

619 N Maple Avenue, 217 First Street, and 239 First Street

Area in Need of Redevelopment Study- Non-condemnation

Dated May 5, 2020

Borough of Ho-Ho-Kus | Bergen County, New Jersey





Community Planning
Land Development and Design
Landscape Architecture

B U R G I S
A S S O C I A T E S , I N C .

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Area in Need of Redevelopment Study Non-condemnation

619 N Maple Avenue, 217 First Street, and 239 First Street

Block 1016 Lots 3, 5 and 11

Borough of Ho-Ho-Kus

Bergen County, New Jersey

Prepared for the Borough of Ho-Ho-Kus Planning Board

BA# 3552.05

The original document was appropriately signed and sealed on May 5, 2020 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners

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Contents

Introduction	1
Section 1: LRHL Background.....	3
1.1: Redevelopment Process.....	3
1.2: Statutory Criteria	6
Section 2: Study Area	8
2.1: Study Area Overview.....	8
2.2: Surrounding Land Uses and Mass Transit Opportunities.....	11
2.3: Study Area Site Reviews	13
2.4: Study Area Historic and Environmental Review	18
Section 3: Master Plan	21
3.1: Land Use Plan.....	21
3.2: Housing Element and Fair Share Plan (HE&FSP).....	23
Section 4: Existing Zoning Analysis.....	26
4.1: GB General Business District.....	26
4.2: OL-1 Overlay District-1	27
Section 5: Compliance with the Statutory Criteria	29
5.1: Block 1016 Lot 3 (619 N Maple Avenue).....	30
5.2: Block 1016 Lot 5 (217 First St)	42
5.3: Block 1016 Lot 11 (239 First St).....	47
Section 6: Planning Conclusions and Recommendation	50
Appendices:	52

Tables

Table 1: Study Area Existing Land Uses	9
Table 2: Study Area Ownership	10
Table 3: Property Tax Records	11
Table 4: HE&FSP Affordable Housing Obligations.....	24
Table 5: GB District Permitted and Conditional Uses.....	26
Table 6: GB District Bulk Standards.....	27
Table 7: Summary of Compliance with Statutory Criteria.....	29

Maps

Map-1: Location of Study Areas in the Borough of Ho-Ho-Kus	9
Map-2: Aerial of Study Area	10
Map-3: Existing Land Use	12
Map 4: Block 1016 - 1966 Aerial	19
Map 5: Historic Properties Review	19
Map 6: Floodplain	20
Map 7: Land Use Plan.....	22
Map 8: Existing Zoning and Overlay Zone Districts.....	28

Introduction

On January 28, 2020, the Mayor and Council of the Borough of Ho-Ho-Kus authorized the Borough Planning Board to conduct a preliminary investigation to determine if the properties located at 619 N Maple Avenue, 217 First Street, and 239 First Street (hereinafter referred to as the “Study Area”) constitute an “Area in Need of Redevelopment” under the New Jersey Local Redevelopment and Housing Law (LRHL). The Planning Board, on February 13, 2020, subsequently directed Burgis Associates, Inc. to prepare a planning analysis contained herein for its review and subsequent recommendation to the Mayor and Council.

As identified in the Mayor and Council’s authorizing resolution (See Appendix A), the Study Area consists of three (3) lots which are identified by municipal tax records as Block 1016 Lots 3, 5 and 11. It is important to note that while Lots 3 and 5 are contiguous, lot 11 is not adjacent to the other lots, it is nearby, approximately 200 feet east on First Street. Altogether, the Study Area encompasses approximately 1.87 acres.

The January 28, 2020 resolution of the Mayor and Council further declares that the preliminary investigation of the Study Area shall be undertaken within the context of a “non-condemnation” redevelopment review. That is, if the Study Area or a portion thereof is determined to be an Area in Need of Redevelopment pursuant to the LRHL, it shall be designated a “Non-Condensation Redevelopment Area.” Such a designation would authorize the Borough to use the powers provided by the regulations for use in a redevelopment area, excluding eminent domain designations.

Accordingly, the following study examines whether the Study Area qualifies as an Area in Need of Redevelopment pursuant to the requirements and criteria set forth by the LRHL. It is based upon: an examination of the Study Area’s existing development pattern; site inspections; a review of historical data; an assessment of the Study Area’s surrounding development pattern; a review of the Borough’s master plan goals, objectives, policy statements, and land use recommendations; a review of the Study Area’s zoning provisions; and an evaluation of the statutory “Area in Need of Redevelopment” criteria.

Ultimately, this study finds that Block 1016 Lot 3 (619 N Maple Ave), Lot 5 (217 First St), and Lot 11 (239 First St) display characteristics which satisfy the statutory criteria and consequently justify their designation as a Non-Condensation Redevelopment Area.

This Area in Need of Redevelopment Study is divided into the following sections:

❖ Section 1: LRHL Background

The first section discusses the background of the LRHL as well as the redevelopment process and the statutory criteria for determining whether a site qualifies as an Area in Need of Redevelopment.

❖ Section 2: Study Area

The next section provides an overview of the Study Area. It includes an analysis of its existing land uses, ownership records, property tax records, and surrounding development pattern. Detailed information for each lot within the Study Area is also provided.

❖ Section 3: Borough Master Plan

Section 3 discusses the relationship of the Borough's Master Plan to the Study Area.

❖ Section 4: Existing Zoning

Next, Section 4 discusses the existing zoning of the Study Area and how it relates to the Master Plan.

❖ Section 5: Compliance with the Statutory Criteria

The penultimate section analyzes the Study Area's compliance with the LRHL statutory criteria.

❖ Section 6: Planning Conclusions and Recommendations

Finally, Section 6 offers the study's planning conclusions and recommendations.

Section 1: LRHL Background

In 1992, the New Jersey Legislature enacted a new statute which revised and consolidated the State's various redevelopment statutes. Known as the Local Redevelopment and Housing Law (LRHL), this new statute rescinded a number of prior redevelopment statutes and replaced them with a single comprehensive statute governing local redevelopment activities throughout the State.

Ultimately, the LRHL was designed by the State Legislature to assist municipalities in the process of redevelopment and rehabilitation. As explained by the Legislature in the preamble to the LRHL:

"There exist, have existed and persist in various communities of this State conditions of deterioration in housing, commercial and industrial installations, public services and facilities and other physical components and supports of community life, and improper, or lack of proper development which result from forces which are amenable to correction and amelioration by concerted effort of responsible public bodies, and without this public effort are not likely to be corrected or ameliorated by private effort."

The LRHL provides the statutory authority for municipalities to engage in a number of redevelopment activities, including: designating an "Area in Need of Redevelopment"; preparing and adopting redevelopment plans; and implementing redevelopment projects. Essentially, the LRHL is a planning and financing tool that allows an area to be overlain with specific zoning and other incentives to stimulate its redevelopment or rehabilitation.

More specifically, a redevelopment designation allows a municipality at its discretion to:

1. Adopt a redevelopment plan that will identify the manner in which an area will be developed, including its use and intensity of use;
2. Issue bonds for the purpose of redevelopment;
3. Acquire property through eminent domain;
4. Lease or convey property without having to go through the public bidding process;
5. Collect revenue from a selected developer; and/or
6. Grant tax exemptions and abatements.

1.1: Redevelopment Process

As outlined by the LRHL, the first step of the redevelopment process is for the governing body to direct the planning board to undertake a preliminary investigation to determine

whether or not an area is in need of redevelopment. As required by recent amendments to the LRHL, the governing body must also indicate whether it is seeking to designate the area as a “Non-Condensation Redevelopment Area” or a “Condensation Redevelopment Area.” Pursuant to the resolution adopted on January 28, 2019, the Borough of Ho-Ho-Kus Mayor and Council has initiated this process as a “Non-Condensation” Study Area (see Appendix A).

An area qualifies as being in need of redevelopment if it meets at least one (1) of the eight (8) statutory criteria listed under Section 5 of the LRHL. These criteria, which are described in detail later in this section, are the same regardless of whether a governing body seeks to designate a study area as a “Non-Condensation Redevelopment Area” or a “Condensation Redevelopment Area.”

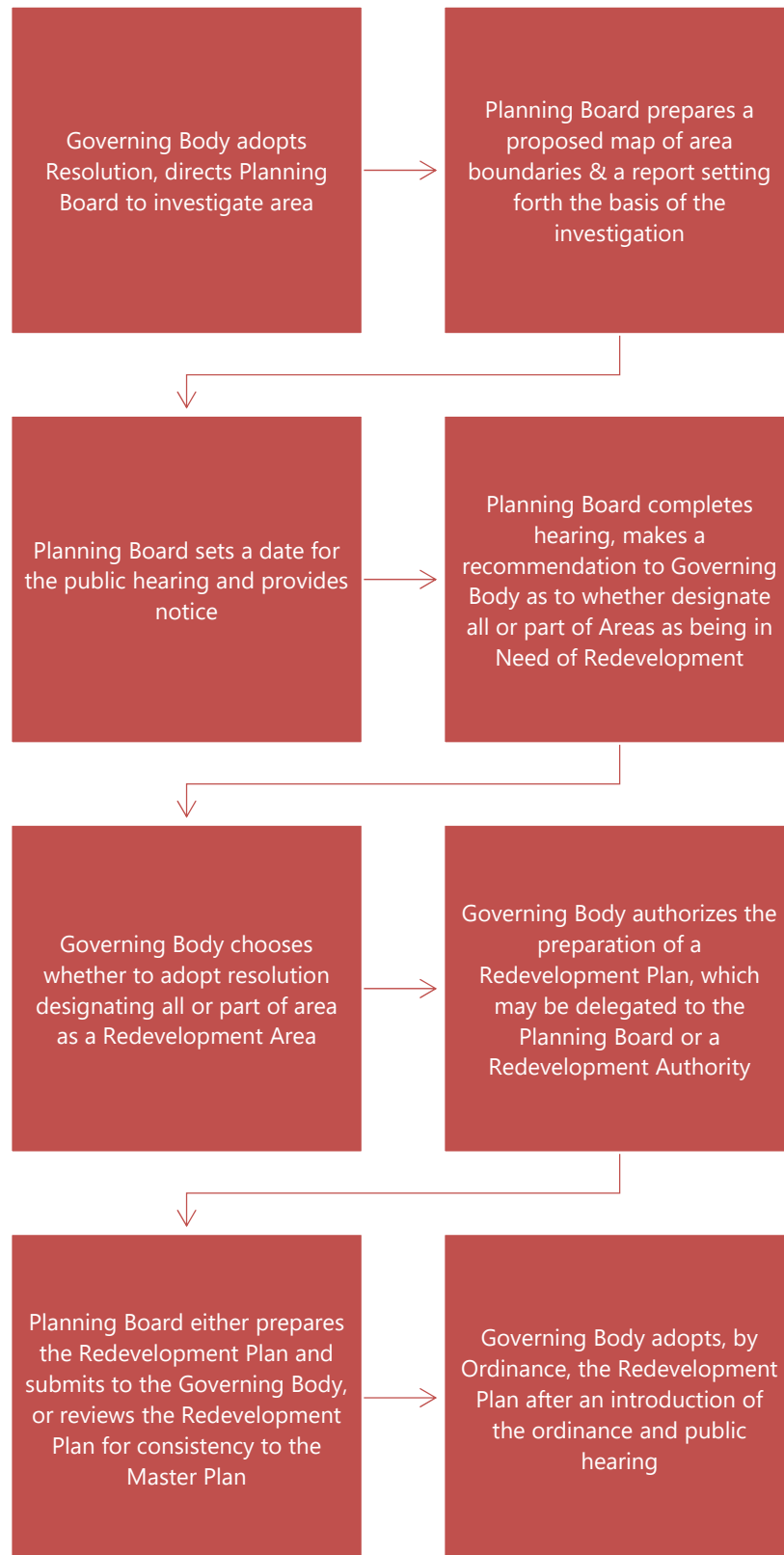
The statute also specifically establishes that a redevelopment area may include lands which of themselves are not detrimental to the public health, safety, or welfare, provided that the inclusion of those lands is necessary for the effective redevelopment of the area. This is particularly applicable to some of the properties in this study.

After it conducts its investigation, the planning board must hold a public hearing on the proposed redevelopment area designation. Based on the planning board’s recommendation, the governing body may designate all or a portion of the area as an “Area in Need of Redevelopment.” The governing body will then prepare a redevelopment plan for the area, or alternatively will direct the planning board to prepare such a plan.

Following the adoption of the redevelopment plan, the governing body or another public agency/authority designated by the governing body as the “redevelopment entity” will oversee the implementation of the redevelopment plan. This redevelopment entity is responsible for selecting a redeveloper to undertake the redevelopment project which implements the plan.

In summary, the LRHL essentially establishes a two-fold process in which a site is designated as an Area of Need of Redevelopment (Step 1), and a plan is prepared based on that designation (Step 2). The accompanying figure provides a summary of this process, beginning with the adoption of a resolution by the governing body to the preparation and adoption of a redevelopment plan.

Figure 1: Summary of Redevelopment Process



1.2: Statutory Criteria

The LRHL establishes eight (8) statutory criteria to determine if an area qualifies as being in need of redevelopment. The statute provides that a delineated area may be determined to be in need of redevelopment if “after investigation, notice and hearing...the governing body of the municipality by resolution concludes that within the delineated area” any one of the eight (8) criteria are present.

The criteria area as follows:

- | | |
|--|---|
| 1. The “a” Criterion:
Building Deterioration
and Obsolescence | The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions. |
| 2. The “b” Criterion:
Abandoned
Commercial and
Industrial Buildings | The discontinuance of the use of a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable. |
| 3. The “c” Criterion:
Public and Vacant
Land | Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital. |
| 4. The “d” Criterion:
Obsolete Layout and
Design | Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community. |

5. The "e" Criterion: Property Ownership and Title Issues	A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.
6. The "f" Criterion: Fire and Natural Disasters	Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
7. The "g" Criterion: Urban Enterprise Zones	In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zone Act," the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment
8. The "h" Criterion: Smart Growth Consistency	The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

In regard to the "h" criterion, there are ten (10) principles of smart growth. These principles are established as follow (Source: P.L.1992, c.79, s.5 and U.S. Environmental Protection Agency):

1. Mix of land uses
2. Take advantage of compact design
3. Create a range of housing opportunities and choice
4. Create walkable neighborhoods
5. Foster distinctive, attractive communities with a strong sense of place
6. Preserve open space, farmland, natural beauty, and critical environmental areas
7. Direct development toward existing communities
8. Provide a variety of transportation choices
9. Make development decisions predictable, fair, and cost effective
10. Encourage community and stakeholder collaboration in development decisions.

9. The "i" Criterion: Discontinuance of Use	The discontinuance of the use of a building or buildings previously used for retail, shopping malls or plazas, office parks or industrial purposes; the abandonment of such building(s), significant vacancies of such building(s) for at least two consecutive years with fifty percent vacancies during that period of time.
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The statute defines redevelopment to include: "clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a development plan."

It is noteworthy and applicable to this study that the statute at 40A:12A-3 specifically states that a redevelopment area may include lands which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is necessary for the effective redevelopment of an area.

Section 2: Study Area

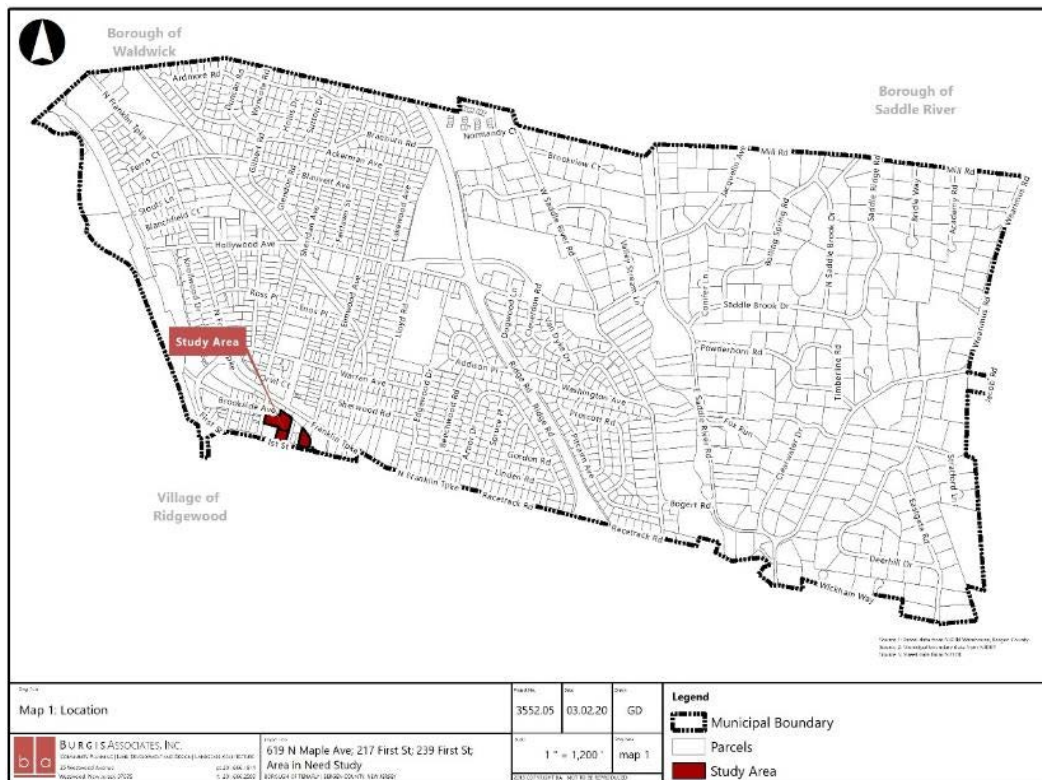
The following section provides a general overview of the Study Area, including an analysis of its existing land uses, ownership records, property tax records, and surrounding development pattern. Detailed information for each lot within the Study Area is also provided.

2.1: Study Area Overview

The Study Area as shown on Map-1 below, is located within the southwestern portion of the Borough bounded by North Maple Avenue to the west, First Street and the municipal boundary with Ridgewood to the south, and the Ho-Ho-Kus Brook to the north and east. The area in total encompasses approximately 1.87 acres. It consists of three (3) separate lots: Block 1016 Lots 3, 5 and 11. Though Lots 3 and 5 are directly adjacent with each other, Lot 11 does not adjoin the other two lots in the Study Area.

The entirety of the Study Area has approximately 133.8 feet of frontage along North Maple Avenue. The Study Area has an approximate total of 260.6 feet of noncontiguous frontage along First Street with Lot 5 accounting for approximately 126.8 feet of frontage along First Street while Lot 11 accounting for approximately 133.8 feet of frontage along First Street. The depth of the Study Area varies between approximately 310.2 feet and 200 as measured from North Maple Avenue, while Lot 5 and Lot 3 depths varies between approximately 345.6 feet and 293.2 feet as measured from First Street. Lot 11 depth varies between approximately 212.3 feet and 60.7 feet as measured from First Street.

Map-1: Location of Study Areas in the Borough of Ho-Ho-Kus



The following table provides an overview of the existing land uses of the Study Area. As shown on the aerial of the study area in Map#2 below, all three lots in the Study Area are presently developed although Lot 11 is only a parking area. Lot 3 contains a one-story retail building; Lot 5 contains a two-story office building and Lot 11 is a parking lot.

Table 1: Study Area Existing Land Uses

Block	Lot	Address	Area	Land Use
1016	3	619 N Maple Ave	1.13	Retail building
	5	217 First St	0.3587	Office building
	11	239 First St	0.3785	Parking Lot
	Total Area		1.8672	

Source: Open Public Records Source System-MOD IV Tax Data

Map-2: Aerial of Study Area



The ownership information for the Study Area is presented in the following table. This information was obtained from online Mod IV tax data which is publicly available from the State of New Jersey Department of the Treasury's Division of Taxation. While each property is technically owned by a different LMTD or LTD, however the owners of Lots 3, 5, and 11 have the same mailing address.

Table 2: Study Area Ownership

Block	Lot	Address	Owner
1016	3	619 N Maple Ave	619 N Maple Av LMTD C/O Comm. Mgmt.
	5	217 First St	217-221 First St. LMTD. Partnership
	11	239 First St	239 First Street LTD. Partnership

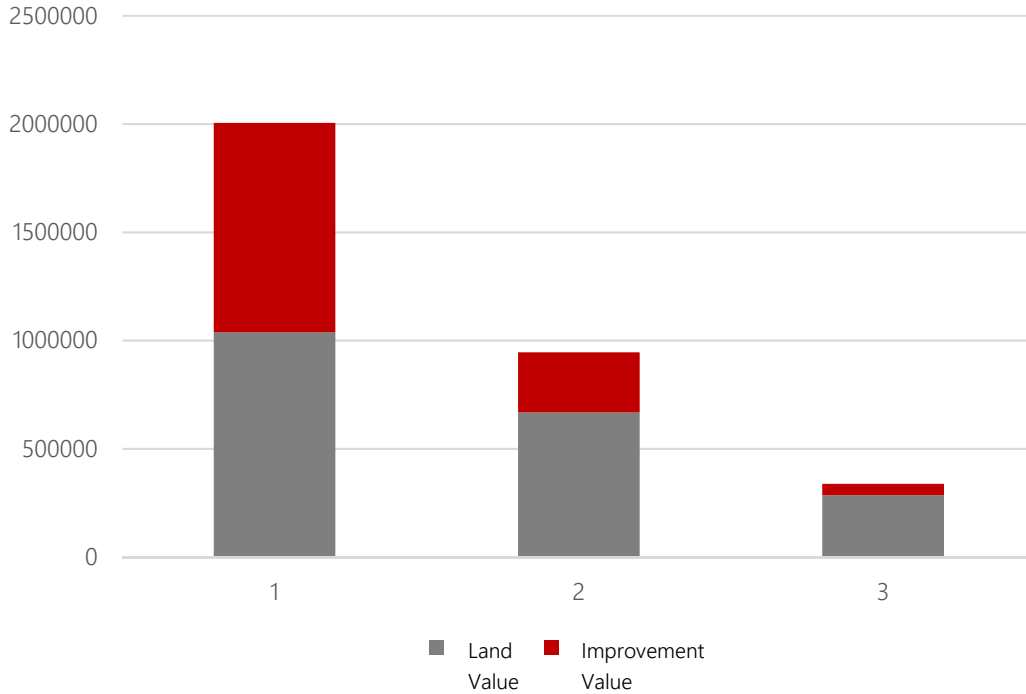
Source: Open Public Records Source System-MOD IV Tax Data

The following table provides the land, improvement, and total values of each property within the Study Area. Once again, this information was obtained from online Mod IV tax data which is publicly available from the Department of the Treasury's Division of Taxation. As shown, the land values of all three (3) properties are greater than their respective improvement values. This is particularly evident in the "Improvement to Land Value Ratio" calculation.

