

EYE ON THE CLIFFS

"Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future." John F. Kennedy

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EC for Responsible Government is a not-for-profit corporation established and managed by and for residents of Englewood Cliffs. Our organization is non-partisan and does not endorse or support candidates in local elections.

"Imitation is the sincerest form of flattery..." Oscar Wilde

You may recently have received a newsletter from the Englewood Cliffs Republican Organization (ECRO) which in style and format mimics *Eye on the Cliffs*. Although community outreach should be encouraged, this is a blatant attempt to give themselves credibility by misleading residents, and deceiving them to think that they were reading this publication.

We will continue to be non-partisan, providing residents with timely accurate information about current issues, and we will always be accountable for what we print. As you might notice, we made some slight alterations in the appearance of our publication to differentiate it from the copycats. The outpouring of financial support from our community continues to encourage us to maintain our community vigilance. We respectfully direct you to visit our website (ecfrg.org) to view borough meetings and to read a variety of relevant documents.

CARIN GEIGER, President

DEBBIE TSABARI, Vice President

DEBBIE FEHRE, Secretary

LYNN LIASKOS, Treasurer

Will 600 New Residential Units, including affordable housing, be built in Englewood Cliffs?

800 Sylvan Avenue LLC files lawsuit. NJ Court approval sought for dense residential development on its 20 acre property in Englewood Cliffs

On November 17, 2017, 800 Sylvan Avenue LLC (the "LLC") notified Englewood Cliffs that it intended to ask the NJ Court for permission to intervene in the "Mount Laurel lawsuit" in order to earmark 20 acres of its property in Englewood Cliffs for "inclusionary zoning designed to assist the Borough with satisfaction of its Mount Laurel obligations." The LLC says it will demolish the existing structure on the site to "clear the land for the inclusionary development." The LLC's Motion to Intervene was filed on November 29. The 800 Sylvan Avenue property consists of 20 acres situated along 9W between CNBC and Unilever, and backs onto Floyd Street near the North Cliff School.

What does this mean? What is the Mount Laurel lawsuit and how does it affect Englewood Cliffs?

In 1975, in a decision commonly referred to as the Mount Laurel lawsuit, the NJ Supreme Court ruled that all communities in New Jersey have a constitutional obligation to enact zoning regulations that create a realistic opportunity for the development of their "fair share" of affordable housing. The court ruling states, in essence, that a community cannot zone in such a way as to exclude low- and moderate-income households.

In response to the court decision, the NJ State Legislature created a Council on Affordable Housing (COAH) which established rules and procedures for communities to follow in order to satisfy their constitutional obligation to build affordable housing. Over the years, these rules and procedures have been challenged in the courts. In March 2015, the NJ Supreme Court decided that the trial courts, and not COAH, must assume responsibility for determining the affordable housing obligation of each community **and** whether or not each community is in compliance with its constitutional obligation to provide affordable housing. Communities, such as Englewood Cliffs, are now required to individually petition the NJ Superior Court for approval of their affordable housing plan. Englewood Cliffs submitted a plan in 2015, and is in the process of submitting a revised plan and inventory of available land for affordable housing to the court.

Until now there have not been any *new* intervenors to the Englewood Cliffs plan. Intervenors may be builders, developers and other interested parties who file a motion with the court to intervene in proceedings. Intervenors typically claim that

the community failed to zone for the creation of enough affordable housing and/or that the intervenor owns a specific site that the borough failed to zone for the development of affordable housing. In its Motion to Intervene, the LLC proposes to build 30 dwelling units per acre on its 20 acre property along 9W *“for inclusionary zoning designed to assist Englewood Cliffs with satisfaction of its Mount Laurel obligations.”* **Until now, Englewood Cliffs had virtually no available land.**

Why can 800 Sylvan Avenue LLC do this now?

The decision in the Mount Laurel lawsuit, and the state legislation that implemented it, allows a developer like the LLC to file a lawsuit when it believes a community is practicing exclusionary zoning or has not provided its fair share of affordable housing. The developer then proposes to construct housing at a higher density than is otherwise permitted on its property, which development must include a substantial (15 to 20%) affordable housing component.

