a typo that was corrected. It was never three, it was always two. He understands that as long as COAH is satisfied with whatever you do, you are okay with instead of the two, that if COAH really wants the three-bedroom, they will do that. That is apparently more useful for them for families.

Mr. Madaio stated that Mr. Lydon, after tonight, approved or not approved, whatever the status is, he thinks he can imagine what his first call will be in the morning, and in the event for some reason this is unapprovable because of COAH, then we will all return to the table. He doesn't think any approval the Board gives vests if it is impossible to do under COAH. Mayor Romeo wanted to know who said this was a misprint. Mr. Azzolina believes that two is correct, but he would have to check his files from nine or ten years ago. It would be in his notes, it would be in the minutes as well. This sounds familiar but he has not been actively involved in this application so he will have to double check. It is easily provable one way or another.

Mayor Romeo stated that two units is fine. If they tell him that he can get credit for 1.2 and COAH doesn't bother us, he is okay with that because he just wants to make sure they are satisfied and don't have to reopen it. He just got, three weeks ago, the final approval for COAH. He cannot open this up again. Whatever it takes to do this. This needs to be researched. Mr. Lydon and Mr. Madaio agreed. Mr. Kaplan asked how the requirement got reduced if it was two or three back in 2009. Mayor Romeo noted that when they added apartments in another location, it changed the formula. Mr. Madaio stated that the original approval was only seven units and how you get three on seven, that is almost 50% affordable housing. Conceptually, mathematically it would not make sense in any context. He does believe that it might have been written as two, or intended to be two, and he does believe the actual number, if you do the math, is 1.2, based on their current application for eight units. As he expressed, this was also originally driven when more units on the second floor was driven that the two-story bank atrium when taken out, you still have the floor area, you just no longer have the atrium up 30 feet high. You have a floor there somewhere and that floor is squared off and creates some additional area on the second floor that they believe is a fair trade off for that drive-thru which yields eight appropriate units. They believe this is a better all-around focus than the 11 they sought when they were here last year.

Mr. Michael Hubschman, 263 S. Washington Avenue, Bergenfield, was sworn in by Mr. Stamos. He was accepted as an expert in the field of engineering. He is a licensed engineer in the State of New Jersey. He did the engineering on this project. Mr. Madaio noted that this is not a new project. They have the approval for something very, very similar.

Mr. Hubschman explained the site that everybody is familiar with. He pointed out where Bondi's bar was. He pointed out where the bank is. The old proposal had a similar footprint, but it was to put an addition on and keep the bank with a two-story atrium. The 2009 approval was for 9,926 square feet. Now they are at a 10,373 square foot footprint. They are proposing seven two-bedroom apartments, one three-bedroom apartment. The building height is 33 feet. The footprint, including the canopies, is colored brown. The

parking lot in the rear is colored grey and is already built so they had to design the building using those grades. They are proposing brick pavers around the site. New sidewalks and curbing, new ADA sidewalk ramps in the front. This site plan was colored to show the proposed landscaping on site which are shade trees and just some ground cover. The whole set of the site plans was marked as Exhibit A3.

Mr. Hubschman explained that there were six retail on the first floor. There were also six retail on the 2009 approval. Mr. Madaio noted that in the 2009 approval, they also had a drive-thru lane. Mr. Hubschman pointed out where that was and stated that they decreased that ingress to 20 feet. That was originally about 24 feet. In the original approval, because it had a drive-thru lane, it also had a bypass lane. The current plan is just a driveway and a sidewalk along the fish store area. A lot of this is built already. The refuse area that has a compactor in that is going to be used by their building and some of the other buildings.

Mr. Hubschman noted that they are in the C Zone which has a proposed mixed-use element. One of the only differences is the ordinance has a separate item for the parking. 275-38C1 says dwelling units only need to have 1.25 spaces per unit. He had that on the drawing. The old Boswell drawing had the RSIS calcs. He updated the parking calcs on this drawing to the RSIS calcs. The parking demand for the retail and the units is 86 spaces required where the parking demand on the 2009 plan was 80 spaces. They require six spaces more than they did in 2009. Mr. Madaio noted that it was a permitted use in 2009 and it is permitted now.

Mr. Hubschman stated that there are two variances and one is for the parking which is all part of an agreement to allow the easement to the Borough for the parking lot. They are proposing 27 spots on site which are existing. The second variance is for the requirement for the minimum number of two bedrooms and minimum number of three-bedroom units and 20% of the requirements have to be three bedrooms and they are at 12.5%. Mr. Madaio noted that because under the code they are required to have more three-bedroom units which he assumes everybody agrees they don't want. Mr. Lydon stated that the bedroom distribution is only related to the affordable units so at 100% three-bedrooms, you are more than what the ordinance requires, because the ordinance requires 20% be three bedrooms, so they don't need a variance for bedroom distribution. Mr. Hubschman noted that they do not need a variance for bedroom distribution.

Mr. Madaio stated that we have a project that was approved in 2009 that requires one variance for the parking and they require six spaces more than they did in 2009. The Borough has built that parking lot and that was the agreement after 2009 and whether we built the building or not, we lived up to that agreement or their predecessor in title lived up to that agreement.