Table 3: Property Tax Records

Block	Lot	Land Value	Improvement Value	Total Value	Improvement to Land Value Ratio
1016	3	\$1,038,300	\$967,100	\$2,005,400	0.9:1
	5	\$668,000	\$277,400	\$945,400	0.4:1
	11	\$286,000	\$52,500	\$338,500	0.2:1

Figure 2: Property Tax Records



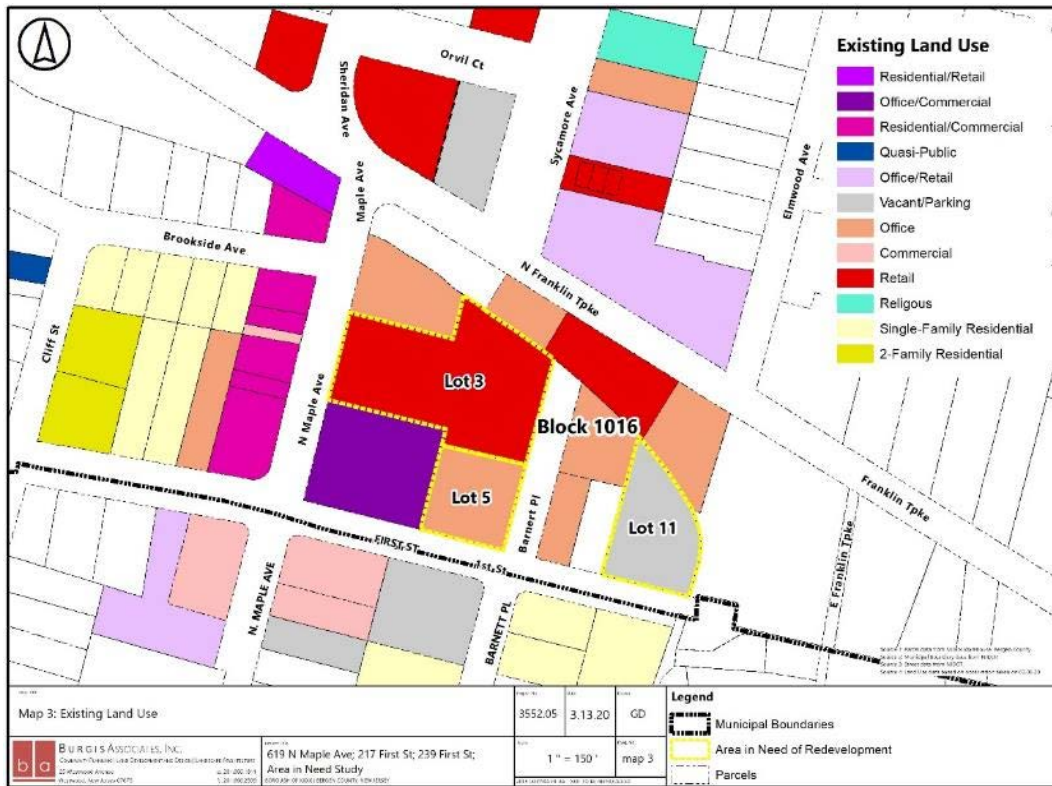
Source: Open Public Records Source System-MOD IV Tax Data

2.2: Surrounding Land Uses and Mass Transit Opportunities

Surrounding land uses are varied and consist of the following:

- ❖ The Ho-Ho-Kus Brook and the Borough's downtown to the north.
- ❖ The Ho-Ho-Kus Brook and single-family dwellings to the east and southeast;
- ❖ The Village of Ridgewood containing single-family dwellings and with a gas station and small retail business fronting North Maple Avenue to the south, and;
- ❖ Borough's downtown commercial area consisting of restaurants and small retail business to the west;

Map-3: Existing Land Use



Significant public transportation opportunities are readily available within a fifteen-minute walking distance of the Study Area at the New Jersey Transit Main/Port Jervis/ Bergen Line to the west on Brookside Avenue. This rail line provides north and south two-way rail service to and from Secaucus transfer to Hoboken or New York Penn Station. Major roadways providing regional access to the Study Area include Route 17 and Garden State Parkway.

2.3: Study Area Site Reviews

The following subsection provides site specific information for each lot within the Study Area. This information will serve as the basis for the analysis and opinions offered in Section 5 of this Study.

Block 1016 Lot 3 (619 N Maple Ave)



Summary

Block 1016 Lot 3 is located within the northwestern portion of the Study Area and has frontage along North Maple Avenue. The site is the largest of the three lots being reviewed and is developed with a retail and antique sales and storage building including parking areas located on the building southern side and to the rear. As of our site inspection on March 3, 2020, approximately half of the structure was vacant with the remainder of the building occupied by an antique store and storage under the name "Granny's Attic Antiques".

Property Information Overview

Address (Block, Lot):	619 N Maple Ave (Block 1016, Lot 3)
Owner(s):	619 N Maple Av LMTD C/O Comm. MGMT
Area (ac):	1.13 (49,222 sf)
Property Classification:	4A (Commercial)
Zoning District:	GB and the OL-1 Downtown Inclusionary Overlay Residential / Mixed Use Zone
Property Use:	Retail / storage building
Building Description:	1 and 2-story building with side and rear parking areas
Permitted Use(s):	Yes
Building Condition:	Poor with obsolescence noted

Assessed Valuation Information



Site Development Application History (Recent)

Date	Description	Notes
09/15/05	Planning Board application	An application was approved for 619 N. Maple (B 1016, L 3), by Palermo Supply Co., Inc., for a parking improvement plan involving Lot 2@ 625 North Maple Avenue, Lot 4 @611 North Maple Avenue, Lot 5 @ 217 First Street, Lot 10@ 227 First Street and Lot 11 @ 239 First Street.
06/12/08	Planning Board application	An application was approved for a waiver of site plan application for a new parking plan on 619 N. Maple (B 1016, L 3), it was proposed to revise the existing parking plan at the Property, and address certain parking conditions contained in a resolution of the Board entitled, "Palermo Supply Co., Inc.," dated September 15, 2005.
01/07/16	Zoning Board of Adjustment application	An application was approved for this site and the adjacent site of Block 1016, Lot 5 and Lot 11 for a new mixed-use development consisting of 12,884 square feet of commercial space and 53 apartment units. The development proposed for Lot 11 was just for ancillary parking supply.
07/25/19	Zoning Board of Adjustment application	An amended application was approved for a new mixed-use development consisting of 67 residential units, 6,257 square feet of commercial space. The development proposed for Lot 11 was for ancillary parking supply.

Block 1016 Lot 5 (217 First St)



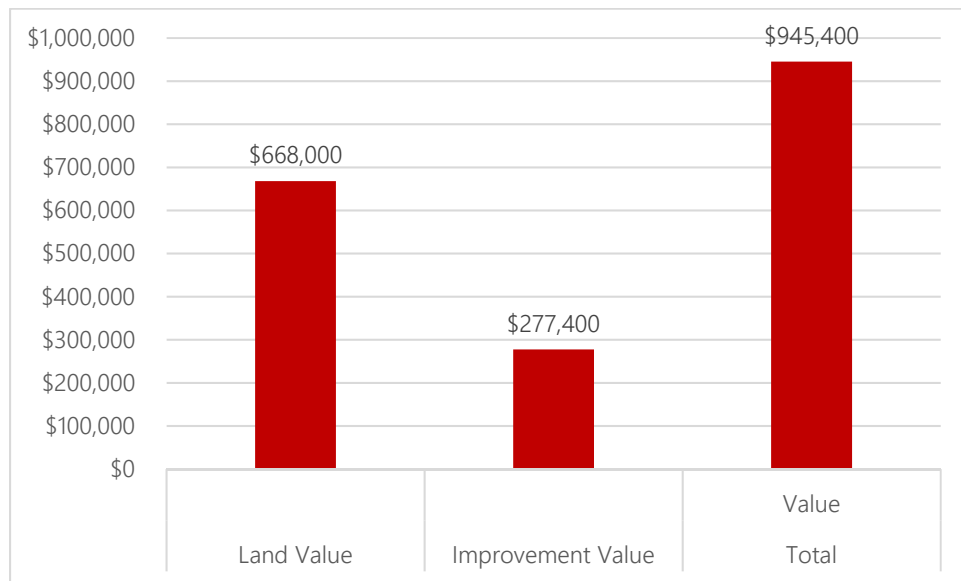
Summary

Block 1016 Lot 5 is located within the southerly portion of the Study Area and has frontage solely along First Street. The site is presently developed with a two-story office/fitness training building and a parking area located on the eastern and southerly side of the structure. As of March 3, 2020, the office building's tenants include medical offices, a barber shop, the Mangam Agency, a financial management firm and Rise Fitness contained in the rear of the structure.

Property Information Overview

Address (Block & Lot):	217 First St (Block 1016, Lot 5)
Owner(s):	217-221 First St. LMTD. Partnership
Area (ac):	0.3587 (15,624 sf)
Property Classification:	4A
Zoning District:	GB and the OL-1 Downtown Inclusionary Overlay Residential / Mixed Use Zone
Property Use:	Office building
Building Description:	Two-Story Masonry Building
Permitted Use(s):	Yes
Building Condition:	Fair condition

Assessed Valuation Information



Site Development Application History (Recent)

Date	Description	Notes
01/07/16	Zoning Board of Adjustment application	An application was approved for this site and the adjacent site of Block 1016, Lot 5 and Lot 11 for a new mixed-use development consisting of 12,884 square feet of commercial space and 53 apartment units. The development proposed for Lot 11 was just for ancillary parking supply.
07/25/19	Zoning Board of Adjustment application	An amended application was approved for a new mixed-use development consisting of 67 residential units, 6,257 square feet of commercial space. The development proposed for Lot 11 was just for ancillary parking supply.

Block 1016 Lot 11 (239 First St)



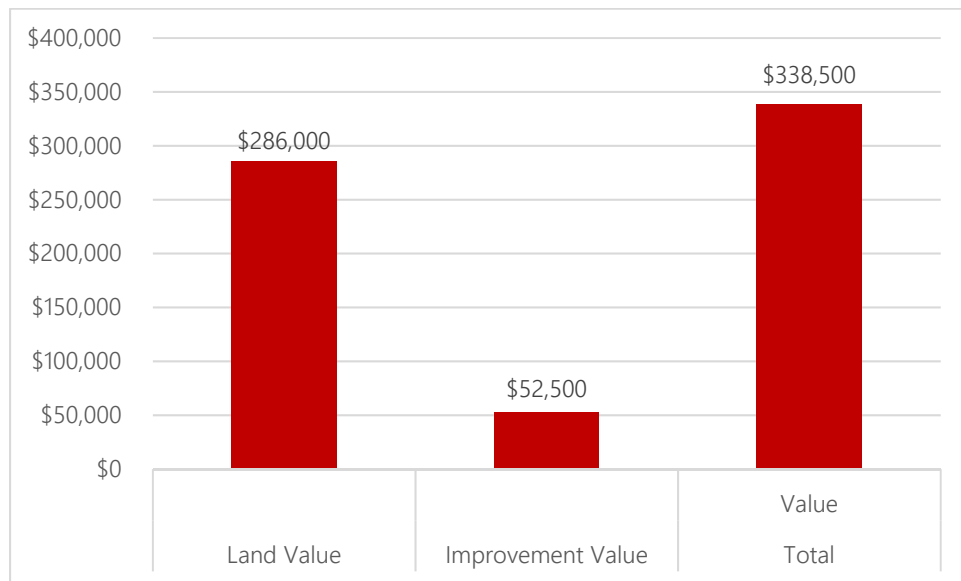
Summary

Block 1016 Lot 11 is located within the eastern portion of the Study Area and has frontage solely along First Street. The site currently developed with a surface parking lot and no structures.

Property Information Overview

Address (Block & Lot):	239 First St (Block 1016, Lot 11)
Owner(s):	239 First Street LTD. Partnership
Area (ac):	0.3785 (16,487 sf)
Property Classification:	4A
Zoning District:	GB-General Business
Property Use:	Parking Lot
Building Description:	Not Applicable
Permitted Use(s):	Yes, as a parking area.
Site Condition:	Fair condition

Valuation Information



Site Development Application History (Recent)

Date	Description	Notes
01/07/16	Zoning Board of Adjustment application	An application was approved for this site and the adjacent site of Block 1016, Lot 5 and Lot 11 for a new mixed-use development consisting of 12,884 square feet of commercial space and 53 apartment units. The development proposed for Lot 11 was just for ancillary parking supply.
07/25/19	Zoning Board of Adjustment application	An amended application was approved for a new mixed-use development consisting of 67 residential units, 6,257 square feet of commercial space. The development proposed for Lot 11 was just for ancillary parking supply.

2.4: Study Area Historic and Environmental Review

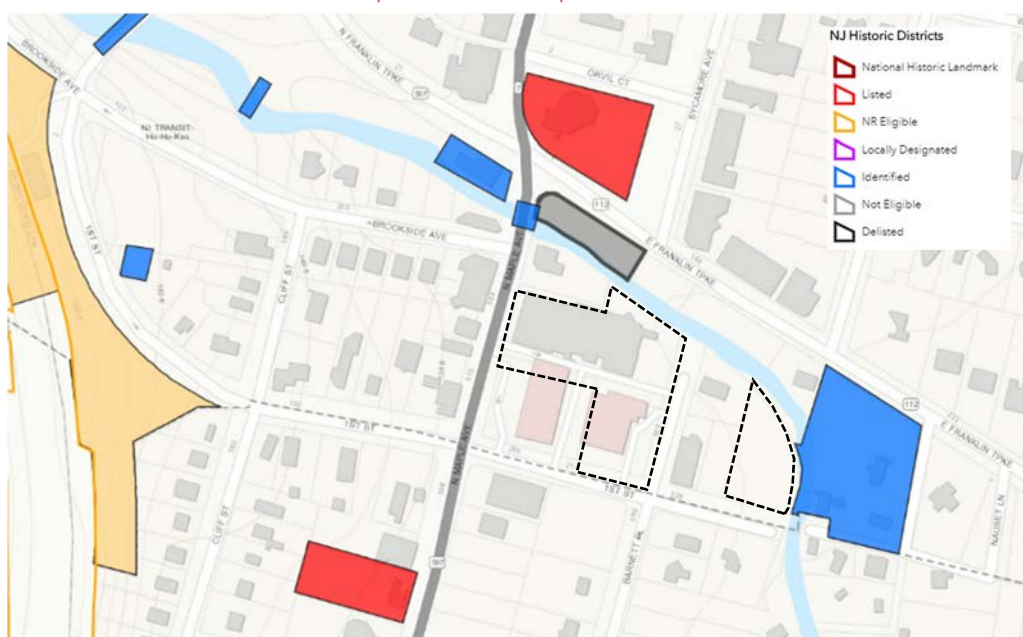
The historic aerial provided on Map-4 below portrays the development pattern of this area as of 1966. It is noted, the development and coverage on Lot 3 was substantially similar to current conditions except an addition to the former supply facility has occurred at the southeast corner of the building. The development on Lot 5 was different at the time which consisted of residential development while Lot 11 also contained multiple residential structures that have since been removed.

Map 4: Block 1016 - 1966 Aerial



A review of historic properties on the NJ CRGIS Online Viewer from the N.J. D.E.P. Historic Preservation Office reveals there are no known historic sites on site although here are a few mapped features surrounding the Study Area. The following map illustrates the surrounding historic features:

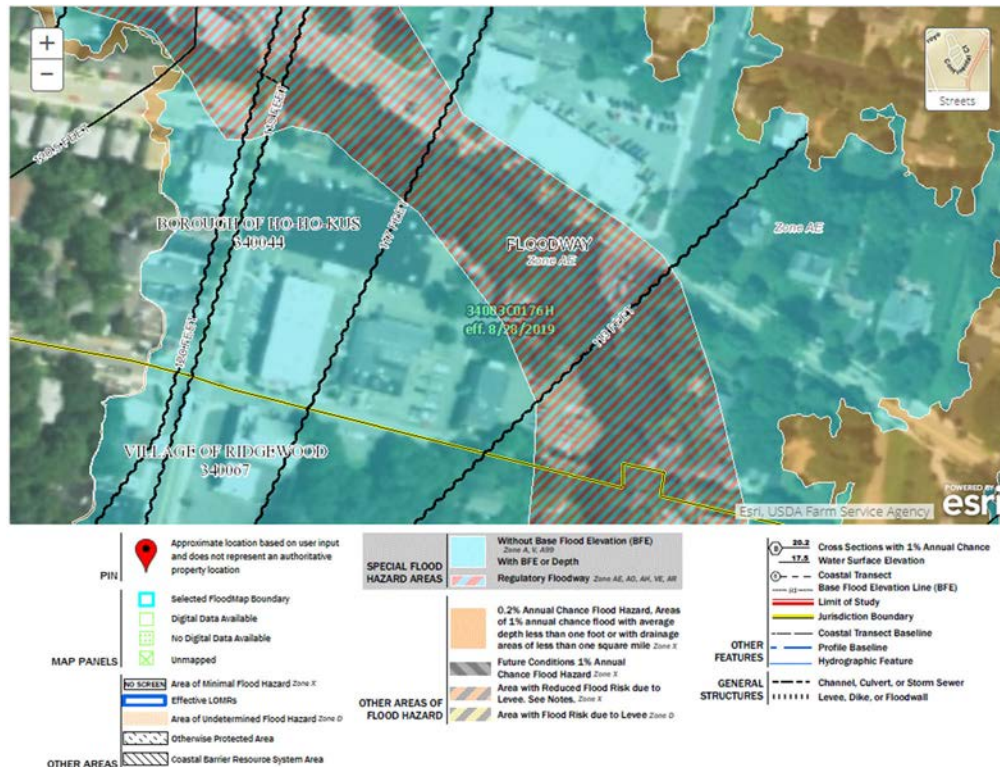
Map 5: Historic Properties Review



Source: NJ CRGIS Online Viewer from the N.J. D.E.P. Historic Preservation Office 2020.

Environmental constraints affecting the Study Area include the Ho-Ho-Kus Brook which extends from west to east along the Study Area's northerly and easterly boundaries, and its associated flood plains, which are shown on the accompanying Map-5 below. As indicated on the map, the one-hundred-year flood plain associated with the Ho-Ho-Kus Brook extends over the Study Area with the floodway impacting the northern and eastern Study Area.

Map 6: Floodplain



Source: FEMA Flood Map Service Center 2020.

There are no records of existing sites requiring remediation in the immediate area of the Study Area based upon a search of records at the NJPDES Permit Records Information website.

Section 3: Master Plan

The following section discusses the relationship of the Borough's master planning documents to the Study Area.

3.1: Land Use Plan

As per the Borough's most recent Land Use Plan, which was adopted on November 21, 2013, the entirety of the Study Area is in the Commercial designation. This land use category corresponds generally to the GB General Business District. The GB District permits a variety of uses including single-family and two-family residences, wholesale trade, retail trade, finance, insurance and real estate services, personal services, medical, health and legal services, post offices, libraries, churches, clubs and community residences.

