

Planning & Real Estate Consultants

February 7, 2022
Revised April 29, 2022

Planning/Zoning Board
Borough of Bogota
375 Larch Avenue
Bogota, New Jersey 07603

RE: **Application of Queen Anne Road Realty, LLC
Block 95, Lots 1.01 and 1.02 (51 Queen Anne Road)
Preliminary and Final Major Site Plan and Variance Approval**

*Note: This letter supplements my original review letter dated February 7, 2022 to address amended plans. New information is denoted in **bold**, deletions are shown in ~~strikethrough~~.*

Dear Members of the Planning/Zoning Board:

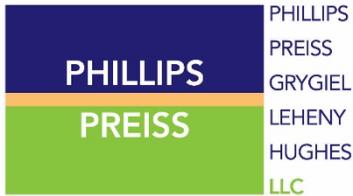
Introduction

As per your direction, I have reviewed the above-referenced development application. The applicant is proposing to build a four-story multifamily residential building. The applicant is also proposing lot consolidation and the removal of the existing gas and auto service station to effectuate this development.

As part of my analysis, I undertook the following tasks: an inspection of the subject premises; a survey of surrounding land uses; review of the filed application materials, including a location and topographic survey (one sheet) prepared by Bertin Engineering, dated September 23, 2021 **and revised through April 14, 2022**, engineering site plans (~~eight~~**nine** sheets) prepared by Bertin Engineering, dated December 14, 2021 **and revised through April 25, 2022**, architectural elevations and floor plans (five sheets), prepared by Bertin Design Studio, dated December 14, 2021, **and a traffic assessment letter prepared by Bertin Engineering dated March 10, 2022**; review of the Borough of Bogota Zoning Ordinance and Zoning Map; and review of the Borough of Bogota Master Plan.

Description of Site and Surrounding Land Uses

The subject property is designated as Block 95, Lots 1.01 and 1.02 on the Borough's official tax maps. It is located in the southeastern section of the Borough of Bogota on the east side of Queen Anne Road. Lots 1.01 and 1.02 together form a trapezoidal corner property with 188.80 feet of frontage on Queen Anne Road and 150.06 feet of frontage on the Interstate Route 80 right-of-way. The combined area of the two tax lots is 28,641 square feet. The Township of Teaneck is located directly to the east.



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The property currently consists of a one-story auto service station and gas pumps. Beyond the southern property line, a vegetated bank slopes steeply down to Interstate Route 80, which is substantially below the grade of the subject property. Therefore, the only accessible street frontage is from Queen Anne Road. A 25-foot-wide emergency vehicle access and drainage easement is located on the subject property along the north side property line. Site photographs are appended to this letter.

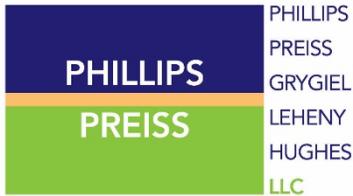
The area surrounding the subject property consists of a mix of uses. A retail/industrial building is located across Queen Anne Road from the subject property, and further north along Queen Anne Road there is a retail strip mall, single-family dwellings, and garden apartments. Interstate Route 80 divides this portion of Queen Anne Road from a block of commercial retail, office, and service uses to the south. There is also a three-story senior living development located directly to the east in the Township of Teaneck. On-street parking is not permitted in front of the subject property on Queen Anne Road.

Summary of Development Proposal

The applicant is proposing to demolish the existing building and improvements, to consolidate the two tax lots, and to build a four-story multifamily residential building. A ground-level, unenclosed parking garage is proposed beneath three stories of residential units. The applicant is proposing 35 dwelling units and 50 off-street parking spaces. Of the 50 off-street parking spaces, the applicant is proposing 12 electric vehicle (EV) charging spaces and two ADA-accessible spaces, of which one ADA space will have an EV charger. The applicant is proposing a two-way driveway to the garage from Queen Anne Road, ~~and a~~ **an access driveway formerly proposed** at the northern end of the property over the existing access easement **is no longer proposed, as the applicant has removed all proposed improvements from this easement.** ~~Two two-way access aisles to the garage are proposed from the access road.~~

The ground floor is proposed to consist of a lobby, an elevator, stairs, an electrical closet, a utility/storage room, and a trash chute room, all of which are accessible from the interior of the garage. A bicycle rack is proposed in the garage near the lobby. A water meter and sprinkler room are proposed at the front left corner of the garage. A second stairwell is proposed at the right rear corner of the garage.