Mr. Hubschman noted that other than the parking, the project conforms to the C Zone, which the minimum lot area is 7,500 and they are 34,285, so it is a much larger. It is all listed in the zoning schedule. In short, they have about five times as much property as they are required to have, twice the property on Piermont, twice the property on Union, twice the property on Allen, the lot depth is only required to be 100 and theirs is 196. These are all the number that made this property a unique opportunity for them to build a building they wanted, and the Borough to be able to construct the downtown parking area that most of us take for granted when we park once and move from store to store in town.

Mr. Hubschman stated that site is flat and they had to work with all the existing grades of the curbing because they didn't want to rip anything out. The plan shows all of the acceptable ADA. The sidewalk was very complicated with all the ADAs. You need 2% slopes in front of all the doors and 5% maximum sidewalk slopes, so he designed all of the grading to accommodate that. There is not a big increase in runoff because it is an urban soil type. There is one seepage pit. All the utilities are available in Union and Piermont. There is a lighting plan. They are adding two or three lanterns that match the same ones that the Borough has along the streetscape. The architect shows accent lighting and there are some soffit lighting that will go around the building. He has to add a few more lights along the back. The building is 23 feet back from Union and 25 feet back along Piermont from the curb. Mr. Madaio noted that the previous building required numerous setback variances. This structure requires no variances for setbacks.

Ms. Tsigounis noted that the prior approval required a side yard setback variance. This plan does not list that. Mr. Hubschman stated that there is no sideline requirement in this zone. Ms. Tsigounis stated that that is why it is so hard for Mr. Madaio to keep going back to the prior Resolution and basing the weight of

this application on that approval because times have changed. Things are different. In reference to the parking, how many parking spots are required for the residential aspect. Mr. Hubschman noted that for the residential, 16 spaces are required. Ms. Tsigounis wanted to know if those spaces were going to be designated spots. Mr. Hubschman noted probably not. He thinks the agreement had a lot of restrictions on three-hour parking. Mr. Madaio noted that the easement agreement actually provides for overnight parking by sticker for the tenants. Ms. Tsigounis asked if it was fair to say of the 27 spaces that they are providing, 16 of those are most likely to be occupied all the time by the tenants that reside there. Mr. Hubschman doesn't think all the time. These are generally urban type projects which are really renters that use buses. Ms. Tsigounis noted that that is her concern on the project is it would be wonderful to have this downtown developed, however, the parking is a concern and the quality of the lifestyle for the tenants is a concern. They want to make sure that whatever we are granting they are provided with the amenities that they should have for the quality of life. So, the parking could be an issue.

Mr. Madaio stated, respectfully, that he is going to go back to 2009, because as he indicated they are married. Cresskill doesn't get to get us to give them our property and then say the 2009 approval upon which that is based is meaningless. They actually, on their site, not on their property, only have three spaces. All of the tenant parking was always contemplated to be in this parking lot. All of the tenant parking was always contemplated by the easement agreement which we are all parties to, to be tenants get overnight stickers, but we generally assume those spaces empty out during the day, other people park there, and that they have sticker rights for overnight. That was what they all agreed to. They have already entered into this union. If you want to go back to ground zero, the Borough can give them back all the property and they will say they are starting from nothing and they'll say they are starting on an even footing.

Mr. Kaplan is a little confused. Mr. Madaio keeps talking about this marriage contract we have, but it seems to be one sided. You seem to have emancipated the children. Your original contract called for two or three COAH units. But you say that no longer applies. Mr. Madaio stated that the Borough's planner says it no longer applies. He doesn't care one way or another but the planner is asking for 1.2 and they will verify that before the application resolution is adopted. Mr. Kaplan is saying you keep talking about the contract as if nothing can change except when you want it to change. Mr. Madaio stated that they don't want anything to change other than they eliminated the drive-thru that was already approved and they believe that by eliminating the drive-thru and eliminating the atrium, one more unit is fair especially when what they are giving is the three-bedroom unit. Mr. Kaplan said that a few minutes ago he said the change in the parking requirement is coming because they added this one three-bedroom apartment, before he had two COAH units. Mr. Madaio stated that they were one bedroom or studios. They never said it was purely because of the three-bedroom. He believes Mr. Hubschman's testimony indicated that the actual footprint is slightly larger. When you eliminate the drive-thru and the bypass lane, you are building out a little bit bigger. They do believe that the 2009 approval is relevant. They can't pretend that it is not relevant when that is the deal they entered. They are tweaking that approval tonight by their desire to eliminate the most noxious parts of that approval in exchange for one more unit, which by the way, is most likely the big one, which is your COAH unit. He thinks that is a fair deal all the way around. He doesn't think in any event could they be less than what was approved in 2009, because they have already performed under that 2009 contract when they gave the Borough their property. We can't pretend the 2009 contract doesn't exist. The question is, is this a reasonable modification of the 2009 contract and were the tweaks better than the 2009 plan. That's their belief.