While the study area is located in the southern area of the Central Business District, the Land Use Plan notes that the

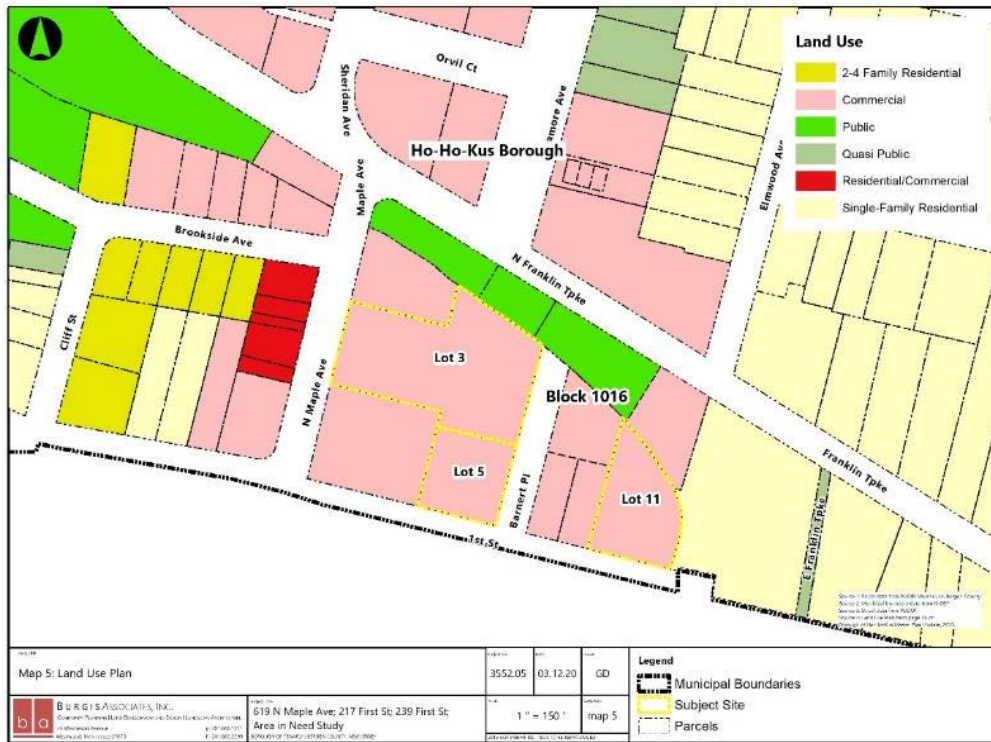
General Business Zone consists of small retail and service commercial establishments and small professional uses that provide for the daily needs of people within the community. These commercial areas are characterized by small lot arrangements with modest sized buildings which are readily accessible to the surrounding residential neighborhoods they serve.

This district functions as a primary commercial district serving a neighborhood and somewhat broader area. It should provide for a variety of retail and service uses which are directed toward meeting the shopping and related needs of the community's residents. This area may also permit office uses as principal activities, either as freestanding buildings or as mixed-use buildings in combination with retail uses. The overall intent of the plan is for the district to encourage retail and service commercial uses which complements its established scale of development

Furthermore, the 2013 Land Use Plan recommended the Borough improve the viability of the GB District to foster the following:

- 1. The rehabilitation of buildings and sites and the adaptive reuse of older buildings;*
- 2. The provision of additional park benches, landscape features, façade improvements and other similar public and private actions;*
- 3. The provision of buffer/screening elements to separate the commercial uses from adjoining residential development;*
- 4. Common access and shared parking areas;*
- 5. The imposition of uniform signage designed to reinforce a general business district identity.*

Map 7: Land Use Plan



In addition to the above, the Land Use Plan Element includes the following land use recommendations which are pertinent to the Study Area.

Goal 2:

To ensure that any prospective development is responsive to the borough's environmental features and is designed to preserve the community's physical characteristics.

Policy Statement:

The Borough of Ho-Ho-Kus seeks to limit development to that which is sensitive to the community's particular physical characteristics and preserves the borough's sensitive environmental features. In particular, the borough seeks to limit development to that which preserves steeply sloped areas (defined to include any slope of minimally fifteen percent grade), wetlands, and flood plains, and retains existing vegetation (particularly trees of a caliper of six inches or more and clusters of trees which may be of lesser caliper if determined appropriate). The borough takes cognizance of the fact that there are numerous sites in the municipality that are typified by extensive environmentally sensitive features and therefore may not be able to accommodate its full zoned development potential.

Goal 4:

To ensure that any future development of the community's infrastructure be limited to solely accommodate the borough's present level of intensity of development as identified in this plan.

Policy Statement: The borough seeks to provide the minimum level of infrastructure improvements to accommodate local needs and discourage the imposition of new or expanded facilities that may be utilized to encourage or support higher levels of development than contemplated in this plan. The borough's land use policy is expressly designed to discourage infrastructure improvements that would enable an increase in the carrying capacity of the land and result in increased pressures for more development in the community.

Goal 6: To affirmatively address the community's low and moderate income housing obligation in the manner established by the Borough of Ho-Ho-Kus Housing Plan.

Policy Statement: The Borough of Ho-Ho-Kus has adopted a 2008 Housing Element and Fair Share Plan and a 2012 spending plan amendment to establish a market to affordable program to address its fair share affordable housing needs. The Borough's Plan continues to document the lack of vacant land and the lack of areas for inclusionary residential redevelopment.
[The Housing Element and Fair Share Plan has subsequently been modified as noted in Section 3.2 below]

Goal 9: To preserve and enhance the Borough's commercial areas by defining their functional role in the Borough and enhancing the quality of life within the commercial center through an appropriate mixture of activities and provide suitable parking facilities to serve the businesses in the commercial district.

Policy Statement: The Borough seeks to encourage the continued development of the community's business district for retail and service commercial uses serving the daily needs of the resident population, as well as addressing broader shopping and business needs as reflected in this Plan. The Borough policy is to reaffirm the general business district with its own integrity, uniformity of purpose, and integration of building, landscaping, signage, design and parking elements as set forth in the Land Use Plan, and also encourage the establishment of a definitive developmental character for the other commercial and business categories delineated herein.

3.2: Housing Element and Fair Share Plan (HE&FSP)

The borough received a Judgment of Compliance and Repose on June 11, 2018 for their Third Round Housing Plan that was adopted July 20, 2017 and amended on March 8, 2018. This plan affirmatively addresses the Court-approved, Settlement Agreement between Ho-Ho-Kus Borough and Fair Share Housing Center, Chamberlain Developers, Inc. and Johnathan L. Mechanic D.B.A. Ho-Ho-Kus Crossing (executed December 21, 2016). The Borough adopted

the implementing ordinances related to the plan (inclusive of the overlay zone encompassing the study area), to provide the regulatory changes as required. The HE&FSP outlines the manner in which the Borough plans to address its affordable housing obligation which, pursuant to the settlement agreement consists of the following:

Table 4: HE&FSP Affordable Housing Obligations

Rehabilitation Obligation:	7
Prior Round Obligation (1987-1999)	83
Third Round Prospective Need Obligation (1999-2025)	195

The Settlement Agreement reflects the Borough's vacant land adjustment (VLA), which adjusts the 278-unit cumulative 1987 to 2025 new construction to a 30-unit realistic development potential ("RDP") and a 248-unit unmet need.

To address this obligation as well as its calculated realistic development potential (RDP), the HE&FSP outlines a number of zoning districts and overlay zoning districts which are designed to permit multifamily inclusionary housing. The OL-1 Overlay Zone encompasses the Study Area and the identified purpose of this zone is described below.

To address its affordable housing unmet need obligation, the Borough shall implement an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing in the Borough's downtown that is affordable to low- and moderate-income households. This chapter establishes the Downtown Inclusionary Overlay Zone and permits the creation of multifamily housing within the downtown area (as outlined in the appended maps), provided that such housing complies with a required twenty-percent inclusionary set-aside requirement and with the requirements of this chapter.

Further, the 2018 HE&FSP noted the following regarding the specific lots in the Study Area identifying the prior approvals and intentions of the sites contemplated improvements:

In January of 2016, the Ho-Ho-Kus Zoning Board approved the Ho-Ho-Kus Crossings, a 53-unit mixed-use redevelopment project consisting of ground-floor retail and upper-story apartments on ±1.5 acres (Block 1016, Lots 3 and 5), with additional parking on a separate ±0.5-acre lot (Lot 11), located in the Borough's downtown. The inclusionary redevelopment will have a 15% affordable rental set-aside of 8 affordable family-rental units; one (1) of those units will be reserved for a very-low income household. As the project falls partially within a special flood hazard area and the floodway for Ho-Ho-Kus Brook, the project will conform to FEMA and NJDEP's regulations.

The redevelopment will be built on lots containing an existing office building with frontage on First Street and an existing commercial building with frontage on North Maple Avenue. The building fronting on North Maple Avenue is immediately across the street from shops and restaurants along North Maple Avenue, while the building fronting on First Street is somewhat isolated from the action of North Maple Avenue and faces single-family residences on the other side of First Street. Surrounding uses include retail and food service businesses, public parks, the Borough's public library

and offices, and a New Jersey Transit train station. The primary means of ingress and egress into the project site will be via North Maple Avenue and First Street, which allow for access to Franklin Turnpike. The site is within the sewer service area with access to adequate sewer and water infrastructure and is in the State Development and Redevelopment Plan's Planning Area 1, where redevelopment is encouraged, and affordable housing sites are preferred.

The HE&FSP set forth the basis for the corresponding overlay zone amendments to the GB-General Business zone. These amendments have since been enacted for this area of the Borough as the OL-1 Overlay Zone, in accordance with the Settlement Agreement.

Section 4: Existing Zoning Analysis

A review of the accompanying existing zoning map portrays the Study Area located within the GB General Business District. This district is described in greater detail below:

4.1: GB General Business District

Block 1016 Lots 3,5 and 11 of the Study Area are in the GB General Business District. This zoning designation is consistent with the Borough's Land Use Plan, which places these sites within the General Business Area land use category.

The following tables summarize the principally permitted uses allowed in the GB District.

Table 5: GB District Permitted and Conditional Uses

Permitted Uses

- | | |
|--|---|
| 1. Single-family and two-family residence excluding apartments located over, under or in business establishments | 8. Post offices, libraries, churches, parking lots and civic associations |
| 2. Wholesale trade establishments | 9. Accessory buildings |
| 3. Retail trade establishments | 10. Clubs |
| 4. Finance, insurance and real estate services | 11. Community residences for the developmentally disabled |
| 5. Personal services | 12. Community shelters for victims of domestic violence |
| 6. Medical, health, and legal services | 13. Community residences for the terminally ill |
| 7. Other professional services, including engineering, architectural, and planning services; nonprofit educational and scientific research agencies and accounting services. | 14. Community residences for persons with head injuries |
| | 15. Health clubs |
| | 16. Business offices |

Conditional Uses

- | | |
|--|--|
| 1. Public utility facilities or use | 6. Restaurants, except lunch wagons, diners, road stands or any eating place seating less than 25 people or rendering service other than inside the premises where the business is conducted, unless operating as a licensed outdoor café. A restaurant shall not be located on a lot that is contiguous or adjacent to a single-family residential zone |
| 2. Automotive Service Stations | |
| 3. County, state or federal facilities | |
| 4. Churches | |
| 5. Wireless communications towers and antennas and associated facilities | |

The following table provides the GB District bulk standards.

Table 6: GB District Bulk Standards

Area & Bulk Regulations	GB
Minimum Lot Area (ft)	5,000
Minimum Lot Frontage (ft)	50
Minimum Lot Width (ft)	40
Minimum Lot Depth (ft)	80
Maximum Building Coverage (%)	50
Maximum Building Height (ft)	40
Interior Lots Front Depth (ft)	10
Interior Lots Side Width (ft)	0/10
Interior Lots Rear Depth (ft)	30

4.2: OL-1 Overlay District-1

As noted earlier, Block 1016 Lots 3,5 and 11 of the Study Area also are located in the Overlay One District. This zoning designation is consistent with the Borough's HE&FSP as an alternative development permitting a mixed-use development wherein if residential is constructed, a percentage is required to be affordable.

The following tables summarize the principally permitted uses allowed in the OL-1 District.

- (1) *All uses permitted by the underlying zoning, except that:*
 - (a) *Where the GB District is the underlying zoning, only those uses permitted in the GB District by § 85-13A(2) through (10), (15) and (16) are permitted as the ground-story uses in any mixed-use, multifamily inclusionary development.*
 - (b) *Uses permitted by § 85-13A(11) through (14) are permitted as stand-alone uses and are not subject to any other conditions of the overlay zone ordinance. However, if a use permitted by § 85-13A(11) qualifies as an eligible affordable housing credit, then such use may be permitted as an upper-story use.*
- (2) *A multifamily inclusionary residential use is permitted, conditioned on compliance with § 85-13.1C, Special rules, in this chapter.*

The following provides a summary of the OL-1 District bulk standards.

- (a) *Maximum improved lot coverage: 60%.*
- (b) *Maximum lot coverage: 40%.*
- (c) *Minimum open space requirements of the R-2 and R-4 Zones do not apply.*
- (d) *Front yard setback: 15 feet.*

Section 5: Compliance with the Statutory Criteria

The following section offers an analysis regarding how each property in the Study Area relates to the statutory criteria established by the LRHL, which are identified in Section 2.2 of this Study.

The findings of this section are summarized in the table below. As shown, Block 1016 Lot 3 (619 N Maple Avenue), displays characteristics which satisfy the statutory criteria and consequently justify its designation as a Non-Condemnation Redevelopment Area. Furthermore, the study additionally finds that it is appropriate to include Block 1016 Lot 5 (217 First Street), and Lot 11 (239 First Street), within the redevelopment area, as their inclusion is necessary for the effective redevelopment of the area as permitted under the LRHL statute at 40A:12A-3.

Table 7: Summary of Compliance with Statutory Criteria

Block	Lot	Statutory Criteria Compliance	Recommended Inclusion
1016	3	Meets Criterion "d" and "h"	Yes
	5	Does not meet specific criteria	Yes
	11	Does not meet specific criteria	Yes

5.1: Block 1016 Lot 3 (619 N Maple Avenue)



Scale: 1" = 260'

Application of Criteria

As previously detailed in Section 2, Lot 3 is presently developed with a mixed-use retail and antique store and storage facility as well as an accompanying surface parking area. The front retail related space is vacant and has been so since 2010, and the rear of the structure contains an antique store known as Granny's Attic. The building was first erected for Washer Brothers Ford Dealership in 1915. It has been expanded and changed tenancy many times since then including a parts supply and storage facility. Further modifications were made in 1985.

The building on this property is composed of a block masonry construction with aluminum cladding on portions of the structure. Storefront windows exist along the North Maple Avenue frontage although windows are generally lacking on the remainder of the structure. This condition is largely due to the former non-retail wholesale warehousing, supply and storage that operated out of this structure over many years. The structure has some one-story portions although the majority contains two story elements. There is a basement under a portion of the westerly end of the building.

The use of the majority of the structure is arranged as an antique sales and storage, which is evident in the interior floor system. The interior of the storage portion of the structure contains a flooring system that supports the upper story of the structure as a pre-manufactured system that is bolted together in a two-story space. This space contains exposed roof trusses and mechanicals typical of an industrial or warehouse type facility. This arrangement limits the further reuse of the structure consistent with the Borough's zone

plan, without considerable investment in its modification or reconstruction. See the accompanying photographs that illustrate this condition.

Over a hundred (100) years have passed since the development of this facility. Subsequently, the interior infrastructure and building components have become outdated, as some of its mechanical equipment dates back approximately 22 years and is in need of considerable repairs and upgrades to bring to modern efficiency and performance standards. Attached in the Appendix of this document is a heating and cooling system inventory prepared by the building's H.V.A.C. servicing company, outlining the systems age and service needs. The photographs contained below provide evidence of the building's aging mechanical equipment.

The building roof is flat, and the composite roofing material is reaching its life span. While there have been maintenance repairs made, the material will need to be replaced in the near future. See the accompanying photographs illustrate the roof condition.

While the site parking areas have been generally adequately maintained there are some areas requiring repaving. The existing driveway and parking circulation patterns contain deficiencies within the southerly portion of the site. The southernmost parking area, which also provides access to the rear parking and loading area, is a one-way configuration with angled parking. This area is impeded and constrained by a basement entry stairwell and a loading dock structure located midway along the southerly side of the building. These elements cause the aisle width and circulation to be significantly restricted. These restrictions were noted in the parking improvement plan by the Planning Board in 2008.

Additionally, the parking distribution on site is such that the onsite parking available for the front retail space is insufficient. There are only 7 parking spaces serving approximately 9,000 square feet of space for retail in the front of the building or approximately 1 space per 1,280 square feet. While there is additional parking in the rear of the property, these spaces are shared with the use in the rear of the structure and on the adjacent lot as noted below. This contributes to the viability of the retail area of the building.

The parking in the rear of the facility contains approximately 17 spaces (not clearly striped) and a shared parking arrangement of 10 spaces with the uses to the rear of the building on Lot 5. The parking limitations on the site are evident by the applications that were made to the Planning Board over the years wherein a shared arrangement and remote parking conditions were needed for approval. The attached 2008 resolution is included in the Appendix of this document wherein the shared arrangement of parking was reviewed and approved.

Finally, as noted earlier in the review of the Study Area, Lot 3 contains floodplains including a regulated floodway of the Ho-Ho-Kus Brook. The buildings northeasterly corner extends into this floodway area and has experienced flooding damage in the past further limiting future investment in improvements to the existing structure for other uses.

In consideration of the above, the site meets the "d" Criterion, which includes areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land

coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

Additionally, with the location of the properties in the downtown core of the GB-Business District and within a 15 minute walk to the regional commuter train station, the designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation as provided for under "h" Criterion . The principles being promoted under the OL-1 zone would include:

1. Promotion of a mix of land uses;
2. Take advantage of compact design options;
3. Create a range of housing opportunities and choices;
4. Create walkable neighborhoods;
5. Foster distinctive, attractive communities with a strong sense of place;
6. Direct development toward existing communities;
7. Provide a variety of transportation choices;
8. Make development decisions predictable, fair, and cost effective.

These findings can be based upon the building's configuration, design and materials which are obsolete especially in an area within a downtown retail commercial business corridor as promoted by the zone plan vision for this area. Additionally, the mechanical infrastructure of the facility is over twenty years old and has become inadequate along with the roofing system requiring replacement. The vehicular circulation is faulty in its arrangement and the parking supply and distribution on site does not adequately or safely serve the needs of the building's arrangement.

Recommendation

In consideration of the above, it is recommended that this site **should** be included in the area in need of redevelopment area.



Photograph 1: Southerly Front Façade of Building (3/3/2020)



Photograph 2: Southerly Façade of Building and Loading Dock Area (3/3/2020)



Photograph 3: One Way Site Circulation and Loading Dock Obstruction (3/3/2020)



Photograph 4: Shared Parking Area and Building on Lot 5 (3/3/2020)



Photograph 5: Rear Parking Area and Building (3/3/2020)



Photograph 6: Northeasterly Side of Building (3/3/2020)



Photograph 7: Northwesterly Corner of the Building-Parking on Adjacent Property (3/3/2020)



Photograph 8: Vacant Retail Area (3/3/2020)



Photograph 9: Interior of Retail Area and Roof Leak (3/3/2020)



Photograph 10: Interior Transition Between Retail and Office Area and Storage Space (3/3/2020)



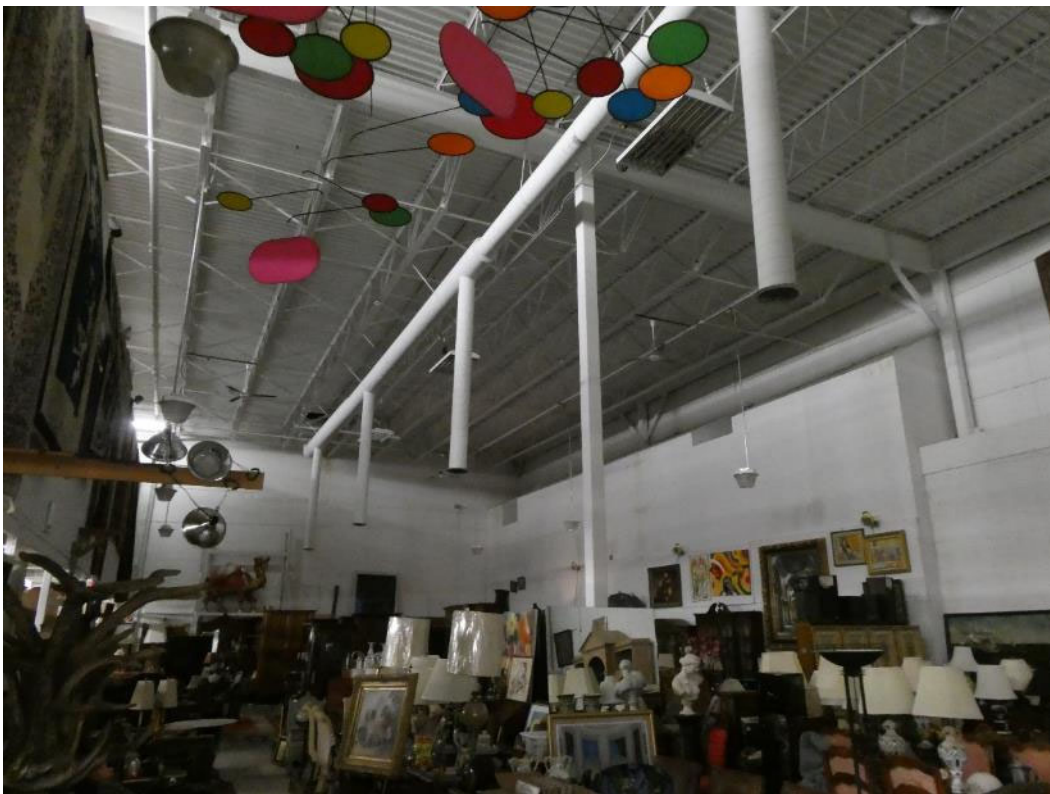
Photograph 11: Flooring and Storage System



Photograph 12: Loading Area and Two-Story Space (3/3/2020)



Photograph 13: Granny's Attic Business Flooring and Heating System (3/3//2020)



Photograph 14: Granny's Attic Business Two Story Interior Space with Open Ceiling (3/3/2020)



Photograph 15: Building Interior Indications of Roof Leaking (3/3/2020)



Photograph 16: Heating Mechanical System (3/3/2020)



Photograph 17 : Building Rooftop HVAC System MFD 10/98 (3/3/2020)



Photograph 18: Building Rooftop Condition and Repairs (3/3/2020)

5.2: Block 1016 Lot 5 (217 First St)



Scale: 1" = 260'

Application of Criteria

As previously detailed in this study, Lot 5 is presently developed with a mixed-use two-story facility. It is estimated the structure was erected in the early 1960's. The front of the structure facing First Street is a range of office and retail service uses on two floors while the rear of the facility is occupied with by a sports and fitness training facility within a two-story space.