The upper floors of the building are proposed to form an L-shape in which the open, notched area is along Queen Anne Road. The applicant is proposing three three-bedroom units, 24 two-bedroom units, and eight one-bedroom units, for a total of 35 dwelling units. A community room is proposed on the second floor and balconies are proposed to project from the building’s façade, **although balconies previously proposed to encroach in the north side yard have been replaced by “Juliet” balconies that are flush with the building façade.** Outdoor amenities include a dog run at the rear of the building and a “kids play equip.” area at the right rear corner of the property.



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The applicant is proposing landscaping in the form of evergreen and deciduous shrubbery along the Queen Anne Road building frontage. Lighting fixtures are proposed throughout the garage and on the front and left sides of the building near the vehicular entrances. A new sidewalk and curbing are proposed along Queen Anne Road and along the left and right sides of the garage. A two-foot-high masonry wall topped with four-foot-high fencing are proposed along the southern and eastern property lines and along a portion of the front property line in front of the unenclosed garage openings.

An infiltration basin is proposed under the parking garage. New gas, water, and sanitary sewer service connections are proposed. ~~A new overhead utility pole is proposed at the front left corner of the building, to which new underground electric and telephone service is proposed to connect.~~ A transformer and generator are proposed at the front right corner of the building.

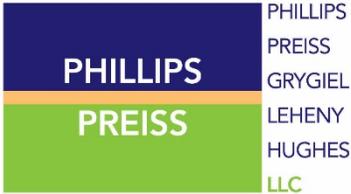
The applicant is proposing a building sign and a monument sign. The two-sided monument sign is proposed to be five feet wide and five feet tall at the front right corner of the building. The building sign is proposed to be three feet by 15 feet and **located on the ground floor façade closest to Queen Anne Road in the northwest corner of the site** ~~its location is not indicated on the plans.~~ Both signs are proposed to be **externally** ~~internally~~ illuminated.

Zoning Compliance

The subject property is located in the B-1 Business Retail zone district. While the B-1 zone permits a broad mix of uses, the proposed multifamily residential use is not permitted. Therefore, a “d(1)” use variance is required to permit the proposed use. In addition, a “d(6)” height variance is required for height in excess of 10 percent and 10 feet of the maximum permitted height. “C” variance relief is also requested for the provision of off-street parking spaces less than required, **and** for providing residential signage ~~and internally illuminated signage when not permitted, and for excess projection of balconies into yard areas.~~

Permitted principal uses in the B-1 zone are as follows:

- Only the following retail, trade, and service uses: Antique shops; bakeries; barber shops; beauty salons; book and stationery stores; bicycle shops; butcher shops; candy stores; copy stores; computer, telephone and cellular telephone stores; delis; drugstores; dry-cleaning establishments; florists; food and grocery stores; gift, card, and novelty stores; health club and fitness centers; nursery school and day-care centers; hardware stores; home brewery supply stores; jewelry stores; package liquor stores; musical instrument and musical supply shops; painting and wallpaper stores; photographic equipment and supply stores; radio and television sales and repair stores; real estate and insurance offices; record and compact disk stores; restaurants and other



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businesses selling prepared food; shoe repair shops; taxi stands; thrift shops; travel agencies; videotape equipment, rental, and repair stores.

- Business and professional offices.
- Banks and financial institutions.
- Municipal buildings and facilities.
- Places of worship, subject to subsection 21A-10.1.
- Schools, public or parochial.

Permitted accessory uses in the B-1 zone are as follows:

- Parking lots.
- Garages to house commercial vehicles associated with permitted commercial uses.
- Signs.
- Fences.

Permitted conditional uses in the B-1 zone are as follows:

- Public utilities
- Automobile service station

While not listed in the Schedule of District Use Regulations as a permitted use in the B-1 zone, Section 21A-10.6 of the Zoning Ordinance notes the following: “The maximum gross residential density for apartments above commercial uses permitted in the B-1 and B-2 zones shall be twelve (12) dwelling units per acre.” However, nowhere in the Zoning Ordinance is a residential-only development permitted in the B-1 zone.