Mr. Madaio stated that in 2009, this entire parking arrangement was figured, and it was also then reiterated in the easement agreement. Their tenants will lease from them. They understand what the parking arrangement was. Ms. Tsigounis noted that they are making the argument that because it was approved in 2009, that the parking variance doesn't exist. She disagrees with that. She feels that times have changed and we need to look at this and the parking is the biggest issue of this project. Mr. Madaio asked if the ordinance has changed since 2009. He stated that it has not. Ms. Tsigounis asked why the side yard was an issue in 2009 and it is stated right in the resolution. Mr. Madaio stated that we have planners here and engineers here and we can pull out the ordinance and see what has changed since 2009 and parking has not changed. Mr. Hubschman has a commercial zone ordinance that changed in 2017, but he doesn't know what exactly has changed. Maybe the side yard was taken out. The parking was RSIS and that hasn't changed since 2007. Commercial parking hasn't been changed. Mayor Romeo noted that what was changed is that you could put a second floor downtown to allow for COAH.

Mr. Madaio wanted to point out that in his notice for this meeting and the prior meeting, he actually highlighted side yard, 5.66 previously approved, 7.85 proposed, none required. They are conscious that at the present time, no side yard is required, but that makes sense because if you look at the downtown, the buildings touch each other. They don't have side yards. In 2009, they approved, either erroneously or because there was a side yard requirement, it doesn't exist now.

Mayor Romeo noted that if we said we are not going to do this and gave them back the easement and let them start all over, they own the whole corner all the way back to Allen Street. There would be no more Allen Street parking if you gave this back. That is almost 50% of the whole back parking. That is why we did what we did. Mr. Madaio stated that he is not starting from zero, he is starting from 2009. What he wants from 2009 is this much more for getting rid of the drive-thru, the bypass lane and adding the three-bedroom, which by the way, they don't like the idea, but it satisfies the COAH requirement. There is no one in this room that should be under the impression that they gave the Borough land that they did improvements on it and somehow that doesn't mean anything and you have to go back to the beginning and start all over. That's not what he is here for at all. If that's what the Board thinks on the record, he thinks we should be very careful about how we say that. They believe that this application is significantly better than the one that the Borough bargained for when they gave them their property. Is it perfect? Could you make it better? Could you make it different? Yes. But it is, just by the fact that they are tearing down that existing cruddy building and building a fresh new entire corner as opposed to an add on here, an add on here, an add on here, there is value to that. They believe in that value. They agreed with them last time. That value is not 11 units as opposed to seven. But it might be eight as opposed to seven. Yes, that requires a slightly increased parking variance, but it does not require a rethinking of what they agreed to in 2009. Frankly, if this whole Board had changed since 2009, and nobody remembered it, nobody remembered what was said and maybe it's a Board that doesn't even like downtown parking, you could all just say, yes forget it.

Mr. Madaio said that that is where they are. They are responsible to provide their tenants with the building code. They have leases, they have parking arrangements. If they don't like it, people are very free to rent somewhere else. His client is not obligated for them to assure that the tenants have appropriate amenities. That is respectively not a job of site plan approval. There is no part of the site plan ordinance that says make sure tenants have appropriate amenities.

Mr. Hubschman showed his colored rendering showing some landscaping that he thought was important for the streetscape and he thought there was some questions on the 23- and 25-foot width of the brick pavers which will enhance that streetscape. They will not be using the asphalt pressed color. Mayor Romeo asked that they match the downtown. They just got a grant to redo the downtown area. Mr. Hubschman agreed. They worked on the lighting. They matched the lights from downtown. There are two required. They are matching the street trees and that was designed to collect the water from the sidewalk. The island landscaping was done by Chris Karach. Mr. Ulshoefer asked about the trees. Mr. Hubschman noted that there are nine trees proposed. They are lindon trees and Japanese lilacs, 4" diameter trees which are spread around the site. Then there is just lower ground cover. Mr. Ulshoefer asked about maples or oaks. Mr. Hubschman said that the plan doesn't call for them. He noted that the lindons are used a lot for street trees and they are pretty durable. Mr. Ulshoefer stated that they are not going to put out any oxygen for the most part where if you have oaks and everything else, you will. Mr. Ulshoefer said he will talk to the landscape architect and maybe they can change them.

Ms. Bauer asked about truck deliveries. Mr. Hubschman stated that there is a lobby area on the northeast area and there is also a stairway. Along the curb there is a small loading area where a truck can stop. Ms. Bauer asked about large trucks. Mr. Hubschman noted that a UPS truck or something like that will probably just park in the aisle and run in. There is no designated loading level. Mr. Madaio noted that the pick-up and drop-off is no different than what happens all over the downtown now. If Samdan gets a package and the lot is full, where does the guy park. Well, he pulls over for a minute and he does what he does. That's probably what happens all along Union. Mr. Hubschman noted that there are curbed areas where a truck can pull over. Mr. Madaio noted that there is no business here that is going to get much more than a UPS truck delivery. Mr. Kaplan stated that if you have a restaurant, you will have food delivery trucks. Mr. Madaio stated just like every other restaurant downtown and somehow every restaurant downtown with no

parking lot gets their restaurant supplies. Respectfully, there were restaurant deliveries in 2009 too, and everybody was okay with it in 2009 when they were giving them the entire rear half of their property. Restaurant delivery trucks didn't just happen since 2009, but these are all issues that we want good answers for you, and if we could make it better and get those answer, they want to do that. You already built this parking lot and you already striped this parking lot. This parking lot is already being used.

