

TO: Town of Harrison, Planning Board

CC: Michael Pichowicz, Esq
Mary Gaines, Planning Board Secretary

FROM: M. McKinley Mertz, PP, AICP, LEED Green Associate
Susan S. Gruel, PP

RE: Amended Consistency Memo
Ordinance 1434: An Ordinance Adopting Amendments to the Redevelopment Plan for the Vo-Toys Redevelopment Area

DATE: April 21, 2021

The Planning Board has received a copy of the reintroduced **Ordinance 1434** of the Town of Harrison that proposes amendments to the Vo-Toys Redevelopment Plan. The Ordinance was previously introduced at the Council's March 2, 2021 meeting with additional discussion at the March 16, 2021 meeting. After concerns were raised, the Plan was amended and reintroduced at the Town Council's April 20, 2021 meeting.

Background

On March 24, 2021, the Planning Board reviewed the proposed comprehensive amendment to the Vo Toys Redevelopment Plan, dated February 16, 2021. During such meeting, Board members voiced concerns about the allowable development within the February 16, 2021 Plan and whether the Plan's standards were consistent with the Town's Master Plan documents. In a letter to the Town Council dated March 29, 2021, the Planning Board outlined the following concerns:

- Building(s) should have less floors and less overall height;
- Building(s) should have less units;
- Parking should be at a 1:1 ratio;
- Parking garage for the development should be constructed at the southwest corner of Bergen Street & South Fifth Street;
- Retail component [on Main Site] should be eliminated;
- Building(s) should have setbacks and vertical step backs;
- Traffic light and traffic flow upgrades in the vicinity should be made with a specific traffic study to include this project, recent projects approved by the Harrison Planning Board, and anticipated future development.

The Council echoed the concerns of the Planning and Ordinance 1434 did not move forward for adoption. Subsequent to the March 24, 2021 Planning Board meeting, the Designated Redeveloper, BRG Harrison Lofts Urban Renewal, LLC ("BRG"), revised the concept plan to address the issues raised by the Planning

Board and Town Council. The revised concept plan, dated March 31, 2021, is included in the revised Vo Toys Redevelopment Plan, dated April 19, 2021, which is the subject of the reintroduced Ordinance 1434.

Changes in the Concept Plan and Redevelopment Plan

The below highlights the significant changes in the April 19, 2021 Redevelopment Plan, which includes the revised March 31, 2021 concept plan. In addition to the below changes, there were minor clean-up items that were also fixed. It should be noted the “Residential District” is the property at the northeast corner of the Bergen Street and South 5th Street intersection, which has commonly been referred to as the “Main Site.” The “Flex District” is the property at the southwest corner of Bergen Street and South 5th Street, which has commonly been referred to as the “Parking Lot Site.”

	February 16, 2021 Redevelopment Plan	April 19, 2021 Redevelopment Plan	Change
Maximum Density (units)	525	500*	Reduction of 25 units
Maximum Building Height in Residential District	9 stories	7 stories**	Reduction of 2 stories
Building Stepback along Sussex Street	0 feet	Min. 6 feet stepback commencing at the 3 rd floor and continuing through the 7 th floor	Increased building stepback at the 3 rd floor to create a pedestrian feel along Sussex Street
Overall Parking	416 in the Residential District; 75 in the Flex District	130 in the Residential District; Remaining requirement to be provided in Flex District in structured garage	Reduced from two floors of parking to one floor in the Residential District to help reduce overall height
Ground Floor Parking Garage in Residential District	Visible along Sussex Street	Wrapped on all sides by other spaces; residential units along Sussex Street	Garage now wrapped by other spaces and will not be visible from Sussex Street
Retail Component in Residential District	Permitted on ground floor	Not permitted	Retail use eliminated as permitted use in the Residential District; only residential is now permitted
Wireless Telecommunications Equipment – Antenna height above roof (concern of the Council; not raised by the Planning Board)	10 feet	8 feet	Reduced by 2 feet
Flex District	The Flex District continues to be allowed to be developed with structured parking as well as various non-residential uses.		
Traffic Study	BRG will supply an updated traffic study at the time of site plan submission, as is typically done. Prior project approvals (Resolution 13-05(b) – 2015) required BRG to study and execute certain traffic signal work regarding the Frank E. Rodgers Boulevard / Bergen Street intersection. BRG is fully prepared to continue to meet that obligation.		