Based upon a site inspection conducted on March 3, 2020, this facility is largely in satisfactory condition. Most if not all the building systems are up to code. The building is a split block and standard block masonry construction with a flat roof. Common double-hung windows exist along the First Avenue frontage and windows are generally lacking on the remainder of the structure which contains the two-story fitness space. While the office and service retail areas of the building are arranged in a common arrangement, the rear area is a two-story space with exposed roof trusses and mechanicals.

The parking on site is located along the front and the easterly side of the structure. The parking in front of the property is arranged such that a vehicle needs to back onto First Street, a condition that is not favored and includes one space that is substantially restricted by a utility pole which blocks access to the parking space. The side parking area is arranged in a common arrangement without having to back on to First Street. The paving of the parking area is in need of replacement in several areas.

In consideration of these site conditions, while not meeting a specific criteria of LRHL, this site can be included into the area in need of redevelopment as permitted under the statute at 40A:12A-3 which permits the inclusion of this property for the effective redevelopment of

the area due to the contiguous relationship and the alternatives that are provided by the additional properties and their frontage onto First Street and Barnert Place.

Recommendation

Although this property by itself does not meet the redevelopment criteria, the LRHL permits the inclusion of land which may not meet the above criteria, but which otherwise is necessary for redevelopment. Under Section 3 of the LRHL, "redevelopment area" is defined as follows:

"A redevelopment area may include lands, buildings, or improvements, which of themselves are not detrimental to the public health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part" (N.J.S.A. 40A:12-3)."

This site provides an important physical arrangement to the property that meets the Area in Need of Redevelopment criteria. Without this site, the lot of the Study Area which meets the Area in Need of Redevelopment designation would be limited to just the lot and if included presents an opportunity to encourage an effective, unified and comprehensive redevelopment area with access to multiple streets for improved local circulation.

In consideration of the above, this site **should** be included in the area in need of redevelopment area.



Photograph 19: Front Façade of Building and Site Conditions on Lot 5 (3/3/2020)



Photograph 20: Southwesterly corner of Building on Lot 5 (3/3/2020)



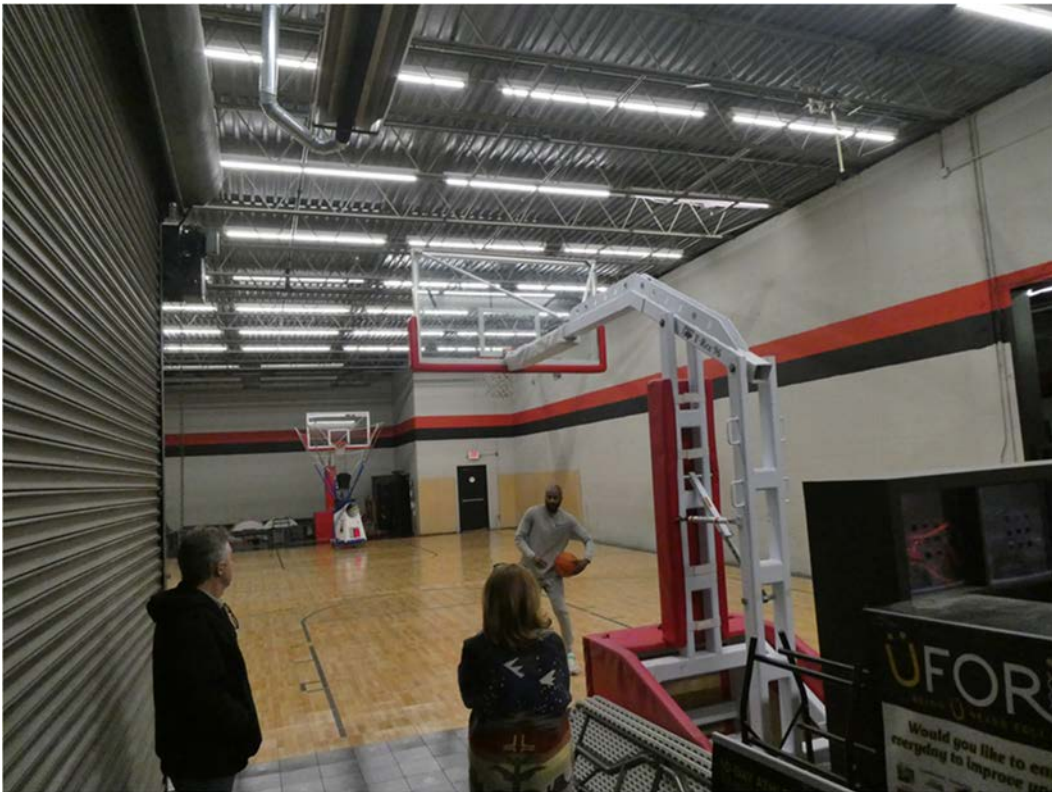
Photograph 21: Northerly Side of Building on Lot 5 (3/3/2020)



Photograph 22: Westerly Side of Building and Site Conditions (3/3/2020)



Photograph 23: Interior of Building Lot 5 and HVAC System (3/3/2020)



Photograph 24: Interior of Building on Lot 5 (3/3/2020)

5.3: Block 1016 Lot 11 (239 First St)



Scale: 1" = 260'

Application of Criteria

As previously detailed in this study, Lot 11 is occupied in its entirety by a parking lot. The parking area is currently in use by two separate entities with rights to specific areas of parking. The parking lot is fair condition with some areas and containing striping and signage indicating the reserved parking areas while several areas are in need of repaving.

The site on its own does not meet the specific criteria for an area in need of redevelopment although, in consideration of a portion of the parking area reserved for the subject property, we find this lot can be included into the area in need of redevelopment as permitted under the LRHL statute at 40A:12A-3.

Recommendation

Although this property by itself does not meet the redevelopment criteria, the LRHL permits the inclusion of land which may not meet the above criteria, but which otherwise is necessary for redevelopment. Under Section 3 of the LRHL, "redevelopment area" is defined as follows:

"A redevelopment area may include lands, buildings, or improvements, which of themselves are not detrimental to the public health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part" (N.J.S.A. 40A:12-3)."

As indicated by its current use, this lot within 225 feet of Lot 5, provides an opportunity for additional parking to serve the lot that meets the Area in Need of Redevelopment criteria. Without this parking, Lot 3 and 5 would be limited to the area of the lots and if included, it presents an opportunity to encourage a broader and more effective and comprehensive redevelopment area.

In consideration of the above, this site **should** be included in the area in need of redevelopment area.



Photograph 25: Parking Area on Lot 11 (3/3/2020)



Photograph 26: Rear of Parking Lot on Lot 11 Looking Southeast (3/3/2020)



Photograph 27: Rear of Parking Lot on Lot 5 Looking South (3/3/2020)

Section 6: Planning Conclusions and Recommendation

The planning analysis contained herein concludes that Block 1016 Lot 3 (619 North Maple Avenue), displays characteristics which satisfy the statutory criteria and consequently justify the designation as a Non-Condemnation Redevelopment Area. Furthermore, the study additionally finds that it is appropriate to include Block 1016 Lot 5 (217 First Street), and Lot 11 (239 First Street), within the redevelopment area, as their inclusion can be determined as important for the effective redevelopment of the area.

It should be noted that a determination to designate a redevelopment area simply defines and delineates the area in which the municipality intends to pursue an active role in furthering redevelopment. This redevelopment identification can include alternative approaches to upgrade and revitalize the area.

The following recommendations are offered for the Borough's consideration:

1. The statute provides that "no area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in the applicable Laws of the State of New Jersey". Such determination shall be made after public notice and public hearing.

The Governing Body authorized the Planning Board to conduct this redevelopment investigation. This report concludes that a portion of the Study Area satisfied the "d" and "h" Criteria, which can serve as the basis for the Planning Board's recommendation to the Governing Body.

2. Based on our analysis, we recommend that the entirety of the Study Area considered for designation as a Non-condemnation Area in Need of Redevelopment.
3. Upon completion of a hearing on this matter, the Planning Board is required to forward its recommendation regarding whether the delineated area, or any part thereof, should be designated, or not designated, by the Governing Body as a redevelopment area.
4. After receiving the recommendation of the Planning Board, the Governing Body may adopt a resolution designating the delineated site for redevelopment.
5. The Governing Body, after adopting a resolution to delineate the redevelopment area, should direct the Planning Board to prepare a redevelopment plan pursuant to the applicable redevelopment statute. The plan may be prepared by the Planning Board and then forwarded to the Governing Body for adoption. The redevelopment plan is required to include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

- a. The relationship to define local objectives as to appropriate land uses, population density, traffic, public transportation, utilities, recreation and community facilities, and other public improvements;
 - b. Proposed land uses and building requirements in the study area;
 - c. Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe, and sanitary dwelling units affordable to displaced residents will be available in the existing local housing market;
 - d. Identify any property within the redevelopment area that is proposed to be acquired in accordance with the redevelopment plan;
 - e. Any significant relationship of the redevelopment plan to the master plans of contiguous municipalities, County Master Plan and State Development and Redevelopment Plan.
6. Following the adoption of the Redevelopment Plan, the Governing Body should appoint a redevelopment entity to oversee the redevelopment of the area.

Appendices:

MAYOR and COUNCIL of the
BOROUGH of HO-HO-KUS
BERGEN COUNTY, NEW JERSEY

RESOLUTION # 20-38

Subject: HHK Crossing – Third Round and Fair Share Plan

Dated: January 28, 2020

WHEREAS, the project known as “Ho-Ho-Kus Crossing” located on North Maple Avenue, First Street and Barnett Place, is a proposed mixed-use development consisting of retail and residential components located in Block 1016, Lots 3 and 5 with additional parking on a separate lot (Lot 11); and

WHEREAS, pursuant to the Borough’s Third Round Housing Element and Fair Share Plan, the subject project will have a 15% affordable rental set aside of ten (10) affordable family rental units; and

WHEREAS, in order to review certain aspects for the development of the project, it is appropriate that the Borough cause a study to be conducted of the project area;

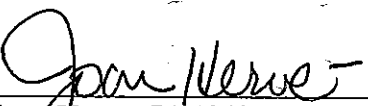
NOW, THEREFORE, BE IT RESOLVED by the Governing Body that, the Ho-Ho-Kus Planning Board is hereby authorized to undertake a preliminary investigation to determine whether the proposed area set forth above is a redevelopment area according to the criteria set forth in N.J.S.A. 40A:12A-5;

BE IT FURTHER RESOLVED, that the redevelopment area determination shall authorize the Borough to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (non-condemnation re-development area); and

BE IT FURTHER RESOLVED that this Resolution is adopted pursuant to the provisions set forth in N.J.S.A. 40A:12A-6.

	Motion	Second	Aye	Nay	Abstain	Absent
Mayor Randall						
Councilmember Troast	x		x			
Councilmember Rorty		x	x			
Councilmember Shell			x			
Councilmember Iannelli			x			
Councilmember Crossley			x			
Councilmember Policastro						x

This is to certify that the above Resolution was adopted by the Mayor and Council on **January 28, 2020**


Joan Herve, RMC/CMR
Municipal Clerk

Cucchiara's.
3532.027

LAW OFFICES OF GARY J. CUCCHIARA, LLC
30 Park Avenue, Lyndhurst, New Jersey 07071
Office (201) 939-9333 ~ Fax (201) 939-9336
Email: cucchiaralaw@gmail.com

~

Glen Gardner and Kenvil Offices: (908) 617-5172 Fax: (908) 617-5218
P.O. Box 421, Glen Gardner, New Jersey 08826-0421
469 Route 46 West, Kenvil, New Jersey 0784

February 18, 2020

Via Email
Edward Snieckus, Jr., PP, LLA, ASLA
Burgis Associates, Inc.
25 Westwood Avenue
Westwood, New Jersey 078675

RECEIVED

Re: Resolution #20-38: Authorization to the Planning Board to Undertake
Redevelopment Preliminary Investigation.

Dear Mr. Snieckus:

On January 28, 2020, the Mayor and Council of the Borough of Ho-Ho-Kus adopted Resolution #20-38 which authorized the Ho-Ho-Kus Planning Board to undertake a preliminary investigation to determine whether the property located in Block 1016, Lots 3 and 5, and a parking lot in Lot 11 on the Borough's official tax map, is a redevelopment area in accordance with the criteria set forth in the Local Redevelopment and Housing Law (LRHL), N.J.S.A. 40A:12A-5.

Please be advised that at a meeting held on February 13, 2020, the Planning Board directed your firm, as the Borough's planner, to perform the necessary services to conduct the preliminary investigation, including, but not limited to, preparing a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein; specifying the date and giving notice of a hearing for the purpose of hearing persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area; and making a presentation and recommendation to the Planning Board at the hearing, pursuant to the LRHL, N.J.S.A. 40A:12A-6.

Accordingly, please proceed with the preliminary investigation described above.
Thank you for your anticipated cooperation.

Very truly yours,



GARY J. CUCCHIARA, ESQ.

Planning Board Attorney

GJC:dm

cc: Joan Herve, Borough Clerk, RMC/CMR
William Jones, Borough Administrator
John Hanlon, Planning Board Chairman
JoAnn Carroll, Planning Board Secretary

**TOTALCOMFORT
COOLING & HEATING CO. INC.
530 COMMERCE STREET
FRANKLIN LAKES, NJ 07417**

3/6/2020

**PH. 201-891-1333
FAX. 201-337-1480
www.totalcomfort.biz
NJ HVAC Lic# 19HC00322700
NJ Home Contractors Lic# 13HJ000342900**

List of Heating and Cooling Systems at 619 North maple Ave. HoHoKus NJ 07423

**Unit #1 Rheem heating and cooling rooftop package unit.
Age-1998 age 22 years
Both compressor not working and system void of refrigerant.**

**Unit #2 Rheem heating and cooling rooftop package unit.
Age-1998 age 22 years
One refrigerant circuit void of refrigerant system void of refrigerant.**

**Unit #3 Rheem heating and cooling rooftop package unit.
Age-1998 age 22 years
Low on Freon and one compressor grounded.**

**Unit #4 Rheem heating and cooling rooftop package unit.
Age-1998 age 22 years
Defective heat exchanger.**

**#5 roof top heat and cooling package unit.
Age 25 years plus.**

**#6 roof top heat and cooling package unit.
Age 25 years plus.
Unit not in use.**

**Two carrier heating and cooling roof top package units.
Age. Information not available at time of inspection.**

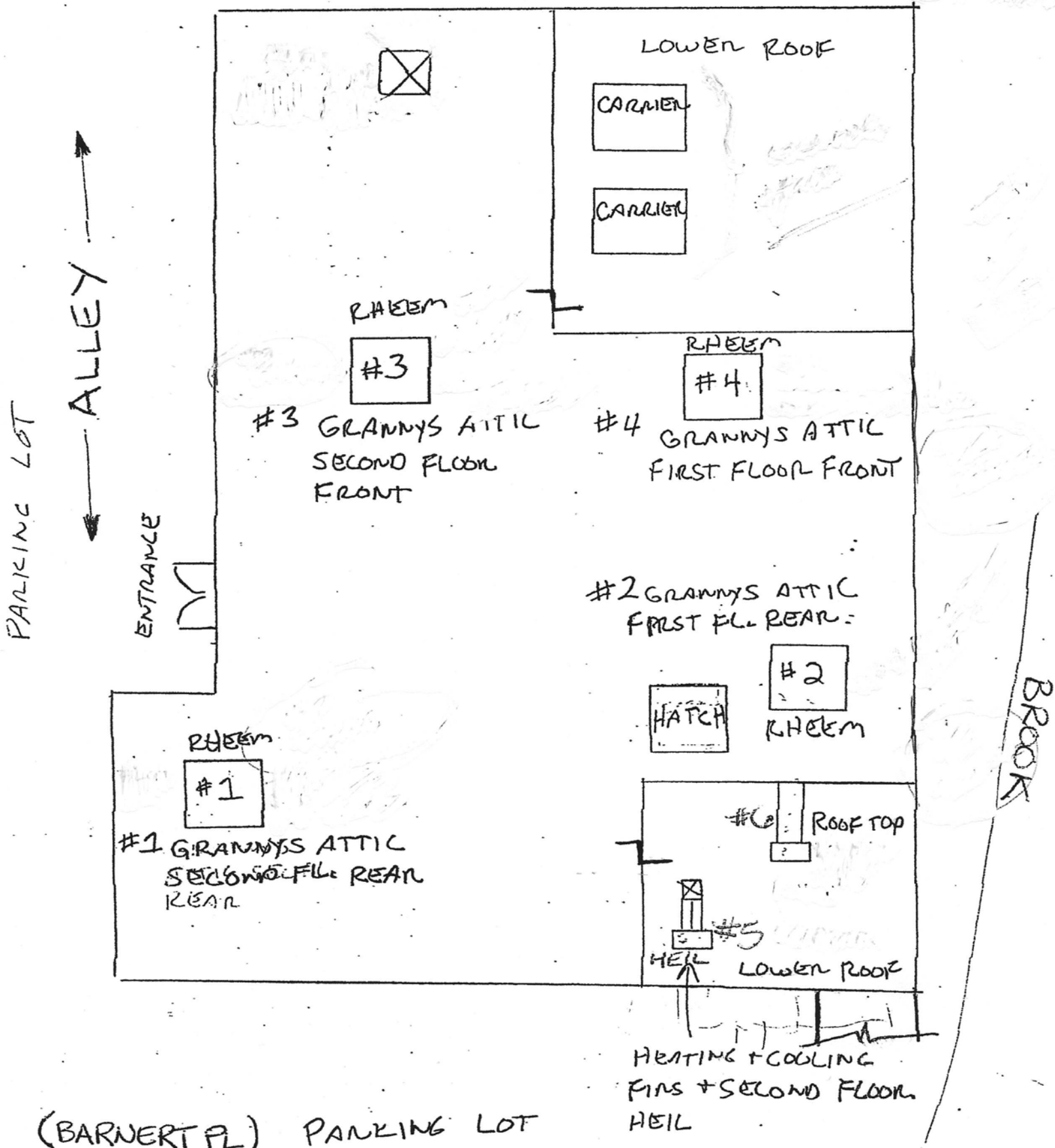
**Roger Ciba
Total Comfort
Cooling and heating**

FRONT OF BUILDING

GRANNYS ATTIC

NORTH MAPLE AVENUE

Total Comfort Cooling And Heating.
530 Commerce Street
Franklin Lakes, NJ 07417
NJ Home Impr. Reg # 13VH00342900
NJ HVAC Lic # 19HC00322700



ZONING BOARD OF ADJUSTMENT

BOROUGH OF HO-HO-KUS

Resolution with respect to the application of Jonathan L. Mechanic
for variances from the Zoning Ordinance of the Borough of Ho-Ho-Kus, exceptions
from site plan review standards and for preliminary and final site plan approval

WHEREAS, in 2015, Jonathan L. Mechanic, on behalf of a project to be known as "Ho-Ho-Kus Crossing" (hereinafter "the applicant") made application to the Zoning Board of Adjustment of the Borough of Ho-Ho-Kus (hereinafter "the Board") for variances (including a use variance and variances from bulk and other requirements) from the provisions of the Zoning Ordinance of the Borough of Ho-Ho-Kus (hereinafter "the Ordinance") and for preliminary and final site plan approval, and related site plan design waivers and exceptions, for the property known as Lots 3, 5 and 11 in Block 1016 on the tax assessment map of the Borough of Ho-Ho-Kus, which properties are located on Maple Ave., First St. and Barnett Pl., Ho-Ho-Kus, New Jersey 07423 (hereinafter "the property") so as to construct a project designated as "Ho-Ho-Kus Crossing", a mixed-use development including residential and retail components; and

WHEREAS, the application was heard by the Board at public hearings held during duly-constituted meetings of the Board held in compliance with the Open Public Meetings Act on May 5, June 4, November 5, 2015 and January 7, 2016; and

WHEREAS, at the conclusion of the public hearing on January 7, 2016, the Board approved a motion granting the relief requested by the applicant, subject to certain conditions (hereinafter referred to as "the prior approval") and directing the Board attorney to prepare a memorializing resolution, pursuant to N.J.S.A. 40:55D-10(g)(2); and

WHEREAS, the Board adopted that memorializing resolution (hereinafter referred to as "the prior resolution") on February 4, 2016, a true copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the variance relief granted in the resolution has expired pursuant to the provisions of Section 32A-22; and

WHEREAS, without regard to Section 32A-22, the period of protection associated with the site plan approval pursuant to N.J.S.A. 40:55D-49 has also expired and there have been changes to the Ordinance in the interim; and

WHEREAS, on April 15, 2019, the applicant filed an application with the Board for variances, exceptions from site plan review standards and for preliminary and final site plan approval for a revised development increasing the number of residential units, and decreasing the size of the retail space; and

WHEREAS, the application was heard by the Board at a public hearing held during a duly-

constituted meeting of the Board held in compliance with the Open Public Meetings Act on July 25, 2019 at which time the Board heard testimony from Michael E. Dipple, P.E., the applicant's professional engineer; John Montoro, AIA, RA, the applicant's architect; Douglas Polyniak, P.E., the applicant's traffic/parking consultant; and Elizabeth Leheny, AICP, PP, the applicant's professional planner; and

WHEREAS, the Board also heard testimony from Edward J. Snieckus, P.P., the Board's professional planner; David A. Hals, P.E., the Board's professional engineer; and John R. Corak, P.E., the Board's traffic/parking consultant, and reviewed their reports dated July 2, 2019, July 18, 2019 and July 22, 2019, respectively; and

WHEREAS, at the conclusion of the public hearing on July 25, 2019, the Board approved a motion granting the relief requested by the applicant, subject to certain conditions, and directing the Board attorney to prepare a memorializing resolution, pursuant to N.J.S.A. 40:55D-10(g)(2); and

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. **The Record.** The record in this matter shall consist of:
 - a. the application and related materials filed by the applicant as set forth on Exhibit "B";
 - b. the exhibits listed on Exhibit "C" attached, as well as the "completeness" and review memoranda of the Board's professionals; and
 - c. all testimony taken at the public hearing held on July 25, 2019.
2. **Declaration of Completeness.** On June 5, 2019, Mr. Snieckus, the Board's professional planner, declared the application to be "complete", as that term is used in the Municipal Land Use Law, for the purpose of scheduling the public hearing.
3. **Consent of Property Owners.** The application was filed with the consent of 619 North Maple Ave., Limited Partnership (as to Lot 3); 217-221 First Street Limited Partnership (as to Lot 5); and 239 First Street Limited Partnership (as to Lot 11), the owners of the lots that form the property.
4. **Payment of Real Property Taxes.** The real property taxes assessed against the property were current at the time of the hearing.
5. **Notice of the Application.** Notice of the application was published in the official newspaper of the Borough of Ho-Ho-Kus as called for in N.J.S.A. 40:55D-12(a), and the other notice requirements found in N.J.S.A. 40:55D-12 were complied with, and an affidavit of service was filed with the Board Secretary.
6. **Ratification of Findings of Fact and Conclusions of Law in Prior Resolution.** The Board adopts the findings of fact and conclusions of law set forth in the prior

resolution, except to the extent those findings and conclusions are modified in this resolution. In general terms, but for the adoption of the OL-1 Overlay Zone in the GB Zone, action taken by the Mayor and Council in response to the resolution of litigation relating to the Borough's affordable housing obligation, the zoning plan for the Borough and the property and the nature of the surrounding properties and neighborhood has not changed in any significant way. The adoption of that Ordinance negated the need for a use variance, lowering the applicant's burden of proof, but did require the applicant to seek a density variance pursuant to N.J.S.A. 40:55D-70(d)(5). The bulk variances sought by the applicant, and site plan design standard waivers and exceptions, are very similar to those sought and granted in the prior approval. Most of the findings of fact and conclusions of law set forth in the prior resolution remain valid today and the Board sees no valid reason to disturb them. Therefore, the Board will analyze the application focusing on the impact of the changes to the plan, primarily the increase in the number of residential units and the reduction in the area of the retail space, in evaluating the present proposal.