Mr. Madaio noted that in 2009 the Board approved kind of a hackneyed addition to a crappy old bank that was there with a drive-thru and bypass lane. Their position is, if you prefer this, they are asking simply for the one unit, which by the way, they are going to put to the COAH anyway, that is the trade-off for this. If they would rather have whatever was designed in 2009, he can guarantee it doesn't look like the one that is in Woodcliff Lake, Tice's Farm. If you want this, with no drive-thru and your COAH satisfied, they are suggesting eight units instead of seven. They think that is a fair trade-off.

Mayor Romeo stated that on the front lawn of that bank, there is a 60-65-year-old magnolia right in the middle of the lawn. It is about to bloom any day now. They would like to take that out of there. It would be a nice project for the Environmental Commission to figure out a place to put it. They could hire someone to take it out and replant it someplace else. They will have to do it soon. You will need a special truck to take it out. He asked if they had a problem donating the tree. The owner had no problem agreeing to donating the tree. On the subject of trees, he would prefer not to have any ash trees put in in the landscaping to prevent bringing Ash Borer Beetles into town. That was agreed to.

Mr. Madaio called the architect, Mr. Christiano Pereira, 6401 Park Avenue, Suite 201, West New York, NJ. They marked the photo as Exhibit A4 and the set of architectural plans as Exhibit A5. Mr. Pereira was sworn in by Mr. Stamos. He testified before the Board the last time. Mr. Pereira noted that the cover sheet has a few images of the site location which Mr. Huschman has just spent quite a bit of time going over. He will come back to that when he discusses the signage. The second sheet is the ground floor. Before he gets to the ground floor, they do have a small basement on the north side of the property where the elevator is. That is where the utilities, water meters, sprinklers and so forth are. It is about 770 square feet. The ground floor has a residential lobby, stairs, elevator, mailboxes is located at the north side of the property and as you move across the corner of Piermont and Union, you have the six retail spaces. The retail spaces vary anywhere from about 1,323, which is smallest square footage, to about 2,841, which is largest at the corner itself. There are two means of egress from the apartments up top. There is a set of stairs and one at the opposite side of the building so you can discharge the residents on the rear of the property.

Another thing that Mr. Pereira wanted to point out on the retail is, they do have a lot of glazing facing the street front. They also have provided a secondary door in the rear of the property, facing the parking. That addresses a little bit of the concern of the deliveries as well. Deliveries don't need to necessarily park in front to deliver in the front. Deliveries can be done through the rear door for each one of the retail spaces. You will see when we discuss signage, they did provide a little bit of signage in the rear as well so if somebody is coming and parks in the back and wants to access the retail space from the rear, they can do that as well. Some retailers might want that, some might not. But they do provide access from both the rear and the front.

The residential floor, following the same footprint, they have the residential units facing the street front. There are five units facing Piermont and Union and they have a unit facing the alleyway, and they have two additional units. The three-bedroom unit is about 1,400 square feet and that is the unit that is in the rear. They have a small courtyard. They have some space as an amenity so they provide some outdoor seating space for the residents of the building. It is a small deck that is about 500 square feet. It is a decent space. It is on the upper floor. They do have some canopies. The entrance to the apartments is on the north side where there is a lobby with a set of stairs and an elevator. You have access either from the rear parking or from the Piermont Road. There is an exit for the residential on the opposite side that exits out. The elevator will be to code so that they can put a stretcher. It will be ADA compliant. All the units will have to be ADA compliant units.

The roof plan will have one set of stairs up to the roof, mostly for maintenance of the mechanical units. They left the proper shaft space for all the retail spaces going up all the way to the roof so they won't have any issues later if somebody wants to put a restaurant you won't have to install pipes or ducts outside the

building. They are proposing to locate the condensers or RTUs for both the apartments and retail in the center of the roof so you won't see them based on perspective. One set of stairs goes up, but the other set of stairs does not come up to this floor.

Essentially you would have two dimensional images of the elevation, but Mr. Pereira referred to the rendering because it is a lot easier discussing materials. They have done a lot of work with the signs. They have two tones of brick with the stucco on the top and the trim details. It is very consistent and it is a beautiful combination of colors so it really works well. Mayor Romeo asked if they would have something in the leases that stipulates the sign has to be a sign similar to what it pictured. Mr. Madaio stated that that is what will be stipulated. He noted that some stores may have proprietary colors or whatever, to the extent that they can, their intention is that the signs will look like the rendering. They have a series of signs that they are requesting approval for as well. Mr. Pereira noted that the cover sheet lists all the signs that they are requesting to have here. As you see on the rendering, what they try to do is, their clients have a lot of tenants in other retail spaces and the biggest concern is every time a tenant moves out, where that sign was, if it was in the brick, now you have all those little holes and then you try to cover that. The way they design it, they ask for a sign size that's almost the twice what they would be allowed to have. But that is the dimension of the board. Their intention is to be a metal plate that they can have that's painted so it is nice and clean for the new tenant. So, whatever that sign is, it doesn't really matter, they are not punching the brick or any other material that is permanent. That is what you see here. The sign that they list on the cover sheet is 2 ½ by 12 ½ steel plate that they can put the sign within it. The sign itself will be smaller than that but they don't know what the tenants will do in terms of signage, but that is the maximum area. They will have goosenecks to illuminate just a white sign, or most retailers are now asking for the interior illuminated letters. Now with the LEDs, it is so easy to do. It is a box letter, and it is each letter individually illuminated. If you don't have any restrictions against any of those, he thinks they would like to have the option to explore this further, whether it is goosenecks or individual illuminated letters. If the Board doesn't have any objections, they would like to leave it open so they can decide.