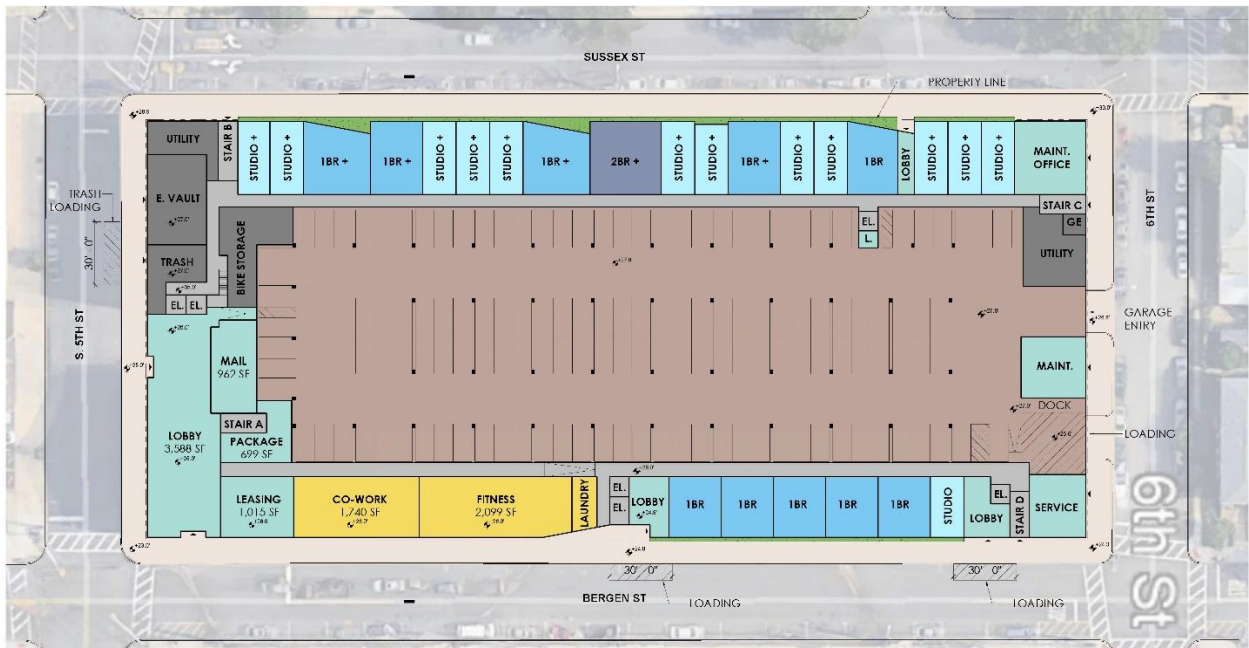
* BRG indicated that the actual unit count will likely be reduced further once updated market information is available. At that time, the unit mix will be adjusted. This number represents a maximum.

**In terms of feet, the revised concept plan is more in line with what was previously approved: 79 feet was approved in 2015; +/- 102 feet was proposed in February 16, 2021 Plan; +/- 83 feet is shown in the current concept plan

The revised March 31, 2021 concept plan was reviewed by the Harrison Redevelopment Agency (“HRA”) on April 12, 2021. The HRA did not express any concerns regarding the revisions and agreed to move the new concept plan forward to the Council without any further recommendations.