If the court determines that a borough’s zoning is exclusionary or that the borough has failed to meet its obligations, the court grants the developer permission to construct high density housing on its property, including a substantial affordable housing component. **This court-imposed permission can override and be completely inconsistent with the borough’s otherwise applicable zoning and land use restrictions. If the court rules in favor of the LLC, the LLC could build a high-density apartment complex or townhouses with 30 dwelling units per acre, located in the middle of our low-density residential zone in the north end of Englewood Cliffs, sandwiched between two corporate headquarters. IF 800 SYLVAN AVENUE LLC PREVAILS IN COURT, ENGLEWOOD CLIFFS WILL LOSE CONTROL OVER WHAT CAN BE BUILT ON THE SITE.**

Why is this happening in Englewood Cliffs now?

Normandy Real Estate Partners (“Normandy”) recently acquired 800 Sylvan Avenue, a 28 acre property, and is the owner of the 800 Sylvan Avenue LLC. It entered into a long-term leaseback with Unilever for an 8 acre portion of the property including an existing Unilever building. In May 2017, Normandy presented an application to the Englewood Cliffs Planning Board (the “PB”) to substantially renovate and enlarge the other buildings on the property to create a single Class A office building which it hoped would attract a stellar corporate tenant. Normandy sought subdivision of its total 28 acre site in order to obtain fee simple title to the 20 acre site on which its extensively renovated office building is to be situated, and separate it from the 8 acres site of the existing Unilever structure. Normandy also asked for a height variance, and parking variances to build two new parking garages to supplement surface parking. It also proposed that all the parking would be shared by Unilever and the proposed office building. The PB held four public hearings on the application, refusing Normandy’s request to accelerate the process by holding more frequent additional meetings.

Over a four month period (with hearings held on July 26, August 10, September 14, and October 12) Normandy, reaffirmed its intention to substantially renovate the outmoded buildings so it could attract a trophy corporate headquarters. Represented by counsel, expert witnesses, and by its Senior Vice President Kris Bauman, Normandy modified its initial plan in order to remediate some of the concerns raised by the PB and residents. Normandy stressed that its proposed Class A renovation did not increase the height of the current building, and met with a representative of the National Resource Defense Council (NRDC) and the Scenic Hudson organization to confirm that there would not be any impact on the Palisades viewshed. Normandy met with residents and agreed to plant evergreen trees to screen local residences year round from the commercial site. It agreed to increase the size of the buffer zone adjacent to Hollywood Avenue, and it modified the type of window glass in its glass faced office building to minimize lighting spillover into nearby residences at night. It changed the location of a secondary parking garage to make it less visible, saving many of the existing trees. It shifted its proposed subdivision line to create a buffer between the Unilever building and the proposed office building. Normandy did not modify its application on two points: (i) subdividing the 28 acre property into two separate properties, one 20 acres and the other 8 acres, and (ii) constructing a parking garage in the front of the proposed office building, situated 134 feet back from 9W, which it stated would be below grade and hidden by evergreen trees.

On October 12, the PB rejected the Normandy application on a 4 to 3 vote. The members of the PB who voted to deny the application are: J.P. Lee, Mary O’Shea, Aurel Vallari, and PB Chairman Russell Porrino, all of whom were recently appointed to the PB by Mayor Mario Kranjac. The PB members who voted not to deny approval are Mario Bai, Jeff Chinman and Ron Kilmartin. Kilmartin and Chinman were appointed to the PB by former Mayor Joseph Parisi, Jr. Bai was appointed by Kranjac. The 4 person majority of the PB believed that Normandy had not met its legal burden. Russell Porrino said the requested subdivision was contrary to a planner’s recommendation in the 2009 Master Plan Reexamination Report for more large campus-like corporate sites, and believed that the parking garage in the front of the building would be visible.