Mr. Pereira lists what would be required. He noted that all the signs are the same height. They are about 12 ½ feet from the floor. They are metal plates that are 2 ½ feet high by 12 ½ feet long. They have three retail spaces along Piermont and four retail spaces along Union, and if you do the math that is seven, but that's because the corner repeats. The corner faces two streets so they wanted to repeat that sign depending on where you are driving so you know what is on the corner. They also have a small sign above a canopy indicating the residential, which most likely will say 1 Union. They are proposing two signs that are a summary sign of all the retail that are there. If you are driving on Piermont and you don't know what retail is on the other corner, they are asking for a summary sign that is a list of all of the retail that is there. There will be one sign along Piermont and they are proposing the same thing on the alleyway that faces Union if you are driving west. Other than that, if you are parking in the back and you want to go into the retail space #2, you would know because there is a little sign above the door for the entrance so you don't go into another retail store by accident. Those are all the signs that they are requesting.

Mr. Pereira stated that this is the vision, and knowing his client, this is going to be built exactly this way. He is very particular, and he does beautiful products, and you will be very happy with this.

Ms. Tsigounis stated that she doesn't doubt that he does good work. Her concern is the entrance for the tenants and the whole basis that we are being driven by COAH here and it's having them enter through that corner where there is that five-foot setback against the wall of the other building. It is disturbing to her. If there is a way that they could reconfigure it so that the tenants have a nice visual entrance so it is not as scary. That is a really tight corner against the existing building. That is a concern of hers. The other concern of hers is the floor to ceiling height of the retail. Mr. Pereira stated that the floor to floor is projected at 14 feet. They haven't designed the building, but their intent is to have at least a 12'6" clear floor to ceiling for the retail. Ms. Tsigounis noted that what worries her is the second staircase that is a straight run down. She thinks they are going to have to put a landing or something. Both means of egress for the tenant are compromised in her opinion. It is a beautiful elevation. She doesn't doubt that they do good work. But there is no real welcoming for the tenants that they are trying to help which is a critical part of passing this project because of our COAH obligation.

Mr. Pereira noted that the five-foot distance only happens at the one corner. The building sits back. Along the front, this is all landscaped. You have your paving that comes around. They also did a canopy which you can't see because there is a tree planted right in front of it, but they do have a nice canopy there with lighting that leads you down to the lobby. Unfortunately, they were following the footprint of the approval. They do have an elevator and a stair and without moving those things around and really changing things, he believes the canopy and the lighting and the landscaping will be really nice.

Mr. Madaio asked about the safety concerns with the landing on the other steps. That is not a design concern, that is a safety concern. Is there a way to reconcile that? Mr. Pereira noted that they will need a landing. As they were laying this floor out, they shifted the stair to the side, and they discussed having additional steps to a landing and of course they will need to address that. They discussed that today. Ms. Tsigounis said that it is the concern of who they are housing here and despite what the attorney said, she is concerned with the quality of life of who we are housing here. And that is the purpose. Mr. Pereira noted that they are doing double height windows and he thinks they will be a beautiful space. He thinks if you spent a little bit of time on the plans, they are really spacious units, over a thousand square feet all of them. The three-bedroom is over 1,400 square feet. It is a very nice unit that you don't see a lot around. Ms. Tsigounis said that it is just the approach that she is concerned about. Mr. Pereira stated that he thinks the approach with the lights and the canopy will be addressed nicely.

Mr. Madaio called his licensed professional planner. Mr. John McDonough was sworn in by Mr. Stamos. He was licensed when he testified last time and he is licensed tonight. Mr. Madaio asked Mr. McDonough to provide a summary of the planning, concerns, and purposes with regards to this property. Mr. McDonough stated that this is a pretty straight-forward application. There is relatively minor relief. He presented two packets of exhibits that shows maps of the area that helps with orientations and it shows that this is a spacious site. It shows that this is in the C district where all of the uses are permitted. They went out there today and flew a drone up in the air and spun it around so you can see how this infilled development is nicely going to respond and marry up with the context that is around it. It does show the tree that Mayor Romeo spoke about and he thinks that is a good idea to save that tree. He suggested to get out there on a rainy day and get the tree out of there. Don't wait for a 90-degree day or that tree is going to be compromised.