Revised March 31, 2021 Concept Plan Prepared by Minno Wasko and Included in the April 19, 2021 Redevelopment Plan

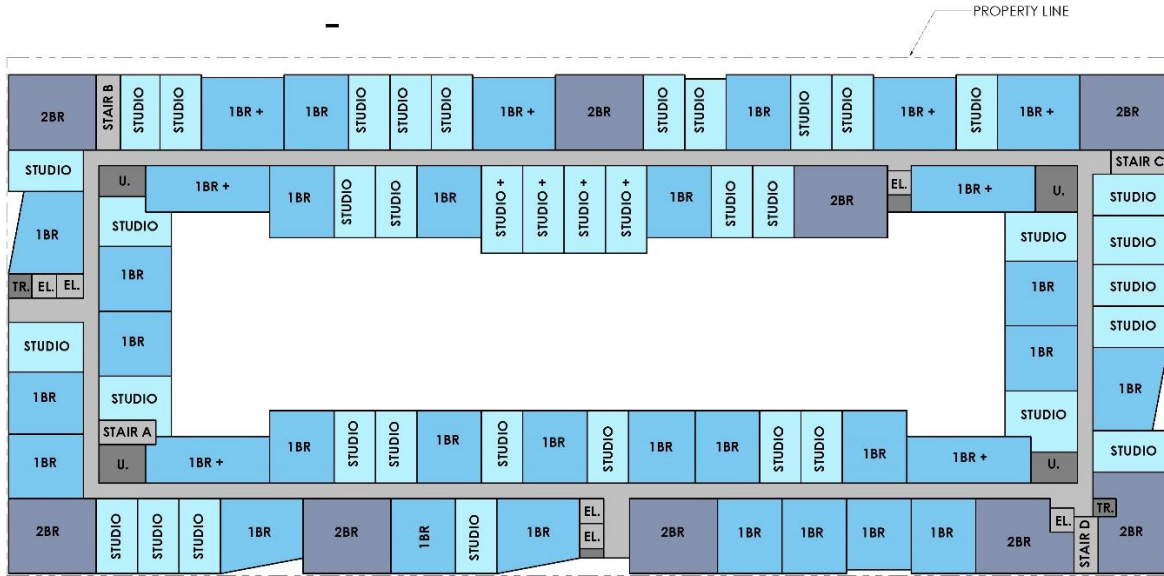
Proposed First Floor:



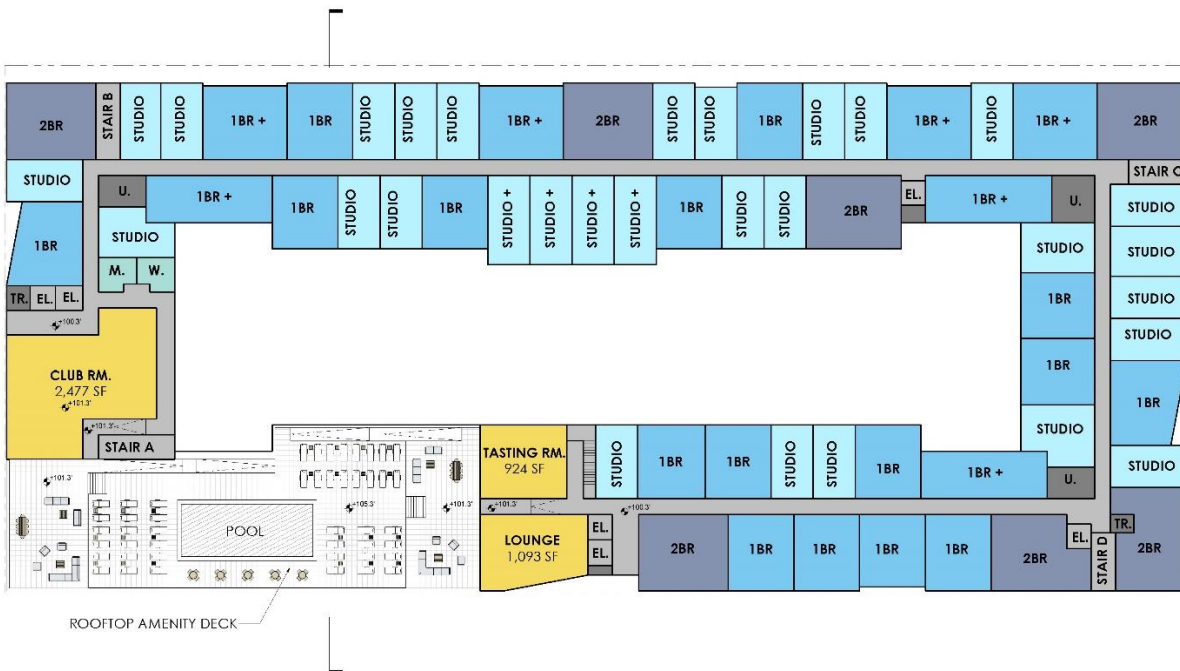
Proposed Second Floor:



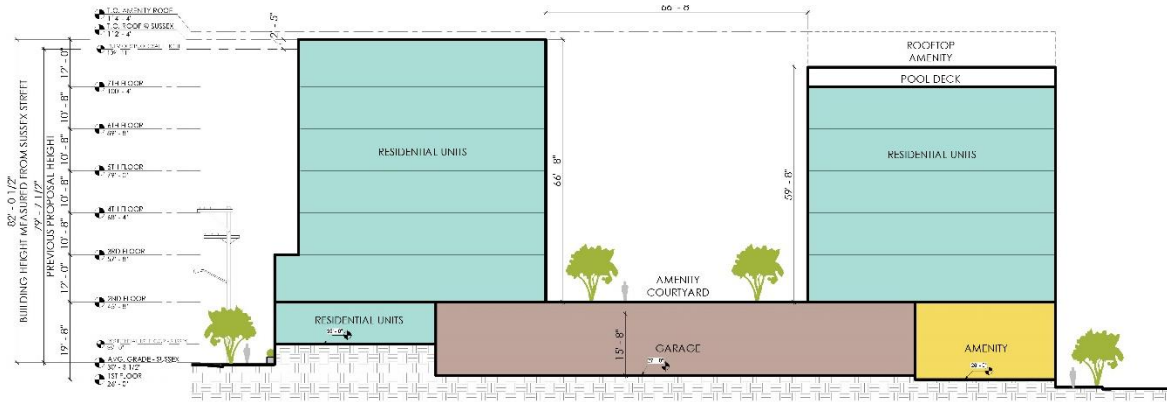
Proposed Floors 3 through 6:



Proposed 7th Floor:



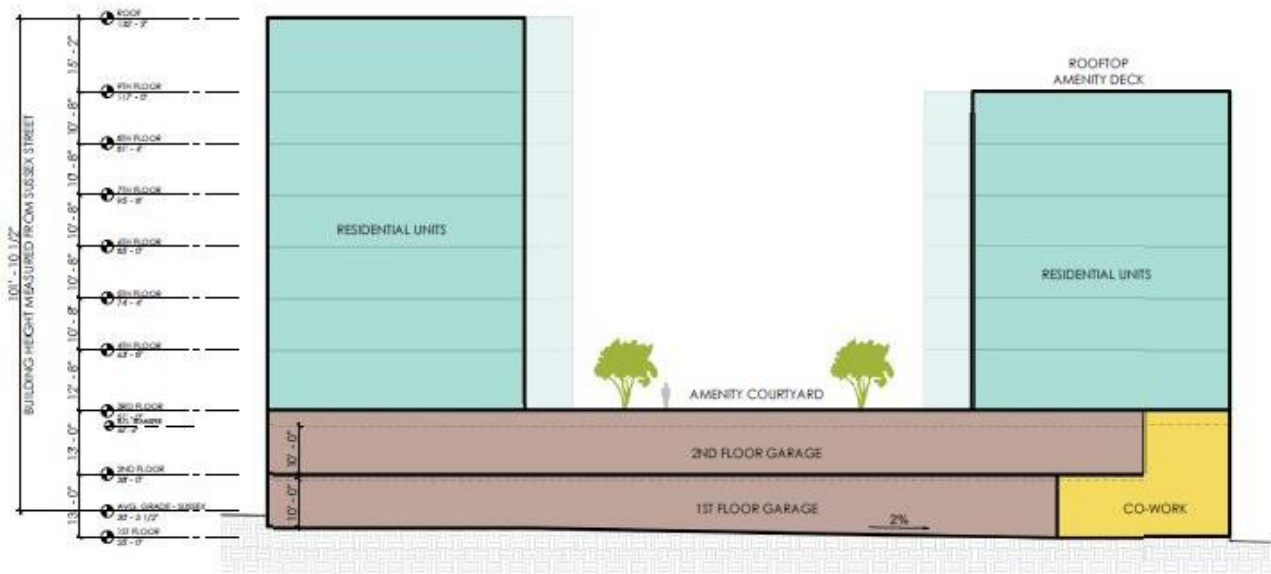
Proposed Building and Site Section:



Sussex Street is on the left, Bergen Street is on the right

Because the Building and Site Section above provide the best illustration to understand the massing of the development, the previous proposal has been provided below for informational purposes, so that the Board can visualize how the proposal has changed.

Previously Proposed Building and Site Section:



Requirements Pursuant to the Municipal Land Use Law (MLUL)

Pursuant to N.J.S.A. 40:55D-64, prior to the hearing on adoption of a zoning ordinance or amendment, the governing body shall refer the proposed ordinance/amendment to the Planning Board to review for consistency with the municipality's Master Plan.

Pursuant to N.J.S.A. 40:55D-26a, prior to the adoption of a development regulation, revision, or amendment, the Planning Board shall review said revision or amendment and provide a report to the governing body reviewing the revision or amendment for consistency with the Master Plan. The report shall identify any provisions that are inconsistent with the Master Plan and provide recommendations concerning these inconsistencies and any other matters the Board deems appropriate.

The Municipal Land Use Law requires that every zoning ordinance must "either be substantially consistent with the land use plan element and the housing plan element of the master plan, or designed to effectuate such plan element." (N.J.S.A 40:55D-62a). In *Manalapan Realty v. Township Committee*, the Court determined that some inconsistency is permitted "provided it does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan." (140 N.J. 366, 384 (1995)).

The Town of Harrison's Planning Board adopted a Master Plan Reexamination Report on December 14, 2017 and a second Master Plan Reexamination Report November 10, 2020. The most recent Housing Element and Fair Share Plan ("2020 HEFSP") was adopted on May 11, 2020. The 2020 HEFSP effectuates the executed amended settlement agreement between the Town and Fair Share Housing Center and is a component of the Town's efforts to address its constitutional obligation to provide for its fair share of very low-, low-, and moderate-income housing.

Master Plan Considerations

The most recent 2020 Master Plan Reexamination Report sets forth the following goals, objectives, and recommendations that are supported by Ordinance 1434:

Land Use Objectives:

- Encourage a balanced development pattern, which will preserve and improve the character of the community, protect and enhance long term economic and social interests of present and future residents, and enhance the Town's overall quality of life.
- Respond to regional development trends, residential as well as industrial and commercial, in a manner responsive to the community's well-being.
- Ensure that future development is aesthetically pleasing and is compatible with and/or enhances the character of the area.

Circulation and Parking Objectives:

- Provide a supply of parking that meets the needs of, and is convenient to, the Town's commercial and residential areas.

Housing Objectives:

- Preserve the character and stability of established residential neighborhoods.
- Maintain and improve the existing quality of housing.

Consistency Analysis

After concerns were raised by both the Town of Harrison Planning Board and the Town Council regarding the proposed development for the Vo Toys Redevelopment Area, the Designated Redeveloper BRG made significant amendments to their concept plan in order to address these concerns. The changes were highlighted earlier in this memo. These changes help to reduce the bulk, height, and massing of the development allowed on the site and provide for a pedestrian scale environment at the street level, especially along Sussex Street. The revised concept plan has reduced the overall height, eliminated the parking garage "wall" along Sussex Street, and allows for a stepback at the third floor. The concept can also meet the parking needs of the entire development.

It is our opinion that BRG's amended concept plan appropriately addresses the concerns of the Town and that the revised Vo Toys Redevelopment Plan, which incorporates the amended concept plan, is consistent with the 2020 Master Plan Reexamination Report.

Ordinance 1434 is not inconsistent with the 2020 HEFSP as it does not undermine any of the recommendations, each of which include provisions for affordable housing within certain sections of the Town that are not within the Redevelopment Area.