7. **The Prior Approval.** The prior approval entitled the applicant to construct a mixed-use building on Lots 3 and 5, which was to contain 9,470 sq. ft. of retail space on the first floor (oriented towards N. Maple Ave. and the entrance/drive aisle from N. Maple Ave.), with surface and below-building parking at grade on the balance of Lots 3 and 5. The building was to include second and third stories, in an "L" configuration, with 27 residential apartment units on the second floor and 26 units on the third floor, for a total 53 units. There was to be a 15% affordable housing set aside, a total of 8 units, consisting of one one-bedroom apartment, five two-bedroom apartments and two three-bedroom apartments. Retail and parking lots uses were, and still are, permitted in the GB Zone, but the residential use was not, meaning that a variance pursuant to N.J.S.A. 40:55D-70(d)(1) from the provisions of Section 85-13(C)(7) of the Ordinance was required. Lot 11 was to be used for parking only, providing 19 spaces, accessory to the development on Lots 3 and 5. The applicant was not able to proceed with construction as there were a number of issues that needed to be resolved with the New Jersey Department of Environmental Protection (hereinafter "the DEP") as the property is located in the flood plain of the Ho-Ho-Kus Brook, and either in or in very close proximity to the floodway. In general terms, the applicant discovered that the NJDEP and FEMA flood maps being relied upon were inaccurate, and did not correctly reflect existing conditions. The applicant prepared a more accurate hydraulic model, which was ultimately accepted by the DEP, and culminated in the issuance of a Flood Hazard Area Permit. The application materials include a lengthy description of events, and Mr. Dipple addressed the same issues in his testimony. The Board finds that it was factors beyond the reasonable control of the applicant that caused the delay in the project.
8. **The Changes to the Ordinance.** Subsequent to the prior approval, the Borough resolved litigation relating to its affordable housing obligation, part of which involved the creation of OL-1 Overlay Zone in the GB District. The OL-1 Zone permits the

proposed mixed use, and established related bulk requirements, including a density limitation. As noted above, there has been no relevant change in the character of the surrounding neighborhood, or in the Master Plan or zone plan for the Borough. The Board, of course, recognizes that the establishment of the OL-1 overlay zone was a significant action, which facilitated the project.

9. **The Presently Proposed Development.** The applicant still wishes to construct a mixed-use building, but the retail area will front exclusively on N. Maple Ave. and will be reduced to 6,257 sq. ft., and the number of apartments increased to 67, comprised of 27 one-bedroom apartments, 38 two-bedroom apartments (two with a den) and two three-bedroom apartments. The number of affordable units will rise from 8 to 10, comprised of two one-bedroom units, six two-bedroom units and two three-bedroom units. The plan shows the retail split into three units, but that is only conceptual and not an indication as to how the space will actually be used. The applicant argued, and the Board agrees, that the retail sales environment has changed substantially since the application was first approved, and that the desire for retail space is not what it was at that time. In addition, the needs and desires of potential tenants are different in 2019 than in 2015, one change being a desire for smaller, more economical, apartments, close to mass transit. Most of the units in the building presently proposed are smaller than those previously approved, and there is a variety of sizes. The extra units were created by adding an additional hallway and another row of units on Barnett Pl, in the rear of the building. The building got wider in that location, to extend over what was surface parking. That portion features a courtyard, surrounded by the building on all four sides, open to the sky, which permits additional light and air into the surrounding units. This is a beneficial aspect of the plan.

The facades of the building have not changed and still feature Queen Anne styling, designed to make the building look as it has been present for a long time. Materials are essentially unchanged. The rooftop mechanical units are screened from the view of adjoining properties by the parapet on the perimeter of the roof.

The traffic circulation pattern will remain essentially the same, and the driveway leading from N. Maple Ave. will be an ingress driveway only, but will be configured so as to permit egress in times of emergency, such as a flood event, as in the prior approval. This is needed in order to comply with DEP requirements, which mandate a safe egress roadway. Lot 11 will continue to be used for parking, providing 19 spaces. The retail area will be located in that portion of the building fronting on N. Maple Ave. The plan did not show a loading area, but during the course of the hearing, the applicant agreed to work with the Board Engineer to create an area that could be used for loading on the right side of the entrance/drive aisle from N. Maple Ave. The type of retailers that will occupy the retail space will likely not receive large truck (18-wheel deliveries), but smaller box vans, such as UPS and FedEx.

10. **Traffic and Parking Issues.** The Board's primary concern with respect to the

presently proposed development relates to traffic and parking. The Board had the benefit of reports prepared by Dolan & Dean (authored by Elizabeth Dolan, P.E. and Gary W. Dean, P.E., P.P.) dated June 27, 2019, submitted on behalf of the applicants, which was the basis for Mr. Polyniak's testimony. The Board also had the report of Stonefield Engineering & Design (authored by Charles D. Olivo, PE, PTOE) dated July 22, 2019, which was the basis for Mr. Corak's testimony.

The prior application required 137 parking stalls, based upon the provisions of the GB Zone and Residential Site Improvement Standards. Only 123 were proposed, which meant that the applicant needed a parking variance, which was granted. In granting that variance, the Board recognized that RSIS provides that shared parking shall apply in mixed-use developments and that other parking ratios can be considered when a property is close to public transit facilities. The property is within two blocks of the Ho-Ho-Kus Train Station. In determining to grant the variance, the Board found that when these alternate analyses were considered, the actual parking requirement was only 112 spaces, significantly less than the number proposed.

If parking for the presently proposed plan were calculated based upon the provisions of the Ordinance relating to the GB Zone and Residential Site Improvement Standards, 158 spaces (according to Mr. Hals) and 153 spaces (according to Dolan and Dean) would be required. However, the OL-1 Overlay Zone has parking standards specifically tailored for the proposed mixed use, which establish the number of spaces required for each use (residential and retail) and contain formula taking into account the peak demand periods for each. The Board recognizes that the peaks for the residential and retail uses do not coincide. Based upon the Ordinance, only 115 parking spaces are required, where 130 are proposed. No parking variance is required.

Those spaces are divided up between 67 for the residential (one per unit all of which are outside of the flood plain in order to meet DEP requirements), 7 above the flood plain, and 39 for the commercial part of the project. While spaces may be designated for the residential use (as opposed to the retail use), they will not be assigned on a per unit basis. The shared parking analysis called for in the Ordinance appears on Sheet EX-01 of the plan set as revised through April 5, 2019, and was calculated based upon the residential use, a restaurant use of 2,174 sq. ft. and general retail use of 4,083 sq. ft. The restaurant use serves to increase the required number of spaces. On-street, overnight parking is not permitted in Ho-Ho-Kus or Ridgewood, which abuts the property to the South, and the Board finds that even if there were a parking shortage, nearby property owners will not be affected. The applicant acknowledged at the hearing that, as units are rented, attention will need to be paid to the number of vehicles owned by the prospective tenant. If the Board were to disregard the OL-1 parking criteria, and conduct a shared parking analysis similar to that done in the prior application, only 129 spaces would be required, one less than is proposed.

Of the proposed 130 spaces, 111 are located on Lots 3 and 4, and 19 are located on Lot 11. The applicant represented that it holds a perpetual easement for the rear portion of Lot 11, and that the parking spaces located there are for the exclusive use of Lots 3 and 5, likely to be devoted first to employee parking, and then to residents and retail customers.

Therefore regardless of how parking is calculated (using an ITE/RSIS parking analysis as was done in the prior approval or the shared parking analysis contemplated by the OL-1 Zone), the number of parking spaces is adequate and appropriate. The Board also notes that the Stonefield report confirms these parking calculations.

The presently proposed plan presents similar issues as to parking space width, which was one of the site design standard exceptions granted by the Board in the prior application. Most of the spaces are 8.5 ft. wide and 18 ft. deep, where 9 ft. by 18 ft. is required. A few are 9 ft. wide. The handicapped spaces are all 8 ft. wide, and with additional 5 ft. adjacent to them. Some feature a support column at the end of the space which constricts the width to 8 ft., for the depth of the column only. Where the car doors open, the space is 8.5 ft. wide. The Board finds that notwithstanding this deviation, the parking area can still effectively and safely fulfill its function. The Board also notes that a design waiver to permit spaces 8.5 ft. in width was granted in the prior application, and that the facts upon which it was granted remain the same in the present application. Several of the spaces are also less than 18 ft. in length, as a result of the need to move the building back a bit further from the flood hazard area, as required by the DEP.

The Board also had concerns about pedestrian safety at the intersections of both First St. and Brookside Ave. with N. Maple Ave. and vehicular circulation at the intersection of First St. and N. Maple Ave. The applicant agreed to cooperate with the Borough/Board Engineer and Bergen County with respect to signage, pavement striping (such as "DO NOT BLOCK THE BOX") design and similar safety features at both intersections so as to improve pedestrian and vehicular safety. The Board acknowledges that N. Maple Ave. is a County roadway, within the jurisdiction of the County, and that the ability of the Board or the applicant to demand improvements is limited.

With respect to the level of service at the intersection of First St. and N. Maple Ave., the Board acknowledges that it will be a busy intersection at certain times, falling to a level of Service F during the evening and Saturday peak hours. The Board notes that the analysis did not take a credit for existing trips to and from the site, which according to the Dolan and Dean report features 38,000 sq. ft. of commercial space, 29,000 sq. ft. of which is occupied, or for internal, mass transit or pass-by credits. This resulted in a very conservative analysis. However, as noted, the Board also recognizes that N. Maple Ave. is within the jurisdiction of the County, and acknowledges that the applicant already has approval for 53 units. Focusing on the

impact the additional 14 units, and the reduced retail space will have, the Board finds that traffic concerns do not provide a proper basis to deny the application.

11. **Affordable Housing Issues.** As noted above, since the prior approval, the Borough resolved its affordable housing obligations. In March 2015, the New Jersey Supreme Court relegated jurisdiction over affordable housing plans to the Superior Court, finding the Council on Affordable Housing ("COAH") to be a moribund agency. The prior resolution recognized that the Borough would be submitting a Third Round Affordable Housing Plan to the Superior Court, and that the proposed development would demonstrate to the Court that the Borough is committed to complying with its affordable housing obligations. Subsequently, the Court reviewed the Borough's Affordable Housing Plan and thereafter issued the Borough a Judgment of Compliance and Repose on June 11, 2018. The OL-1 Overlay Zone was a direct result of that process. While it provides for a 20% affordable unit set aside, the Board finds that a 15% set aside was a condition of the prior approval, and was contemplated at the time the property was included in the Borough's Fair Share Plan. While a 20% set aside for affordable units is the benchmark under COAH rules, the Borough's Special Master has supported a 15% set aside for this particular project based upon the cost of developing the property reflecting its location in a flood hazard area, and the unique opportunity the project presents to provide affordable housing. Therefore, a 15% set aside for the additional 14 units will be required, resulting in a total of 10 affordable units, consisting of two one-bedroom units, six two-bedroom units and two three-bedroom units. The income breakdown is: very low income: one two-bedroom and one three-bedroom; low income: one one-bedroom; two two-bedroom; and moderate income: one one-bedroom; three two-bedroom and one three-bedroom.
12. **Variance and Waiver Relief Required.** In addition to a use variance to permit the mixed residential-retail use, the following variances and waivers are needed:
 - A. The major variance required by the applicant is a density variance. Lots 3 and 5 total 64,885 sq. ft., or 1.49 acres which results in a density of 44.97 du/ac where only 15 du/ac is permitted. The Board notes that the OL-1 Overlay Zone was established after the prior approval, and finds that, because of that, the density set forth therein may not have been directly applicable to the property and the Ho-Ho-Kus Crossing project. The Board also finds that the property can accommodate any detriments relating to the extra density. There is adequate parking, and while there are concerns for pedestrian safety and vehicular circulation (see above), those concerns do not rise to the level of rendering the property unsuitable for the proposed mixed use. The Board notes that when compared to the requirements of OL-1, there is a surplus of parking. The property is also located in the downtown area where greater density is not unusual. The Board also notes that the increase in density provides for two additional affordable units. A density variance does not

require a showing of particular suitability (although the Board finds that the property is particularly suitable for the proposed use given its location in the densely developed downtown area and its proximity to the Ho-Ho-Kus train station) or the need to reconcile the variance with the provisions of the Ordinance. Rather, the Board must find that notwithstanding the extra density, the property can accommodate any related issues. Given that the applicant was previously approved for 53 units, the extra 14 units does not render the property unsuited for the use. The Board also notes that the extra units are in the rear of the building. The N. Maple Ave. elevation is unchanged.

- B. A 10 foot front yard setback for all principal buildings is required. The proposed front yard setbacks along Maple Ave., First St. and Barnett Pl. are 5.79 ft., 0.91 ft. and 0.0 ft., respectively. These are very similar to the variances granted in 2016.
- C. Side yard setbacks of 1.79 ft. (abutting Lot 4) and 2.70 ft. (abutting Lot 2) are proposed, where 10 ft. is required, the same as the variances granted in 2016.
- D. A setback of 50 ft. from the building to the stream is required, 35 ft. is proposed, an increase from the 24 ft. previously approved. The need to move back the building resulted in several of the parking spaces being less than the required depth.
- E. There is a requirement that paved area be setback six ft. from the lot line, where the setback to Lot 4 is 0.0 Ft., the same as the variance granted in 2016.
- F. A loading space 10 ft. by 45 ft. is required, and no loading space, per se, is proposed. The prior resolution did not require a loading space, at the request of the Board. As noted above, the applicant will work with the Board Engineer to devise a loading area on the right side of the entrance driveway from N. Maple Ave.
- G. RSIS standards, to the extent they are applicable, required parking spaces that are nine ft. wide and 18 ft. deep. Most of the spaces are 8.5 ft. wide, and a few are only 8 ft. wide (intrusion of columns), and some are less than 18 ft. long.
- H. Variances relating to signage size, lighting (unchanged in the present application but for the use of LED technology) and area are needed, the same as the variances granted in 2016.
- I. Variances relating to driveway slope and parking area grade are needed, the same as the variance granted in 2016.

- J. Drive aisle width of the driveway leading to the Barnett Pl. parking spaces is only 18 ft. where 24 ft. is required. During the course of the testimony, the applicant indicated that the width could likely be increased to at least 22 ft. if not 24 ft. If less than 24 ft. ultimately, relief is appropriate recognizing that the area will be used first for employee parking, and then for residential parking as the least desirable location. If any portion of the parking area is underutilized, it will be that portion.
- K. Maximum lot coverage in the OL-1 Overlay Zone is 50%. The prior approval permitted 60% and 66.17% is presently proposed.

The Board's reasoning in granting the variances and waivers required by the prior plan, is set forth in the prior resolution. There has been no significant or relevant change to the property, the surrounding properties, or the Ordinance and Master Plan that would affect in any way the Board's decision to grant those variances and waivers again. Most of them are the same as what was previously granted, and for those that are different, the changes are not substantial.

- 13. **Right to Relief.** For the foregoing reasons, the Board finds that the applicant has met the required "positive" and "negative" showing for the granting of a variance.

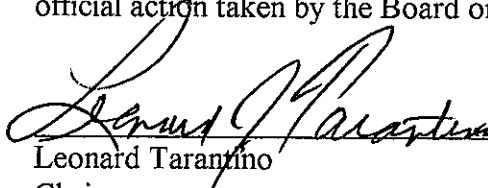
NOW, THEREFORE, BE IT RESOLVED that the application of Jonathan Mechanic for use variance relief, with related bulk variances, waivers, exceptions and deviations, and for preliminary and final site plan approval, be and the same is hereby granted, on the following terms and conditions:


- 1. All other laws and regulations of the Borough of Ho-Ho-Kus and all other governmental authorities having jurisdiction over the project shall be complied with without exception, and the applicant shall be required to obtain any and all other required permits and approvals, including, without limitation, approvals from the Bergen County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental as it relates to the Flood Hazard Area and Sewer Extension, a treatment works approval for the sanitary sewer system, a Bureau of Water Systems Engineering Permit and any and all other approvals relating to utility service, site improvements, construction and building processes and procedures;
- 2. The conditions imposed by the prior resolution shall remain in full force and effect, and are ratified and confirmed, except where specifically modified herein, and the applicant shall comply with them and the conditions of this resolution;
- 3. All necessary construction permits shall be obtained before any work beings;
- 4. Nothing contained in this resolution shall supersede the provisions of the Uniform Construction Code of the State of New Jersey or any other law or regulation;

5. A copy of this Resolution shall be transmitted to the Zoning Official and Building Department of the Borough of Ho-Ho-Kus within 10 days of the date hereof;
6. A copy of this Resolution shall be mailed to the applicant's attorneys within 10 days of the date hereof;
7. Notice of this decision shall be published in the official newspaper of the Borough of Ho-Ho-Kus as required by law;
8. The applicant shall enter into a Developer's Agreement with the Borough of Ho-Ho-Kus which shall contain provisions for performance and maintenance bonds, including performance and maintenance bonds for landscaping (the latter for a period of two years following inspection and issuance of final approval of the improvements by the Borough of Ho-Ho-Kus), all as may be permitted by N.J.S.A. 40:55D-53, as amended through January 16, 2018;
9. The plans shall be revised, as needed, to incorporate the comments sent forth in the letter of Price, Meese, Shulman and D'Arminio dated September 4, 2019, attached as Exhibit "D" which incorporates comments made by Borough Professionals in their review reports and at the public hearing, the Board's approval of the application being specifically conditioned upon those revisions, but for Item 18 of the letter, which shall be deemed modified to be consistent with Paragraph 12(J) above;
10. The division of the commercial space into restaurant and retail uses was, as noted above, merely conceptual and done primarily for the parking calculation. The applicant is not bound by that in any way, except that the applicant cannot devote more than 2,074 sq. ft. to restaurant use, as that was the basis for the parking analysis, and could devote all 6,257 sq. ft. of the commercial space to retail (i.e. non-restaurant) use;
11. The applicant shall, if requested by the Borough of Ho-Ho-Kus, grant to the Borough Title 39 jurisdiction over the parking areas and drive aisles;
12. Lots 3 and 5 shall be consolidated with a Deed of Consolidation prior to the issuance of any building permits; and

13. There shall be a 15% set aside for affordable units, or a total of 10 units, as set forth above, and all COAH And Uniform Housing Affordability Controls, such as low and moderate income split, bedroom distribution, affirmative marketing and experienced administrative agent, pursuant to N.J.A.C. 5:93 and 5:80-26.1, shall be complied with, along with any other affordable housing regulations. The 10 affordable units shall be designated on the architectural drawings.


The foregoing resolution was adopted at a duly constituted meeting of the Board, held in compliance with the provisions of the Open Public Meetings Act on October 3, 2019, by those members who voted in favor of the action taken, and is intended to memorialize and confirm the official action taken by the Board on July 25, 2019.