Mr. McDonough explained that this is a very straight forward application here, certainly in terms of the positives. You are dealing with a use that is permitted in the zone. That building that you see is now comprised of a vacant lot and the bank and you heard about the positives in terms of eliminating the drive-thru, eliminating the bypass and providing what is in accordance with the current affordable housing obligation with the one three-bedroom unit and the payment in lieu for the .2 towards the unmet need. Also on the positive side, you have a very attractive building that is going to round off that corner. He thinks that is a really nice touch architecturally with that treatment of rounding the corner here. You see so many buildings actually square up. That was a nice touch. It is a very well articulated building. A lot of movement in and out. A lot of breakup of the overall mass. Again, it is a low-profile building. This is a zone that would allow for three stories and you got a two-story building. A nice compliment of mixed use with the apartments above and a reduction from when they were here the last time. They are at eight units now which is one up from where they were in 2009, but that goes towards the current affordable housing obligation as the three-bedroom unit was not there before.

Lighting the street very nicely with the retail uses, and he thinks if it gives the Board some comfort, the parking driver here under the ordinance is really the retail. Seventy parking spaces would be required for those retail units. Based on a one per 150, which is a really tight standard for this particular site in a downtown setting. This area has a very high walk score. It is a very walkable, pedestrian friendly area. You have the transit amenity as well. You have the mixed used setting so you would have the non-peak times where parking spaces would open up from the residential side, for the retail as well. There is a nice relaxed demand for parking at this particular location. They see a lot of these ordinances now in a downtown type setting where, when you are dealing with retail uses of some threshold that are more like a neighborhood scale retail, 3,000 square feet or less, parking requirements are waived. Here every single one of those uses are less than 3,000 square feet. These are going to be small scale shops, neighborhood scale, not an overwhelming scale that would have the high demand there. He thinks that may give the Board some comfort as well with respect to the parking relief that the applicant is seeking. Twenty-seven

spaces is more than adequate to accommodate the eight units that the applicant is providing and then enough there for the retail as well in terms of this walkable, transit oriented environment with the bus stop right there. All said, in terms of the permitted uses and the way this stacks up with the zoning ordinance, fully compliant in terms of the massing controls, the height, the coverage, the setbacks, all comply with the ordinance requirements here, so the shell of the building is something that is certainly not contemplated in the zone scheme. This is right on par with the zone scheme.

Modest relief for the parking and parking supply will meet the actual demand. Twenty-seven parking spaces being adequate. Finally, the relief related to the sign package, and he is not going to go into each and every sign as it was laid out and he thinks the architect did a fine job of that, the key point is the sign package is tasteful, it's not gaudy. Aside from the analytics, the sign variances are not perceivable as variances. It is a very tasteful package that works very well with the building. All said, a very good application and the relief is met under the legal standard of C2, whereby the benefits of the application as a whole would substantially outweigh the detriments. On the positive side, they have the advancement of positive aesthetics, promotion of the general welfare with affordable housing and also advancing the planning goal for efficient land use that goes towards purposes A, purposes G, purposes I and M, under the Land Use Law. On the negative side, all the relief can be granted without substantial detriment to the surrounding public but without substantial impairment to the intent and purpose of the zone plan.

Based on all the testimony on the record, Mr. McDonough stated that he will absorb all of that as the site will function safely and efficiently. Aesthetically and functionally this is going to be a good improvement of that site. With that, the statutory criteria is met and approval is warranted.

Mr. Ulshoefer opened the meeting to the public. Mr. William Celentano, 412 11th Street, Cresskill, wished to be heard and was sworn in by Mr. Stamos. Mr. Celentano noted that one of his projects is to give the commercial entities in Cresskill the opportunity to be Green Certified. These buildings have a decent amount of real estate on the roof that is not all occupied. Can those spaces be made available to the renters or leasers? Mr. Madaio stated not the roof. They have a patio on the second floor. Mr. Celentano wanted to know if they wanted to go for solar, do they have the opportunity to do that. Mr. Madaio told him no. He noted that they are not going to have access to the roof, their children are not going to have access to the roof, they are not going to mount anything to the roof. In the event the owner of the building at some point chooses to do something with the roof, of course, he can. It is not their intention to turn the roof into a place where tenants who are desirous can put up solar panels. Ms. Bauer asked where the utilities were right now. She was informed that they are in the basement. Mr. Celentano asked, with that said, do they have any intention of making this building any more greener. Mr. Pereira noted that this will be a brand new building that will have a special amount of energy efficient measures that are put in by code already. He will venture to say that they will be very energy efficient units already just by code. Mr. Celentano asked if they plan on doing anything extra than the code requires. Ms. Tsigounis stated that the tenants would have to bear the brunt of that extra cost. Mr. Celentano understands that, it's just that NJAC is giving incentives to corporations and funding to get green so if a company wants to go that route, they will pick up most of the cost and so the tenants won't have to. For example, in Park Ridge and Paramus, a lot of these tenants are going back in the malls and are getting access to the roof to put up solar. That is why he wants to make sure they are still on par with other towns. Mr. Madaio stated that he appreciates that and the owner can do whatever he wants, of course. But it isn't really the subject for site plan approval. They represent that they build to code. Paramus Park, oddly enough, doesn't have tenants above the retail. So he understands how Paramus Park can say to a big department store that you have an entire box tenancy and if you want to put something on the roof, sure go ahead. That's also because there is no mall in Paramus that has residences upstairs. That is the reality of building something. But, nonetheless, their intention remains, in all things, to build to code.