On December 8, the Mayor and Council voted to hire the Planning Board’s attorney to defend the borough against the LLC’s Motion to Intervene. Mayor Kranjac stated that he is *“strenuously opposed to Normandy’s new plan for dense residential development in Englewood Cliffs...My goal is to preserve the nature of the best town in New Jersey and not permit outsiders and their local supporters and local advocates to ruin it.”* He also sent a letter town-wide reaffirming his opposition and stating *“we have good reason to believe that the developer had plans for this residential component all along and did not disclose this intent to the Planning Board...they hoped to secure the subdivision...with the intent of improving their odds of success in Court for their residential development.”*

Commentary: Through a long and intensive hearing process, Normandy worked diligently and, no doubt, at great expense to address concerns raised by the PB and residents, and made substantial modifications and concessions. Nonetheless, their application was denied. Why deny a parking garage that is designed to be hidden from view and would not be visible to nearby residential housing? After all, variances for parking garages were previously granted to LG USA and to Unilever. Why bring up at the final hearing a **2009** planner's recommendations concerning large corporate campuses that were never acted on by the PB nor implemented by the Mayor and Council?

One can only wonder whether, in the face of the surprising denial of its application, the LLC's decision to petition the court for permission to build high density housing on its site is an act of reprisal against our community for unreasonable treatment by the PB. It could not be a coincidence. We await disclosure of credible and persuasive evidence of the "good reason" the Mayor has alluded to that suggests the LLC intended to build residential housing from the outset. Until we see that evidence, we hold the view that the Mayor's assertion is simply intended to deflect criticism of the PB.

Notwithstanding who may be to blame, the PB's denial of the Normandy application has now led to potentially dire consequences for Englewood Cliffs. Would anyone disagree that the requested 8 and 20 acre subdivision and a virtually invisible parking garage in the front of the building are preferable to 600 new units of multi-family housing in our single family zoned community? Had the PB approved the application, our zoning would have controlled what could be built on the site, and precluded any proposed residential development.

Englewood Cliffs currently has in excess of 1800 housing units. The addition of 600 new residential units would increase that number by nearly a third, and would dramatically increase the burden on our local schools, the need for police services and services provided by our DPW such as recycling, snow removal and leaf collection, as well as garbage collection costs. Tuition for an influx of high school age students might cost millions each year. Our taxes could soar as we incur the costs associated with the increased service demands. Corporate development, on the other hand, places a small burden on municipal services, does not impact our school system, and helps stabilize our relatively low tax rate.

Normandy stated at the PB hearings that its expertise lies in the identification and redevelopment of aged corporate sites. Its website showcases office buildings, not residential housing. It includes architectural renderings of its proposed 800 Sylvan Avenue campus. Normandy states on its website that it is "currently marketing a 260,000 square foot renovation-to-suit headquarters that can be ready for occupancy within 24 months." and pictures the Englewood Cliffs property. (*Google: Normandy Real Estate Partners*). All of the testimony it gave was under sworn oath. Had Normandy really intended to construct dense residential housing on any part of its 28 acre site, as the Mayor suggests, it could have filed a Motion to Intervene back in May, and not invested so much time, effort and money on its application to the PB.

We do not know of *any* local advocates for the *new* Normandy proposal. Local residents supported the Normandy application for a Class A office building. The Planning Board, in a split vote, denied the application on October 12. A letter dated November 17 was sent to the borough giving notice of the LLC's *intent* to file a Motion to Intervene. The law did not require the LLC to give such notice. The motion, itself, was not filed until November 29. After receiving the November 17 notice, did the Mayor make any attempt to meet with Normandy in an effort to try to work things out?

It would be desirable now for the Mayor to exercise his leadership authority and try to bring Normandy back to the table And ask the Planning Board to reconsider its denial. If there is a lesson to be learned from the LG USA building application, it is that a negotiated settlement, rather than a court mandated outcome, is better for all parties.

THIS IS THE MOST CRITICAL ISSUE NOW FACING OUR COMMUNITY.

EC for Responsible Government will continue to inform you of the status of this matter. We posted on our website the public statement made by our organization's president at the December 14th Planning Board meeting as well as transcripts of each of the Planning Board hearings.



This is the proposed 800 Sylvan Avenue Building, as shown in a Normandy press release, that was rejected by the Englewood Cliffs Planning Board.

Go to our website. In the https box type: ecfrg.org

Go to Lawsuits: Read the new lawsuit that seeks to add 800 Sylvan Avenue to the borough's inventory of property available for affordable housing.

Go to Documents: Read the denial by the Planning Board of the Normandy application and read the actual hearing transcripts from the PB hearings. Read Carin Geiger's December 14 statement to the Planning Board.

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Important news for Englewood Cliffs residents

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RESIDENTIAL CUSTOMER

Mayor and Council Meeting December 13

An ordinance to repeal the Jerry Frank Ordinance (adopted in 1975) was tabled by the Council. The Jerry Frank Ordinance provides a legal basis for an employee of the borough with more than five years of service to be given sick leave with full pay up to a maximum of 180 days in a calendar year. Mayor and Council approval is required. The Mayor stated that the repeal of this ordinance is a cost-saving measure. He said that times have changed and other alternatives are now available. Yet, no alternative was mentioned. Members of the public questioned the wisdom of repealing this ordinance since the Jerry Frank Ordinance is included in each of our employee union negotiated contracts. Lt. Wicker of the ECPD spoke of the comfort it gave him and his family to know that money was not a concern as he focused on regaining his health. Carrol McMorrow made the motion to table, which was unanimously approved.

Commentary: Since 2016, this ordinance has benefited both Lt. Wicker and former Lt. Mura. The Mayor and Council voted each time to approve the sick leave requested. It is not clear what the repeal of the original ordinance would have accomplished since we would still have a contractual obligation to pay for such sick leave under current union contracts, and no alternatives, such as a long term disability policy, were presented for discussion.

The Mayor and Council voted on a resolution to authorize the borough labor attorney to investigate our Police PBA for alleged violations of intellectual property and "*seeming voter intimidation*" during last month's council elections. The Mayor stated that voters should not have "*police officers threatening you to do things or not do things.*" When it was time to vote on the resolution, the borough attorney told Councilpersons Ed Aversa and Gloria Oh that she believed they had a conflict of interest and should not vote. Aversa said that he had called the State and was advised that no conflict existed. Oh questioned how the borough attorney could conclude that they had a conflict simply because they were endorsed by the PBA, while she continued to permit Carrol McMorrow to vote on police matters. The resolution passed with McMorrow, Mark Park and Woo voting for the motion. Aversa and Oh abstained. Ellen Park voted no.

Commentary: It is time for the Courts to decide whether Carrol McMorrow has a conflict of interest on police matters. Michael McMorrow, her husband, sought to add the borough as a third party defendant to his defamation lawsuit against Lt. Jim Tracy (denied by the court on October 27, 2017). Carrol McMorrow has now filed her own lawsuit (*see below*) seeking punitive monetary damages against the borough, Police Chief Cioffi and others yet to be named. McMorrow's lawsuit confirms that her animus towards Cioffi dates back to 2009, and that she has recently filed multiple internal affairs investigations against our police officers. Should any resident believe that she can vote impartially on police matters?

Voter intimidation is a very serious charge. Does Kranjac believe that election literature can coerce or intimidate voters? Does he believe that our police threatened voters? Has any resident filed a complaint against the PBA or any officer? How was the police endorsement different this year from last year when the PBA made Robo-calls and mailed literature with the Police Patch endorsing certain candidates? These days, there seems to be no limit on how much money the current borough leadership will spend on lawyers.

Carrol McMorrow files lawsuit against Borough

Carrol McMorrow v. Borough of Englewood Cliffs, Michael Cioffi individually and in his capacity as the Englewood Cliffs Chief of Police, and John and Jane Does 1-10 Docket no. BER-L-8227-17

On December 1, Carrol McMorrow filed a lawsuit against the borough, the Chief of Police and others whose identity is not yet known. She alleges that each of the above individual defendants "*engaged in a conspiracy and acted jointly based on their acts of performing overt violations of civil rights, of punishing...(her) for the lawful exercise of her civil rights, of failing to report acts of clear deprivation of...(her) civil rights and/or creating a hostile work environment.*" She is seeking punitive monetary damages from those named in her lawsuit, including the borough. She defended her lawsuit in public on December 13. The lawsuit is posted on our website as is a video of the December 13 meeting.