Leonard Tarantino
Chairman
Zoning Board of Adjustment


JoAnn Carroll
Secretary
Zoning Board of Adjustment

(for certification, see next page)

I hereby certify that on October 3, 2019, at an official public meeting of the Board, a quorum being present, this Resolution was duly adopted by a majority vote of those members of the Board who voted in favor of the action taken by the Board with respect to this application on July 25, 2019.


JoAnn Carroll
Secretary
Zoning Board of Adjustment

Vote taken on July 25, 2019: In favor: Members Tarantino, Cox, Metzger, Deegan, Madden and Raschdorf (Alt. 1); Opposed: Member Rodger; Absent: Member Forst.

Members authorized to vote on resolution: Members Tarantino, Cox, Metzger, Deegan, Madden and Raschdorf (Alt. 1).

Vote taken on Resolution:

<u>Member:</u>	<u>In Favor</u>	<u>Opposed</u>	<u>Absent</u>
Tarantino	✓		✓
Cox			✓
Metzger	✓		
Deegan	✓		
Madden	✓		
Raschdorf (Alt. 1)	✓		

Clean Draft Ho-Ho-Kus Crossing Resolution 06.090519

ZONING BOARD OF ADJUSTMENT

BOROUGH OF HO-HO-KUS

Resolution with respect to the application of Jonathan L. Mechanic
for Variances from the Zoning Ordinance of the Borough of Ho-Ho-Kus
and for Preliminary and Final Site Plan Approval

WHEREAS, Jonathan L. Mechanic, on behalf of a project to be known as "Ho-Ho-Kus Crossing" (hereinafter "the applicant") has made application to the Zoning Board of Adjustment of the Borough of Ho-Ho-Kus (hereinafter "the Board") for variances (including a use variance and variances from bulk and other requirements) from the provisions of the Zoning Ordinance of the Borough of Ho-Ho-Kus (hereinafter "the Ordinance") and for preliminary and final site plan approval, for the property known as Lots 3, 5 and 11 in Block 1016 on the tax assessment map of the Borough of Ho-Ho-Kus, which properties are located on Maple Ave., First St. and Barnett Pl., Ho-Ho-Kus, New Jersey 07423 (hereinafter "the property"); and

WHEREAS, the application was heard by the Board at public hearings held during duly-constituted meetings of the Board held in compliance with the Open Public Meetings Act on May 5, June 4, November 5, 2015 and January 7, 2016, at which time testimony was offered by John Montoro, the applicant's architect; Michael Dipple, the applicant's professional engineer; Richard Preiss, the applicant's professional planner; Elizabeth Dolan, the applicant's parking and traffic consultant; and oral argument presented by Gail L. Price, Esq., and Kathryn Razin, Esq., the applicant's attorneys; and

WHEREAS, the Board also heard testimony from Edward Snieckus, the Board's professional planner; David Hals, the Board's professional engineer; and Charles Olivo, the Board's parking and traffic consultant; and

WHEREAS, several interested parties participated in the hearing from time to time by questioning witnesses; and

WHEREAS, at the conclusion of the public hearing on January 7, 2016, the Board approved a motion granting the relief requested by the applicant, subject to certain conditions, and directing the Board attorney to prepare a memorializing resolution, pursuant to N.J.S.A. 40:55D-10(g)(2); and

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. **The Record.** The record in this matter shall consist of:
 - a. the exhibits listed on Exhibit "A" attached; and
 - b. all testimony taken at the various public hearings.
2. **Declaration of Completeness.** On or about May 2015, the application was deemed

EXHIBIT "A"

complete by the Board for the purpose of scheduling the public hearing.

3. **Consent of Property Owners.** The application was filed with the consent of 619 North Maple Ave., Limited Partnership; 217-221 First Street Limited Partnership; and 239 First Street Limited Partnership, the owners of the lots that form the property.
4. **Payment of Real Property Taxes.** The real property taxes assessed against the property were current at the time of the hearing.
5. **Notice of the Application.** Notice of the application was published in the official newspaper of the Borough of Ho-Ho-Kus as called for in N.J.S.A. 40:55D-12(a), and the other notice requirements found in N.J.S.A. 40:55D-12 were complied with, and an affidavit of service was filed with the Board Secretary.
6. **Description of Property.** Lots 3 and 5 form an "L" shaped lot, with Lot 3 fronting on Maple Ave. and Barnett Pl. and Lot 5 fronting on First St. and Barnett Pl. The lots comprise 1.49 acres and wrap around Lot 4, which is located on the corner of Maple Ave. and First St. Lots 3 and 4 comprise the area of the proposed development. Lot 11 is a non-contiguous parcel located further to the East on First St., which will be used exclusively for parking. The parking spaces on that property are allocated to the Lots 3 and 5, and Lot 4. Lots 3 and 5 are presently improved with buildings housing retail and office uses. The entire property is located within the flood hazard area of the Ho-Ho-Kus Brook, with the floodway crossing diagonally through the Northerly portion of the property. The Brook is a Category C-2 waterway. Surrounding uses are commercial in nature, with the exception of some single-family homes in the Village of Ridgewood, located to the South of First St. The property is located in the GB Zone.
7. **Proposed Development.** The applicant proposes to construct a mixed-use building on Lots 3 and 5, which will contain 9,470 sq. ft. of retail space on the first floor (oriented towards Maple Ave.), with surface and below-building parking at grade on the balance of Lots 3 and 5. The building will also include second and third stories, in an "L" configuration, with 27 residential apartment units on the second floor and 26 such units on the third floor, for a total 53 units. As originally submitted to the Board, the plan included more retail space, 9,307 sq. ft. of office space and only 27 apartment units. Revisions made to the plan prior to the final hearing eliminated the office space, and increased the number of units to 53. There will be a 15% affordable housing set aside, or a total of 8 units, consisting of one one-bedroom apartment, five two-bedroom apartments and 2 three-bedroom apartments. Retail and parking lots uses are permitted in the GB Zone, but the residential use is not, meaning that a use variance from the provisions of Section 85-13(C)(7) of the Ordinance is required. Lot 11 will be used for parking only.

8. **The December 2015 Revisions.** As a result of a meeting between the applicant's Professionals and the Borough's Professionals which took place on November 20, 2015, and in connection with the applicant's decision to eliminate the office space, and increased the number of residential units, the applicant made certain revisions to the plan, which are reflected in the plan as revised through December 14, 2015. The major changes can be summarized as follows:

- A. The driveway leading to N. Maple Ave. was changed to an ingress driveway only, and no egress. This change resolved a major concern of the Board, that is, the ability of motorists to safely exit the site onto N. Maple Ave., which is a narrow and heavily-traveled thoroughfare. The applicant explained, and the Board acknowledges, that the DEP will likely require that this driveway be available for egress purposes in times of emergency, as DEP regulations require that properties located in flood hazard areas have two means of ingress and egress during emergencies, at a required elevation above for the flood elevation. If existing traffic is limited to times of emergencies, the Board finds this arrangement to be acceptable, with one of the conditions of approval being the installation of appropriate signage. Initial indications are that this arrangement will meet with the approval of the County Planning Board and the DEP. The December 2015 revisions accommodate this change, with the entrance driveway from N. Maple Ave. now featuring a mountable curb and a paver area on the North side of the ingress driveway that would accommodate exiting traffic during emergency conditions.
- B. The other major change was the elimination of the proposed office component. The applicant determined that there is little demand for second floor office space.
- C. The third major change was an increase in the number of apartment units to 53.

9. **Traffic and Parking Issues.** The Board had the benefit of reports prepared by Dolan & Dean (authored by Elizabeth Dolan, P.E. and Gary W. Dean, P.E., P.P.) dated October 21, 2015 (on behalf of the applicant) and Stonefield Engineering & Design (authored by Charles D. Olivo, PE, PTOE) dated November 5, 2015, and testimony from Ms. Dolan and Mr. Olivo.

The project requires 137 parking stalls, based upon the Ordinance and Residential Site Improvement Standards as calculated by the applicant's Professional Engineer. 101 spaces are required for the residential use, and 36 spaces are required for the retail use. 123 parking stalls are proposed, 104 of which are located on Lots 3 and 5, and 19 of which are located on Lot 11. (Mr. Hals calculated the parking requirement to be 145 spaces, 44 for the retail and 101 for the residential use). A common benchmark for parking needs for a project of this nature is 1.5 spaces per

unit, which totals 79 spaces, leaving 44 spaces for the retail use. There are 53 spaces designated for the residential use (one space per unit) and 70 undesignated spaces. All of the residential-designated spaces are above the base flood elevation, as required by the DEP. The plan designates spaces as "R" (residential), "C" (commercial) and "F" (above flood elevation). The size of the spaces vary between 8.5 ft. and 9 ft. wide and 18 and 18.5 ft. deep, where 10 ft. and 20 ft. are required.

Ms. Dolan testified, and Mr. Olivo agreed, that the elimination of exiting traffic from the Maple Ave. driveway will not affect the level of service at the intersection of First St. and N. Maple Ave., and that same will still be acceptable.

RSIS states that shared parking shall apply in mixed-use developments, and that other parking ratios can be considered when there is mass transit in close proximity to a development. A combination of these considerations, coupled with a consideration of the hour-by-hour parking demands in the Parking Generation Manual prepared by the Institute of Traffic Engineers, yields an actual parking demand of 112 spaces, significantly less than what is provided. This calculation takes into account the demands of the retail and residential components of the project over a 24 hour basis, and reflects the fact that, to a large extent, the peak demand periods of the retail and the residential do not coincide. For example, during the evening and early morning hours, the residential demand is the highest, but the retail uses are closed. Based upon the foregoing, the Board is satisfied that the 123 spaces proposed will more than meet the parking requirements of the project.

10. **Affordable Housing Issues.** In March 2015, the New Jersey Supreme Court relegated jurisdiction over affordable housing plans to the Superior Court, finding the Council on Affordable Housing ("COAH") to be a moribund agency. Ho-Ho-Kus has a prior round obligation of 83 units, which is unmet, and will be submitting a Third Round Affordable Housing Plan in the Spring of 2015 citing a prospective need of an additional 80 units, for a total of 163 units. This application represents an opportunity for the Borough to demonstrate to the Court that it is committed to complying with its affordable housing obligations. It is also consistent with a proposal in the Borough's November 26, 2015 Preliminary Fair Share Plan to create inclusion overlay zones in the downtown area. Even though the Borough has been granted a vacant land adjustment reducing its new construction obligation to 0 units, and hopes to maintain that adjustment moving forward, the Borough still has the obligation to provide realistic opportunities for creation of affordable units through redevelopment of already developed sites, and designation of overlay inclusionary zones. The inclusion of 8 affordable units in this application serves to meet these needs and represents a step forward for the Borough.

The density proposed by this development is consistent with the Borough's plan to create multi-family inclusionary housing in the downtown area. While a 20% set aside for affordable units is the benchmark under COAH rules, the Special Master

has supported a 15% set aside for this project based upon the cost of developing the property (reflecting its location in a flood hazard area) and the unique opportunity the project presents to provide affordable housing.

11. **Variance Relief Required.** In addition to a use variance to permit the mixed residential-retail use, the following variances are needed:

- A. A 10 foot front yard setback for all principal buildings is required. The proposed front yard setbacks along Maple Ave. and First St. are 5.33 ft. and 0.91 ft., respectively. In addition, there is no setback proposed for the integrated parking structures from Barnett Pl. The Board notes that the applicant will be demolishing a portion of the building in order to increase the setback on N. Maple Ave. This was a request of the Bergen County Planning Board. While acknowledging the requirements of the Ordinance, the Board notes that these setbacks, as well as the side yard and paved area setbacks are not inconsistent with prevailing conditions in the GB Zone.
- B. Side yards of 1.66 ft. and 2.70 ft. are proposed, where 10 ft. is required.
- C. Paved areas are proposed to be 0 ft. from Maple Ave. and Barnett Pl. and 0.91 ft. from First St. where 6 ft. is required.
- D. Two proposed signs have a dimension in excess of five ft., where only two ft. is permitted. The Board finds that the size of the signage to be appropriate, given the scale of the project, the number of residential units and the size of the retail space. Variances are justified by safety consideration, as it is important, in such a congested area, that motorists be able to quickly identify the project, and the means of accessing it.
- E. Total proposed signage is 247.50 sq. ft., where only 60 sq. ft. is permitted.
- F. Backlit signs are proposed, where such lights are not permitted. The Board notes that signage technology has significantly advanced over the years, and while the signs may be backlit, it is the type of backlighting where the light is splashed off the background, creating a "halo" effect around the lettering. What is proposed is quite different from the backlit sign which was commonly used when the Ordinance was adopted.
- G. Maximum driveway slope permitted is 2% for the first 20 ft., and 6% is proposed. The greater slope does not create a dangerous condition, and is a function of the topography of the property, and the need to meet DEP elevation requirements.
- H. Maximum Parking Area Grade is 4% and 6% is proposed.

- F. 123 parking spaces are proposed, whereas 137 spaces are required, based upon RSIS standards, for a deficiency of 14 spaces. The Board has found elsewhere in this resolution that the actual demand is much less than 137 spaces, given the shared nature of the development. Also, given what the anticipate demand for the residential units (1.5 spaces per unit), parking is more than adequate.
 - G. No loading spaces are proposed, where at least one loading space measuring 10 ft. by 45 ft. is required. The type of retail uses that would be appropriate for the site, given its location and the size of the proposed retails units, are such that large truck deliveries are not likely, and that a loading space is not needed. The space taken up by such a space is put to better use by providing additional parking.
 - H. The proposed building is located 24 ft. from the identified edge of the Ho-Ho-Kus Brook, where 50 ft. is required. While this Ordinance provision is important, and exists for a good reason, the Board also recognizes that there are a host of regulations which control the development of the property, compliance with which is a condition of this resolution. Those other requirements will ensure that the purpose of the Ordinance provision will be respected and advanced.
 - I. Maximum lot coverage is 60% of lot area, where only 50% is permitted. The Board finds that while the project could certainly be smaller, the residential density proposed is appropriate, and that there is a good balance between the retail and residential uses.
12. **Particular Suitability.** The Board finds that the property is particularly-suited for the proposed uses for the following reasons:
- A. Ho-Ho-Kus is a community developed almost exclusively with single-family homes. The property is located in the downtown area of Ho-Ho-Kus, an area that is better equipped to accommodate the mixed use proposed, than the single-family areas of the municipality.
 - B. The property is located in close proximity to bus transportation on Route 17, but the Ho-Ho-Kus train station, only several hundred feet away, and easily accessible by pedestrians.
 - C. Development of the property as proposed will serve to protect the integrity of the single-family neighborhoods which predominate throughout the balance of the community by not introducing a incongruent use into those areas.

- D. The property is in need of re-development (not in the strict legal sense of the word), and is occupied by low-intensity uses of no particular functional benefit to the community. The proposed retail use is consistent with the downtown area.
 - E. The property is of such a size that it meets all of its parking needs "on-site", and does not rely upon on-street or other off-site parking facilities.
 - G. The project will attract Millennial professionals and "empty-nesters" seeking vibrant downtown areas close to public transportation. This will serve to revitalize the downtown area, and will increase activity on nights and weekends, which is a real benefit to this portion of Ho-Ho-Kus.
 - H. The proposed development will diversify the housing stock in Ho-Ho-Kus, by accommodating older people, and young couples without children, or very young children.
13. **Detrimental Impact and Reconciliation with Master Plan.** The Board finds that approval of the application will not involve any substantial detriment to the purpose and intent of the zone plan and Ordinance, or the public good, and can be reconciled with the provisions of the Master Plan for the following reasons:
- A. Even though a parking variance is required, the proposed parking will more than meet the needs of the development.
 - B. The elimination of egress onto N. Maple Ave. from the retail portion of the property resolves the only major concern the Board had with respect to traffic safety. Furthermore, both the applicant's and the Board's traffic professionals have found that the First St./N. Maple Ave. intersection, as well as the intersection of N. Maple Ave./Franklin Turnpike/Sheridan Ave. will still operate at acceptable levels of service, notwithstanding the additional demand placed upon those intersections by the proposed development.
 - C. The project will be required to meet all requirements of Bergen County and the New Jersey DEP, which serve to ensure an orderly and safe development, with due regard for the environmental concerns peculiar to the property.
 - D. The development of the property with multi-family uses, including an affordable housing component, is absolutely consistent with the Preliminary Fair Share Plan submitted to the Court by the Borough, and will be consistent with the Fair Share Plan to be submitted in the Spring of 2015. Those plans call for multi-family uses through overlay zoning in the downtown area.
14. **Right to Relief.** For the foregoing reasons, the Board finds that the applicant has met


the required "positive" and "negative" showing for the granting of a variance.


NOW, THEREFORE, BE IT RESOLVED that the application of Jonathan Mechanic for use variance relief, with related bulk variances, waivers, exceptions and deviations, and for preliminary and final site plan approval, be and the same is hereby granted, on the following terms and conditions:

1. All other laws and regulations of the Borough of Ho-Ho-Kus and all other governmental authorities having jurisdiction over the project shall be complied with without exception, and the applicant shall be required to obtain any and all other required permits and approvals, including, without limitation, approvals from the Bergen County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental as it relates to the Flood Hazard Area and Sewer Extension, and any and all other approvals relating to utility service, site improvements, construction and building processes and procedures;
2. All necessary construction permits shall be obtained before any work beings;
3. Nothing contained in this resolution shall supersede the provisions of the Uniform Construction Code of the State of New Jersey or any other law or regulation;
4. A copy of this Resolution shall be transmitted to the Zoning Official and Building Department of the Borough of Ho-Ho-Kus within 10 days of the date hereof;
5. A copy of this Resolution shall be mailed to the applicant's attorneys within 10 days of the date hereof;
6. Notice of this decision shall be published in the official newspaper of the Borough of Ho-Ho-Kus as required by law;
7. The applicant shall enter into a Developer's Agreement with the Borough of Ho-Ho-Kus;
8. The plans shall be revised, as needed, to ensure compliance with all ADA requirements;
9. The free-standing sign on First St. shall be re-located, as may directed by the Borough Engineer;
10. The plans shall be revised to show appropriate signage for emergency egress from the property onto N. Maple Ave.;
11. The applicant shall, if requested by the Borough of Ho-Ho-Kus, grant to the Borough Title 39 jurisdiction over the parking areas and drive aisles;

12. The applicant shall certify, in writing, that the plans have been revised to incorporate the comments sent forth in the letter of Price, Meese, Shulman and D'Arminio dated December 14, 2015, which incorporates comments made by Borough Professionals resulting from their review of the plan, the Board's approval of the application being specifically conditioned upon compliance with those comments as set forth in the letter. In addition, the applicant shall make any necessary plan revisions as set forth in Mr. Hals' letter of January 7, 2016;
13. The applicant will address any outstanding plan revisions contained in the reports of Borough Professionals;
14. The property frontage on N. Maple Ave. and First St. shall be improved with Ho-Ho-Kus Downtown Streetscape fixtures;
15. Employees of the retail stores shall use the parking on Lot 11;
16. Lots 3 and 5 shall be consolidated with a Deed of Consolidation prior to the issuance of any building permits; and
17. There shall be a 15% set aside for affordable units, or a total of 8 units, as set forth above, and all COAH And Uniform Housing Affordability Controls, such as low and moderate income split, bedroom distribution, affirmative marketing and experienced administrative agent, pursuant to N.J.A.C. 5:93 and 5:80-26.1, shall be complied with, along with any other affordable housing regulations. The 8 affordable units shall be designated on the architectural drawings.


The foregoing resolution was adopted at a duly constituted meeting of the Board, held in compliance with the provisions of the Open Public Meetings Act on February 4, 2016, by those members who voted in favor of the action taken, and is intended to memorialize and confirm the official action taken by the Board on January 7, 2016.


Raymond Barto
Chairman
Zoning Board of Adjustment


JoAnn Carroll
Secretary
Zoning Board of Adjustment

(for certification, see next page)

I hereby certify that on February 4, 2016, at an official public meeting of the Board, a quorum being present, this Resolution was duly adopted by a majority vote of those members of the Board who voted in favor of the action taken by the Board with respect to this application on January 7, 2016.


JoAnn Carroll
Secretary
Zoning Board of Adjustment

Vote taken on January 7, 2016: In favor: Members Barto, Tarantino, Cox, Metzger, Forst and Deegan; Opposed: Rodger; Not Participating: Member Pappas (Alt. 1)

Members authorized to vote on resolution: Members Barto, Tarantino, Cox, Metzger, Forst and Deegan.