Mr. Ulshoefer closed the meeting to the public.

Mr. Madaio stated that this is the current project. They believe that the trade-off of one additional unit from the 2009 approval is well earned for the number of reasons that they said. This project actually has less variances than the one that was approved in 2009. Yes, of course, it has a little bit higher parking shortfall. Again, just by taking out the atrium, they have a higher parking shortfall, because there is now a second floor where there wasn't one. They think that the value added to the downtown is significantly greater by

what they are delivering here than what they talked about 11 or 12 years ago. He thinks that if the trade off was just get rid of the drive-thru that could cause cueing out into Union Avenue, it would be a good deal. But he thinks when you look at that versus what was approved, you lessen the variances, and you are building the actual three-bedroom COAH. Having said all that, which he has now said several times, Mr. Madaio thanked the Board for their time.

Mr. Steven Lydon, Burgess Associates, Municipal Planner, was sworn in by Mr. Stamos. He is a licensed planner and was licensed at the last hearing as he is today. He wants the Board to look at the rendering. In his mind it is a very nice rendering. It might be the best looking commercial building in Cresskill if it is built. He would also like the Board to look at the top sheet on the architect's drawing and pay attention to the size of the proposed signs. They are two and in some cases three times what is allowed. If you look at the rendering, these signs are very attractive on the building. He would even suggest that they are not oversized if they fit in with the building architecture. He is not going to suggest that Mr. Madaio do it or the client do it, but there could be a bait and switch here. The Board approves large signs and then you get a box sign advertising a dry cleaner, a food place, a deli. If you are considering granting a variance, which in this case, and he is kind of difficult on sign variances, but he thinks Mr. Madaio has done a good job of arguing them as a C2 variance, you might want to tie it into getting the signs you are being shown. He thinks that there are all sorts of First Constitutional problems with regulating signs in an abstract environment. But here, the developer is seeking significant sized variances for those signs. And he is showing you a particular sign and he thinks, if the Board is going to go and grant the variances, you might want this kind of a sign and you might want it to look this way or an alternative that the architect talked about as opposed to an ugly box sign which could actually benefit them because a box sign could ruin the aesthetic they are creating. He would suggest that the C2 variance may in fact be appropriate if the Board wants to go that way, but he would suggest, to safeguard the visual attractiveness of the building, that you limit the signs in the future, not just for the initial applicant, to here. Now someone may say what if we want Joseph Banks to come to Cresskill and they have their sign, let them come back to this Board and let them explain why they should be allowed to deviate from what the Board has already approved.

Other than that, there is one other variance for the signs that they didn't go over. He doesn't know if it is that big of a deal. There is a variance from 275.51e, "no signs shall extend beyond the end of the wall," and 275.51i, "any wall signs extending more than 12" beyond the building." He thinks the one residential building sign, the 1 Union, probably needs a variance for that. He thinks the variances for the signs should have some conditions attached.

Mr. Madaio noted that they have no problem with that. They are selling a project and obtaining variances based upon the aesthetic value of what is presented. He thinks it is only fair that if the Board chooses to lock them in to what is presented, that seems to be a fair exchange. However Mr. Stamos wants to write that, to use a visual example or reference a specific plan, and make very specific reference to the sign package, they would be happy to go with that.

Mr. Stamos stated that he would say the signage variance is granted as long as the signs to be installed or proposed are substantially similar to the rendering photograph presented during the Public Hearing. The color rendering should be part of the file in the Building Department so when someone comes in for their sign permit, Mr. Rusch (or whoever is the official at the time) pulls out the file and sees the resolution and the rendering.

Mr. Stamos asked Mr. Lydon about the COAH unit. The original approval in 2009 was for two units. At some point the Borough relied on that. That is the concern that the Mayor is having, and he shares that concern. Now they are getting only one unit. Mr. Lydon stated that COAH has changed so much between 2004 and 2008 and one of those changes was whenever you did payment in lieu or whenever you did any residential development it was only 20% set aside. What was happening was, the developer was going back to COAH and saying 20% set aside on a rental, we can't make it work. That's not just North Jersey, it is even South Jersey. So, what happened was, there are a lot of units on the books that never got built. So, COAH, in an attempt to encourage rental construction, which is what they think the State really needs, they lowered the set aside from 20% to 15% for rental units. That might be one of the changes that occurred from the early approval. He knows he said 2008 and this approval was in 2009, but there were a lot of court challenges which weren't resolved until 2015, so that is maybe why the number was different.

Mayor Romeo stated that the point is well taken, but his question is, does that apply to units already approved. In other words, are they allowed to change an agreement that they have already had after the fact. He is only concerned with them coming back and saying we didn't do what they said. He has dealt with them for 21 years. Mr. Lydon said that this is a different development. The units changed. There are now eight units instead of seven. The drive-thru is no longer there. He doesn't think there is a problem. He will confirm with Ms. Bishop. Mr. Stamos stated that any action taken here today would be subject to Mr. Lydon's confirmation with Trenton.