The following table provides a comparison of the application with the ordinance bulk requirements and the applicable parking requirements of the Residential Site Improvement Standards (RSIS):

ORDINANCE STANDARDS	REQUIRED	PROPOSED
Minimum lot area (square feet)	4,000	28,641 ¹
Minimum lot width (feet)	40	188.8
Minimum lot depth (feet)	100	150
Minimum front yard (feet) – Queen Anne Road	0	7
Minimum front yard (feet) – NJ Route 80	0	2.4
Minimum side yards (feet)	0	25
Minimum rear yard (feet)	15	15
Maximum projection of balconies into yards (feet)	2	0 5.06 (v)
Maximum building height (stories/feet)	3/35	4/55 (v)
Maximum building coverage (%)	75	60
Maximum impervious coverage (%)	90	90

<i>Parking and Loading</i>		
Minimum off-street parking spaces (RSIS) <i>Garden Apt. standard:</i> 8 one-bedrooms x 1.8 = 14.4 spaces. 24 two-bedrooms x 2.0 = 48 spaces. 3 three-bedrooms x 2.1 = 6.3 spaces. 14.4 + 48 + 6.3 = 69 spaces. 69 spaces – 10% EV reduction ¹ = 62 spaces.	62²	50 (v)
Minimum EV charging spaces <i>15% of total required parking spaces</i>	11	12
Minimum parking space dimensions (feet)	18 x 9	18 x 9
Minimum parking setback from front lot line (feet)	5	10
Minimum aisle width, 90° spaces (feet)	24	24
Minimum off-street loading spaces <i>1 loading space per apartment building</i>	1	1
Minimum loading space width x length x clearance (feet)	12 x 40 x 14	Testimony required

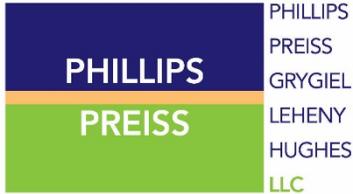
v: variance required.

Notes:

¹The zoning compliance table on Sheet 1 of the site plan lists an existing lot area of 25,535 square feet, which is only for Lot 1.01. The combined area of Lots 1.01 and 1.02 is 28,641 square feet.

² The minimum required parking spaces may be reduced by up to 10 percent when electric vehicle charging spaces are provided. The reduction is equal to two spaces per EV space provided. 12 EV spaces are proposed.

The applicant is proposing a building sign and a monument sign for the proposed residential building. Residential signs are not explicitly permitted in business zones, but all signs in business zones are subject to certain standards. A comparison of the application with the Borough’s signage ordinance is shown in the following table.



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SIGNAGE STANDARDS – Signs in Business Zones	REQUIRED	PROPOSED
Permitted sign type	Business signs	Residential signs (v)
Illumination type	Indirect or diffused	Externally illuminated (v) Internally illuminated (v)
<i>Building sign</i>		
Maximum sign area on façade (square feet) <i>10% of façade area on which sign is proposed</i>	124 Testimony required ¹	45
Maximum sign height (feet)	5	3
Maximum sign width (feet) <i>90% of wall width on which sign is proposed</i>	62.1 Testimony required ¹	15
<i>Monument sign</i>		
Maximum sign area (square feet)	N/A ²	25
Maximum sign height (feet)	5	5

v: variance required.

Notes:

¹ ~~The applicant must indicate the façade on which the building sign is proposed in order to calculate~~ **Assuming the applicable “façade” is the ground floor plane of the portion of the building closest to Queen Anne Road, the maximum permitted building sign area and width are based on a wall width of 69 feet and façade area of approximately 1,242 square feet.**

² The ordinance does not provide standards to calculate the maximum permitted area of a monument sign in a business zone.

Planning Analysis and Issues for Consideration by the Board

We offer the following for your consideration in reviewing this application:

1. As noted, the proposed multifamily residential use is not permitted in the B-1 zone. The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(1) permits a land use board to grant a variance to allow “a use or principal structure in a district restricted against such use or principal structure.” Per the MLUL, a “d” variance may be granted only “in particular cases for special reasons.” These “special reasons” for a use variance may include that the use is inherently beneficial, that there is a hardship precluding the site being developed for a permitted use, or that the site is particularly suited for the use so as to promote the general welfare.
2. In addition, a variance applicant must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality. A “d(1)” variance application for a use that is not inherently beneficial is further required to address the “enhanced quality of proof” per Medici v. BPR Co. (107 NJ 1 [1987]): “the grant of a use variance is not

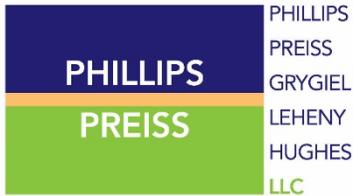
inconsistent with the intent and purpose of the master plan and zoning ordinance.” The applicant’s planner must provide testimony addressing the above proofs.

3. The application also “d(6)” variance for height in excess of 10 percent and 10 feet of the permitted height. Pursuant to Grasso v. Spring Lake Heights, 375 N.J. Super. 41 (App. Div. 2004), the applicant must provide special reasons to show that the site will accommodate the problems associated with a height greater than permitted by the ordinance. The applicant must also address the negative criteria.

4. The application requires variances for provision of off-street parking spaces less than required, for providing residential signage ~~and internally illuminated signage~~ when it is not permitted, and for excess projection of balconies into yard areas. The MLUL at N.J.S.A. 40:55D-70c permits a land use board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance applicant also must address the “negative criteria” described above.

5. There is no maximum density requirement for the B-1 zone for residential-only development. It is noted that the proposed density is 53.8 dwelling units per acre (35 units on a 0.66-acre property). For comparison, the maximum gross residential densities in zones in Bogota that permit multi-family residential uses are as follows:
 - B-1 and B-2 zones: 12 dwelling units per acre for apartments above commercial uses permitted in the zones
 - R-1A zone: 15 dwelling units per acre for multifamily (minimum site size of 2.5 acres)
 - R-3 zone: 20 dwelling units per acre
 - R-1A zone: 25 dwelling units per acre for senior housing (minimum site size of 2.5 acres)
 - R-4 zone: 50 units or bedrooms per acre (senior housing)

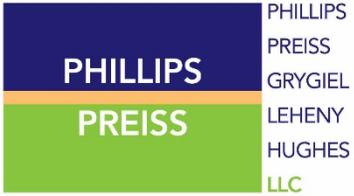
The West Fort Lee Road Redevelopment Plan permits a maximum gross residential density of 32 dwelling units per acre, which may be increased to 50



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dwelling units per acre only on one property on the east side of West Fort Lee Road if affordable dwelling units are provided on this parcel.

6. The applicant should provide testimony regarding whether the residential units are proposed to be rental or ownership units. For a rental project, 15 percent of units shall be set aside as affordable housing (5.25 units), and for an ownership project, 20 percent of units shall be set aside (seven units). The applicant should provide testimony regarding the number and bedroom mix of units to be set aside as affordable housing in compliance with the Uniform Housing Affordability Controls (UHAC). Once these figures are determined, the plans shall be amended to show the location of the proposed low- and moderate-income dwelling units and shall be incorporated in a developer's agreement.
7. As shown on the elevations, the parking garage is unenclosed along Queen Anne Road and surface parking is proposed in the front yard. The Board should consider discussing with the applicant the possibility of enclosing the ground level façade on the portion of the building closest to Queen Anne Road and providing architectural treatments that break up the street wall through fenestration, variations in materials, etc.
8. The applicant's architect should provide testimony regarding the proposed building materials, which are not indicated on the architectural plans. Testimony should also be provided regarding the type of building construction that is proposed.
9. The applicant should describe how pedestrians would access to the lobby from the street and methods to reduce conflict between pedestrians and entering and exiting vehicles.
10. The applicant should provide testimony regarding whether the indicated signage is being proposed as part of this application. If so, details of the proposed signage should be provided, including the location of the building signage and the extent and impacts of sign illumination. **This information has been provided.**
11. The applicant should provide testimony regarding the design and location of the children's outdoor play area, and whether the dog run and play area will be illuminated. Testimony should also be provided regarding the height and design of the fencing adjacent to play area, as it abuts the embankment of Interstate Route 80.



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12. The applicant should provide testimony identifying the location of the proposed loading space and its compliance with the dimensional requirements of the ordinance.

If the Board has any questions or comments on the above, I would be happy to address them at the public hearing.

Respectfully submitted,

Paul Grygiel, AICP, PP
Principal

Site Photographs – taken January 21, 2022 at approximately 4:30 PM



Looking north on Queen Anne Road from south of subject property



Looking south on Queen Anne Road from north of subject property



Existing gravel driveway on access easement at north end of subject property



View along the southern property line of the subject property



Existing use on subject property viewed from southwest corner of site



View along the eastern property line of the subject property