Vote taken on Resolution:

<u>Member:</u>	<u>In Fayer</u>	<u>Opposed</u>	<u>Absent</u>
Barto	✓		
Tarantino	✓		
Cox	✓		
Metzger			✓
Forst	✓		
Deegan	✓		

1. Site Plan Application with attached
 - a. Addendum
 - b. Checklists
 - c. Disclosure Affidavits
 - d. Paid Tax Certifications
2. Variance Application;
3. Plans prepared by L2A Design, entitled Amended Preliminary & Final Major Site Plan - Ho-Ho-Kus Crossing, dated 1/6/2015, last revised 4/5/2019, consisting of the following sheets:
 - a. C-01 - Cover Sheet;
 - b. C-02 - Existing Conditions and Demolition Plan;
 - c. C-03 - Existing FHA/Floodway Limit Descriptions;
 - d. C-04 - Site Plan;
 - e. C-05 - Grading, Drainage and Utility Plan;
 - f. C-06 - Proposed FHA/Floodway Limit Descriptions;
 - g. C-07 - Hydraulic Analysis of North Maple Avenue;
 - h. C-08 - Lighting and Landscape Plan;
 - i. C-09 - Soil Erosion and Sediment Control Plan;
 - j. C-10 - Truck Turning and Signage Plan;
 - k. C-11 - Details 1
 - l. C-12 - Details 2;
 - m. C-13 - Details 3;
 - n. C-14 - Details 4;
 - o. C-15 - Details 5;
 - p. C-16 - NJDEP Regulated Area Plan;
 - q. C-17 - NJDEP Flood Proofing Plan
4. Plans prepared by The Montoro Architectural Group. Entitled Ho-Ho-Kus Crossing, dated 6/21/2013, last revised 4/5/2019, consisting of the following sheets:
 - a. PB-1 - Cover Sheet;
 - b. PB-2 - First Floor Plan w/Rear Deck Parking;
 - c. PB-3 - Second Floor Plan;
 - d. PB-4 - Third Floor Plan;
 - e. PB-5 - (removed from set)
 - f. PB-6 - Roof Plan;
 - g. PB-7 - Elevation at North Maple Avenue (facing East at Street);
 - h. PB-8 - Elevation at North Maple Avenue (facing East);
 - i. PB-9 - Elevation at First Street (facing North);
 - j. PB-10 - Elevation at Barnett Place (facing West at Street);
 - k. PB-11 - Elevation from Franklin Tpk. (facing South at Street);
 - l. PB-12 - Interior Drive Elevation (facing East);
 - m. PB-13 - Elevation at Courtyard (facing East);
 - n. PB-14 - Elevation at Courtyard (facing West);
 - o. PB-15 - Elevation Courtyard (facing North);
 - p. PB-16 - Signage and Elevation Areas / Signage Chart;
 - q. PB-17 - Ground Sign Elevations;
 - r. PB-18 - Addendum Partial Ext. Elevations / Section Detail.
5. Stormwater Management Report prepared by L2A, dated January 21, 2015, last revised February 7, 2019;
6. Stormwater Management & Flood Protection Maintenance Plan, dated June 13, 2018, last revised February 7, 2019.

...Sheet EX-01 (Downtown Inclusionary Overlay Zone Plan)," dated 4/5/2019. The exhibit, which adds the zoning criteria for the OL-1 Downtown Inclusionary Overlay Residential/Mixed-Use Zone 1, is an update to the previously submitted Amended Preliminary & Final Major Site Plan Application. The project site's underlying GB (General Business) Zone regulations and notations are shown in black on the enclosed exhibit while the updated zoning criteria and notations for the OL-1 Zone are shown in red.

EXHIBIT "B"

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVID</u>
A-1	Application Packet Submitted April 2019	14	
A-2	Public Notice Published May 24, 2019	14	
A-3	Full Plan Set Prepared by L2A, Sheets A through Q, Last Revised April 5th of 2019	15	
A-4	Downtown Inclusionary Overlay Zone Plan, EX01, Dated April 5th, 2019	17	
A-5	Site Plan C03, dated 12/23/15	19	
A-6	Stormwater Management Report, January 21, 2015, Revised April 5, 2019	55	
A-7	Maintenance Plan	55	
A-8	Resolution adopted on February 4, 2016	60	
A-9	Montoro Plans, Revision 25 Dated 4/5/19	76	
A-10	Dolan & Dean Expert Report Dated June 27, 2019	100	

EXHIBIT "C"

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RICHARD M. FRICKE*+
MARK W. GREENE*o
KAREN F. EDLER*
MICHAELA. OROZCO*+
RICK A. STEINBERG*o
DOROTHY A. KOWAL
JENNIFER M. KNARICH*o

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NATALIE N. DIRATSOUJIAN*
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* Also admitted in NY
+ Also admitted in DC
o Also admitted in PA
o Also admitted in CT
* Also admitted NY Fed Cir.
Also LEED AP
x Bergen County Prosecutor (ret.)

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ONE GATEWAY CENTER, SUITE 2600
NEWARK, NEW JERSEY 07102
TELEPHONE (973) 799-8551
FACSIMILE (973) 735-2719

September 4, 2019

Our File 28731

Via Email and Regular Mail

David L. Rutherford, Esq.
141 Dayton St. #203
Ridgewood NJ 07450

RE: Application for Preliminary and Final Major Site Plan
Ho-Ho-Kus Crossing
Block 1016, Lot 3, 619 North Maple Ave, Ho-Ho-Kus, NJ
Block 1016, Lot 5, 217 First Street, Ho-Ho-Kus, NJ
Block 1016, Lot 11, 239 First Street, Ho-Ho-Kus, NJ

Dear Mr. Rutherford,

As you know, Jonathan L. Mechanic ("Applicant") received approval from the Ho-Ho-Kus Zoning Board ("Zoning Board") to modify its 2016 approval and construct a 67 multi-residential unit development with approximately 6,257 square feet of retail space on July 25, 2019. In accordance with the discussions at the July 25, 2019 meeting, the Applicant has agreed to make certain modifications and plan improvements as conditions of approval. To assist the Zoning Board with the provisions of its resolution of approval, please accept this letter as response to the professional reports which were issued in conjunction with this application and the Applicant's confirmation of commitment to same. In addition, please note that all prior conditions of approval referenced in the December 14, 2015 correspondence remain applicable unless specifically amended by this application and approval of same. See December 14, 2015 Correspondence at **Exhibit 1** incorporated herein.

MEMORANDUM OF DAVID HALS, BOROUGH ENGINEER DATED 7.18.19

(Exhibit 2):

Paragraphs 1 through 12 – No comment required.

Flood Hazard Area Impacts

13. The proposed transformer for the development will be located outside of the flood hazard area.
14. A copy of the stamped plan by the NJDEP will be submitted for review prior to construction

EXHIBIT "D"



Traffic

15. No further comment is necessary.
16. Plan will be revised to allow appropriate movement for 23R; 8F, and 67R.
17. No further comment is necessary.
18. Testimony was provided that 18' drive aisle to the easterly parking spaces were acceptable at 18'.
19. The driveway entrance shall be shifted to ensure that it does not conflict with the utility pole.
20. Testimony was provided as to the conservative review and parking calculations.
21. No further comment is necessary.
22. Stairs shall be provided at space 26C to accommodate the retail.
23. No further comment is necessary.

Comments

24. Details of the fence will be provided prior to construction.
25. A traffic directional arrow shall be provided at the entrance driveway from Maple Avenue.
- 26 - 28. No further comment is necessary.
29. An ADA ramp will be installed on the easterly side of Barnett Place at First Street.
30. Plan shall be revised to show detail of the flush curb and paver area located in the entrance driveway from North Maple Avenue.
31. Pavement shall comply with the condition of the prior approval.
32. A fire hydrant shall be provided at the site on First Street.
33. Soil tests will be provided to verify the depth of the water table.
34. The Soil Moving Application shall be updated.
35. The drainage pipes shall be revised to the satisfaction of the Borough Engineer.

36. The Stormwater maintenance Manual shall comply with the stormwater management regulations and shall be filed with the deed.
37. A deed of consolidation for Lots 3 and 5 will be provided to the appropriate Borough professionals for review and approval, following expiration of appeal periods for all approvals.
38. Applicant concurs as to necessity of outside agency approvals. Copies of same will be provided to the Board Secretary for the file and transmitted as deemed required.

MEMORANDUM OF CHARLES OLIVO, BOARD TRAFFIC ENGINEER DATED 7.22.19 (Exhibit 3):

1. Project Overview

No response necessary.

2. Parking

- 2a. The OL-I Overlay Zone provides lower ratios with 115 spaces required, whereby 130 spaces are being provided.
- 2b. No response necessary.
- 2c. No response necessary.
- 2d. Testimony was provided at the hearing.
- 2e. Parking spaces 7R, 58R and 59R are adequate for compact parking. Appropriate signage will be placed on site.
- 2f. Parking shall be managed and assigned through Applicant's property management. The Applicant will also explore signage for the North Maple crossing with the County.
- 2g. Adequate signage to the satisfaction of the Borough's professionals shall be provided.

3. Traffic Impact Study

- 3a. No specific tenants are identified for this project at this time. For this reason, a conservative analysis was conducted, including a potential restaurant use.
- 3b. No response necessary.
- 3c. Testimony was provided at the July 25, 2019 hearing to explore "Do Not Block" intersection signage with the County.
- 3d. Testimony was provided at the July 25, 2019 hearing.

- 3e. Testimony was provided at the July 25, 2019 hearing.
- 3f. The Applicant will obtain final comment and review from the County.

4. On-Site Circulation

- 4a. The Applicant will look into providing turn around space.
- 4b. Testimony was provided at the hearing. There are no designated loading areas. Refuse collection will follow the natural circulation of the site.
- 4c. Testimony was provided at the hearing.
- 4d. If necessary, snow will be carted off of the site.

MEMORANDUM OF EDWARD SNIECKUS, BOROUGH PLANNER DATED 7.2.19 (Exhibit 4):

No response necessary to Introduction, Submission, Property Description, Proposed Development.

Zoning

- 1. The Applicant received approval to construct 53 units in 2016. This application requested an additional 14 units.
- 2. A front yard setback was previously approved. This request improves the setback.
- 3. Side yard setback was previously approved. This request improves the setback.
- 4. Side yard setback from street previously approved in 2016.
- 5. Testimony was provided at the July 25, 2019 hearing.
- 6. Signage was previously approved in 2016.
- 7. Parking is compliant per the OL-1 Overlay Zone requirements.
- 8. The Board previously approved the building footprint and setbacks to Ho-Ho-Kus Brook. The currently proposed building is located within the same footprint as the previous approval. Although the proposed building is located within the 50' riparian zone of Ho-Ho-Kus Brook, the redevelopment proposes to remove the majority of the existing structures and impervious surfaces located within 25' from the top of bank. All proposed construction activities located within the 50' riparian zone have been previously approved by the NJDEP Division of Land Use Regulation. As required, an application for a modified flood hazard area

individual permit associated with the Amended Preliminary and Final Site Plans will be procured.

Waivers:

1. The Applicant shall comply with the plans approved at the July 25, 2019 meeting.
2. The Applicant shall comply with the plans approved at the July 25, 2019 meeting.

Comments:

- 1a. Testimony was provided at the hearing.
- 1b. The plans shall be revised to indicated the number of bedroom units
- 1c. No response is required.
- 1d. No response is required.
- 1e. No response is required.
- 1f. There are no designated loading zones on the Property.
- 2a. No response is required.
- 2b. No response is required.
- 2c. The Applicant shall provide a 15% set aside to affordable housing units. These units have or will be included in the Borough's Housing Element and Fair Share Plan. The Applicant, or a third-party authorized by the Applicant, shall affirmatively market the affordable units on the Property.
- 2d. No further response is necessary at this time. The façade palette of materials remains unchanged.
- 2e. The signage structure is not being altered from the prior 2016 Approval.
- 2f. Rooftop screening is accomplished by the facade design, which has mansard roof parapets that screen the units from view. These roofs contribute to the facade design and have shingles and porticos shown on the elevations.
3. Lighting shall comply with the 2016 Approval.

David Rutherford, Esq.
September 4, 2019
Page 6

PRICE, MEESE, SHULMAN & D'ARMINIO
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS

4a-f. The Applicant will provide revised landscaping specifications as requested to the satisfaction of the Borough's professionals.

5. Protective bollards shall be installed at the refuse area.

6a-d. Signage shall comply with the 2016 Approval.

7a-c. No further comment required

No further written response is required at this time as to the remainder of Memorandum sections.

In addition to the above, the applicant shall also provide a water main extension on First Avenue with a new hydrant. As stated earlier, all conditions per the prior 2016 approval, not amended by this approval remain in effect.

Thank you for your continued attention and consideration of the matters herein. Please advise if the foregoing responses and suggested plan changes are acceptable.

Very truly yours,

Price, Meese, Shulman & D'Arminio, P.C.

By: 

Gail L. Price

cc: Client (via email)
M. Dipple, P.E. (via email)
J. Montoro, A.I.A. (via email)
B. Dolan, P.E. (via email)
R. Preiss, P.P. (via email)
David Hals, P.E. (via email)
Ed Sneikus, P.P. (via email)
Chuck Olivo, P.E. (via email)

ZONING BOARD OF ADJUSTMENT

BOROUGH OF HO-HO-KUS

Resolution with respect to the application of Jonathan L. Mechanic
for Variances from the Zoning Ordinance of the Borough of Ho-Ho-Kus
and for Preliminary and Final Site Plan Approval

WHEREAS, Jonathan L. Mechanic, on behalf of a project to be known as "Ho-Ho-Kus Crossing" (hereinafter "the applicant") has made application to the Zoning Board of Adjustment of the Borough of Ho-Ho-Kus (hereinafter "the Board") for variances (including a use variance and variances from bulk and other requirements) from the provisions of the Zoning Ordinance of the Borough of Ho-Ho-Kus (hereinafter "the Ordinance") and for preliminary and final site plan approval, for the property known as Lots 3, 5 and 11 in Block 1016 on the tax assessment map of the Borough of Ho-Ho-Kus, which properties are located on Maple Ave., First St. and Barnett Pl., Ho-Ho-Kus, New Jersey 07423 (hereinafter "the property"); and

WHEREAS, the application was heard by the Board at public hearings held during duly-constituted meetings of the Board held in compliance with the Open Public Meetings Act on May 5, June 4, November 5, 2015 and January 7, 2016, at which time testimony was offered by John Montoro, the applicant's architect; Michael Dipple, the applicant's professional engineer; Richard Preiss, the applicant's professional planner; Elizabeth Dolan, the applicant's parking and traffic consultant; and oral argument presented by Gail L. Price, Esq., and Kathryn Razin, Esq., the applicant's attorneys; and

WHEREAS, the Board also heard testimony from Edward Snieckus, the Board's professional planner; David Hals, the Board's professional engineer; and Charles Olivo, the Board's parking and traffic consultant; and

WHEREAS, several interested parties participated in the hearing from time to time by questioning witnesses; and

WHEREAS, at the conclusion of the public hearing on January 7, 2016, the Board approved a motion granting the relief requested by the applicant, subject to certain conditions, and directing the Board attorney to prepare a memorializing resolution, pursuant to N.J.S.A. 40:55D-10(g)(2); and

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. **The Record.** The record in this matter shall consist of:
 - a. the exhibits listed on Exhibit "A" attached; and
 - b. all testimony taken at the various public hearings.
2. **Declaration of Completeness.** On or about May 2015, the application was deemed

complete by the Board for the purpose of scheduling the public hearing.

3. **Consent of Property Owners.** The application was filed with the consent of 619 North Maple Ave., Limited Partnership; 217-221 First Street Limited Partnership; and 239 First Street Limited Partnership, the owners of the lots that form the property.
4. **Payment of Real Property Taxes.** The real property taxes assessed against the property were current at the time of the hearing.
5. **Notice of the Application.** Notice of the application was published in the official newspaper of the Borough of Ho-Ho-Kus as called for in N.J.S.A. 40:55D-12(a), and the other notice requirements found in N.J.S.A. 40:55D-12 were complied with, and an affidavit of service was filed with the Board Secretary.
6. **Description of Property.** Lots 3 and 5 form an "L" shaped lot, with Lot 3 fronting on Maple Ave. and Barnett Pl. and Lot 5 fronting on First St. and Barnett Pl. The lots comprise 1.49 acres and wrap around Lot 4, which is located on the corner of Maple Ave. and First St. Lots 3 and 4 comprise the area of the proposed development. Lot 11 is a non-contiguous parcel located further to the East on First St., which will be used exclusively for parking. The parking spaces on that property are allocated to the Lots 3 and 5, and Lot 4. Lots 3 and 5 are presently improved with buildings housing retail and office uses. The entire property is located within the flood hazard area of the Ho-Ho-Kus Brook, with the floodway crossing diagonally through the Northerly portion of the property. The Brook is a Category C-2 waterway. Surrounding uses are commercial in nature, with the exception of some single-family homes in the Village of Ridgewood, located to the South of First St. The property is located in the GB Zone.
7. **Proposed Development.** The applicant proposes to construct a mixed-use building on Lots 3 and 5, which will contain 9,470 sq. ft. of retail space on the first floor (oriented towards Maple Ave.), with surface and below-building parking at grade on the balance of Lots 3 and 5. The building will also include second and third stories, in an "L" configuration, with 27 residential apartment units on the second floor and 26 such units on the third floor, for a total 53 units. As originally submitted to the Board, the plan included more retail space, 9,307 sq. ft. of office space and only 27 apartment units. Revisions made to the plan prior to the final hearing eliminated the office space, and increased the number of units to 53. There will be a 15% affordable housing set aside, or a total of 8 units, consisting of one one-bedroom apartment, five two-bedroom apartments and 2 three-bedroom apartments. Retail and parking lots uses are permitted in the GB Zone, but the residential use is not, meaning that a use variance from the provisions of Section 85-13(C)(7) of the Ordinance is required. Lot 11 will be used for parking only.

8. **The December 2015 Revisions.** As a result of a meeting between the applicant's Professionals and the Borough's Professionals which took place on November 20, 2015, and in connection with the applicant's decision to eliminate the office space, and increased the number of residential units, the applicant made certain revisions to the plan, which are reflected in the plan as revised through December 14, 2015. The major changes can be summarized as follows:

- A. The driveway leading to N. Maple Ave. was changed to an ingress driveway only, and no egress. This change resolved a major concern of the Board, that is, the ability of motorists to safely exit the site onto N. Maple Ave., which is a narrow and heavily-traveled thoroughfare. The applicant explained, and the Board acknowledges, that the DEP will likely require that this driveway be available for egress purposes in times of emergency, as DEP regulations require that properties located in flood hazard areas have two means of ingress and egress during emergencies, at a required elevation above for the flood elevation. If existing traffic is limited to times of emergencies, the Board finds this arrangement to be acceptable, with one of the conditions of approval being the installation of appropriate signage. Initial indications are that this arrangement will meet with the approval of the County Planning Board and the DEP. The December 2015 revisions accommodate this change, with the entrance driveway from N. Maple Ave. now featuring a mountable curb and a paver area on the North side of the ingress driveway that would accommodate exiting traffic during emergency conditions.
- B. The other major change was the elimination of the proposed office component. The applicant determined that there is little demand for second floor office space.
- C. The third major change was an increase in the number of apartment units to 53.

9. **Traffic and Parking Issues.** The Board had the benefit of reports prepared by Dolan & Dean (authored by Elizabeth Dolan, P.E. and Gary W. Dean, P.E., P.P.) dated October 21, 2015 (on behalf of the applicant) and Stonefield Engineering & Design (authored by Charles D. Olivo, PE, PTOE) dated November 5, 2015, and testimony from Ms. Dolan and Mr. Olivo.

The project requires 137 parking stalls, based upon the Ordinance and Residential Site Improvement Standards as calculated by the applicant's Professional Engineer. 101 spaces are required for the residential use, and 36 spaces are required for the retail use. 123 parking stalls are proposed, 104 of which are located on Lots 3 and 5, and 19 of which are located on Lot 11. (Mr. Hals calculated the parking requirement to be 145 spaces, 44 for the retail and 101 for the residential use). A common benchmark for parking needs for a project of this nature is 1.5 spaces per

unit, which totals 79 spaces, leaving 44 spaces for the retail use. There are 53 spaces designated for the residential use (one space per unit) and 70 undesignated spaces. All of the residential-designated spaces are above the base flood elevation, as required by the DEP. The plan designates spaces as "R" (residential), "C" (commercial) and "F" (above flood elevation). The size of the spaces vary between 8.5 ft. and 9 ft. wide and 18 and 18.5 ft. deep, where 10 ft. and 20 ft. are required.

Ms. Dolan testified, and Mr. Olivo agreed, that the elimination of exiting traffic from the Maple Ave. driveway will not affect the level of service at the intersection of First St. and N. Maple Ave., and that same will still be acceptable.

RSIS states that shared parking shall apply in mixed-use developments, and that other parking ratios can be considered when there is mass transit in close proximity to a development. A combination of these considerations, coupled with a consideration of the hour-by-hour parking demands in the Parking Generation Manual prepared by the Institute of Traffic Engineers, yields an actual parking demand of 112 spaces, significantly less than what is provided. This calculation takes into account the demands of the retail and residential components of the project over a 24 hour basis, and reflects the fact that, to a large extent, the peak demand periods of the retail and the residential do not coincide. For example, during the evening and early morning hours, the residential demand is the highest, but the retail uses are closed. Based upon the foregoing, the Board is satisfied that the 123 spaces proposed will more than meet the parking requirements of the project.

10. **Affordable Housing Issues.** In March 2015, the New Jersey Supreme Court relegated jurisdiction over affordable housing plans to the Superior Court, finding the Council on Affordable Housing ("COAH") to be a moribund agency. Ho-Ho-Kus has a prior round obligation of 83 units, which is unmet, and will be submitting a Third Round Affordable Housing Plan in the Spring of 2015 citing a prospective need of an additional 80 units, for a total of 163 units. This application represents an opportunity for the Borough to demonstrate to the Court that it is committed to complying with its affordable housing obligations. It is also consistent with a proposal in the Borough's November 26, 2015 Preliminary Fair Share Plan to create inclusion overlay zones in the downtown area. Even though the Borough has been granted a vacant land adjustment reducing its new construction obligation to 0 units, and hopes to maintain that adjustment moving forward, the Borough still has the obligation to provide realistic opportunities for creation of affordable units through redevelopment of already developed sites, and designation of overlay inclusionary zones. The inclusion of 8 affordable units in this application serves to meet these needs and represents a step forward for the Borough.

The density proposed by this development is consistent with the Borough's plan to create multi-family inclusionary housing in the downtown area. While a 20% set aside for affordable units is the benchmark under COAH rules, the Special Master

has supported a 15% set aside for this project based upon the cost of developing the property (reflecting its location in a flood hazard area) and the unique opportunity the project presents to provide affordable housing.

11. **Variance Relief Required.** In addition to a use variance to permit the mixed residential-retail use, the following variances are needed:
 - A. A 10 foot front yard setback for all principal buildings is required. The proposed front yard setbacks along Maple Ave. and First St. are 5.33 ft. and 0.91 ft., respectively. In addition, there is no setback proposed for the integrated parking structures from Barnett Pl. The Board notes that the applicant will be demolishing a portion of the building in order to increase the setback on N. Maple Ave. This was a request of the Bergen County Planning Board. While acknowledging the requirements of the Ordinance, the Board notes that these setbacks, as well as the side yard and paved area setbacks are not inconsistent with prevailing conditions in the GB Zone.
 - B. Side yards of 1.66 ft. and 2.70 ft. are proposed, where 10 ft. is required.
 - C. Paved areas are proposed to be 0 ft. from Maple Ave. and Barnett Pl. and 0.91 ft. from First St. where 6 ft. is required.
 - D. Two proposed signs have a dimension in excess of five ft., where only two ft. is permitted. The Board finds that the size of the signage to be appropriate, given the scale of the project, the number of residential units and the size of the retail space. Variances are justified by safety consideration, as it is important, in such a congested area, that motorists be able to quickly identify the project, and the means of accessing it.
 - E. Total proposed signage is 247.50 sq. ft., where only 60 sq. ft. is permitted.
 - F. Backlit signs are proposed, where such lights are not permitted. The Board notes that signage technology has significantly advanced over the years, and while the signs may be backlit, it is the type of backlighting where the light is splashed off the background, creating a "halo" effect around the lettering. What is proposed is quite different from the backlit sign which was commonly used when the Ordinance was adopted.
 - G. Maximum driveway slope permitted is 2% for the first 20 ft., and 6% is proposed. The greater slope does not create a dangerous condition, and is a function of the topography of the property, and the need to meet DEP elevation requirements.
 - H. Maximum Parking Area Grade is 4% and 6% is proposed.

- F. 123 parking spaces are proposed, whereas 137 spaces are required, based upon RSIS standards, for a deficiency of 14 spaces. The Board has found elsewhere in this resolution that the actual demand is much less than 137 spaces, given the shared nature of the development. Also, given what the anticipate demand for the residential units (1.5 spaces per unit), parking is more than adequate.
- G. No loading spaces are proposed, where at least one loading space measuring 10 ft. by 45 ft. is required. The type of retail uses that would be appropriate for the site, given its location and the size of the proposed retails units, are such that large truck deliveries are not likely, and that a loading space is not needed. The space taken up by such a space is put to better use by providing additional parking.
- H. The proposed building is located 24 ft. from the identified edge of the Ho-Ho-Kus Brook, where 50 ft. is required. While this Ordinance provision is important, and exists for a good reason, the Board also recognizes that there are a host of regulations which control the development of the property, compliance with which is a condition of this resolution. Those other requirements will ensure that the purpose of the Ordinance provision will be respected and advanced.
- I. Maximum lot coverage is 60% of lot area, where only 50% is permitted. The Board finds that while the project could certainly be smaller, the residential density proposed is appropriate, and that there is a good balance between the retail and residential uses.

12. **Particular Suitability.** The Board finds that the property is particularly-suited for the proposed uses for the following reasons:

- A. Ho-Ho-Kus is a community developed almost exclusively with single-family homes. The property is located in the downtown area of Ho-Ho-Kus, an area that is better equipped to accommodate the mixed use proposed, than the single-family areas of the municipality.
- B. The property is located in close proximity to bus transportation on Route 17, but the Ho-Ho-Kus train station, only several hundred feet away, and easily accessible by pedestrians.
- C. Development of the property as proposed will serve to protect the integrity of the single-family neighborhoods which predominate throughout the balance of the community by not introducing a incongruent use into those areas.

- D. The property is in need of re-development (not in the strict legal sense of the word), and is occupied by low-intensity uses of no particular functional benefit to the community. The proposed retail use is consistent with the downtown area.
 - E. The property is of such a size that it meets all of its parking needs "on-site", and does not rely upon on-street or other off-site parking facilities.
 - G. The project will attract Millennial professionals and "empty-nesters" seeking vibrant downtown areas close to public transportation. This will serve to revitalize the downtown area, and will increase activity on nights and weekends, which is a real benefit to this portion of Ho-Ho-Kus.
 - H. The proposed development will diversify the housing stock in Ho-Ho-Kus, by accommodating older people, and young couples without children, or very young children.
13. **Detrimental Impact and Reconciliation with Master Plan.** The Board finds that approval of the application will not involve any substantial detriment to the purpose and intent of the zone plan and Ordinance, or the public good, and can be reconciled with the provisions of the Master Plan for the following reasons:
- A. Even though a parking variance is required, the proposed parking will more than meet the needs of the development.
 - B. The elimination of egress onto N. Maple Ave. from the retail portion of the property resolves the only major concern the Board had with respect to traffic safety. Furthermore, both the applicant's and the Board's traffic professionals have found that the First St./N. Maple Ave. intersection, as well as the intersection of N. Maple Ave./Franklin Turnpike/Sheridan Ave. will still operate at acceptable levels of service, notwithstanding the additional demand placed upon those intersections by the proposed development.
 - C. The project will be required to meet all requirements of Bergen County and the New Jersey DEP, which serve to ensure an orderly and safe development, with due regard for the environmental concerns peculiar to the property.
 - D. The development of the property with multi-family uses, including an affordable housing component, is absolutely consistent with the Preliminary Fair Share Plan submitted to the Court by the Borough, and will be consistent with the Fair Share Plan to be submitted in the Spring of 2015. Those plans call for multi-family uses through overlay zoning in the downtown area.
14. **Right to Relief.** For the foregoing reasons, the Board finds that the applicant has met


the required "positive" and "negative" showing for the granting of a variance.


NOW, THEREFORE, BE IT RESOLVED that the application of Jonathan Mechanic for use variance relief, with related bulk variances, waivers, exceptions and deviations, and for preliminary and final site plan approval, be and the same is hereby granted, on the following terms and conditions:

1. All other laws and regulations of the Borough of Ho-Ho-Kus and all other governmental authorities having jurisdiction over the project shall be complied with without exception, and the applicant shall be required to obtain any and all other required permits and approvals, including, without limitation, approvals from the Bergen County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental as it relates to the Flood Hazard Area and Sewer Extension, and any and all other approvals relating to utility service, site improvements, construction and building processes and procedures;
2. All necessary construction permits shall be obtained before any work beings;
3. Nothing contained in this resolution shall supersede the provisions of the Uniform Construction Code of the State of New Jersey or any other law or regulation;
4. A copy of this Resolution shall be transmitted to the Zoning Official and Building Department of the Borough of Ho-Ho-Kus within 10 days of the date hereof;
5. A copy of this Resolution shall be mailed to the applicant's attorneys within 10 days of the date hereof;
6. Notice of this decision shall be published in the official newspaper of the Borough of Ho-Ho-Kus as required by law;
7. The applicant shall enter into a Developer's Agreement with the Borough of Ho-Ho-Kus;
8. The plans shall be revised, as needed, to ensure compliance with all ADA requirements;
9. The free-standing sign on First St. shall be re-located, as may directed by the Borough Engineer;
10. The plans shall be revised to show appropriate signage for emergency egress from the property onto N. Maple Ave.;
11. The applicant shall, if requested by the Borough of Ho-Ho-Kus, grant to the Borough Title 39 jurisdiction over the parking areas and drive aisles;

12. The applicant shall certify, in writing, that the plans have been revised to incorporate the comments sent forth in the letter of Price, Meese, Shulman and D'Arminio dated December 14, 2015, which incorporates comments made by Borough Professionals resulting from their review of the plan, the Board's approval of the application being specifically conditioned upon compliance with those comments as set forth in the letter. In addition, the applicant shall make any necessary plan revisions as set forth in Mr. Hals' letter of January 7, 2016;
13. The applicant will address any outstanding plan revisions contained in the reports of Borough Professionals;
14. The property frontage on N. Maple Ave. and First St. shall be improved with Ho-Ho-Kus Downtown Streetscape fixtures;
15. Employees of the retail stores shall use the parking on Lot 11;
16. Lots 3 and 5 shall be consolidated with a Deed of Consolidation prior to the issuance of any building permits; and
17. There shall be a 15% set aside for affordable units, or a total of 8 units, as set forth above, and all COAH And Uniform Housing Affordability Controls, such as low and moderate income split, bedroom distribution, affirmative marketing and experienced administrative agent, pursuant to N.J.A.C. 5:93 and 5:80-26.1, shall be complied with, along with any other affordable housing regulations. The 8 affordable units shall be designated on the architectural drawings.


The foregoing resolution was adopted at a duly constituted meeting of the Board, held in compliance with the provisions of the Open Public Meetings Act on February 4, 2016, by those members who voted in favor of the action taken, and is intended to memorialize and confirm the official action taken by the Board on January 7, 2016.


Raymond Barto
Chairman
Zoning Board of Adjustment


JoAnn Carroll
Secretary
Zoning Board of Adjustment

(for certification, see next page)

I hereby certify that on February 4, 2016, at an official public meeting of the Board, a quorum being present, this Resolution was duly adopted by a majority vote of those members of the Board who voted in favor of the action taken by the Board with respect to this application on January 7, 2016.


JoAnn Carroll
Secretary
Zoning Board of Adjustment

Vote taken on January 7, 2016: In favor: Members Barto, Tarantino, Cox, Metzger, Forst and Deegan; Opposed: Rodger; Not Participating: Member Pappas (Alt. 1)

Members authorized to vote on resolution: Members Barto, Tarantino, Cox, Metzger, Forst and Deegan.

Vote taken on Resolution:

<u>Member:</u>	<u>In Favor</u>	<u>Opposed</u>	<u>Absent</u>
Barto	✓		
Tarantino	✓		
Cox	✓		
Metzger			✓
Forst	✓		
Deegan	✓		

BOROUGH OF HO-HO-KUS PLANNING BOARD

619 North Maple Avenue, LLP
619 North Maple Avenue,
Block 1016, Lot 3
Ho-Ho-Kus, New Jersey 07423

RESOLUTION

WHEREAS, 619 North Maple Avenue, LLP, has presented a proposed parking plan to the Planning Board of the Borough of Ho-Ho-Kus, which also seeks waivers from formal site plan review requirements, in connection with the property located at Block 1016, Lot 3, commonly known as 619 North Maple Avenue, Ho-Ho-Kus, New Jersey 07423, and properties adjacent thereto; and

WHEREAS, 619 North Maple Avenue, LLP is the owner of the property; and

WHEREAS, the property is located in the GB zone as shown on the zoning map of the Borough of Ho-Ho-Kus; and

WHEREAS, proof of publication and service is not required; and

WHEREAS, a public hearing was held by the Planning Board on June 12, 2008, at which time the proposed parking plan was considered, and testimony and arguments were presented in connection with the proposed plan; and

WHEREAS, this Resolution memorializes a determination made by the Planning Board at a public hearing on June 12, 2008, pursuant to the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-10g.

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Ho-Ho-Kus Planning Board ("Board"), after careful deliberation, does hereby make the following findings of fact:

1. 619 North Maple Avenue LLP ("619") is the owner of the property designated as Block 1016, Lot 3, commonly known as 619 North Maple Avenue, Ho-Ho-Kus, New Jersey 07423 ("the Property" or "Lot 3").

2. 619 proposes to revise the existing parking plan at the Property, and address certain conditions contained in a resolution of the Board entitled, "Palermo Supply Co., Inc.," dated September 15, 2005.

3. The Property is located in the GB (general business) zone district, and is subject to the regulations of the Code of the Borough of Ho-Ho-Kus.

4. The parking plan applies to Lot 3 and the following adjacent properties:

- a. Lot 2, 625 North Maple Avenue
- b. Lot 4, 611 North Maple Avenue
- c. Lot 5, 217 First Street
- d. Lot 10, 227 First Street
- e. Lot 11, 239 First Street

5. Palermo Supply Co., Inc. ("Palermo") occupies a commercial building on Lot 3 and operates a plumbing supply business at that location. The commercial buildings on the adjacent lots are occupied by several business operations.

6. 619 presented the following documents in connection with the proposal:

- a. A parking plan entitled, "Proposed Parking Plan for 619 North Maple Avenue & Adjacent Mechanic Properties," prepared by Rothe Architects-Planners, Inc." ("the Plan") last revised September 15, 2008. The Plan applies to Lot 3 and the adjacent properties owned by legal entities ("entities") and/or members of the Mechanic family.
- b. "Sketch of Parking Area Prepared for 619 North Maple Avenue" ("Sketch"), which was jointly prepared by Rigg Associates, PA, and Rothe Architects-Planners, Inc., last revised July 9, 2008.
- c. The report of the Board's engineering consultant, Schwanewede/Hals Engineering, dated June 12, 2008.
- d. Photographs of the Property.
- e. Letter from Jonathan J. Mechanic, a principal of 619, dated June 13, 2008.

7. Richard S. Davidson, a professional architect and planner with the Rothe firm, testified on behalf of 619 in support of the proposal. He stated the Plan and Sketch had been developed after meeting with the following: representatives of the owner of the adjoining property, 611 North Maple L.P., including its engineering consultant, Rigg Associates; and officials of the Borough of Ho-Ho-Kus ("the Borough") including a subcommittee of the Board, and members of the Borough's Fire and Police Departments.

8. Mr. Davidson testified that the Plan (last revised September 15, 2008) incorporates various revisions resulting from extensive discussions with those representatives and officials. The Plan establishes the parking arrangement including the allocation of parking spaces or stalls ("stalls") as follows:

- a. Lot 2, 625 North Maple Avenue: 17 stalls as set forth in the Plan.

- b. Lot 3, 619 North Maple Avenue ("the Property"): 32 stalls, as set forth on the Plan. The chain link fence, posts and barbed wire will be removed. An existing gate will be removed at the end of Lot 3.
- c. Lot 4, 611 North Maple Avenue: 16 stalls as set forth on the Plan. Lot 4 is the subject of an application for major subdivision and site plan approval pending before the Board.
- d. Lot 5, 217 First Street: 20 stalls, as set forth on the Plan. The Plan provides that 6 stalls on the First Street side will be re-stripped, one of which will be designated for handicapped parking. Detailed drawings of such re-stripping and designation will be submitted to the Borough's Building Department for its approval.
- e. Lot 10, 227 First Street: 16 stalls as set forth in the Plan. The depressed curb in the northeast corner of Lot 10 will be repaired and made a full curb. No parking will be permitted in the area of the northeast corner, which will be marked and striped to indicate that parking in that area is prohibited, as indicated on the Plan. This area will serve as a turn-around location for vehicles with respect to the loading dock on Lot 9.
- f. Lot 11, 239 First Street: 37 stalls, which will be dedicated in accordance with an agreement among entities/members of the Mechanic family as follows:
 - (1) 23 stalls will be dedicated to 611 North Maple L.P. (of which Leslie Mechanic-Lind is the principal). The specific stalls to be dedicated to 611 North Maple L.P. are indicated in the Plan as follows:

- (a) 7 stalls at the east end of the lot which will be striped in yellow and marked 1LA to 7LA.
 - (b) 8 stalls on the east side of the center of the lot which will be striped in yellow and marked 1LB to 8LB.
 - (c) 8 stalls on the west side of the lot to be striped in yellow and marked 1LC to 8LC.
 - (d) As represented and stipulated by 619, an easement will be provided by 611 North Maple L.P., to the other entities and/or members of the Mechanic family, 619 (of which Jonathan J. Mechanic is the principal) and Louis Mechanic or his entity ("Louis"), in order for them to have access to the rear portion of Lot 11 and the assigned stalls located there.
- (2) 16 stalls will be dedicated to 619 and/or Jonathan Mechanic and his brother Louis as indicated in the Plan as follows:
- (a) 3 stalls on the east side of the center of the lot be striped in white and marked 1JB to 3JB.
 - (b) 13 stalls on the west side of the lot to be striped in white and marked 1JC to 13 JC.
- (3) All stalls in Lot 11 will be for the use of employees and customers of the Mechanic family entities/members.
- (4) 619 stipulated to the following conditions of approval of the parking proposal with respect to Lot 11:
- (a) Overnight parking will not be permitted.

- (b) Large “box” type trucks will not be permitted.
- (c) Small trucks are permitted if the vehicle does not take up more than one parking stall.
- (d) Signage will be installed to indicate proper parking guidelines and requirements at the entrances to Lot 11.

9. Improvements will be made in connection with the parking proposal as set forth in the Plan and Sketch, including but not limited to, the following.

a. The existing front wall at the exterior basement steps of the Palermo portion of the building will be removed to pavement grade. A protective railing will be installed which will be attached at the interior wall of the steps. Detailed drawings of the railing will be submitted to the Borough’s Building Department for approval.

b. Reserved parking signs will be installed on bollards at the 7 angled parking stalls assigned to Palermo including the handicapped stalls.

c. A drop curb will be installed at the front of Lot 3 on North Maple Avenue, approximately 20 feet in length. Curbing will be installed along the remaining front of Lot 3 to the border of Lot 4.

d. A landscaped island will be installed at the front of Lot 3 on North Maple Avenue at the entrance driveway (“driveway”).

e. The plantings in connection with the landscaped island will include an Armstrong Red Maple and low growth shrubbery. Details of the plantings will be submitted to the Board’s Planner for approval.

f. The striping of the street entrance and curb will be altered to emphasize the Lot 3 driveway only.

g. Two (2) stalls at the rear of Lot 3 facing Ho-Ho-Kus brook are to be set at an angle, in an easterly direction. The remaining 17 stalls will be designated for Granny's Attic. Two (2) handicapped stalls will also be dedicated in the area facing east.

h. There are eight (8) stalls on the south side, behind the 217 First Street property occupied by E& L Warehouse. These stalls are under the Lot 3 ownership. One of these stalls will be dedicated for handicapped parking. Detailed drawings regarding these stalls will be submitted to the Building Department for approval

i. A one-way sign will be mounted on the Palermo building to coincide with the direction of the angled parking at the driveway. An additional one-way sign will be installed at the corner of the landscaped island. The angled stall on the east end will be designated as a handicapped parking space.

j. A new steel angle corner guard will be installed at the loading dock of the driveway and an existing bollard will be removed.

10. 619 stipulated that the width of the existing driveway will be increased by acquiring an easement from 611 North Maple LP, the owner of Lot 4. The easement will involve a strip extending along the southern side of the driveway from North Maple Avenue, consisting of a width of approximately two (2) feet at North Maple Avenue to approximately 3.2 feet as indicated in the Sketch. 619 further stipulated that as a condition of approval, it would submit the easement documents to the Board's attorney for review and approval.

11. Two (2) members of the public spoke in connection with the proposal. They were concerned about the expansion of parking at the property, "box" trucks and overnight parking.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Borough of Ho-Ho-Kus Planning Board does hereby make the following conclusions of law:

1. The proposal seeks approval of a parking plan, which modifies previous plans and determinations by the Board.
2. Approval of the proposal would result in a waiver of procedural requirements for site plan approval.
3. The Board concludes that the purposes of the MLUL would be advanced by approval of the proposal, subject to the stipulations of 619 and conditions imposed by the Board, pursuant to N.J.S.A. 40:55D-2. Specifically, the proposal provides for sufficient space in an appropriate location for a permitted commercial use. In addition, the proposal encourages the location and design of transportation routes which will promote the free flow of traffic. The proposal also promotes a desirable visual environment through creative development techniques and good civic design and arrangements.
4. Based upon the nature of the proposal and the evidence presented, the Board concludes that the submission of formal site plan requirements is not necessary. Specifically, the Board concludes that formal plans with regard to traffic, water supply, sewage disposal, drainage, signs, lighting, environmental factors and any other considerations, are not required, since under the circumstances of this proposal, such requirements are impracticable, or will cause undue hardship because of the peculiar conditions pertaining to the Property, pursuant to N.J.S.A. 40:55D-51b.
5. Approval of the proposal will be subject to the following conditions:

- a. The stipulations made by 619 on the record at the hearing.
 - b. Submission of the easement agreement and related documents relating to the angle parking at the driveway on North Maple Avenue, and approval of same by the Board's attorney.
6. Approval of the proposal represents sound design, zoning and planning principles.
7. This approval is based upon the special and unique circumstances of this proposal. This proposal was granted with the specific understanding that under no circumstances will this approval have any precedential effect for any other application or proposal involving a parking plan, or seeking site plan approval or waivers from formal site plan requirements presented to this Board.

DETERMINATION

NOW, THEREFORE, IT IS HEREBY RESOLVED AND DETERMINED, by the
Borough of Ho-Ho-Kus Planning Board as follows:

The parking proposal presented by 619 North Maple Avenue, LLP,
and waivers from submission of formal site plan requirements, in
connection with the property located at Block 1016, Lot 3,
commonly known as 619 North Maple Avenue, Ho-Ho-Kus, New
Jersey, 07423, and properties adjacent thereto, is hereby
APPROVED, subject to the provisions of the Plan, last revised
September 15, 2008, and the Sketch, last revised July 9, 2008; the
findings, stipulations, conditions and conclusions set forth above;
and any and all state, county and local requirements and approvals.

ATTEST:

Vivian Malloy, Acting Secretary

John Hanlon, Chairman

Date: September 18, 2008