Mayor Romeo explained to Mr. Madaio that he may have to be prepared to give them a studio apartment in that building if in fact that is what COAH says. If not, they are going to go along with the 1.2 and take the money in lieu of the second apartment. Mr. Madaio would like the way Mr. Stamos just stated it, which is, if the Board chooses to approve this, the resolution won't be ready for 30 days, and that will give them a period of time to lock in on this question. If the question is answered in the way they all think and hope, then they adopt the resolution. If the question is not and Ms. Bishop has significant issues and the whole underlying premise of their application is undone, then he would suggest that they are not going to adopt the resolution and he will either have to amend the application or withdraw it or do something, but the basis for which the Board is approving it no longer exists.

Mr. Madaio continued stating that the general rule of course is the resolution is not the approval, the voice vote is the approval. In light of these circumstances, he would waive that. In other words, the actual vote will be tonight, but until we get an affirmative statement from Ms. Bishop, right up to the point of adopting the resolution, they could find out something different and they could come in here and have to figure it out. Mr. Lydon will speak with Ms. Bishop tomorrow. He noted that there are different price points. He is assuming that this three-bedroom unit is reserved for low-income. Mayor Romeo agreed that it will be low-income not moderate income.

Mr. Madaio wanted to say that each one of the metal boxes or metal plates are the same size, and the lettering is substantially similar to this. His client is telling him, for example, Dunkin' Donuts would want to see some orange and purple on this. Dunkin' Donuts doesn't want just white letters on a black background. Ms. Tsigounis noted that they will have to deal with that as they come in.

Mr. Mark Malas, 60 Essex Street, Ridgefield Park, NJ, was sworn in by Mr. Stamos. Mr. Malas noted that regarding signage, they are very particular on the aesthetics of their projects and they have come across this issue before. They want consistency because they don't want it to look like a mishmash of signs. What they have done, and they also have an issue where they are trying to get quality tenants and they do have their own logos and they would walk away from in their building because they can't be represented correctly. So, the solution they came up with on previous projects is they did every backplate and lighting scenario consistently. Then they were able to use their dimensions and put whatever their writing is in whatever envelope they gave them, but the backplate and lighting was consistent. It is very crucial to their leasing and getting quality tenants. They don't just want a single store operator either, they want people that are going to survive and build and complement what they already spent money on.

Mr. Madaio noted that the one he drew their attention to was Bella. Bella has a red accent at the bottom of it. So Bella, for example, expects that red accent. Same box, same lighting. Starbucks wants green. Dunkin' Donuts want orange and purple. Mr. Malas stated that the backplate is what is consistent so you wouldn't get that weird downtown looking background, but also letting these businesses use their logo. That was a solution that they came up with and it has been proven and looks good.

Mr. Mandelbaum made a motion to approve, seconded by Mr. Rummel. Mr. Stamos stated that if agreeable, they agree to the payment in lieu and the three-bedroom unit, the affordable unit, will be a low-income unit. Mr. Hubschman is going to consider changing the trees to oak or maple trees in the rear. The signage as discussed, will be substantially similar to the rendering photograph presented with the backplate being consistent. Any tenant will apply for a permit. Mr. Madaio stated that the white lettering as presented is permitted. Tenants who want to deviate from that have to come in. The tree in the front of the bank will be donated to the Borough. The staircase egress will have a landing. Mr. Madaio stated that the staircase code requires the landing, so they have to do that to code anyway. On Roll Call: Mayor Romeo,

Councilman Kaplan, Mr. Ulshoefer, Ms. Bauer, Mr. Malone, Mr. Mandelbaum and Mr. Rummel voted yes. Ms. Tsigounis wanted to point out that she does agree that the building will be an enhancement to our community. She likes the fact that it moves. She thinks that it is very positive and breaks up the density. It could have been all grounded one big building. Mr. Hubschman addressed her concern that there will be a very deep sidewalk. You see a lot of tenancies like to get out on the sidewalk now. Mr. Pereira did a very good job with the unit layout. She was hoping the courtyard might be on the lower floor, but at least they have it on the upper floor for the tenants to get some open air and he addressed her concern about the access to the units. She appreciates the fact that they worked with the Board. She voted yes. Mr. Sutera and Ms. Furio voted yes. Motion approved.

Mr. Madaio noted that while Mr. Lydon is still going to need to report back from Ms. Bishop from COAH, we should treat this as a meeting that is carried. Mr. Stamos stated that although we have taken a voice vote, the matter is technically carried to the April 27, 2021, meeting. No further notice will be provided.

Other Business

None.

Mr. Ulshoefer opened the meeting to the public. No public was present. Mr. Ulshoefer closed the meeting to the public.

Motion was made by Mr. Sutera to adjourn the meeting at 9:33 PM, seconded by Ms. Tsigounis. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for April 13, April 27, May 11, and May 25, 2021 at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary