

Exhibit Q

Jersey City Argues Over a Statue, and Politicians in Poland Weigh In

By Rick Rojas

May 11, 2018

JERSEY CITY — Towering buildings loom over the plaza, and the skyline of Lower Manhattan rises just across the Hudson River. Yet, even against such an imposing backdrop, the statue holds its own, drawing eyes with its provocative display of a soldier impaled by a bayonet, standing more than 30 feet above the center of the square.

Now, a proposal to move the statue from the plaza has touched off a fight, but this one has gone well beyond another brawl involving City Hall. Instead, the dispute over the statue, a monument to Polish soldiers massacred during World War II, has swelled into a matter of international intrigue.

Polish diplomats held a news conference and appeared on television, urging that the statue stay where it is. Politicians in Poland have weighed in as well, with the speaker of the Senate there calling prospect of the statue's move "really scandalous." Jersey City's mayor, Steven Fulop, punched back at his Polish critics on Twitter, calling one of them a salty name in the process.

"Yeah, it's surprising," Mr. Fulop said in an interview. "I'm certainly surprised what it's escalated into."

Then, on Friday, after days of acrimony, the mayor met with Polish officials and announced a resolution that he called a "win-win." The statue, according to their agreement, would remain near the waterfront and in what Mr. Fulop described on Twitter as an "extremely prominent location." The Polish consul general in New York, Maciej Golubiewski, said that it would be moving about 200 feet.

The move had been proposed as part of a project to renovate the plaza, where the statue has been since 1991, introducing green space and playgrounds to a slice of waterfront.

The statue, the Katyn Monument, commemorates thousands of Polish military officers whose remains were found in a mass grave in the Katyn Forest in western Russia, having been slaughtered by Soviet forces. But some have argued that the statue, with its dramatic depiction of a bound soldier with a bayonet's blade entering his back and exiting through his torso, might be too graphic to fit in with a park where children play and families congregate.

"The statue is a very, very significant piece of art work, and it is art work, and it should be revered for what it is," said Michael J. DeMarco, a developer in Jersey City and chairman of the special improvement district behind the renovation project. "The question is," he said, "what's the appropriate place for it?"

Whispers of the proposal quickly spun out into a pitched debate, striking a nerve with residents who have been frustrated by the consequences of their city's rapid transformation from largely working class and industrial to a gentrifying hub of upscale development drawing a flood of new residents.

"I think it's a symbol of the changes in Jersey City," said James Solomon, a city councilman whose district includes the plaza. But he said the statue was a reminder of the city's history, and of the role various ethnic communities, especially Polish-Americans, have played in building the city. "It's an immigrant city," he said. "It remains an immigrant city." (One sign of how far the controversy has spread: He heard from his in-laws, who live in the Polish countryside and were surprised to see him on their local television news.)

The debate has resonated in Poland as the ruling Law and Justice party has sought to use Poland's tragic history to its own ends, including passing a vigorously contested law that makes it illegal to accuse the Polish nation of complicity in Nazi war crimes. While many Poles there and abroad have been deeply offended by the proposed move of the statue in Jersey City, the government has also seized on the issue to show how Polish identity must be defended and protected.



As the plaza is renovated into parkland, the mayor had questioned whether the graphic memorial was appropriate for the location. But Polish residents said it was an important reminder of their history. Rick Loomis for The New York Times ORG XMIT: NPX

The Polish ambassador to the United States, Piotr Wilczek, called Mr. Fulop's comments "false, hurtful and unbefitting of international dialogue between office holders of two allied countries."

A reckoning over statues has swept across the country in recent years as the legacies of historical figures have been reconsidered through a more modern lens. The removal of monuments of Confederate figures spurred the deadly rioting last year that tore through Charlottesville, Va. In New York, Mayor Bill de Blasio called for a sweeping review of the city's statutes, including of Christopher Columbus, the explorer whose legacy has been reappraised by activists who contend that his voyages led to the brutal exploitation of indigenous people.

But in Jersey City, those opposed to moving the statue contend that it is an instance where the sins of history must remain highly visible. To them, it is not just a reminder of the atrocities Poles faced during World War II, but also a vivid warning of the horrors brought by war.

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"The statue is an integral part of Jersey City's cultural and historical landscape because it reflects the historical past of its residents," Stanislaw Sliwowski, the president of the Coalition of Polish Americans, a national group, wrote in a letter, calling on the city to keep the statue in place. "It would be a shame to lose our

communal sense of history. The memorial's home is Exchange Place in Jersey City."

The monument, created by the sculptor Andrzej Pitynski, was brought to Jersey City by local Polish Americans. It was originally intended for another site a few blocks away. But the monument grew into something much larger than had been anticipated and was ultimately situated in the Exchange Place plaza instead. The mayor had suggested the statue could be moved closer to where it was originally planned to go.

At the time, officials said, the plaza was more desolate than it is now. Today, it is surrounded by a train station bustling with commuters, coffee shops and a pier that reaches out over the Hudson, offering a prime spot for visitors to pose for selfies with One World Trade Center climbing behind them.

On a recent evening, a small crowd had been drawn to the chilly waterfront: There were skateboarders and tourists. A man sat on a bench with a box of takeout, while out on the pier a couple were locked in an embrace. Not far away, a few bouquets of fresh flowers still bound in cellophane had been set at the base of the statue, along with a prayer candle with a portrait of Pope John Paul II.

Mr. Fulop has remained steadfast in the face of the criticism. He said that he was reconsidering his harsh words directed at one of his Polish opponents on Twitter. "Maybe that's the only change," he said, "and that's only a maybe."

"We're on solid ground," Mr. Fulop said. "It's not as if we're putting it in storage. It's going to be in a prominent place, just not that location."

He has said that he did not intend to disrespect the Polish American community. And on Friday, he struck a more conciliatory tone after meeting with Polish officials, who invited him to visit Auschwitz, the concentration camp. (Mr. Fulop had relatives who survived the Holocaust.)

Michael Yun, a city councilman, said that Jersey City was an immigrant city and that its residents imported their histories and cultures and they deserved recognition.

"The history of their motherland," Mr. Yun said, "is now our history."

Exhibit R



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Hudson

Critics slam plan to move N.J. statue commemorating Polish massacre

Published: Apr. 30, 2018, 5:54 p.m.



The memorial to the 1940 Katyn massacre has been located at Exchange Place in Jersey City since 1991. (Jersey Journal file photos)

NEW!

By Terrence T. McDonald | The Jersey Journal

JERSEY CITY — Plans to relocate a memorial commemorating the massacre of tens of thousands of Polish officers by the Soviet Union in 1940 is facing opposition here in Jersey City and from the Polish Consulate.

The Katyn memorial, a 34-foot-tall monument depicting a bound-and-gagged soldier impaled in the back by a bayoneted rifle, has been a fixture at Exchange Place since 1991. The city plans to put it in storage during a planned transformation of the Exchange Place plaza into a public park, and the statue may not return to its current location.

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Asked to comment, Poland's ambassador to the United States, Piotr Wilczek, said he is "concerned" about the sudden announcement that the memorial may be moved and by the "lack of dialogue" between the city and the Polish-American community.

"I encourage all involved parties to engage in a productive dialogue so that a solution can be arrived at which does not involve a permanent relocation of the memorial," Wilczek said.

The park creation is a project of the Exchange Place Special Improvement District. Its chair, Mike DeMarco, who is also CEO of real-estate firm Mack-Cali, said it's the city's decision whether the statue remains there after the plaza renovation is complete. His personal preference is that it is moved elsewhere.

"I don't think the statue's appropriate for a major metropolitan area," DeMarco told The Jersey Journal. "It's a little gruesome ... I can't imagine how many mothers go by and have to explain it to their children."

DeMarco added that the notion that Russians are backstabbers is "not exactly a politically correct idea nowadays."

Krzysztof Nowak, president of the committee that organized to commission the statue, told The Jersey Journal it should remain where it is. A park can be built around it, Nowak said.

"You want to put a couple of benches around the monument? Put a couple of benches around the monument. You want to put a tree next to the monument? By all means," he said.

Jersey City's Downtown used to be the center of the county's Polish community, which has dwindled in size in recent decades. About 21,000 Hudson County residents report Polish ancestry, according to the latest Census figures. In 1972, that figure was believed to be as high as 100,000.

Downtown Councilman James Solomon said he's concerned that the city's Polish community was not consulted about moving the Katyn memorial. Solomon did not say whether he supports a push to move the statue permanently because he hasn't seen the plans for the new park.

"I haven't seen a proposal so it's hard for me to say pro or con," he said. "We need more green space in the area. Can you incorporate more green space around the statue? Probably."

Journal Square Councilman Rich Boggiano also expressed irritation that plans are being made to move the statue without public input.

"I'm sick and tired of all these new people coming here ... wanting to change everything about Jersey City," Boggiano said. "Stay the hell out of Jersey City, mind your own business. Just leave it alone."

City spokeswoman Hannah Peterson declined to say whether the city supports keeping the statue at Exchange Place, saying only that the city's intention is to "return the statue to the public upon completion" of the park. DeMarco said construction on the park may begin as early as July.

Peterson noted that when the city formally accepted the statue in 1986, the monument was intended to be placed on the Montgomery Street median near Washington Street.

Nowak said he believes the statue is too large to fit on the median.

The Soviet secret police massacred some 22,000 Polish officers and other prisoners in the Katyn forest in 1940 after the Soviets invaded Poland. For decades the Soviet Union blamed Nazis for the killings, but Russia's Parliament in 2010 finally admitted Stalin ordered the massacre.

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Exhibit S

FEC: Super PAC tied to Jersey City mayor's expected gov run has \$6.2M cash on hand

By **John Heinis** - February 1, 2023 6:33 pm

The super PAC tied to Jersey City Mayor Steven Fulop's expected gubernatorial run in 2025 has \$6,220,763.17 cash on hand, according to their January 25th filing with the Federal Election Commission.



By John Heinis/Hudson County View

The Coalition for Progress raised \$298,084.10 between November 29th and December 31st, 2022, the FEC filing says. Just under 55 percent of that total (\$163,356.06) came from 25 donations made in the final two weeks of the year.

The largest contribution in that time frame came from Francis Walsh III, the CEO of North Bergen-based National Retail Systems, who wrote a check for \$25,035 on December 21st.

Other notable donations include \$50,000 from the Businesses for Better Neighborhoods, of Plainfield, on November 30th, disgraced former New York Gov. Eliot Spitzer – now a developer building in Journal Square – donated \$10,000 on December 30th, while Panepinto Properties founder Joe Panepinto gave the same amount on the same day.

Spitzer resigned in 2008, 14 months after the New York Times reported he frequented a high-end prostitution ring for years.

As for Panepinto, he was recently named to the volunteer Exchange Place Alliance Board of Directors.

Furthermore, Jersey City-based Trinity Asset Management gave \$10,000, high-powered law firm Genova Burns donated \$5,000, while former New Jersey Attorney General Chris Porrino contributed \$2,500.

Porrino is now the partner and the chair of the litigation department for Lowenstein Sandler.

Fulop announced in early January that he would not be seeking a fourth term, which came as little surprise to New Jersey political observers who saw him acknowledge he was considering a run for governor in 2025 back in the early summer.

Serving in his third term after being re-elected in November 2021, his New Jersey Election Law Enforcement Commission (NJ ELEC) account has just \$16,541.97, the mayor's January 17th filing shows.

Instead, he has focused his attention on the Fund for Quality Leadership in the past year or so, which reports \$310,678.69 cash on hand from a separate ELEC filing from the day prior.

While the committee only raised \$2,925 in the final quarter of 2022, they disbursed \$32,400.

That includes \$8,200 to his personal ELEC account, the same amount to the Jersey City Democratic Committee, \$15,000 to the Hudson County Democratic Organization, and \$1,000 to Hoboken 3rd Ward Councilman Mike Russo – who was the council president at the time.

The Coalition for Progress was initially created in anticipation of Fulop entering the 2017 governor's race, but he ended up endorsing eventual winner Phil Murphy and sought re-election instead.

While no one other New Jersey Democrats have expressed as clear an interest in the 2025 gubernatorial contest as Fulop has, other potential candidates include U.S. Reps. Josh Gottheimer (D-5) and Mikie Sherrill (D-10), along with Newark Mayor Ras Baraka and former state Senate President Steve Sweeney.

John Heinis

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Exhibit T

**Steven Fulop** ✓

@StevenFulop



Just sharing Exchange Place initial plans. The goal is energizing the waterfront walkway. The plans include a children's playground, a spray park, green space for picnics like the piers in Hoboken, and the parks are designed for stages/tents for live performances. [#JerseyCity](#)



4:56 PM · May 10, 2018

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Exhibit U

Panepinto, Naparstek and Elkouby join Exchange Place Alliance board in Jersey City

 [re-nj.com/panepinto-naparstek-and-elkouby-join-exchange-place-alliance-board-in-jersey-city/](https://www.re-nj.com/panepinto-naparstek-and-elkouby-join-exchange-place-alliance-board-in-jersey-city/)

From left: David Elkouby, Abe Naparstek and Joe Panepinto

By Joshua Burd

Three commercial real estate leaders have joined the board of the Exchange Place Alliance, an organization promoting economic growth and improvements in downtown Jersey City.

The group this week announced the election of Joe Panepinto, Abe Naparstek and David Elkouby, who bring deep ties to the community and as work continues on a high-profile renovation of the waterfront Exchange Place Plaza, according to a news release. They succeed retiring members Steve Pozyski and Gus Milano, who were both on the board since the alliance's creation, and Ricardo Cardoso.

"In Joe, Abe and David, we are excited to have their talent and advice as we move to the chapter of the alliance's growth," said Elizabeth Cain, EPA's executive director. "Our plaza renovation will be complete making the site one of Jersey City's jewels, we have a record number of activities planned for this year and new signage is coming shortly to the Hudson River walkway all to enhance the experience of residents, workers and visitors."

Panepinto, founder of Panepinto Properties, is a large owner of real estate in Jersey City and statewide, one that's known for his philanthropy and involvement in good government. He is a major donor to and serves on the board of St. Peter's University, Jersey City Medical Center and Liberty Science Center, among others, and was one of the original developers in the recent Jersey City renaissance.

Naparstek is a partner at G&S Investors and is leading the redevelopment of Metro Plaza in the EPA district, having completed 1.2 million square feet of a planned 6 million-square-foot project, the news release said. He has past involvement in business improvement districts, including the MetroTech Business Improvement District.

Elkouby and his company, American Equity Partners, own 15 Exchange Place and are spearheading a massive renovation of the roughly 140,000-square-foot office building. Since founding AEP in 2000, he has purchased, managed and sold more than \$3 billion of residential and commercial real estate, having also developed over 2 million square feet of retail space and worked closely with EPA in the redevelopment of Exchange Place.

“We spoke over the last several years with many qualified candidates who expressed interest in being on the board,” said Michael DeMarco, the alliance’s board president. “We looked for candidates who have a deep love for Jersey City, service without compensation, and skill in either law, business, accounting or construction. In that pursuit, with Joe, Abe and David, we identified three extraordinary candidates who have come to us through conversations with the public, property owners and city officials.

“We thank Steve, Gus and Ricardo for their dedication to the community and are grateful for the long service to EPA.”

The board members who continue to serve include DeMarco, Jeremy Farrell, Andy Siegel and City Council President Joyce Watterman.

Exhibit V

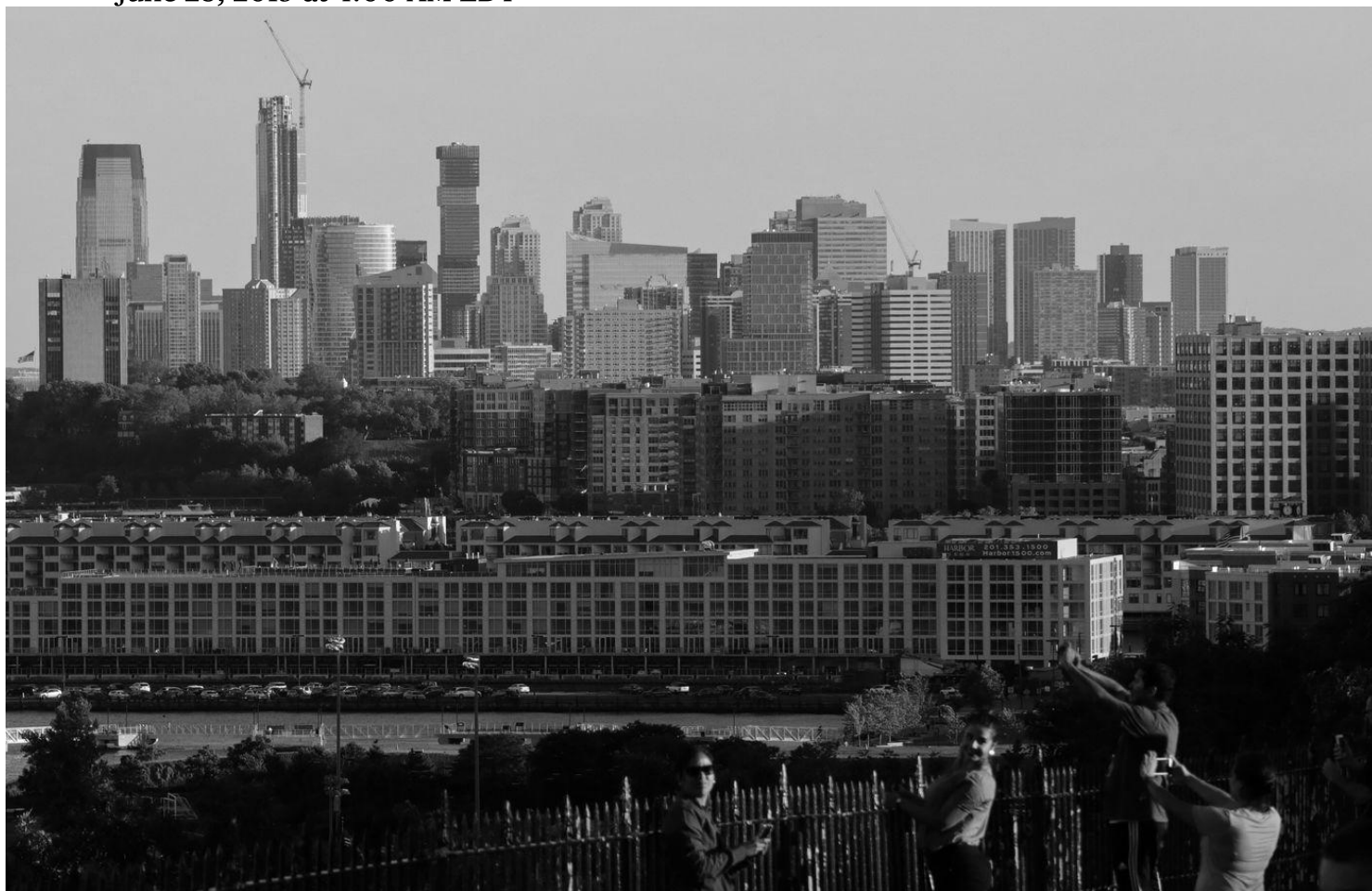
Business

Jersey City's Renaissance Puts Mayor's Ally in a Squeeze

After a longtime associate of Mayor Steve Fulop failed to pay taxes on millions earned from real estate developers, federal investigators started asking questions.

By David Kocieniewski

June 28, 2019 at 4:00 AM EDT



The skyline of Jersey City, New Jersey, as seen from Weehawken, New Jersey. *Photographer: Gary Hershorn/Corbis via Getty Images*

Not long ago the skyline of Jersey City consisted of little more than abandoned warehouses, rotting piers and the Statue of Liberty. Now it sparkles with luxury residential high-rises and back-office towers of financial firms including Citigroup, Fidelity Investments and Goldman Sachs.

The city's grit-to-glamour makeover has accelerated the last six years under Democratic Mayor Steve Fulop. Favoring tax incentives and less cumbersome regulation, he has been a boon for developers, including Mack-Cali, Lefrak, China Overseas America and Hartz Mountain, which have constructed tens of thousands of new living units.

But there could be a reckoning in New Jersey's second-largest city, a federal investigation suggests. Some developers and builders have paid millions of dollars in all to a political operative and longtime ally of Fulop to expedite construction and permits through the city's complex process. The tough-talking ally, Tom Bertoli, has been warned he could face criminal charges for failing to pay federal taxes on the payments.

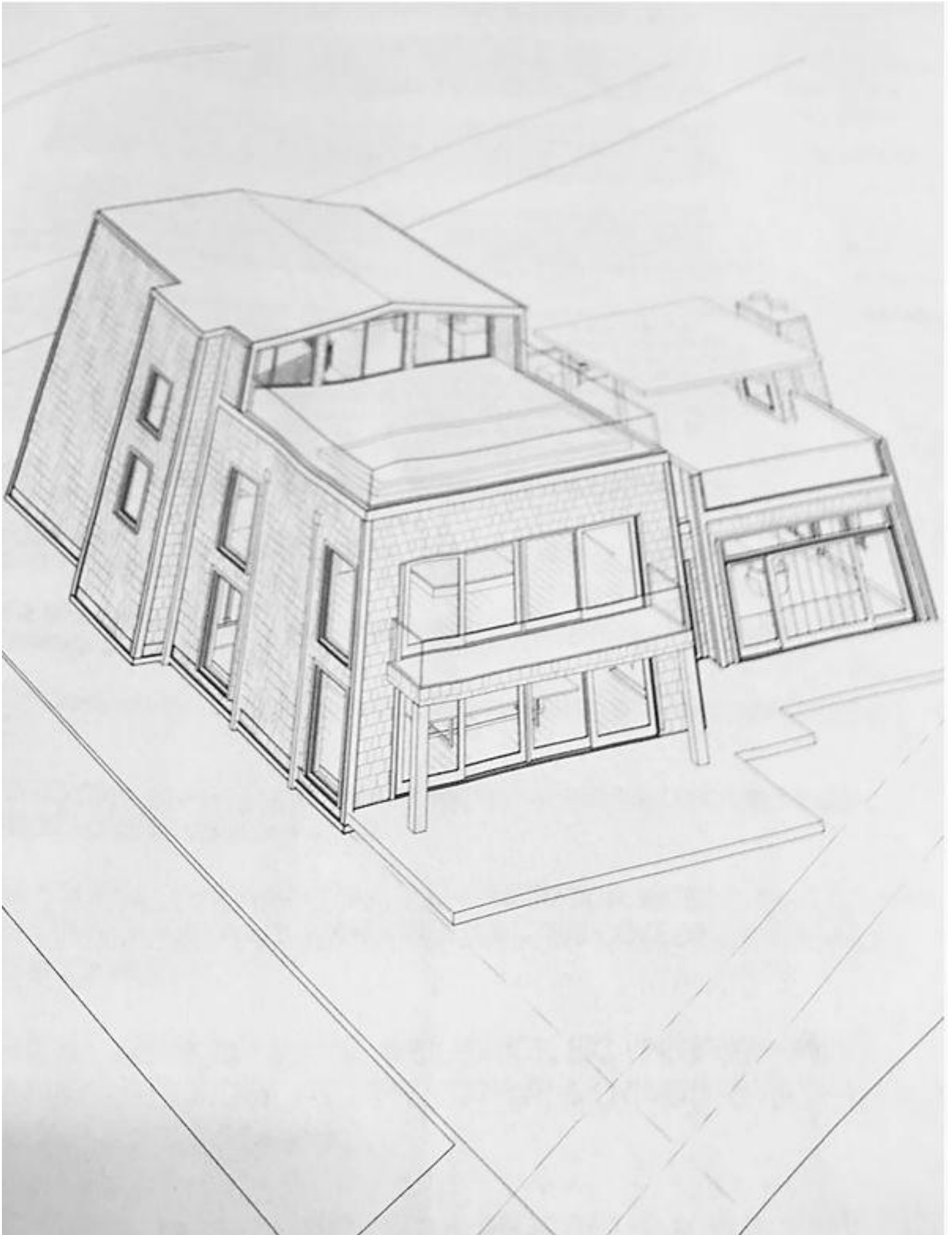
A grand jury has been hearing evidence about Bertoli's dealings with developers, according to people with knowledge of the closed proceedings. Bertoli is being pressed by prosecutors to cooperate and has been asked for information about Fulop and other public officials in the state, two of the people said. The scope of the grand jury, whose existence hasn't been previously reported, isn't clear.

Several people familiar with the investigation said Bertoli's woes could be politically embarrassing to the mayor. An examination by Bloomberg News of Fulop's relationships with a handful of businesses turned up transactions -- one involving Bertoli -- that pose possible conflicts of interest. Those transactions include campaign donations and political arrangements; tax assessments; and personal home loans and an expansive oceanfront beach house that the mayor and his wife are building in Narragansett, Rhode Island, with an infinity pool on a third-floor deck.

Fulop hasn't been accused of wrongdoing, nor have any of the developers. Through a spokeswoman, the mayor said that no special favors had been granted by or accepted from any campaign contributor or city contractor. The mayor is not privy to an alleged "federal investigation" into Bertoli, the spokeswoman said.

8/17/22, 11:07 AM

Jersey City's Renaissance Puts Mayor's Ally in a Squeeze - Bloomberg



Blueprints for the new home on file at the Narragansett building department. *Source: Narragansett Public Records*

The inquiry may find that no one benefited improperly in Jersey City. Still, it suggests the pitfalls of any urban revitalization: businesses, including major developers with multibillion-dollar portfolios, have strong motivation to court local officials, whose arcane regulatory decisions can determine their projects' success or failure. Those practices, even if they create potential conflicts for officials, rarely draw attention either because they are not specifically prohibited or because existing rules aren't enforced.

In New Jersey, along with the grand jury's work, federal authorities have questioned several prominent developers and others associated with Bertoli in recent months, according to the people familiar with the investigation. The U.S. attorney's office in Newark declined to comment.

The matter has even drawn in one of the state's best known developers, Charles Kushner. He isn't accused of wrongdoing but is standing by as a possible witness, according to people close to him. Kushner, sentenced to two years in prison for a political scandal more than a decade ago, is father to Jared, now an adviser to President Donald Trump and removed from the company's day-to-day operations.

Kushner Cos. used Bertoli on its Trump Bay Street project in the city. It also gave tens of thousands of dollars a few years ago to Fulop's exploratory campaign for governor. At the time, Kushner was trying to build another downtown office tower with tax abatements and city-backed bonds. The mayor promised the financial assistance but later did an about-face, irking Kushner.

A veteran of the U.S. Marine Corps and Goldman Sachs, Fulop easily won re-election in 2017 on his pro-development credentials, which he boasted had made his city "the envy of New Jersey." He declined to be interviewed for this article. "The mayor's only consideration is what is best for Jersey City's residents and taxpayers based on market and economic conditions," his spokeswoman, Kimberly Wallace Scalcione, said in a written statement.

The political fixer at the center of the Jersey City investigation is so legendary for cleaning up messes that he is known locally as "the janitor." Bertoli, a rough-hewn door installer and street organizer, comes from a storied political family in a part of the state whose bare-knuckle style inspired the film "On the Waterfront." His father was implicated in a bribery scheme with a state senator in the 1980s and became a folk hero by refusing to become a cooperating witness.

When he met Fulop in 2004, Bertoli saw boundless potential in the Gulf War veteran with boyish looks and a smooth demeanor. Bertoli helped Fulop craft winning races for the city council and for mayor in 2013. Rather than join the administration, Bertoli focused on expanding his business as a permit expeditor. His construction experience and reputation as a Fulop confidante was lucrative: Bertoli earned more than a half million dollars annually for several years, and he now faces possible

federal tax-evasion charges for failing to file a return for the last 10 years, according to two people familiar with the inquiry.

In testimony as part of civil lawsuits against the city, some employees in Jersey City's building and housing departments have claimed that Bertoli used his sway in the Fulop administration to punish people who refused to do Bertoli's bidding. They describe him as a de facto construction coordinator hired by developers to get projects approved. They dared not get in his way.

Bertoli, 62, also declined to be interviewed for this article. In a 2015 deposition, he said developers weren't paying for his political connections but for his construction expertise. Delays, he noted, could cost them tens of thousands of dollars a day. At Trump Bay Street, interest costs alone ran to \$28,000 a day during construction, Bertoli testified.

He denied acting as a liaison to the Fulop administration on policy or personnel decisions: "If it doesn't have to do with a hammer and a nail, I don't work on it," he said.

The lawsuits, by current and former city workers who say they were mistreated by the city, are continuing.



Steve Fulop *Photographer: Julio Cortez/AP*

Fulop's spokeswoman says he has had little interaction with Bertoli since being elected. Bertoli is one of more than a dozen expeditors who work in real estate development in Jersey City, she said, and the mayor and Bertoli never discussed any of Bertoli's clients.

Once in office, the mayor sought to parlay Jersey City's turnaround into a run for governor. A super PAC, Coalition for Progress, was set up in 2015 and raised more than \$3 million, much of it from the same developers who hired Bertoli. They include Mack-Cali Realty Corp., Ironstate Development Company and Dixon Advisory Services. The PAC's president, Bari Mattes, a former finance director for U.S. Senator Cory Booker, has said that the fund's purpose was to support multiple candidates. Fulop hosted some of the PAC events; donors and fundraisers said it was widely understood that he would be its prime beneficiary.

One of the biggest donations -- \$250,000 -- came from Mack-Cali, a publicly traded real estate company with billions in holdings across the northeast and a substantial footprint in Jersey City. After Fulop became mayor in mid-2013, the company announced that its headquarters would move to its

massive Harborside development on the Jersey City waterfront and revealed plans for other projects there, including a 69-story tower that was briefly New Jersey's tallest residential building.

To navigate the regulatory process, Mack-Cali and its partners turned to Bertoli on at least two occasions, paying him more than \$50,000 since 2013.

As a dominant landowner along the waterfront, Mack-Cali stood to benefit if the Fulop administration designated the area a special improvement district. With that, the city could impose a surcharge on the area's 500 businesses and appoint a board to spend the money on maintenance, special events and infrastructure improvements.

Fulop himself began the process in April 2016, and it was championed by a city councilwoman. The Exchange Place Alliance SID won approval from the city council in 2017 along with a \$3 million budget. Mack-Cali's CEO, Michael DeMarco, became chairman of the district's board.

Jaclyn Fulop, whose engagement to the mayor was publicly announced in December 2015, and who married him in July 2016, had a rental agreement with Mack-Cali during the time that the city was moving forward to establish the SID. The physical therapy practice she co-owns signed a lease in 2015 for a clinic at Port Imperial, a Mack-Cali property next to the ferry terminal in Weehawken, about five miles north of Jersey City, according to Fulop's spokeswoman. By September 2018, the practice announced it had negotiated another lease deal with Mack-Cali and was relocating its Jersey City office to the Harborside complex, part of the special improvement district.

Jersey City's ethics code forbids public officials or their family members from entering into financial ties that might create a conflict of interest. In December 2018, Fulop sought guidance from the Ethical Standards Board, corporate counsel and, to prevent any suggestion of a conflict of interest, outside independent counsel, according to Scalcione, his spokeswoman.

"To avoid even the appearance or perception of any conflict of interest, the mayor, in fact, has recused himself from any city negotiations or dealings with Mack-Cali requiring city approval," Scalcione added, providing recusal letters that date back as far as June 2018.

DeMarco of Mack-Cali said his company negotiated the leases with Jaclyn Fulop's business partner and didn't realize the mayor's wife was involved. He declined to say how much the company spent on a renovation of the space but said the deal was done at a market rate.

"She's only a co-owner of the business," DeMarco said in a recent interview, "so even if there had been some special deal, she would've only gotten half of it." He said he consulted with Mack-Cali's board and attorneys before approving the leases.

Jaclyn Fulop wasn't made available to comment, and her partner declined to comment. The mayor's spokeswoman said Fulop never discussed the leasing deals with DeMarco and that there was no need

for him to recuse himself in 2016 because the Fulops hadn't been married when the lease was negotiated and signed. She added that the practice had an office in another section of Exchange Place before the mayor and his future wife had even met.

"Any suggestion that Ms. Fulop -- an independent, well-established and successful businesswoman -- would have any interest whatsoever in leveraging her husband's position to run and grow the business she created smacks of rank sexism," Scalcione said.



Mayor Steve Fulop's home in Jersey City, New Jersey *Photographer: Christopher Occhicone/Bloomberg*

As the physical therapy business grew, the mayor and Jaclyn moved to a new home in Jersey City's toniest neighborhood, the Heights. After the 2015 purchase, they started an overhaul of the three-story townhouse with the help of Bertoli and a business that benefits from Jersey City policies. Bertoli helped coordinate the early demolition plans, according to emails reviewed by Bloomberg, but wasn't paid for the work.

The renovation was overseen by Dixon Advisory, the real estate arm of an Australian company with hundreds of millions of dollars in North American property. Its CEO, Alan Dixon, frequently socialized with the mayor and his wife. The company's United Masters Residential Property Fund had a small presence in Jersey City before Fulop became mayor and bought additional houses afterward. Dixon Advisory also gave \$200,000 to the Coalition for Progress PAC before the Fulops' project began.

Dixon Advisory benefited from one of Fulop's most controversial policy decisions. As mayor, Fulop can't set property tax rates but can block rate readjustments. Soon after taking office, the mayor canceled a tax revaluation that was meant to raise revenue and reduce disparities in the levies on homes.

Fulop said he was concerned that the process for selecting a reassessment company had been flawed and that longtime homeowners would face crippling tax hikes. Many people in residential neighborhoods complained that the mayor's action left them subsidizing downtown development.

The matter went to court, where the judge accused the city of "intransigence" and forced it to proceed with the reassessment. "The city simply does not want a revaluation, period," Hudson County Superior Court Judge Francis B. Schultz said in announcing his decision. Dixon Advisory was among those that benefited from the several-year delay.

Dixon Advisory pointed out that tax decisions were a matter for the independent Jersey City Tax Assessor's Office, not Fulop or other elected officials, and that an outside vendor determined the valuations in the citywide reassessment.

Dixon Advisory's construction unit served as general contractor for the Fulops' residential makeover, according to public records. Though unassuming from the street, the townhome has been transformed by a gut renovation and the addition of balconies on the back with views of the Manhattan skyline.

The Fulops agreed to pay Dixon Advisory \$485,000, according to public documents, for a complete overhaul with new wiring and plumbing, high-end appliances and a rear expansion cantilevered on steel beams over a cliff. The basement floor was dug about two feet deeper and outfitted with a separate suite and a gourmet kitchen.

In 2016, once the work was completed, the Fulops refinanced the property with Bayonne Community Bank.

BCB, which has about \$2 billion in assets and branches scattered across the state, had been approved to handle some Jersey City funds in 2013, before Fulop became mayor. Shortly after he took office, executives at BCB reached out to his administration to ask about opening more branches there, according to people close to the matter.

The Fulop administration welcomed the effort, and in 2015 the city's retirement commission transferred millions of dollars in pension funds to an account at the bank. Fulop, who sits on that commission, wasn't present for the vote approving the transfer, according to city documents.

Bayonne Community Bank didn't respond to requests for comment.

Fulop's spokeswoman said that Dixon Advisory was chosen for the home renovation solely because of its reputation for quality work and that the mayor paid market prices. Dixon Advisory, she added, had no business with the city. A blog called Real Jersey City reported previously on Dixon Advisory's role in the renovation.

Dixon Advisory "has completed market-priced work for the mayor of Jersey City, as well as many other clients, and has made market-level profits," Alan Dixon, the CEO, said in a statement. "All due and proper process was followed one hundred percent of the time. We reject any suggestion to the contrary."

Dixon Advisory customarily charges a 22.5% markup on renovation projects, according to its corporate filings in Australia. The company declined to comment on what it charged the Fulops.

The North American operation run by Alan Dixon has been dragging down the performance of its Australian parent. Shares of Evans Dixon Ltd., formed by Dixon Advisory's merger with a wealth management company two years ago, closed at 79 cents on June 27, down from \$2.50 last year. On June 12, Alan Dixon stepped down as CEO of the parent, while retaining his title at Dixon Advisory, to concentrate on the troubled U.S. Residential Fund.

Both Dixon Advisory and Bayonne Community Bank are involved with a separate vacation property the Fulops are building. In January 2018, the Fulops bought a wood-shingled oceanfront home for \$820,000 in Jaclyn's hometown of Narragansett, Rhode Island.

The couple razed the existing structure. On a recent visit, the framing was taking form for its replacement, a three-story beach house overlooking the Atlantic. The 3,000-square-foot home, with 1,400 square feet of terraces, was designed by Dixon Advisory's architects. One of those architects testified at a zoning hearing, assuring Narragansett officials the house would be structurally sound and environmentally efficient.

Bayonne Community Bank, which refinanced the Fulops' Jersey City home for \$900,000 in 2016, extended a home equity line of credit of \$650,000.

Both Fulop homes are listed as collateral, according to public records. Fulop said the mortgage in Jersey City was a 30-year loan with a fixed rate of 3.75%, which was in line with the market in 2016. The Fulops haven't tapped the credit line, according to the mayor's spokeswoman.

Documents on file in Rhode Island estimate the general contractor's costs of labor and building supplies for the beach house to be \$500,000. Fulop, through his spokeswoman, said that figure doesn't include plumbing, mechanical and electrical expenses, and declined to give a total projected cost for the house.

Two local builders who specialize in high-end oceanfront property said the completed house the Fulops are planning would typically cost around \$1.5 million, with features like the third-floor infinity pool contributing to the cost.

Matt Davitt, president of Davitt Design Build in West Kingston, R.I., said he had consulted last year with representatives of Dixon Advisory, which he said characterized itself as project manager and architect as well as the Fulops' representative for the home.

Davitt said he reviewed the plans and estimated that it could cost a general contractor as much as \$600,000 to \$700,000 to frame the house, given the cost and complications of reinforcing the structural support of an elevated pool. Electrical, plumbing and mechanical costs would be an additional expense, he said.

The project's general contractor, Superior Construction Group of Middletown, R.I., manages high-end construction projects including vacation homes and resort properties. The Fulop home is its first project involving Dixon Advisory, according to Daniel Szymanski, a Superior Construction vice president.

Szymanski declined to say whether Superior Construction was being paid by Dixon Advisory, the Fulops or some other owners' representative. When asked how Superior could build the property for less than what other builders consider a market price, he said: "Maybe the other builders should hire me."

Fulop's dealings with Dixon Advisory and Bayonne Community Bank were fully proper, according to the mayor's office. "To be clear, at no time has the mayor or his wife asked for or received any special considerations from any local business," said Scalcione, his spokeswoman. The local contractor and Dixon Advisory charged fair market rates, she said, adding that Superior Construction "has no financial relationship with Dixon."

Weysan Dun, a former special agent in charge of the FBI's New Jersey office, said he wasn't aware of the mayor's finances or the latest inquiry but that appearances matter. "When you're a public official, especially when you're an elected official, people put their trust in you," said Dun, who is now head of the Nebraska Crime Commission and a consultancy called Dun Global Solutions Group.

"So it is imperative that you avoid any kind of relationship or dealing where it may appear that you, a family member or a business that you may have a stake in could benefit from your actions," he said.

Bertoli, for his part, is resisting the pressure coming from federal agents, according to two people familiar with the case. He has told friends that, like his father, he'll "stand tall" and face any charges rather than provide information to prosecutors.

Others stand more willing. Kushner Cos. is suing Fulop after the city withdrew the tax incentives it was promised in 2017. The Kushners say in court papers that they are being punished by the Democratic mayor for their politics, citing the family's ties to the Republican president. The mayor said at the time that the Kushners had violated their agreement by changing development partners and missing deadlines.

Charles Kushner has made it known that he is eager to help with the investigation, according to people familiar with the case. He declined to comment for this article.

Exhibit W

PLANNING REPORT

In Support of

**Legal Challenge to the Jersey City Planning
Board's Article 31 Review of Landscaping and
Other Changes to Exchange Place in Jersey
City, NJ**

Submitted On Behalf of:

Polish American Strategic Initiative, Inc.

**Polish American Strategic Initiative
Educational Organization, Inc.**

and Jeanne Daly

The original of this report was signed and sealed on February 20, 2023
in accordance with Chapter 41 of Title 13 of the New Jersey State Board
of Professional Planners

A handwritten signature in blue ink, reading "Carlos M. Rodriguez".

Carlos Rodriguez FAICP / PP

New Jersey Professional Planner #5107



Figure 1 – View of Katyn Memorial from the East. Photo taken by the author on 12/30/2022.

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1. Introduction and Background

For this report, I conducted an in-person visit to the site of Exchange Place on 12/30/2022 and extensively photographed the site and its immediate surroundings. I also reviewed the following documents:

1. Exchange Place Alliance website
2. Exchange Place Alliance – Presentation to the Board of Directors, 11 PPT slides, dated 2/7/2022
3. Melillo Bauer Garman – Landscape Architecture Plans, dated 4/14/2022, 18 sheets
4. Melillo Bauer / Dresdner Robin -- Graphics Package, dated 04/08/2022, 15 sheets
5. Melillo Bauer / Dresdner Robin -- Graphics Package, dated 11/02/2022, 10 sheets
6. Dresdner Robin – Preliminary / Final Site Plans, dated 4/14/2022, 8 sheets
7. Transcript, Jersey City Planning Board 4/26/2022 public hearing, 35 pages
8. Don Pepe, Esq letter to Tanya Marione PP/AICP dated 4/29/2022, 4 pages
9. Transcript, Jersey City Planning Board 5/10/2022 public hearing, 9 pages
10. Our Jersey City Master Plan, various elements (vision statement, open space element)
11. New York City Design – Public Design Commission website
12. UNESCO – Recommendation on the Historic Urban Landscape, 2011
13. World Monument Fund website

Other sources consulted are identified in the body of this report in the appropriate places.

Exchange Place, Jersey City

Exchange Place is an important location in Jersey City facing the Hudson River and with direct views of Midtown and Lower Manhattan.

Around Exchange Place there is a busy PATH station (Exchange Place), the New Jersey Transit Exchange Place light rail station, the Paulus Hook ferry terminal, the Harborside Ferry just North of the plaza, New Jersey Transit bus service, two Hyatt Hotels, a branch of the New Jersey Institute of Technology's Engineering School, several large office complexes (Harborside, Exchange Place Center), the J. Owen Grundy pier / park, and a portion of the Hudson River walkway -- a pedestrian promenade that runs along the Hudson River.

Exchange Place is also the home of the Katyn Memorial, a statue that commemorates a war crime that took place in the Katyn forest in Poland, and a few other locations near the border with Belarus, where thousands of officers of the Polish Army, along with civilians, were murdered by Soviet forces during World War II.

In spite of its name, Exchange Place is not a car-free environment, and in fact faces two busy streets to the West – Hudson Street (parallel) and Montgomery Street (perpendicular). Exchange Place is an inter-modal hub enabling commuters and other travelers to transfer between various public transit options, as well as a popular destination for community gatherings celebrating special occasions. Although motor vehicles are technically prohibited, the

Hyatt House hotel located at 1 Exchange Place has a franchise agreement with Jersey City to allow pick up / drop off operations. The only truly car-free portion of Exchange Place is the area around the statue, and the Hudson River walkway.

Exchange Place has also historically hosted other types of exchanges, namely cultural exchanges. For decades, Jersey City's diverse communities have gathered in Exchange Place Plaza to celebrate and share their unique cultures. Thousands of residents and visitors have attended parades, festivals, and concerts. Attendees enjoyed not only the events, but the stunning waterfront views of the Hudson, the Manhattan skyline, and the cooling breezes of the waterfront. Exchange Place Plaza is a unique public space due to its location, size, and public transportation options. There is not one other public space in Jersey City that contains these elements.

Improvement Districts and District Management Corporations

Business Improvements Districts (BIDs) or Special Improvement Districts (SIDs) are established under New Jersey's "Pedestrian Mall and Special Improvement District Act" (N.J.S.A. 40:56-65 et seq.) and are overseen by the New Jersey Department of Community Affairs (NJDCA) – Division of Housing and Community Resources. The NJDCA website, accessed on 1/10/2023, defines an improvement district in the following way:

“An improvement district is a defined area, generally in the central business district of a downtown or a mixed-use corridor in a larger city, that is authorized by state law and created by an ordinance of the local government to collect a special assessment on the commercial properties and/or businesses in that area. That assessment is granted to a municipally-assigned District Management Corporation (DMC). This entity is typically a non-profit organization, separate and distinct from the municipality itself. The DMC, which is typically governed by a board comprised of at least 50%+1 business & property owner stakeholders, sets the agenda, priority, and initiatives of the organization, in addition to hiring and supervising staff, and determining the annual budget and assessment amount.”

A District Management Corporation is “a group of stakeholders from the community, who function as a Board of Directors and who ultimately supervise downline teams or committees that implement projects for the district's benefit,” according to NJDCA. NJDCA's website recommends that the DMC Board be “no fewer than 7 and no more than 13 members in size. In the spirit of the State Law, the Board should be made up of at least 50%+1 business and property owners and also include one municipal official, with other stakeholders such as residents and local institutions, as applicable. The DMC would hire an Executive Director to implement its programs working with the teams/committees. The Executive Director would be accountable to the Board of the DMC.”

A District Management Corporation manages an improvement district as a kind of public-private hybrid entity. As the NJDCA's website writes, “In a sense, the business community becomes self-governing: private resources from the stakeholders are assessed and used as determined by the businesses to fulfill what they see as the greatest needs of the downtown area. The improvement district (whether “business,” or “special,” or “downtown” or some other name) is a model for management of the municipal commercial corridor. A special improvement district “provides a mechanism for the businesses of a community to organize as a single entity, to raise funds for activities that supplement municipal services, and to manage themselves to become a more effective shopping/dining/commercial destination. The

Improvement District itself is effectively a boundary of affected properties and businesses, and is defined by municipal ordinance.” [The District Management Corporation controls the assessments from an improvement district, according to the NJDCA website.](https://www.nj.gov/dca/divisions/dhcr/idp_faq.html)
https://www.nj.gov/dca/divisions/dhcr/idp_faq.html

The District Management Corporation of an improvement district has certain powers that the municipal government, Chamber of Commerce, or an Economic Development Committee do not have. As NJDCA explains:

“The best way to illustrate this distinction is by example of the shopping mall: every mall is a collection of stores and eateries that were selected by plan based on their appeal to the local marketplace, and placed in their respective locations within the mall by careful design. They operate under common hours of business, they all contribute to an annual marketing program for which they all benefit, and they share in the costs of special events, improvements, provision of security (that supplements local police support), and even the maintenance of common areas. They can do this because the entire mall is owned by a single owner; the commercial buildings in a typical community are all owned by various owners.

The BID allows the businesses of a municipality to operate more like the businesses in a mall, managed by a single group rather than by each individual merchant on his or her own.”

As the NJDCA website further explains, a special improvement district “operates with a funded budget and pursues a strategy to grow business by managing the appearance, the marketing, the events, for the commercial corridor in ways that the municipality, the Chamber of Commerce or the Business Development Committee cannot do.” In addition, under New Jersey law, according to the NJDCA, the District Management Corporation has “a variety of powers and capabilities for improving and enhancing the viability of the district, unless otherwise constrained by the municipality’s enabling ordinance for the BID.”

The question of whether a District Management Corporation is a public or private entity has not been definitively decided by the New Jersey Attorney General’s office, according to the NJDCA website:

“It has been an ongoing question across New Jersey for many years. Public record of the New Jersey Supreme Court’s opinion stated that Improvement Districts (BIDs, SIDs, DIDs) are an attempt to achieve privately what municipal government has struggled unsuccessfully to do alone as noted in the following cases: *Second Roc-Jersey Associates v. Town of Morristown*, 158 N.J. 581 (1999). See also *Gonzalez v. Borough of Freehold* (A-3476-92T2, June 30, 1994).”

As a result of this continuing question, the NJDCA website “recommends” that a District Management Corporation “seek to meet the spirit of public entity polices such as the Open Public Records Act (OPRA) and Open Public Meetings Act (OPMA). In other words, the DMC should expect that others will seek to hold it accountable as a public entity and prepare accordingly.”

Exchange Place Alliance District Management Corporation

Exchange Place is managed by the Exchange Place Alliance District Management Corporation -- one of eight such Special Improvement Districts (SIDs) that currently operate in Jersey City – which is the entity responsible for carrying out a variety of duties with respect to the maintenance and improvement of the

district. Some of the other SIDs in Jersey City include the Central Avenue SID (est. 1992), the Journal Square Restoration Corporation SID (est. 1995), the Historic Downtown SID (est. 1998), the McGinley Square Partnership Management Corporation Partnership SID (est. 2012), and the West Side Avenue SID (est. 2018).

The Exchange Place Alliance (henceforth the Alliance) was created in 2016 by the City of Jersey City. It oversees an expansive, multi-block area from Sixth Street to Morris Canal Park and West to Marin Boulevard – see Figure 2.

The mission of the Alliance, according to its website (www.exchangeplacealliance.com), accessed on January 9, 2023, is as follows:

“In order to promote economic growth while also attracting new retail and businesses to the area, the Exchange Place Alliance will elevate the neighborhood through capital improvements, repairs and maintenance, landscaping, cleaning, and programming. Previously untapped sources of revenue will be utilized for improvements including the restoration of and upgrades to Exchange Place Plaza, Christopher Columbus Drive and other areas in the district.

The Alliance will also work to enhance the sense of arrival for the area. New amenities will include wayfinding signage and informational kiosks to help direct the public, comfort stations, tables and chairs along the Hudson River Waterfront Walkway, Citi Bike stations, and public Wi-Fi.

The Alliance contracts a crew of workers that will be responsible for timely trash and snow removal, street cleaning, and litter removal, as well as landscaping and hardscaping. New bollards and lighting are planned to be installed in coordination with PATH and PSE&G.

As a part of its mission, the Exchange Place Alliance will focus on communication with the membership and public regarding new organizations, events and businesses within our district. Please reach out to us with any new openings for promotions across our outlets at exchangeplacealliance@gmail.com.”

The Alliance has full time staff and is governed by a seven-member Board of Directors. The Alliance’s current Board includes a representative from the City Council and representatives of four very large real estate development companies: American Equity Partners (the owner of 15 Exchange Place, located in the district), Panepinto Properties, G&S Investors (the lead redeveloper of Metro Plaza, also located in the district) and LeFrak. Michael DeMarco, the Alliance president, is the former CEO of Mack-Cali.¹ No affiliation is provided for Andy Siegel, the seventh board member.

The Katyn Memorial

Within the area managed by the Alliance is located a 32-foot high bronze statue on a granite plinth facing the Hudson River and Lower Manhattan. The statue represents a bound-and-gagged soldier being stabbed through the back with a bayonet. The statue was erected at that location – which then faced the two towers of the World Trade Center – in 1989, to call attention to a World War II atrocity.

¹ <https://re-nj.com/demarco-out-after-five-years-at-mack-cali-as-reit-names-interim-ceo/>

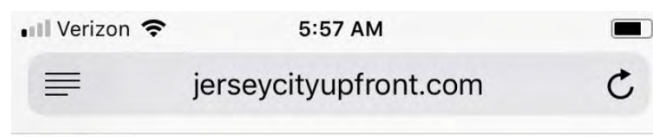


Figure 2 – Map of the Exchange Place Special Improvement District, from the Exchange Place Alliance’s website.

The Katyn Memorial, as it is known, celebrates the 14,000 Polish army officers and the 8,000 civilians that were massacred in 1940 by the Soviet secret police in the Katyn forest. The statue has extraordinary symbolic value for the Polish-American community, many of whom emigrated to the United States following World War II to escape the Iron Curtain and Soviet rule. The Memorial was gifted to the City in 1986 (City Ordinance C-299). In 1989, the City adopted a resolution to establish “a plaza for the placement of a monument to honor the brave members of the Polish Officer Corp. who were subject to mass execution at the hands of the Soviet Government in April of 1940” (Resolution C-4271). The resolution stated that the Plaza “shall be known as the Katyn Monument Plaza and which shall be located on the southerly side of Exchange Place opposite the Path Station[.]”

In Prisoners of History: What Monuments to World War II Tell us About our History and Ourselves, published in 2020 by St Martins Publishing Group, Keith Lowe, the author, describes an incident in May of 2018 when Steve Fulop, the mayor of Jersey City, unilaterally attempted to move the Katyn Memorial to a different location, which resulted in considerable controversy not just in Jersey City, but elsewhere in the United States, as well as in Poland. The City eventually conceded and the statue stayed at its original location. Ordinance No. 18-144, adopted in December 2018, reaffirmed the city's acceptance of the Memorial as a gift and ordained that the Memorial should remain in its location at Exchange Place in perpetuity. Ordinance No. 18-144 stated that "the community has made it abundantly clear that it wishes for the Katyn Forest Massacre Memorial to remain in its current location at the Eastern terminus of Exchange Place Plaza and it therefore [is] in the City's best interest that the Katyn Forest Massacre Memorial's location be formally codified and all contrary Ordinances be rescinded."

Notably, the plan to move the statue did not include any attempt at restricting public access to it, unlike the Alliance's current plans, nor did it restrict views of the Hudson River and Manhattan skyline.



KATYN MEMORIAL MOVING TO YORK STREET

MAY 15, 2018 / LJ



City officials released details Monday of the Katyn Memorial's new home.

The statue will be moved a few feet away from its

Figure 3 – "Katyn Memorial Moving to York Street", social media post, JerseyCityUpFront.com 5/18/2018

Proposed Plans to Jersey City Planning Board

In 2022, the Alliance proposed a plan to the Jersey City Planning Board consisting of extensive exterior modifications to the public spaces between Exchange Place Center, Hyatt House, the PATH station, the Hyatt Regency hotel and the Harborside complex. These modifications were mostly streetscape-related interventions, such as replacing exterior pavement surfaces, but they also include other features, such as re-grading the area around the Memorial; adding trees and decorative landscaping, seating areas and decorative walls; adding an enhanced pedestrian space; and modifying the vehicular circulation and parking schemes, including a new access road for private use only, for the Hyatt Hotel and 15 Exchange Place, which reduces the amount of pedestrian space available.

Some of these modifications will affect the Katyn Memorial in ways that the Polish community finds inappropriate and disrespectful, namely by placing a bench seating area with a 5 ½ foot tall back around much of the monument, as well as planting bushes of up to about 7 feet in height behind the benches, thereby obscuring the monument, obscuring uninterrupted views of the Hudson River from the West and constraining the area available for public assembly around the monument.



Figure 3 -- "Improvements are coming" -- poster mounted on construction fence. Photo by author 12/30/2022

2. The Planning Board's Section 31 Review of Landscaping and Other Changes to Exchange Place

The landscaping and other changes proposed by the Exchange Place Alliance were referred to the Jersey City Planning Board for a courtesy review under Section 31 of the Municipal Land Use Law (MLUL) N.J.S.A 40:55D et seq which provides as follows:

“Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditures of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board or other similar agency, State, county or municipal. In addition, this requirement shall apply to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L. 1991, c. 413 (C.27:5-5 et seq)”. NJSA 40:55D-31a.

The Jersey City Planning Board held a video conference hearing on 4/26/2022 to determine whether certain streetscape, landscape and circulation changes to Exchange Place proposed by the Exchange Place Alliance were substantially consistent with the Jersey City Master Plan. The Alliance was represented by Donald Pepe, Esq., an attorney with the Scarinci Hollenbeck law firm. A landscape architect and a named partner in the firm of Melillo-Bauer-Carman made a brief presentation to the Board of the proposed changes, using various exhibits.

Mallory Clark, PP / AICP, a senior planner with the Jersey City Planning Division, opined that the proposals were consistent with the goals of the municipal Master Plan, with the Master Plan's Open Space element, and with the City's VisionZero goal of no pedestrian fatalities, although she also suggested a “break” in the proposed planter next to the monument.

After hearing the presentation by the representatives of the Alliance, as well as from the city's planning staff person, and the comments of numerous members of the public, the Planning Board determined unanimously that the proposed changes were not substantially consistent with the city's Master Plan. They essentially agreed with what had been forcefully articulated by the public, namely that some of the proposed changes obscured the view of the statue from the West, that they similarly obscured the view of the Hudson River from the same vantage point, and that they unnecessarily constrained the area available for public gatherings next to the statue.

Chair Langston stated “I don't know why we need to put 5-foot-tall benches on a berm around the statue. I can't support a design that obstructs the view of the statue.” Commissioner Gangadin similarly stated: “Those benches are not needed there. That height of the bench, and to be so close to that statue, I think it's such a total disrespect.

By letter to the Planning Board dated 4/29/2022 (Appendix 2), Mr. Pepe requested that the Board reconsider its Section 31 review. In that letter, Mr. Pepe argued that the Board had mistakenly focused its discussion on “individual design elements” rather than the big picture, and, as such, had mistakenly reached the conclusion that the proposed changes were not consistent with the Master Plan. The letter reads in part:

“Here, the colloquy surrounding the vote made it clear that the Board took issue with the design of the proposed improvements, specifically the treatment of the Katyn Monument. The Board made no findings as to consistency with the City of Jersey City Master Plan nor did the Board relate the design concerns noted to the goals and objectives of the Master Plan, an oversight that the Applicant feels strongly must be addressed.

In addition to the noted procedural issues, there appeared to be some confusion introduced by members of the public who spoke during the public comment period, issues that, in the interests of justice, can and should be clarified at a rehearing. For instance, public comment repeatedly falsely stated that the height of the bench surrounding the Katyn Monument was 7’ high when in fact the height is 5’6”². There were also repeated false assertions that no public meetings were held to discuss the proposed plaza plans, that the project did not comport with the Local Public Contracts Law, and that the treatment of the Katyn Monument was somehow disrespectful, assertions that are patently untrue and which the Applicant would like an opportunity to clarify.”

The Planning Board granted the request for reconsideration and held a second hearing on the matter on 5/10/2022. A document offering an opinion regarding the basis for finding the Alliance’s proposals for Exchange Place consistent with the Jersey City Master Plan was finally produced on the very day of the May 10 hearing, in a memorandum to the Jersey City Planning Board, dated 5/10/2022, signed by Mallory Clark-Sokolov PP AICP, Senior Planner in the Jersey City Division of Planning, and Tanya Marione, PP / AICP, Division Director of the Jersey City Division of Planning – see Appendix 3.

The contents of this letter were not made available to the public, or to the Planning Board, ahead of time, and were not discussed at the hearing.

The letter finds a basis for determining consistency in the following ways:

“The plan as proposed maintains the current use of the space as public pedestrian plaza and is consistent with the goals and objectives of the Jersey City Master Plan Open Space Element by accomplishing the following:

² The transcript of the hearing clearly shows that the public correctly understood the proposed height of the back of the benches to be 5’ 6”, and that the additional bushes bring the height to about 7 feet – see page 44 of the transcript.

Enhance Every Square Inch:

- 9. Design parks to be welcoming and accessible spaces.
- 11. Collaborate across City agencies.
- 14. Expand the number, mix, and distribution of programs.
- 15. Reflect contemporary tastes and trends in parks and open spaces.

Strengthen Connectivity:

- 21. Install facilities proximate to parks that separate pedestrians and bicyclists from traffic as much as possible.
- 22. Connect parks & open spaces through the city street network with fully accessible biking and walking facilities.
- 24. Implement JC Pedestrian Enhancement Plan and Let's Ride JC Plan with a focus on access to parks and schools.
- 25. Link to and invest in community resources close to existing or future transit stations and stops.

Invest in a Resilient Future

- 30. Create productive landscapes in underutilized or interstitial spaces, and along waterfront shorelines.
- 32. Expand tree coverage equitably throughout the City."

The letter continues by stating:

"The design as proposed supports the design guidelines of the Jersey City Master Plan Open Space Element as specific to Waterfront Parks:

A. Support Active Lifestyles: The new design maintains contiguous public access to the river while expanding programming with the addition of a new playground at the waterfront.

B. Make Parks Welcoming: The curbless design maintains universally accessible access throughout the plaza space and improves pedestrian and bicycle safety through striped, designated crossings between the plaza and the adjacent HBLR station and PATH entrances.

C. Understand Community Needs: The plaza redesign has given large consideration to the space's historic use as a host site for several benchmark community events and festivals, such as the City's 4th of July celebration. The design maintains a flexible arrangement to enable Office of Cultural Affairs and community organizations / associations to utilize the site for temporary events in a flexible manner.

D. Highlight Unique Features: The design maintains pedestrian and bicycle access and views to the Hudson River Waterfront Walkway, the river itself, and the Owen Grundy Pier.

The plan as proposed is consistent with goals of the JC Walks Pedestrian Enhancement Plan's Policy Recommendations: (relevant to the plaza entrances at Columbus Drive and Hudson St / Montgomery St):

3. Crosswalk Markings and Maintenance

All legs of signalized intersections should be marked

4. ADA depressed curbs

Upgrade all crossings with ADA compliant design

Program Recommendations (relevant to the proposed designated hotel drop off zone):

3. Curbside Management

1. Implement current best-practice design treatments

2. Develop a shared mobility curbside management policy including

g. car sharing spaces

h. ride hailing pick-up/drop-off zones

3. Curbside Management would provide clear guidance for businesses, property owners, and Special Improvement Districts (SIDS) who would like to request appropriate alternative curbside uses”.

“The plan as proposed is consistent with goals of the JC Vision Zero Action Plan: Design Safer

Streets

- Provide a permanent, 24/7 solution to dangerous, excessive and intimidating speeds.
- Better manage limited public space available to accommodate all users as well as parking, deliveries, and emergency services.
- Eliminate uncertainty as to how drivers, pedestrians, and people on bikes should interact, especially at intersections.
- Encourage people to walk, bike, and take transit to reduce the amount of vehicle miles travelled.

Promote a Culture of Safety

- Elevate the importance of safety over increasing the speed and convenience of driving.
- Welcome walking, biking, and transit use as essential everyday transportation modes.

Mr. Pepe provided no new expert testimony, contrary to the representations in his letter. Mr. Alampi (the Planning Board attorney), asked Mr. Pepe (the attorney representing the Alliance): “Mr. Pepe, are we going to hear with respect to the Master Plan and the – what appears to me the obvious concept of pedestrian friendly in lieu of vehicular traffic?” Mr. Pepe, astonishingly, responded “Counsel, I had not planned on presenting any testimony with respect to the compatibility with the Master Plan. I don’t know if any of the city’s planners have any input with respect to that. We have been sharing these designs with them for quite some time. But -- and I believe, you know, one of the Vision Zero is a big impetus for the

city right now, and an important aspect of the Master Plan itself, which is to provide for pedestrian safety” (Transcript of 4/26/2022 hearing, page 20).

The Planning Board held a very brief discussion and reversed itself, voting unanimously to consider the proposed changes to be “substantially consistent with the Master Plan.” No public comment was permitted.

The proposed changes to Exchange Place which were presented to the Planning Board are depicted in a set of engineering drawings, titled Exchange Place Plaza Improvements, signed by Matthew J. Neuls, P.E., of the firm Dresdner Robin, dated 4/14/2022.

A second set of drawings, consisting of 20 sheets, dated 9/3/2019, detail the proposed landscape architecture changes to Exchange Place. Those drawings were prepared by the landscape architecture firm Melillo Bauer Carman and are signed by Thomas S. Carman. The drawings indicate that the 9/3/2019 version was a revision of an earlier version, as they contain a note indicating that they were “revised per client comments.”

The landscape architecture plans on the Alliance website, which are altered from those which were originally submitted to the Board, also indicate the dates of 7/9/2021 as “issued for bid,” and 6/10/2022 as “issued for permit within the “notes” section of the plans. In other words, the Alliance had already solicited bids from qualified construction firms, and selected a contractor, well ahead of the Section 31 review by the Jersey City Planning Board on 4/26/2022. This enabled the Alliance to put together an annual budget of \$9,752,000, including \$5,500,000 for “capital improvements to the plaza.” The Alliance’s budget was approved by Jersey City’s City Council on 7/13/2022.

This timeline may shed light on the Alliance’s reluctance to entertain any changes to its plans, despite the negative reaction received from both the public and the Planning Board. Since the Alliance solicited bids in 2021, by the time the Planning Board heard about the project in April 2022, the plans to remake Exchange Place were too far along. It would delay things if they had to be further amended, and it would perhaps require an amended bid from the contractor, even though the changes being suggested were minimal relative to the scope of the entire project – removing the backs (or at least lowering them) of the benches, removing the masonry wall and the landscaping on the plaza side, and making access to the area around the statue more porous. These are simple things that would not have required a major redesign. However, even having heard the concerns of the public and the Board, the Alliance did not make any changes and instead charged forward with a plan that neither the public nor the Planning Board had supported.

A third set of drawings depicting the proposed changes is titled “graphics package.” It was also prepared by the landscape architecture firm Melillo Bauer Carman and is dated 11/02/2022. It consists of 10 pages of two-dimensional and three-dimensional color renderings and is unsigned. The renderings have no dimensions, and it is unclear whether they are simply a more visually accessible representation of the engineering drawings for a layman’s eye, or whether they show deviations from the drawings.

This “graphic package” was provided to the Board for the Section 31 review which suggests that maybe it is the former, not the latter, scenario. By 11/02/2022, the date marked on the graphics package, construction was already underway on the “improvements” to Exchange Place.



VIEW #8: VIEW THROUGH MAIN PLAZA LOOKING WEST
EXCHANGE PLACE
 JERSEY CITY, NJ
 DATE: 2022.04.08

Figure 4 -- Page from “graphics package” showing the bench with the oversize back concealing the base of the Katyn Memorial and the proposed trees concealing the statue itself.



3. The Proposed Changes to Exchange Place and Their Impact on the Katyn Monument

The expansion of car-free space at Exchange Place will be a welcome feature that many people will enjoy, including those visiting the Katyn memorial, and patrons of the various public transit facilities located there.

However the engineering plans, the landscape plans and the “graphics package” all clearly show the design problems identified by the public and by the Planning Board at the 4/22/2022 Section 31 hearing.

Private Access Road

The Alliance’s plans call for the privatization of a large portion of the public right-of-way in order to provide an extra private access road to Hyatt House, which also has frontage on both Hudson Street and York Street, and to 15 Exchange Place. This new access road removes a substantial amount, approximately 40% of the pedestrian area of Exchange Place, and essentially creates a new East-West street in the public right-of-way, between York Street and Hudson Street.

Katyn Monument Restrictions

The Katyn Memorial is placed, off-center, within an oval space measuring 61 feet by 47 feet, with the longest axis in an East West direction.

The entire approach to the monument from the West, North and South is obstructed by physical obstacles. To the North and South the plans show two long benches facing the statue with reclining backs that reach 5 ½ feet in height – akin to a throne. The benches are set behind two nine-foot wide landscaped areas. And to the West, the statue is obscured by a 20’ 5” long and 5’ 1” high masonry wall, with landscaping in front. This wall – which serves no functional purpose whatsoever – completely eliminates the view of the base of the statue. Entrance to the oval from the West is limited to two, 6-foot wide entrances, which are very confining for a statue such as this memorial. The combination of the landscaped areas, the backs of the benches and the masonry wall conceals the view of the base of the statue from multiple vantage points and makes it more difficult for the public to access the statue.

In addition to the benches and the masonry wall, the proposal is to plant five trees on the North side of the monument, and ten trees on the South side of the monument, including two clusters of trees on the East side of the monument, between the Hudson River walkway and the monument.

The cumulative result of the benches, the wall, the trees and the landscaped areas will be to considerably narrow the visibility of the monument from these multiple locations.

Even the side of the monument facing the Hudson River walkway – which the design suggests will be the primary means for the public to access the monument -- is not totally unobstructed, as there are another two clusters of trees proposed. Although the monument will also be accessible from the West, under the current proposal that access will be limited to two very narrow points of access on either side of the proposed wall, as discussed above, and not conducive to large crowds.

In addition, the current design leaves only 11 ½ feet – roughly equivalent to the width of a lane of traffic -- between the base of the statue and the benches, thereby unnecessarily constraining public access to the monument itself.

While it is possible that landscaping changes could theoretically be intended to create a pedestrian precinct around the statue with a distinct personality, the proposed design will instead result in a “bubble” -- an area that will be more difficult to access than it currently is, much less visible than it is currently, and spatially constrained on those occasions when large numbers of people converge on the statue.

Planning and Design Defects

The profoundly gratuitous design scheme adopted for the area around the statue reflects a complete misunderstanding of the fundamentals of design for a public space of that nature.

The benches, the wall, the trees, the hedges and the other plantings will not enhance the experience of visitors to the statue. On the contrary, they make it more difficult. These are unnecessary design features that are deployed without a proper understanding of the circumstances or a grasp on their consequences.

The benches do not need to have high backs, or any backs at all, to be functional, nor do they need to have hedges behind them. There is no need to channel the public’s physical and visual access to the statue in such a confining way. It would be very easy to provide opportunities for the public to sit and contemplate, without obscuring the statue. But that is not what has been proposed.

It is not clear why the designers chose to isolate the statue and the area around it from the rest of the plaza. The message that is conveyed by the proposed design is that the statue and the area around it are not really an integral part of the plaza, and therefore need to be cordoned off.

All in all, the proposed treatment of the statue and the area around it would place the statue in a bubble that would markedly contrast with the rest of Exchange Place Plaza, which is open and unconstrained.

This is an inappropriate design decision. The statue and the area around it have always been an integral part of Exchange Place as long as the statue has been in place, as is shown by the ordinances from the 1980s and 2018. The proposed pedestrian and streetscape improvements to Exchange Place should not, under any circumstances, sever the functional and visual connection between the rest of the plaza and the statue and the area around it. It is completely inappropriate to improve the pedestrian experience in the rest of the plaza while at the same time segmenting and isolating the area around the statue and the scenic backdrop of the Hudson River and the Manhattan skyline.

The appropriate design response is to maintain the flow and synergies between all the various elements that constitute Exchange Place, and not segment the plaza with a series of gratuitous design interventions that serve no functional need. All areas of the plaza should interact with each other. There is no legitimate planning or design reason to isolate the statue and the area around it in such a dramatic fashion. The Jersey City Master Plan does not implicate these measures as being necessary or appropriate for this kind of feature.

It has always been a widely-accepted best practice to allow the public to have unimpeded access to statues and other types of sculptures located in public places from every vantage point. I cannot find any justification or any precedent for the Alliance’s approach to artificially and unilaterally limit access to the Katyn Memorial.

NYC Design – Public Design Commission, the New York City agency with jurisdiction over permanent

structures, landscape architecture, and art proposed on or over City-owned property, in the latest version of its “Guidelines for Monuments and Memorials” states clearly: “Monuments / memorials should be oriented to ensure legibility and minimize any contribution to pedestrian congestion.”

The proposed design also provides no basis or justification for the proposed dimensions of the delineated oval area around the statue. While there was some discussion during the Section 31 proceedings that the area within the oval could accommodate up to 200 people, this was not substantiated in any way, and the 200 number was not justified. Why 200, one might ask?

Even if, for the sake of argument, it came to be determined that the area within the oval could comfortably accommodate 200 people, what needs to be pointed out is that the number 200 becomes then a “de facto” upper limit for gatherings around the statue. What happens if more than 200 people show up to view the statue and congregate around it? What authority does the Alliance have to arbitrarily draw the line and limit public gatherings to 200 people?

The 200 upper limit number would obviously not have been practicable during the earliest months of the Covid pandemic, when public health guidelines advised people to stay six feet apart. In a future scenario with Covid or some other highly contagious airborne disease, the area of the oval will only be able to accommodate far fewer than 200 people. Why artificially constrain that number when there is plenty of unprogrammed, pedestrian-only space for the Plaza?

As it turns out, the area within the oval would amount to 2,252 square feet, from which one would have to subtract the area occupied by the plinth on which the statue is mounted. The base of the statue, which is to remain, occupies 15 feet by 15 feet, or 225 square feet. So in the approximately 2,000 square feet that are unobstructed, the oval could most likely accommodate more than 200 people at a time. But still, why delineate the area and artificially constrain public attendance when there is plenty of room in the redesigned plaza portion of Exchange Place?

In effect, the Alliance’s design proposal for the area surrounding the Katyn statue calls to mind the ghettoizing strategy used by various regimes over the years, including the Axis powers during World War II, to isolate and contain people they had grievances against. The Alliance proposal would isolate the Katyn Memorial in its own small pod, with access for only a limited number of members of the public at a time, and physically cut it off from its surroundings – the much larger portion of Exchange Place Plaza. It is no wonder why the Polish-American community rose up to denounce this proposal.

Limitations on the Functionality of the Pedestrian Plaza

Furthermore, the deficits of the plan cut both ways in terms of their effects on the Plaza. In the event of overflow events elsewhere in the Plaza, the area around the statue, if it is not demarcated by restrictive design choices, can be used to augment the pedestrian area occupied by those events. In other words, if the Alliance does not demarcate and segment the pedestrian space with gratuitous walls and hedges that serve no functional purpose whatsoever, the entire plaza space would become more fluid, more flexible, and therefore more capable of accommodating larger crowds.

Accommodating pedestrians is the whole purpose of a pedestrian mall. The proposed appurtenances reduce the flexibility and the ability of the plaza to respond to changing events that attract large crowds. A partial list of events that have taken place at Exchange Place in the past includes the Irish festival, the Indian festival, the Pride Parade, the Holi festival of colors, the Caribbean “carnivale”, the House Party event, the Bolivian parade, the Central American parade, the South American parade and the Puerto

Rican day parade and celebration. These events attract thousands of people. Segmenting the plaza with gratuitous appurtenances introduces an unwanted rigidity and needlessly restricts how pedestrian may occupy the public space.

Ultimately, that represents, in my opinion, a fatal flaw in the design proposed by the Alliance. If the area around the statue is not arbitrarily confined, the number of people capable of comfortably congregating around the statue is not confined. If larger crowds congregate, they can be accommodated. If larger crowds congregate for events elsewhere on the plaza, they can also be accommodated. It is a “win-win” for everyone. It is hard to understand why the Alliance chose this ill-advised design scheme, in the face of active resistance from the community.



VIEW #10: OVERVIEW FROM PLAYGROUND LOOKING WEST
EXCHANGE PLACE
JERSEY CITY, NJ
DATE: 2022.04.08



Figure 5 -- Page from the “graphics package.” In this version, which was approved by the Planning Board, the Katyn Memorial would only have been approachable from the East, as the bench with the oversize back blocks all access from the West. The revised plans show two entrances from the West between the bench segments but still needlessly restrict public access to the statue and conceal all views of the base of the statue from the West.



Figure 6 -- Holocaust Memorial, Philadelphia. The public has complete, unimpeded access to the statue from every direction. Photo taken by the author, 1/22/2023



Figure 7 -- Statue of General Tadeusz Kosciuszko – Philadelphia. The public has complete access to the statue from every direction. The base of the statue doubles as a sitting wall. Photo taken by the author on 1/22/2023

4. Was the Section 31 Review Conducted by the Jersey City Planning Board Adequate?

As explained above, the Alliance's attorney, Mr. Pepe, told the Board that he "had not planned on presenting any testimony with respect to the compatibility of their proposed changes with the Master Plan" (Transcript, April 26, 2022 hearing, p. 20). The Alliance's approach to the Section 31 hearing was to treat it as an informational hearing, albeit open to the public, to inform the Planning Board of the Alliance's plans -- not a true Section 31 hearing. As far as the Alliance was concerned, the Alliance's redesign plans had already been vetted with all the influential players, and the Planning Board's sole responsibility was to rubber stamp those plans, and not question them.

Mr. Carman, the Alliance's prime expert witness, is a landscape architect, and does not even appear to be a licensed professional planner in New Jersey, which would make him ineligible to provide testimony on whether the Alliance's proposed changes to Exchange Place could be deemed consistent with the Jersey City Master Plan.

At the hearing before the Planning Board, the Alliance made no apparent effort to investigate the possible consistency between the Alliance's plans and the Master Plan, preferring to refer the matter to the city's planning staff.

The planning memorandum from the City's planners, dated May 10, states that the project is consistent with the Master Plan because it designates a pedestrian area separate from motor vehicle areas. I do not disagree that the Alliance's plans for Exchange Place might accomplish some of the goals of the various elements of the city's Master Plan. In any city, reclaiming an area that is over-run by cars and converting much of it into a pedestrian plaza is a positive step. But that is not the point of a Section 31 review. The point is whether the Alliance's specific design plan accomplishes those goals.

Many of the goals cited in the planners' memo of May 10 are generic, i.e. "encourage people to walk, bike, and take transit to reduce the amount of vehicle miles travelled" or "welcome walking, biking, and transit use as essential everyday transportation modes." It is unclear how the Alliance's design proposal will "encourage people to walk, bike, and take transit," although they may not discourage people from doing so.

Again, the question is whether the specific design elements in the Alliance's plans will reinforce the goals of the Master Plan. The devil is in the details.

For example, the planners' memo states that the plan furthers the goal to "Highlight Unique Features: The design maintains pedestrian and bicycle access and views to the Hudson River Waterfront Walkway, the river itself, and the Owen Grundy Pier." But that is not accurate. As we have already established, the plan actually restricts "pedestrian and bicycle access and views to the Hudson River Waterfront Walkway" over existing conditions as a result of poor design decisions taken with respect to the Katyn Memorial.

The planners' comments also mention goal C -- Understand Community Needs. The planners' statement is inaccurate that "The plaza redesign has given large consideration to the space's historic use as a host site for several benchmark community events and festivals, such as the City's 4th of July celebration. The design maintains a flexible arrangement to enable Office of Cultural Affairs and community organizations / associations to utilize the site for temporary events in a flexible manner." As we have also already established, the proposed treatment of the Katyn Memorial introduces an element of spatial rigidity --

not flexibility – that does not currently exist. If the Alliance’s design is implemented, Exchange Place will be less flexible than it currently is, and certainly less flexible than it could be. It will be more pleasant to the extent pedestrian-only space is expanded, but less flexible and usable as a public space given the rigidities introduced by the Alliance’s design.

It will also be less used for community events and celebrations, as the Alliance reportedly now no longer allows community-sponsored events in Exchange Place.

Even the goal to “Enhance Every Square Inch: 9. Design parks to be welcoming and accessible spaces” is not accomplished. There is nothing “welcoming and accessible” about the proposed treatment of the Katyn Memorial.

The Open Space element of the City’s Master Plan – a rather extensive document prepared by an outside consultant -- is in fact full of examples of why the Alliance’s proposed design for the Katyn Memorial is extremely ill-advised.

For example, section 6: Expand the impact of parks beyond their edges, states in part: “Any future investments in City open spaces need to consider beyond its property line and into the right-of-way, to ensure the spaces do not create unnecessary barriers to access and encourage more spillover benefits to visitors and neighbors.” (page 115, emphasis added)

In the same section, at sub-item 6.2, the document states “Where possible, reconsider fencing that limits access and enjoyment of green spaces with more welcoming edge materials to unify parks with their neighborhoods.” (page 115). Replace “fencing” with “benches with oversized backs, and tall shrubbery” and this design principle has direct application to the case at hand.

At sub-item 7.1 in the same document (page 116), the city is urged to “create multi-use spaces that allow for flexibility.” In the same sub-item, a New York City Parks Commission initiative known as “parks without borders” is referenced as a model to be applied in Jersey City. Some of the objectives of this initiative are directly relevant to the instant case, such as to “unify park spaces with the neighborhoods they serve,” and “make entrances more welcoming, convenient and easy to find.”

The heading for section 9 of the same document is “design parks to be welcoming and accessible spaces” (page 120). “The City should strive to create equal access for all by reducing barriers to use.” While this statement may be referring more directly to the need to provide universal, barrier-free accessibility, I would argue that blocking or constraining direct access through the placement of unnecessary and counter-productive appurtenances, such as benches and hedges runs directly counter to the intent of this design principle.

Design principle 9.4 (page 120) is “Evaluate if park gateways are logical, visible and clear, as well as the appropriateness of fences or gates.” In this case there are no fences or gates, but other types of physical barriers – the benches, the walls and the hedges – constrain access and clearly violate this principle.

The design objective of section 14 of the same document is to “expand the possible spaces that can host programs and events (page 127).” “Using creative solutions to expand programmable space, we can host more activities, classes, sports, and events that make a significant impact on residents’ lives.” This design principle supports our earlier argument that removing the physical barriers around the Memorial proposed in the Alliance’s plans would provide much greater flexibility in terms of how the space can be

used, not just for memorial-related events, but for any type of event. The proposed Balkanization of the memorial and the area immediately around it is counter-productive no matter how one looks at it.



VIEW #5: MAIN PLAZA & STATUE FROM CAFE PLAZA - LOOKING EAST
EXCHANGE PLACE
JERSEY CITY, NJ
DATE: 2022.04.08

Figure 8 -- Page from “graphics package.” The base of the statue is completely obscured.

Design principle 15.1 is “engage residents within a 10-minute walk of parks undergoing master plans to identify resident preferences for amenities” (page 128). There is a residential community within a 10-minute walk of Exchange Place which was apparently not consulted. No mailers were sent or posted in public spaces or storefronts, no community-based design meetings were held, and the Historic Paulus Hook Association and the Powerhouse Arts District were not consulted. The Alliance made “virtual presentations” to the public, but comments from the public were limited to three minutes each. The whole design process was driven exclusively by corporate interests.

Design principle 15.2 is “Send mailers to all neighbors within walking distance of the project boundary to ensure residents and business owners are aware of the plan and have opportunity to engage” (page 128). The Alliance may have done this with respect to the business owners – and we don’t know that to be the case – but again the community groups that have historically hosted their events in that space should have been the proxy for the residents, and they were reportedly not consulted.

And finally design principle 16 is to “Offer more events and programming for underrepresented demographics.” The Alliance’s new policy of not allowing community events in Exchange Place violates this principle and raises serious doubts as to the wisdom of turning the programming of public space over to a private entity only representing powerful private interests.

5. Do the Alliance's Plans Violate New Jersey's Public Trust Doctrine?

The Municipal Land Use Law authorizes, but does not require, municipal Planning Boards to adopt a "public access plan element", as an elective element of the municipal Master Plan. This plan element is described as:

"A public access plan element that provides for, encourages, and promotes permanently protected public access to all tidal waters and adjacent shorelines consistent with the public trust doctrine, and which shall include a map and inventory of public access points, public facilities that support access, parking, boat ramps and marinas; an assessment of the need for additional public access; a statement of goals and administrative mechanisms to ensure that access will be permanently protected; and a strategy that describes the forms of access to satisfy the need for such access with an implementation schedule and tools for implementation". (N.J.S.A. 40:55D-28(h)(17))

The Master Plan adopted by the Jersey City Planning Board does not appear to contain an access plan element.

Under N.J.A.C. 7:8-1.5, the "Public Trust Doctrine" means a common law principle that recognizes that the public has particular inalienable rights to certain natural resources. These resources include, but are not limited to, tidal waterways, the underlying submerged lands and the shore waterward of the mean high-water line, whether owned by a public, quasi-public or private entity. (See Public Access in New Jersey: the Public Trust Doctrine and Practical Steps to Enhance Public Access, Robert Freudenberg, NJDEP, Trenton 2006.

Lands and waters subject to public trust rights are tidal waterways and their shores, including both lands now or formerly below the mean high-water line, and shores above the mean high-water line. Tidal waterways and their shores are subject to the Public Trust Doctrine and are held in trust by the State for the benefit of all the people, allowing the public to fully enjoy these lands and waters for a variety of public uses.

Public trust rights include public access -- the ability of the public to pass physically and visually to, from and along the ocean shore and other waterfronts subject to public trust rights and to use these lands and waters for activities such as navigation, fishing and recreational activities including, but not limited to, swimming, sunbathing, surfing, sport diving, bird watching, walking, and boating. Public trust rights also include the right to perpendicular and linear access.

In the absence of a grant from the State, submerged lands under tidal waterways and the shore of tidal waterways waterward of the mean high-water line are owned by the State. Regardless of the ownership of these resources, under the Public Trust Doctrine, the public has rights of access to and use of these resources, as well as a reasonable area of shoreline landward of the mean high-water line. Under the Public Trust Doctrine, the State is the trustee of these publicly owned resources and public rights for the common benefit and use of all people without discrimination. As trustee, the State has a fiduciary obligation to ensure that its ownership, regulation and protection of these properties and rights will safeguard them for the enjoyment of present and future generations. The public rights to use these resources extend both to traditional activities such as navigation and fishing, but also to recreational uses such as swimming, sunbathing, fishing, surfing, sport diving, bird watching, walking and boating.

The NJDEP maintains a NJ Public Access Locations Search Tool, which identifies all locations in New Jersey where there is public access to tidal waterways. One of the locations listed is the Hudson River Waterfront Walkway adjacent to Exchange Place Plaza. It is listed as visual public access for a river shoreline. It is noted as not being handicap accessible. The Public Access ID is JC03515. The listed image is at the following link: https://mapsdep.nj.gov/arcgis/rest/services/Features/Environmental_admin/MapServer/7/17179/attachments/10029.

It is clear from this listing that the Hudson River access qualifies as a tidal waterway subject to the Public Trust Doctrine, since it is maintained on NJDEP's list of public access locations to the state's tidal waterways. However, the point listed is on the Hudson River Waterfront Walkway itself. The view in the photos is the view of a person standing on the Walkway, not from Exchange Place Plaza. The view protected by this point would not be obstructed by anything on the Plaza.

However, the public's ability to get to the Hudson River walkway, from the West, will be impeded by the addition of the various appurtenances (walls, benches) and shrubbery planned by the Alliance for the area around the Katyn Memorial. Presently, the public can walk around the monument, anywhere on the plaza, to reach the walkway. The public also has unimpeded views of the Hudson River from the West. If the Alliance's plans are executed, both access to the walkway and the Hudson River views will be needlessly impeded. The public will have to go around the seating walls to both reach the Hudson River walkway and to have views of the Hudson River. As such, it would appear that the Alliance's plans violate the Public Trust Doctrine.

6. Conclusions

Certain design elements of the Alliance's proposal to redevelop Exchange Place – and specifically those that pertain to the Katyn Memorial and the area around it -- are misguided and misdirected, and inconsistent with sound planning and design principles, as well as with the intent and purpose of the Jersey City Master Plan, in particular its Open Space element.

In its Section 31 review of the Alliance's plans, after hearing from numerous members of the public, the Jersey City Planning Board first accurately identified those objectionable design elements and rejected the Alliance's plans. Subsequently, without hearing from any members of the public, the Planning Board suddenly reversed course and deemed those plans consistent with the Master Plan, without any substantive testimony on the record to justify the course reversal, and without any detailed, in-depth discussion of matters of the consistency of this specific design plan with the Jersey City Master Plan.

The initial presentation to the Planning Board by the Alliance's consultants was delivered by a landscape architect and an engineer, neither of whom appear to be licensed Professional Planners in the State of New Jersey, and as such, ineligible to make the presentation, and ineligible to opine on matters of Master Plan consistency.

Indeed the presentation by the Alliance's professionals deliberately skirted the question of Master Plan consistency, as if that were not the stated purpose of the hearing.

The record of these proceedings contains no detailed review of Master Plan consistency, and a letter / memorandum from two planners in the City's Planning Department introduced the day of the second hearing, and bearing that day's date, was never discussed by the Board, was not discussed by the public, and appears to be an after-the-fact effort to cast some appearance of legitimacy on what was an otherwise disorderly and chaotic process.

The Planning Board's Section 31 review of the Alliance's design proposals was totally inadequate and met neither the spirit nor the letter of the law. Certain aspects of the Alliance's design proposals do in fact violate sound planning and design principles for public spaces, with a particular emphasis on the proposed treatment of the Katyn Memorial and the immediately adjacent area. It appears that the Alliance's plan may also violate the State of New Jersey's Public Trust Doctrine by unnecessarily restricting access to, and views of the Hudson River.

Appendix 1

Carlos Rodrigues PP | FAICP

Principal – Design Solutions for a Crowded Planet, LLC

Carlos Rodrigues is a Princeton, NJ based urban designer, professional planner, writer and educator.

His planning practice represents, or has represented, federal, state, county and local government, the Territory of Macao (now part of China), foundations and other charitable organizations, real estate developers, property owners, religious congregations, neighborhood groups, environmental groups, and civic organizations involved in (re)development and preservation projects of merit.

He is an architect (Dipl. Arch. 1978) and a planner (MCRP Rutgers, 1982) and has taught graduate and undergraduate planning courses and studios at the Bloustein School of Planning and Public Policy at Rutgers, in the Landscape Architecture Department at Rutgers and in the Graduate Planning School at Columbia University.

He has worked in senior management positions in the private, public and non-profit sectors, including 10 years with the New Jersey Office of State Planning / Office of Smart Growth, where he also served as Interim Executive Director.

He served as Director of Land Use and Regulatory Affairs at the New Jersey Builders Association, Vice President and New Jersey Director at Regional Plan Association, Director of Planning (Princeton) for Looney Ricks Kiss Architects and special advisor to PlanSmart New Jersey.

He is a charter member of the Congress for the New Urbanism and a recipient of its 2001 Charter Award; a past President of the New Jersey Chapter of the American Planning Association; a past board member of Preservation New Jersey and of the Society for American City and Regional Planning History; and past Chair of the Princeton Township Zoning Board of Adjustment. He is a current board member of the Witherspoon Jackson Development Corporation and sits on the Council for Princeton Future.

He is the author of Designing New Jersey and Employment and Community, the design companions to the 2001 New Jersey State Development and Redevelopment Plan; A Guide to Form-Based Codes in New Jersey and Form-Based Codes: a User's Manual; and editor of the 2018 edition of the Complete Guide to Planning in New Jersey published by the New Jersey Chapter of the American Planning Association.

He currently serves on the American Institute of Certified Planners Task Force that is re-writing the AICP entrance exam, as well as on the Planning Accreditation Board standards review working group, which recently rewrote the accreditation standards for planning programs in the United States, with a view towards promoting greater diversity, equity and inclusivity.

He has appeared as an expert witness on land use matters before New Jersey Superior Court, presented expert reports to the United States District Court for the District of New Jersey, worked as planning consultant to the US Department of Justice – Civil Rights Division and testified on land use matters before both the New Jersey Legislature and the Pennsylvania Legislature.

More detailed bona-fides can be found at <http://rodriguesurbandesign.com/index.html>

Appendix 2

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April 29, 2022

VIA ELECTRONIC MAIL TO Tanya Marione tanyam@cnj.org

Tanya R. Marione, PP, AICP

Director of City Planning

Department of Housing, Economic Development, and Commerce

1 Jackson Square

Jersey City, NJ 07305

**Re: April 26, 2022 Planning Board
Application P21-142
Request for Reconsideration**

Dear Ms. Marione:

This firm represents the Exchange Place Alliance District Management Corporation (the “Applicant”) with respect to the above referenced matter. As you know, the City of Jersey City Planning Board (the “Board”), at its April 26, 2022 meeting, undertook a review of plans for improvements to the Exchange Place Pedestrian Plaza in accordance with N.J.S.A. 55D-31, a so-called “Section 31” review. At the conclusion of the hearing, the Board voted to “not” recommend that the project proceed as presented. Please accept this correspondence on behalf of the Applicant as a formal request for reconsideration of that decision.

Pursuant to Lambert v Borough of Beach Haven, a New Jersey Appellate Division case decided in 2020, the New Jersey Superior Court, Appellate Division decided that the Joint Land Use Board of the Borough of Beach Haven was permitted to reconsider a decision to deny a site plan application within 45 days of the original vote and before a resolution has been adopted. Such actions are particularly appropriate in instances where mistake or fraud are apparent in the prior proceedings. See Moton v. Clark, 102 N.J. Super. 84, 97-98 (law Div. 1968), aff’d 108 N.J. Super. 74 (App. Div. 1969).

In its application before the Board, the Exchange Place Alliance sought a “Section 31” review of its plans for improving the pedestrian plaza at the foot of Montgomery Street. N.J.S.A. 40:55D-31 provides:

“Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public

funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation.”

The function of the Board under N.J.S.A. 40:55D-31 is to review the plans “so that the board may assimilate the project into its master plan responsibilities and make recommendations which the applicant may accept or reject.” See Ocean County Utility v. Township of Berkley, 221 N.J. Super. 621, 633 (Law Div. 1987). “It is assumed that such recommendations would be for the purpose of suggesting to the applicant steps which it may take to enable the design of the proposed project to be consistent with, to whatever extent possible, the master plan of the municipality”. Id.

In the matter at hand, the Planning Board undertook an appropriate review and voiced recommendations for how the plan can be improved, but in its final voice resolution, the Board voted unanimously to “not” recommend the plan as proposed. Respectfully, that resolution, while wholly appropriate in instances where the Board is charged with reviewing redevelopment designations, redevelopment plans and redevelopment amendments where the function of the Board is to make recommendations to the municipal Council, the resolution and vote as undertaken was not appropriate in the context of a Section 31 review. As noted, where the Board undertakes a Section 31 review, its role is to suggest to the applicant steps which it may take to enable the designer of the proposed project to be consistent with, to whatever extent possible, the master plan. Here, the colloquy surrounding the vote made it clear that the Board took issue with the design of the proposed improvements, specifically the treatment of the Katyn Monument. the Board made no findings as to consistency with the City of Jersey City Master Plan nor did the Board relate the design concerns noted to the goals and objectives of the Master Plan, an oversight that the Applicant feels strongly must be addressed.

In addition to the noted procedural issues, there appeared to be some confusion introduced by members of the public who spoke during the public comment period, issues that, in the interests of justice, can and should be clarified at a rehearing. For instance, public commentators repeatedly falsely stated that the height of the bench surrounding the Katyn Monument was 7’ high when in fact the height is 5’6”. There were also repeated false assertions that no public meetings were held to discuss the proposed plaza plans, that the project did not comport with the Local Public Contracts Law, and that the treatment of the Katyn Monument was somehow disrespectful, assertions that are patently untrue and which the Applicant would like an opportunity to clarify.

Upon rehearing, the Applicant intends to introduce additional evidence that clearly demonstrates its thoughtful engagement with several neighboring property owners, stakeholders, various City offices and the general public to develop the final plaza designs including: (i) five public meetings dedicated in part to the public plaza design, each publicized in accordance with the Open Public Meeting Act; (ii) a community meeting, with newspaper notice and mail notice to adjoining property owners, on August 19, 2020; (iii) individual meetings with Mack-Cali, the

owners of Plaza 10 and the Hyatt House Hotel, and (iv) multiple design meetings with NJ Transit, the Port Authority, City Planning, City Fire, Public Safety, Cultural Affairs, City Engineering, the Historic Paulus Hook Association, the Powerhouse Neighborhood Association, and the Colgate Commercial Property Owners Association.

Most significantly, upon rehearing, the Applicant will introduce evidence demonstrating that, notwithstanding the comments made by the public at the hearing to the contrary, and as requested by City Council in connection with the controversy surrounding the earlier proposal to relocate the monument, it met repeatedly with the Committee for the Conservation of the Katyn Monument & Historic Objects (“CCKMHO”) and others, on one occasion drawing out the dimensions of the plan in chalk on the plaza, and ultimately received not only the approval of the committee, but its gratitude for the level of cooperation. Attached is a newspaper article authored by Alice Wozniak, Chairman of the Board for the Committee for the Conservation of the Katyn Monument & Historic Objects and Wojciech Stan Mazur, V-President of Business Affairs of the CCKMHO, confirming its involvement in meetings hosted by the Applicant at which the architectural landscaping plans were presented. The committee stated that with respect to the open forum of the meeting, it was “particularly impressed that the designers listened to the combined input of the CCKMHO, the residents of Jersey City and the Polish Community over the last year. We were also delighted to see that a number of individuals spoke up and expressed their approval for the plan.” Of particular importance is the acknowledgement in the article that “the plan shows a peaceful and serene area with low growing plants and bushes around the [m]onument rather than the trees initially proposed that would have obscured its view. In addition, a semi-circular seating area is proposed for behind the [m]onument to provide a place of reflection on the heroes lost in the Katyn Massacre, Siberia and the Twin Towers.”

Continuing, the article notes that “[a]nother concern that most all of Polonia had as expressed by the CCKMHO “was that they would still be able to assemble in front of the Katyn Monument for Commemorative events throughout the year”, acknowledging that this concern was addressed by the designers by providing an oval surrounding the [m]onument that would lead into a larger space in front of the [m]onument closer to the waterfront walkway. We were advised by the planners that this space would easily accommodate up to 200 people and that if additional space were needed that a designated paved stage area near the Hyatt Hotel could also be used. In summary, the CCKMHO recognized the long road traveled, ultimately thanking the Exchange Place Special Improvement District, especially its Executive Director, Ms. Elizabeth Cain, her assistant Mr. Martin Schmid as well as the Board of the EPASID and its Chairman Mr. Michael DeMarco for their efforts and cooperation.

Had the Board been privy to this information at the prior hearing, it would have been clear to the Board that any concerns over the treatment of the Katyn Monument were fully and satisfactorily addressed to the satisfaction of the CCKMHO, notwithstanding the self-serving, false comments made by certain members of the public to the contrary that, left unaddressed as they were at the prior hearing, had an outsized and inappropriate influence on the Board in rendering its findings.

For the foregoing reasons, we ask that the matter be relisted for hearing and introduction of additional evidence at the next regularly scheduled Planning Board meeting.

Sincerely,

/s/ Donald M. Pepe

Donald M. Pepe
FOR THE FIRM
DMP/ab
Encl.

cc: Santo Alampi, Esq.

cc: Exchange Place Alliance District Management Corporation

Appendix 3

DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE :	05.10.2022
TO :	Planning Board Commissioners
FROM :	Mallory Clark-Sokolov, PP, AICP, Senior Planner Tanya Marione, PP, AICP, Division Director
CASE :	P21-142
PROJECT :	Exchange Place Plaza Section 31 Review

I. APPLICATION BACKGROUND + PROPOSAL

- **Existing Conditions:** The site is currently an open, largely un-amenitized public hardscape plaza that hosts the Memory of Katyn memorial statue. The plaza is located east of Hudson Street directly adjacent to the Hudson River Waterfront Walkway, J. Owen Grundy Park, and the Exchange Place PATH station entryways.
- **Proposed Conditions:** The site proposes a cosmetic upgrade to the existing hardscape plaza including a new pavement design, security bollards, at-grade vehicular and pedestrian striping for a designated service drive and hotel drop-off zone, several new planting beds for landscaping and trees, and the addition of several public amenities such as seating areas and tables, a playground, a bench and landscape area adjacent to the Memory of Katyn memorial statue, and an updated Citi Bike station.

II. STAFF COMMENTS

- The plan as proposed maintains the current use of the space as public pedestrian plaza and is consistent with the goals and objectives of the Jersey City Master Plan Open Space Element by accomplishing the following:
 - Enhance Every Square Inch:
 - 9. Design parks to be welcoming and accessible spaces.
 - 11. Collaborate across City agencies.
 - 14. Expand the number, mix, and distribution of programs.
 - 15. Reflect contemporary tastes and trends in parks and open spaces.
 - Strengthen Connectivity
 - 21. Install facilities proximate to parks that separate pedestrians and bicyclists from traffic as much as possible.
 - 22. Connect parks & open spaces through the city street network with fully accessible biking and walking facilities.
 - 24. Implement JC Pedestrian Enhancement Plan and Let's Ride JC Plan with a focus on access to parks and schools.
 - 25. Link to and invest in community resources close to existing or future transit stations and stops
 - Invest in A Resilient Future
 - 30. Create productive landscapes in underutilized or interstitial spaces, and along waterfront shorelines
 - 32. Expand tree coverage equitably throughout the City

CITY OF JERSEY CITY
DIVISION OF CITY PLANNING
 1 JACKSON SQUARE, JERSEY CITY NJ, 07305

- The design as proposed supports the design guidelines of the Jersey City Master Plan Open Space Element as specific to Waterfront Parks.
 - Waterfront Parks Design Guidelines:
 - A. Support Active Lifestyles

The new design maintains contiguous public access to the river while expanding programming with the addition of a new playground at the waterfront.
 - B. Make Parks Welcoming

The curbless design maintains universally accessible access throughout the plaza space and improves pedestrian and bicycle safety through striped, designated crossings between the plaza and the adjacent HBLR station and PATH entrances
 - C. Understand Community Needs

The plaza redesign has given large consideration to the space's historic use as a host site for several benchmark community events and festivals, such as the City's 4th of July celebration. The design maintains a flexible arrangement to enable Office of Cultural Affairs and community organizations/associations to utilize the site for temporary events in a flexible manner.
 - D. Highlight Unique Features

The design maintains pedestrian and bicycle access and views to the Hudson River Waterfront Walkway, the river itself, and the Owen Grundy Pier.

 - The plan as proposed is consistent with goals of the JC Walks Pedestrian Enhancement Plan
 - Policy Recommendations: (relevant to the plaza entrances at Columbus Drive and Hudson St + Montgomery St)
 - 3. Crosswalk Markings and Maintenance

All legs of signalized intersections should be marked
 - 4. ADA depressed curbs

Upgrade all crossings with ADA compliant design
 - Program Recommendations: (relevant to the proposed designated hotel drop off zone)
 - 3. Curbside Management
 - 1. Implement current best-practice design treatments
 - 2. Develop a shared mobility curbside management policy including
 - g. car sharing spaces
 - h. ride hailing pick-up/drop-off zones
 - 3. Curbside Management would provide clear guidance for businesses, property owners, and Special Improvement Districts (SIDS) who would like to request appropriate alternative curbside uses

 - The plan as proposed is consistent with goals of the JC Vision Zero Action Plan
 - Design Safer Streets
 - >> Provide a permanent, 24/7 solution to dangerous, excessive and intimidating speeds
 - >> Better manage limited public space available to accommodate all users as well as parking, deliveries, and emergency services
 - >> Eliminate uncertainty as to how drivers, pedestrians, and people on bikes should interact, especially at intersections
 - >> Encourage people to walk, bike, and take transit to reduce the amount of vehicle miles travelled
- +Action items 1.5, 1.7, 1.8, 1.10 advanced

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1 JACKSON SQUARE, JERSEY CITY NJ, 07305

- Promote a Culture of Safety
 - >> Elevate the importance of safety over increasing the speed and convenience of driving
 - >> Welcome walking, biking, and transit use as essential everyday transportation modes
 - +Actions 2.14, 2.17 advanced

Exhibit X

City Clerk File No. Ord. 18-144

Agenda No. 3.K 1st Reading

Agenda No. 3.J 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 18-144

TITLE: AN ORDINANCE (1) REAFFIRMING THE ACCEPTANCE OF THE KATYN FOREST MASSACRE MEMORIAL AS A GIFT TO THE CITY; (2) RESCINDING ORDINANCE McC-299 WHICH APPROVED THE PLACEMENT OF THE KATYN FOREST MASSACRE MEMORIAL ON THE MEDIAN STRIP DIRECTLY OPPOSITE 75 MONTGOMERY STREET WEST OF THE INTERSECTION OF MONTGOMERY STREET & WASHINGTON STREET, AND (3) ORDAINING THAT THE KATYN FOREST MASSACRE MEMORIAL REMAIN IN ITS CURRENT LOCATION WITHIN THE PUBLIC RIGHT OF WAY AT THE EASTERN TERMINUS OF EXCHANGE PLACE IN PERPETUITY

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY DOES ORDAIN:

WHEREAS, on September 25, 1986, the Municipal Council approved Ordinance McC-299 accepting the Katyn Forest Massacre Memorial ("Memorial") as a gift to the City; and

WHEREAS, Ordinance McC-299, attached hereto as Exhibit "A", specified that the Memorial would be installed on the median strip opposite 75 Montgomery Street just west of the intersection of Montgomery Street and Washington Street; and

WHEREAS, the sheer size of the Memorial made installing it at this location impossible; and

WHEREAS, on April 13, 1989, without having rescinded Ordinance McC-299, the Municipal Council approved Resolution C-4271, attached hereto as Exhibit "B", and which specified that the Memorial would be installed in the Exchange Place Plaza directly across from the southern entrance to the Exchange Place PATH Station; and

WHEREAS, the Memorial was never installed where the Resolution dictated it should go either, but rather the Memorial was installed at the eastern terminus of Exchange Place Plaza instead; and

WHEREAS, the Municipal Council never approved installation of the Memorial at the eastern terminus of Exchange Place Plaza nor did it ever rescind Ordinance McC-299 but nonetheless the Memorial has stood in its current location since 1989; and

WHEREAS, the community has made it abundantly clear that it wishes for the Katyn Forest Massacre Memorial to remain in its current location at the eastern terminus of Exchange Place Plaza and it therefore in the City's best interest that the Katyn Forest Massacre Memorial's location be formally codified and all contrary Ordinances be rescinded.

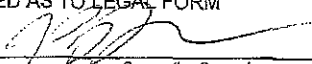
NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that (1) the City reaffirms its acceptance of the Katyn Forest Massacre Memorial as a gift to the City (2) the Municipal Council hereby rescinds Ordinance McC-299; and (3) the Municipal Council hereby ordains that the Katyn Forest Massacre Memorial shall remain in its current location within the public right of way at the eastern terminus of Exchange Place in perpetuity.

I. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

- II. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Jersey City Code.
- III. This ordinance shall take effect at the time and in the manner as provided by law.
- IV. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new. Therefore, underlining has been omitted.

APPROVED AS TO LEGAL FORM



Corporation Counsel

APPROVED: _____

APPROVED: 

Business Administrator

Certification Required ☐

Not Required ☐

EXHIBIT A

City Clerk File No. C-1268 (A)
 Agenda No. H.F. 1st Reading
 Agenda No. S.F. 2nd Reading & Final Passage

ORDINANCE OF JERSEY CITY, N.J.



COUNCIL AS A WHOLE
 offered and moved adoption of the following ordinance:

CITY ORDINANCE-299

TITLE: AN ORDINANCE SUPPLEMENTING CHAPTER 21 (SPECIAL ORDINANCES) ARTICLE VII (MISCELLANEOUS ORDINANCES) OF THE JERSEY CITY CODE ACCEPTING A GIFT OF THE KATYN FOREST MASSACRE MEMORIAL BY THE CITY OF JERSEY CITY

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:

A. The following supplements to Chapter 31 (Special Ordinances) Article VII (Miscellaneous Ordinances) of the Jersey City Code are adopted.

ARTICLE VII. MISCELLANEOUS ORDINANCES.

Sec. 31-7. Reserved for Miscellaneous Ordinances.

WHEREAS, pursuant to N.J.S.A. 40A:12-5 the City of Jersey City does hereby provide for the acquisition of the Katyn Forest Massacre Memorial by gift donated by the Katyn Forest Massacre Memorial Committee; and

WHEREAS, the Katyn Forest Massacre Memorial Committee will be responsible for all costs including, but not limited to, those incurred in connection with construction of the foundation and erection of the memorial.

WHEREAS, the Katyn Forest Massacre Memorial will face the Hudson River and be located on the west side of Washington Street at the intersection of Montgomery Street on the median strip directly in front of 75 Montgomery Street.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. This ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

D. This ordinance shall take effect at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new therefore underlining has been omitted.
 For purposes of advertising only, new matter is indicated by bold face and repealed matter by italic.

880817

M/ph
 1/8/86

APPROVED AS TO LEGAL FORM

APPROVED:

Thomas Scuderi
 Corporation Counsel

9-7-86

APPROVED:

John P. Halla
 Business Administrator

Certification Required
 Not Required

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. C-299

TITLE:

AN ORDINANCE SUPPLEMENTING CHAPTER 21 (SPECIAL ORDINANCES)
ARTICLE VII (MISCELLANEOUS ORDINANCES) OF THE JERSEY CITY
CODE ACCEPTING A GIFT OF THE KATYN FOREST ASSAULT, E. ORIAL
BY THE CITY OF JERSEY CITY.



INTRODUCED 9-0

RECORD OF COUNCIL VOTE ON INTRODUCTION

SEPTEMBER 11, 1986

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
Aviles	✓			KAMINSKI	✓			THOMPSON	✓		
FRICCHIONE	✓			O'REILLY LANDO	✓			VAZQUEZ	✓		
HART	✓			O'DEA	✓			CUNNINGHAM, Pres.	✓		

✓ Indicates Vote

N.V.—Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING

SEP 25 1986

Councilperson Hart moved, seconded by Councilperson Fricchione, to close P.H. 8-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
Aviles	✓			KAMINSKI	✓			THOMPSON	✓		
FRICCHIONE	✓			O'REILLY LANDO	✓			VAZQUEZ	✓		
HART	✓			O'DEA	absent			CUNNINGHAM, Pres.	✓		

✓ Indicates Vote

N.V.—Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY

Councilperson Hart moved to amend Ordinance, seconded by Councilperson Fricchione & adopted

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
Aviles				KAMINSKI				THOMPSON			
FRICCHIONE				O'REILLY LANDO				VAZQUEZ			
HART				O'DEA				CUNNINGHAM, Pres.			

✓ Indicates Vote

N.V.—Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE

SEP 25 1986

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
Aviles	✓			KAMINSKI	✓			THOMPSON	✓		
FRICCHIONE	✓			O'REILLY LANDO	✓			VAZQUEZ	✓		
HART	✓			O'DEA	absent			CUNNINGHAM, Pres.	✓		

✓ Indicates Vote

N.V.—Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J., on SEPTEMBER 11, 1986

Adopted on second and final reading after hearing on SEP 25 1986

This is to certify that the foregoing Ordinance was adopted
by the Municipal Council at its meeting of SEP 25th
day of SEPTEMBER, 19 86

Thomas F. Smith
City Clerk

APPROVED:

William D. Cunningham
Council President

Date SEP 25 1986

CERTIFIED to be a true copy of
RESOLUTION adopted by the
Municipal Council of the City of
Jersey City at its meeting of

SEP 25 1986
Thomas F. Smith
City Clerk

APPROVED:

Anthony P. Quinn
Mayor

Date Oct. 4, 1986

Date To Mayor SEP 28 1986

EXHIBIT B

Resolution of the City of Jersey City, N.J.

City Clerk File No. C-4271
Agenda No. 10.z.87



TITLE:

COUNCIL as a whole (except Fricchione & Kaminski, O'Reilly Lando, Cunningham absent) OFFERED AND MOVED ADOPTION FOLLOWING RESOLUTIONS

RESOLUTION ESTABLISHING A PLAZA FOR THE PLACEMENT OF A MONUMENT TO HONOR THE BRAVE MEMBERS OF THE POLISH OFFICER CORP. WHO WERE SUBJECT TO MASS EXECUTION AT THE HANDS OF THE SOVIET GOVERNMENT IN APRIL OF 1940

WHEREAS, the brave members of the Officer Corp of the free Polish Army, who had bravely and tenaciously stood in the path of the Nazi onslaught in defense of Polish Independence, were taken prisoner by the Russian Army only to be subject to mass execution and burial at the hands of evil Stalinist Empire under the auspices of the Russian Army in April of 1940; and

WHEREAS, the Polish American Community and the citizens of the City of Jersey City wish to permanently honor the memory of these brave soldiers and to erect a monument in their memory .

NOW THEREFORE BE IT RESOLVED, by the Municipal Council of the City of Jersey City that there is hereby established a Plaza for the placement of a monument to honor the brave deceased members of the Polish Officer Corp. which Plaza shall be known as the Katyn Monument Plaza and which shall be located on the southerly side of Exchange Place opposite the Path Station in the area designated on the attached Exchange Place Center Engineering drawing and map.

APPROVED: _____

APPROVED AS TO LEGAL FORM

APPROVED: [Signature]
Business Administrator

[Signature] 4-13-89
Corporation Counsel

Certification Required ☐

Not Required ☒

890359

APPROVED 5-0

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
AVILES	✓			KAMINSKI	ABSENT			THOMPSON	✓		
FRICCHIONE	ABSENT			O'REILLY LANDO	ABSENT			VAZQUEZ	✓		
HART	✓			O'DEA	✓			CUNNINGHAM, Pres.	ABSENT		

✓ Indicates Vote

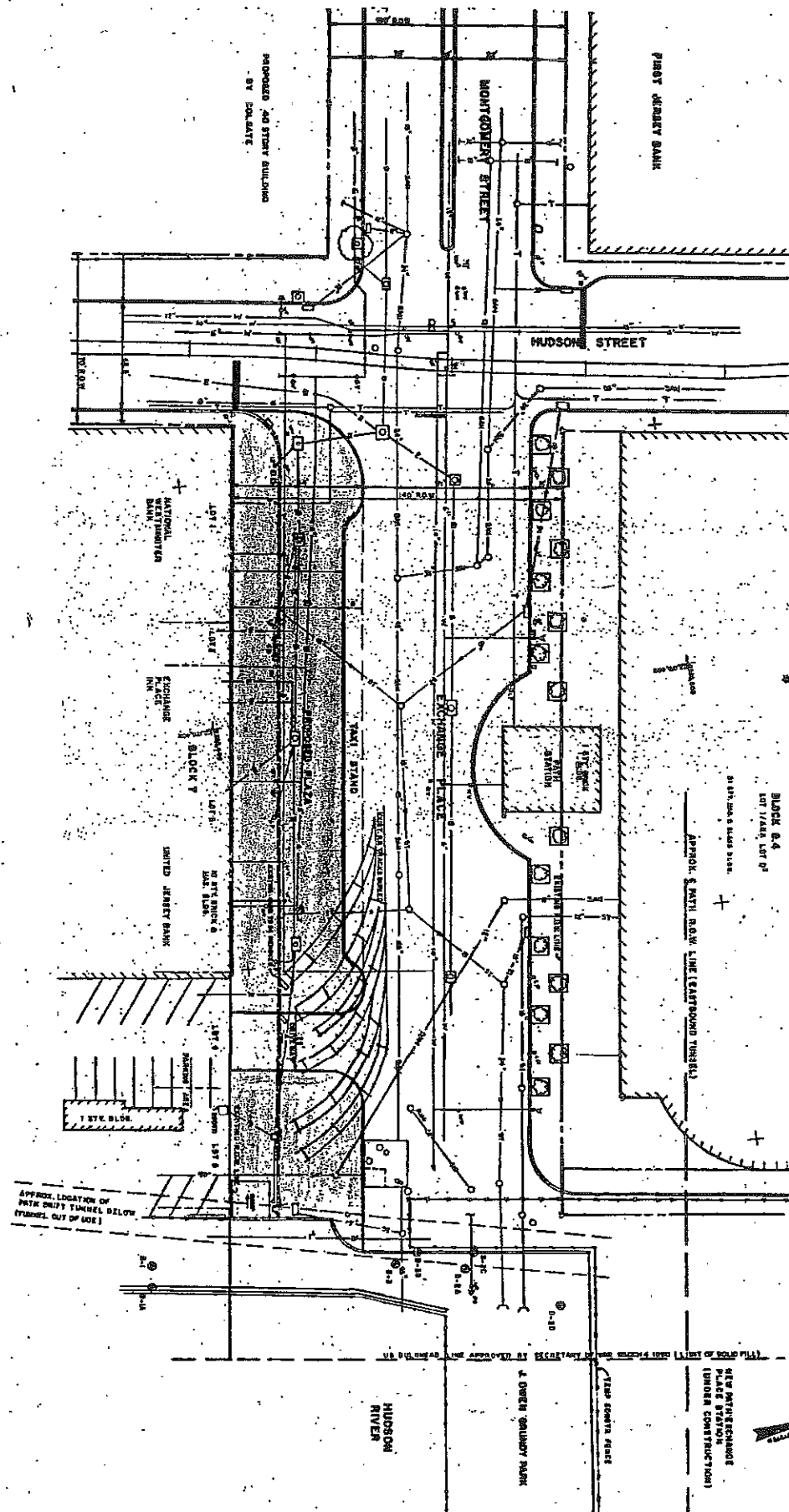
N.V.—Not Voting (Abstain)

Adopted at a meeting of the Municipal Council of the City of Jersey City, N.J.

[Signature]
President of Council

[Signature]
City Clerk

PWM/plb



ORDINANCE FACT SHEET

This summary sheet is to be attached to the front of any Ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the Ordinance.

Full Title of Ordinance

AN ORDINANCE (1) REAFFIRMING THE ACCEPTANCE OF THE KATYN FOREST MASSACRE MEMORIAL AS A GIFT TO THE CITY; (2) RESCINDING ORDINANCE McC-299 WHICH APPROVED THE PLACEMENT OF THE KATYN FOREST MASSACRE MEMORIAL ON THE MEDIAN STRIP DIRECTLY OPPOSITE 75 MONTGOMERY STREET WEST OF THE INTERSECTION OF MONTGOMERY STREET & WASHINGTON STREET, AND (3) ORDAINING THAT THE KATYN FOREST MASSACRE MEMORIAL REMAIN IN ITS CURRENT LOCATION WITHIN THE PUBLIC RIGHT OF WAY AT THE EASTERN TERMINUS OF EXCHANGE PLACE IN PERPETUITY

Initiator

Department/Division	Office of the Municipal Council	Office of Councilman Michael Yun
Name/Title	Michael Yun	Councilman
Phone/email	201-222-3534	myun@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

This Ordinance reaffirms the acceptance of the Katyn Massacre Memorial as a gift to the City, and ordains that the Katyn Massacre Memorial is to remain in its current location within the public right of way at the eastern terminus of Exchange Place, in perpetuity.

I certify that all the facts presented herein are accurate.

Michael Yun
Councilman, Ward D

November 20, 2018

Date

Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 18-144

TITLE: 3.K NOV 20 2018 4.J DEC 19 2018

An ordinance (1) Reaffirming the acceptance of the Katyn Forest Massacre Memorial as a gift to the City; (2) Rescinding Ordinance McC-299 which approved the placement of the Katyn Forest Massacre Memorial on the median strip directly opposite 75 Montgomery Street West of the intersection of Montgomery Street & Washington Street; and (3) Ordaining that the Katyn Forest Massacre Memorial remain in its current location within the public right of way at the Eastern Terminus of Exchange Place in perpetuity.

RECORD OF COUNCIL VOTE ON INTRODUCTION

NOV 20 2018 9-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING

DEC 19 2018

Councilperson RIVERA moved, seconded by Councilperson LAVARRO to close P.H.

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	ABSENT			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

JEANNE DALY
KRZYSZTOF NOWAK
WIESLAW BURDZY
JOHN CZOP
MIKE KULOWSKI
MARIA SCARIATI
KRYSZYNA PIORKOWSKA
VICTORIA CAMBRANES
JAN SPOLEK
JACK KOPYCZNSKI

BARTEY SZYMANSKI
PIOTR ULAZKA
SLAWEK PLATTA

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY				YUN				RIVERA			
PRINZ-AREY				SOLOMON				WATTERMANN			
BOGGIANO				ROBINSON				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE

DEC 19 2018 8-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	ABSENT			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on

NOV 20 2018

Adopted on second and final reading after hearing on

DEC 19 2018

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on

DEC 19 2018

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Rolando R. Lavarro, Jr., Council President

Date

DEC 19 2018

APPROVED:

Steven M. Fulop, Mayor

Date

DEC 21 2018

Date to Mayor

DEC 20 2018

Exhibit Y

City Clerk File No. Ord. 16.176
 Agenda No. 3.A 1st Reading
 Agenda No. 4.A. 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
 offered and moved adoption of the following ordinance:

CITY ORDINANCE 16.176

TITLE: ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 69 (SPECIAL IMPROVEMENT DISTRICTS) IMPLEMENTING ARTICLE VI (EXCHANGE PLACE SPECIAL IMPROVEMENT DISTRICT) OF THE JERSEY CITY MUNICIPAL CODE

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS:

- A. The following amendments to Chapter 69 (Special Improvement) Article VI (Exchange Place Special Improvement District) are hereby adopted:

**SPECIAL IMPROVEMENT DISTRICTS
ARTICLE VI
Exchange Place Special Improvement District**

§69-68. Purpose.

The purposes of this Article are to:

- A. Promote economic growth and employment within the Exchange Place business district;
- B. Foster and encourage self-help programs to enhance the local business climate;
- C. Create a self-financing Special Improvement District to assist in meeting local needs, goals and objectives;
- D. Designate a District Management Corporation to implement and manage the programs and carry out local needs, goals and objectives;
- E. Impose and collect a special assessment on property and parking lots located within the Exchange Place Business District.

§69-69. Definitions.

- A. Special Improvement District (also referred to as "District") means that area of Exchange Place described by Block and Lot numbers and street addresses as set forth in Schedule A, copy of the assessment role dated November 9, 2016, which is on file in the office of the City Clerk, and designated by this Ordinance, in which a special assessment on the commercial property within the District (including multi-tenant residential rental buildings), including without limitation those properties set forth on Schedule B, shall be imposed for the purposes of promoting the economic and general welfare of the District and the City. The amount of the special assessment for each property subject to the special assessment shall be equal to the percentage derived by dividing the assessed value of such property as of January 1 of any given calendar year, notwithstanding that the assessment may thereafter change, by the assessed value of all properties subject to the special

assessment on January 1 of a given year, notwithstanding that the assessment may thereafter change, multiplied by the total amount of the budget proposed by the District Management Corporation and approved by the Municipal Council.

- B. "District Management Corporation" means the Exchange Place Alliance, (also referred to as "Management Corporation") an entity incorporated pursuant to Title 15A of the New Jersey Statutes and designated by this Ordinance to receive funds collected by a special assessment within the Special Improvement District, as authorized by this Ordinance and any amendments thereto.

§69-70. Findings.

The Council finds and declares that:

- A. The Exchange Place Special Improvement District area of the City has special needs and requires special services separate and apart from the municipal services already provided to the District by the City.
- B. These specific services can best be provided through a private-public partnership implemented by the creation of a Special Improvement District to be managed by a District Management Corporation.
- C. The creation of a Special Improvement District and the designation of a District Management Corporation will promote economic growth and employment; foster and encourage business vitality, expansion and self-help; enhance the local business climate and otherwise be in the best interest of the property owners in the District and the City.
- D. A District Management Corporation will provide administrative and other services to benefit the businesses, employees, residents and consumers within the Special Improvement District and assist the city in promoting economic growth and employment.
- E. A special assessment shall be imposed and collected by the City with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the District Management Corporation to effectuate the purposes of this Article and to exercise the powers given to it by this Article.

§69-71. Creation of District.

- A. There is hereby created and designated within the City of Jersey City a Special Improvement District to be known as the Exchange Place Special Improvement District consisting of those properties designated by tax Block and Lot and street addresses on Schedule A attached hereto and on file in the Office of the City Clerk. The properties within the Special Improvement District that shall be subject to special assessment for the purposes of promoting the economic and general welfare of the District and the City includes all commercial properties (including multi-tenant residential rental buildings), including without limitation those properties set forth on Schedule B, shall be imposed for the purposes of promoting the economic and general welfare of the District and the City. The amount of the special assessment for each property subject to the special assessment shall be equal to the percentage derived by dividing the assessed value of such property as of January 1 of any given calendar year, notwithstanding that the assessment may thereafter change, by the assessed value of all properties subject to the special assessment on January 1 of a given year, notwithstanding that the assessment may thereafter change, multiplied by the total amount of the budget proposed by the District Management Corporation and approved by the Municipal Council.

- B. All commercial properties within the Special Improvement District, (including multi-tenant residential rental buildings), including without limitation those properties set forth on Schedule B, all private properties; and tax exempt land which contain improvements subject to property tax, are deemed included in the assessing and taxing provisions of this Article and are expressly subject to any fee, tax or assessment made for Special Improvement District purposes.
- C. Only those properties within the Special Improvement District that are fully tax-exempt or are deemed excluded from the assessing provisions of this Article and are expressly exempt from any fee, tax or assessment made for Special Improvement District purposes.

§69-72. Appeal of property owner from inclusion in the district.

Any owner of property included within the Special Improvement District and subject to the assessing and taxing provisions of this Article may appeal to the Tax Assessor of the City of Jersey City requesting to be excluded from the District and from any assessment and taxing provisions of this Article. This appeal is only as to whether or not a property should be included within the District under the standards set forth in §69.70 of this Article. It is not an appeal with regard to any taxes. Appeals with regard to taxes should be taken in the usual manner to the Hudson County Board of Taxation or to the Tax Court. This appeal seeking exclusion from the District and any assessment and taxing provisions of this Article shall be in writing and specifically detail the factual basis for the appeal. The Assessor shall investigate the matter and conduct an informal hearing or conference within thirty (30) days of receipt of the appeal. Within ten (10) days after the conclusion of the informal hearing or conference, the Assessor shall file a report and recommendation with the Municipal Council. The Municipal Council shall review the matter and act within thirty (30) days upon receipt of the report and recommendation from the Assessor.

§69-72. Assessments.

- A. It is hereby determined that the operation and maintenance of the District may involve annual costs relating to services peculiar to the District, as distinguished from operation and maintenance services normally provided by the City outside of the District. Those annual costs shall be assessed or taxed to the benefited properties or businesses pursuant to this Article and N.J.S.A. 40:56-65 et seq.
- B. Each year after the Council shall have acted on the estimated costs and/or on the budget of the District, the Assessor shall prepare an assessment roll setting forth separately the amounts to be specially assessed against the benefited and assessable properties in the District. Descriptions of such properties and the names of the then current owners of such properties, so far as names are available, shall be included in each annual assessment roll. The assessment roll, when so prepared, shall be filed in the Office of the City Clerk and be there available for inspection. The Council shall annually meet to consider objections to the amounts of such special assessments at least ten (10) days after a notice of hearing has been published once in the official newspaper and mailed to the named owners of all tracts, parcels and lots of property proposed to be assessed. The notice shall set forth the time and place of meeting, and set forth the purpose of such meeting, but may refer to the assessment roll for further particulars. When the Council shall have approved the amounts of the special assessments set forth therein or as may be changed by it, the City Clerk shall forthwith certify a copy of the assessment roll with such changes, if any, to the Hudson County Tax Board.

§69-73. Designation of District Management Corporation.

The nonprofit corporation, Exchange Place Alliance, is hereby designated as the District Management Corporation for the District. This corporation shall conduct its business in accordance with the Open Public Meetings Law. It shall file copies of its minutes of its meetings with the City Clerk, so as to be available for public inspection. This Management

Corporation, in addition to acting as an Advisory Board to the Mayor and Council, shall have all powers necessary and requisite to effectuate the purposes of this Article and the District. In order to receive any funds or exercise any of the powers granted herein, the Board of Trustees of the Exchange Place Alliance must include as members, the Mayor or his designee and a Member of the Municipal Council as appointed by the Council. The Mayoral and Council members shall serve at the pleasure of, respectively, the Mayor and the Council.

§69-74. Powers of District Management Corporation.

The Exchange Place Alliance may:

- A. Adopt by-laws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.
- B. Employ such persons as may be required and fix and pay their compensation from funds available to the Corporation.
- C. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money.
- D. Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the Corporation, including contracts with a person, firm, corporation, governmental agency or other entity.
- E. Administer and manage its own funds and accounts and pay its own obligations.
- F. Borrow money from private lenders for periods not to exceed one hundred eighty (180) days and from governmental entities for that or longer periods.
- G. Fund the improvement for the exterior appearance of properties in the District through grants or loans.
- H. Fund the rehabilitation of properties in the District.
- I. Accept, lease or manage property in the District.
- J. Enforce the conditions of any loan, grant, sale or lease made by the Corporation.
- K. Provide security, sanitation and other services to the District, supplemental to those provided normally by the municipality.
- L. Undertake improvements designated to increase the safety or attractiveness of the district to businesses which may wish to locate there or to visitors to the District including, but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the City of Jersey City.
- M. Publicize the District and the businesses included within the District boundaries.
- N. Recruit new businesses to fill vacancies in and to balance the business mix of the District.
- O. Organize special business related events in the District.
- P. Provide special parking arrangements for the District for customers of businesses within the District.
- Q. Provide temporary decorative lighting in the District to attract customers to businesses in the District.

- R. Advise the Municipal Council in connection with the acquisition and construction of improvements in the Special Improvement District, the making of a plan therefore and the operation and maintenance thereof, and to meet and furnish recommendations or comments and requests of members of the public and of owners and occupants of property included within the Special Improvement District.

§69-75. By-laws.

The Exchange Place Alliance shall file with the City Clerk a certified copy of the adopted by-laws of the Corporation, which by-laws shall be in substantial conformity with the draft by-laws filed with the Clerk prior to the adoption of this Article. The Exchange Place Alliance shall have the right to amend these by-laws from time to time as its members so decide, provided that a certified copy of the adopted amendments shall be filed with the City Clerk no later than fourteen (14) days prior to the date they are to become effective.

§69-76. Municipal Powers Retained.

- A. Notwithstanding the creation of a Special Improvement District, the City of Jersey City expressly retains all its powers and authority over the area designated as within the Special Improvement District.
- B. Nothing contained herein shall be interpreted or construed to be a vacation, in whole or in part, of any municipal street or part thereof.
- C. The District Management Corporation shall not make or enter into any contracts for the improvement of any publicly owned or operated facility or property within the Special Improvement District nor adopt any regulations relating to public property in such District without the consent of the City.
- D. The District Management Corporation shall comply with all applicable ordinances or regulations of the City.

§69-77. Annual Budget.

- A. The fiscal year of the District shall be July 1-June 30.
- B. Except with respect to the initial budget which may be presented for approval by the City Council at any time, the District Management Corporation shall submit a detailed annual budget for the upcoming calendar year no later than April 1st, to the Mayor and Municipal Council.
- C. The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the Special Improvement District. The budget shall be reasonably itemized and shall include a summary of the categories of cost properly chargeable as follows:
1. The amount of such costs to be charged against the general funds of the municipality, if any.
 2. The amount of costs to be charged and assessed against properties benefited in the District in proportion to benefits which shall be the aggregate of costs of annual improvements to be made in the District during the ensuing year.
 3. The amount of costs, if any, to be specially taxed against properties in the District.
- D. The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the Municipal Council.

The procedure shall be as follows:

1. Introduction and approval;
 2. Public advertising;
 3. Public hearing;
 4. Amendments and public hearings, if required; and
 5. Adoption.
- E. The budget shall be introduced, in writing, at a meeting of the Municipal Council. Approval thereof shall constitute a first reading, which may be by title. Upon the approval of the budget by the Municipal Council, it shall fix the time and place for the holding of a hearing upon the budget.
- F. The budget shall be advertised after approval. The advertisement shall contain a copy of the budget and shall set forth the date, the time and place of the hearing. It shall be published at least ten (10) days prior to the date fixed therefore in the official newspaper of the City.
- G. No budget shall be adopted until a public hearing has been held thereon and all persons having an interest therein shall have been given an opportunity to present objections. The hearing shall be held not less than twenty-eight (28) days after the approval of the budget.
- H. The public hearing shall be held at the time and place specified in the advertisement thereof, but may be adjourned from time to time until the hearing is closed.
- I. The budget, as advertised, shall be read at the public hearing in full or it may be read by its title, if:
1. At least one week prior to the date of the hearing, a complete copy of the approved budget as advertised:
 - a. shall be posted in City of Jersey City, City Clerk's Office;
 - b. is made available to each person requesting the same during that week and during the public hearing;
 2. The Municipal Council shall, by Resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsection (I)(1) have been met.
- J. The Municipal Council may amend the budget during or after the public hearing. No amendment by the Municipal Council shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon, if the amendment shall:
1. Add a new item in an amount in excess of one percent of the total amount as stated in the approved budget;
 2. Increase or decrease any item by more than ten (10) percent; or
 3. Increase the amount to be raised pursuant to Section 16 of P.O. 1972, c.134 (C.40:56-80) or Section 19 of this amendatory and supplementary act by more than five percent, unless the same is made pursuant to an emergency temporary appropriation only. Notice of hearing on an amendment shall be advertised at least three days before the date set therefore. The amendment shall be published in full in the same manner as an original publication and shall be read in full at the hearing and before adoption.
- K. Final adoption shall be by resolution, adopted by a majority of the full membership of the Municipal Council, and may be by title.

§69-78. Fiscal requirements; annual report; audit.

A.

1. Funds appropriated and collected for the annual costs of operating and maintaining a Special Improvement District, shall be credited to a special account. The Mayor and Municipal Council may incur the annual costs of improving, operating and maintaining a Special Improvement District, during any fiscal year, though not specifically provided for by line item or other category in an approved estimate for such fiscal year, if in their sole discretion it shall be deemed necessary to provide for such annual improvements or operation or maintenance prior to the succeeding fiscal year and so long as the total amount of the account as approved for that year is not exceeded by that expenditure. Any balances to the credit of the account and remaining unexpended at the end of the fiscal year shall be conserved and applied towards the financial requirements of the succeeding year.
 2. The Mayor and Municipal Council may retain a portion of the collected special assessment proceeds to offset the direct costs incurred in the required assessment and budget processes.
 3. The Mayor and Municipal Council shall pay over funds to the Management Corporation quarterly on the first day of March, June, September and December of each year. The City shall not be obligated to pay over any funds not actually received by the City.
- B. The District Management Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Mayor and Municipal Council and for that purpose the Corporation shall employ a Certified Public Accountant of New Jersey. The annual audit shall be completed and filed with the Municipal Council within four months after the close of the fiscal year of the Corporation, and a certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five days of the filing of the audit with the Mayor and Council.
- C. The District Management Corporation shall, within thirty (30) days after the close of each fiscal year, make an annual report of its activities for the preceding fiscal year to the Mayor and Municipal Council.

§69-79. No limitations of powers.

Nothing contained herein shall prevent the Council at any time subsequent to the adoption of this Article by Ordinance, from abandoning the operation of the Special Improvement District, changing the extent of the Special Improvement District, supplementing or amending the description of the District to be specially assessed or taxed for annual costs of the Special Improvement District, changing or repealing any plan, rules, requisitions or limitations adopted for the operation of the Special Improvement District or rescinding the designation of or re-designating a District Management Corporation.

§69-80. Implementation.

This Special Improvement District shall become operable when the by-laws of the Exchange Place Alliance are adopted by a vote of the eligible participants in the manner provided for in the draft by-laws on file with the City Clerk.

§69-81. Severability.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of the act and to this end the provisions of this act are severable.

§69-82. Effective date.

- B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- C. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- D. This ordinance shall take effect at the time and in the manner as provided by law.
- E. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new. Therefore, underlining has been omitted.

APPROVED AS TO LEGAL FORM

Certification Required ☐
Not Required ☐

Corporation Counsel

APPROVED:

APPROVED:

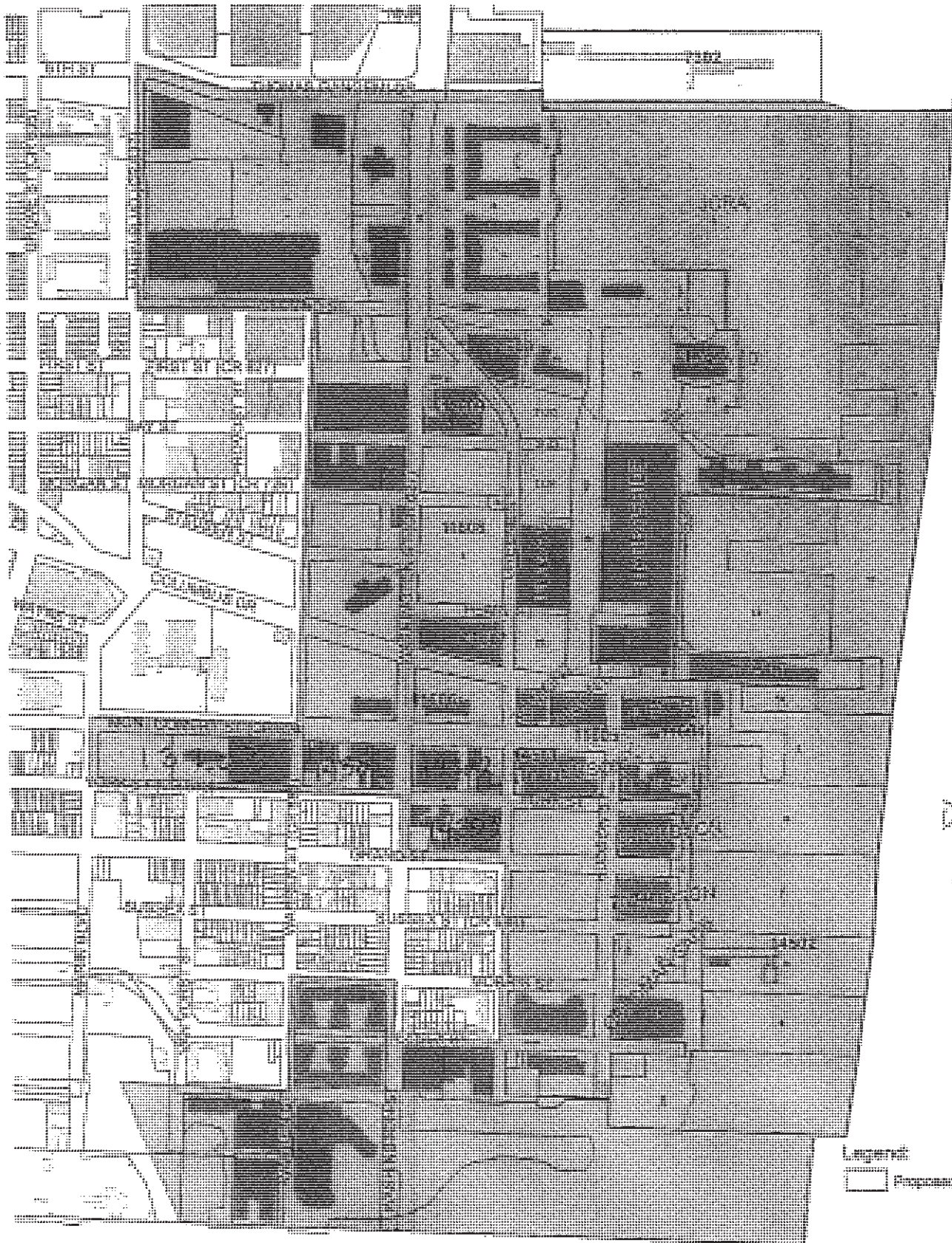
Business Administrator

EXCHANGE PLACE SID - BOUNDARY MAP

JERSEY CITY, NJ

NEW

NOVEMBER 7, 2016



Dir

Legend

 Proposed SID Boundary



1 inch = 600 feet



Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 16.176

TITLE: 3.A NOV 22 2016 4.A DEC 14 2016

Ordinance amending and supplementing Chapter 69 (Special Improvement Districts) implementing Article VI (Exchange Place Special Improvement District) of the Jersey City Municipal Code.

RECORD OF COUNCIL VOTE ON INTRODUCTION NOV 22 2016 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
GADSDEN	✓			OSBORNE	ABSENT			WATTERMEN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING DEC 14 2016											
Councilperson OSBORNE moved, seconded by Councilperson LAVARRO to close P.H.				COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
GADSDEN	✓			OSBORNE	✓			WATTERMEN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

ANDY SIEGEL
 ROBYN SCHNEIDER
 MICHAEL FLINCK
 ED TRAWINSKI
 JIM KALBACH
 EDUARDO NEETER
 BRITTANY BUNNEY
 HERMAN CREAMER
 STEPHEN FARADAY
 SAM PESIN
 MICHAEL DeMARCO
 DIANE KNESE

DON SMARTT
 DON PEPE

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson moved to amend* Ordinance, seconded by Councilperson & adopted				COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI				YUN				RIVERA			
GADSDEN				OSBORNE				WATTERMEN			
BOGGIANO				COLEMAN				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE DEC 14 2016 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
GADSDEN	✓			OSBORNE	✓			WATTERMEN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on NOV 22 2016

Adopted on second and final reading after hearing on DEC 14 2016

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on DEC 14 2016

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Rolando R. Lavarro, Jr., Council President

Date

DEC 14 2016

APPROVED:

Steven M. Fulop, Mayor

Date

DEC 16 2016

Date to Mayor

DEC 15 2016

Exhibit Z

The Post-Eagle

An Independent Weekly Newspaper

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Plans For Park Around Katyn Monument At Exchange Place In New Jersey

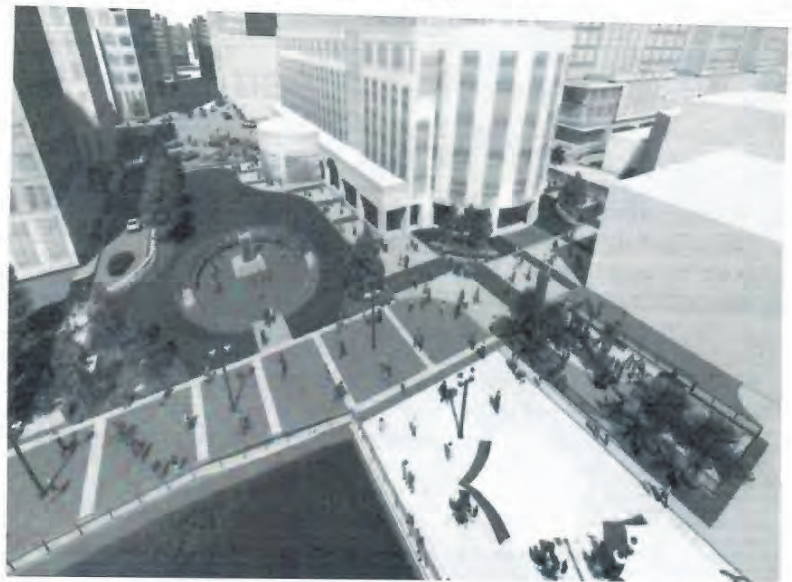
(July 29, 2021) The Committee for the Conservation of the Katyn Monument and Historic Objects (CCKMHO) was invited to attend a meeting hosted by the Exchange Place Special Improvement District at which the architectural landscaping plans were presented by Donald M. Pepe, the Attorney for the Exchange Place Alliance SID. During the open forum of the meeting we stated that we were particularly impressed that the designers listened to the combined input of the CCKMHO, the residents of Jersey City and the Polish Community over the last year. We were also delighted to see that a number of individuals spoke up and expressed their approval for the plan.

Particular acknowledgement must be made by the CCKMHO that the plan shows a peaceful and serene area with low growing plants and bushes around the Monument rather than the trees initially proposed that would have obscured its view. In addition, a semi-circular seating area is proposed for behind the Monument to provide a place of reflection on the heroes lost in the Katyn Massacre, Siberia and the Twin Towers.

Another concern that most all of Polonia had was that they would still be able to assemble in front of the Katyn Monument for Commemorative events throughout the year. This was addressed by the designers by providing an oval surrounding the Monument that would lead into a larger space in front of the Monument closer to the waterfront walkway. We were advised by the planners that this space would easily accommodate up to 200 people and that if additional space were needed that a designated paved stage area near the Hyatt Hotel could also be used.

It was also explained by the planners that pavers to be installed by the PATH station entrance were widen to accommodate a flexible and necessary roadway for emergency vehicles. Local traffic will not be permitted and bollards are being installed to prevent them from entering. The new area will be protected to meet any contingency.

In summary, the CCKMHO recognizes the long road we have traveled to this point. We thank all those who have worked alongside us particularly the Exchange Place Special Improvement District. Especially its Executive Director, Ms. Elizabeth Cain, her assistant Mr. Martin Schmid as well as the Board of the EPASID and its Chairman Mr. Michael DeMarco. We encourage all those who read this article to contact the CCKMHO at monumentkatyn@gmail.com so that we can keep you informed of the work at Exchange Place in the months to come. We welcome your comments and suggestions so that we can forward them to the EPASID at our future meetings.



Written by Alice Wozniak,
Chairman of the Board for the Committee for the
Conservation of the Katyn Monument & Historic Objects (CCKMHO)

Wojciech Stan Mazur
V-President of Business Affairs
Committee for the Conservation
of the Katyn Monument & Historic Objects

SCARINCI HOLLENBECK

ATTORNEYS AT LAW

New York | New Jersey | Washington, D.C.

DONALD M. PEPE | Partner

dpepe@sh-law.com

Direct Phone: 732-568-8370 | Fax: 732.695.8108

April 29, 2022

VIA ELECTRONIC MAIL TO Tanya Marione tanyam@jcnj.org

Tanya R. Marione, PP, AICP

Director of City Planning

Department of Housing, Economic Development, and Commerce

1 Jackson Square

Jersey City, NJ 07305

**Re: April 26, 2022 Planning Board
Application P21-142
Request for Reconsideration**

Dear Ms. Marione:

This firm represents the Exchange Place Alliance District Management Corporation (the “Applicant”) with respect to the above referenced matter. As you know, the City of Jersey City Planning Board (the “Board”), at its April 26, 2022 meeting, undertook a review of plans for improvements to the Exchange Place Pedestrian Plaza in accordance with N.J.S.A. 55D-31, a so-called “Section 31” review. At the conclusion of the hearing, the Board voted to “not” recommend that the project proceed as presented. Please accept this correspondence on behalf of the Applicant as a formal request for reconsideration of that decision.

Pursuant to Lambert v Borough of Beach Haven, a New Jersey Appellate Division case decided in 2020, the New Jersey Superior Court, Appellate Division decided that the Joint Land Use Board of the Borough of Beach Haven was permitted to reconsider a decision to deny a site plan application within 45 days of the original vote and before a resolution has been adopted. Such actions are particularly appropriate in instances where mistake or fraud are apparent in the prior proceedings. See Moton v. Clark, 102 N.J. Super. 84, 97-98 (law Div. 1968), aff’d 108 N.J. Super. 74 (App. Div. 1969).

In its application before the Board, the Exchange Place Alliance sought a “Section 31” review of its plans for improving the pedestrian plaza at the foot of Montgomery Street. N.J.S.A. 40:55D-31 provides:

“Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public

funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation.”

The function of the Board under N.J.S.A. 40:55D-31 is to review the plans “so that the board may assimilate the project into its master plan responsibilities and make recommendations which the applicant may accept or reject.” See Ocean County Utility v. Township of Berkley, 221 N.J. Super. 621, 633 (Law Div. 1987). “It is assumed that such recommendations would be for the purpose of suggesting to the applicant steps which it may take to enable the design of the proposed project to be consistent with, to whatever extent possible, the master plan of the municipality”. Id.

In the matter at hand, the Planning Board undertook an appropriate review and voiced recommendations for how the plan can be improved, but in its final voice resolution, the Board voted unanimously to “not” recommend the plan as proposed. Respectfully, that resolution, while wholly appropriate in instances where the Board is charged with reviewing redevelopment designations, redevelopment plans and redevelopment amendments where the function of the Board is to make recommendations to the municipal Council, the resolution and vote as undertaken was not appropriate in the context of a Section 31 review. As noted, where the Board undertakes a Section 31 review, its role is to suggest to the applicant steps which it may take to enable the designer of the proposed project to be consistent with, to whatever extent possible, the master plan. Here, the colloquy surrounding the vote made it clear that the Board took issue with the design of the proposed improvements, specifically the treatment of the Katyn Monument. the Board made no findings as to consistency with the City of Jersey City Master Plan nor did the Board relate the design concerns noted to the goals and objectives of the Master Plan, an oversight that the Applicant feels strongly must be addressed.

In addition to the noted procedural issues, there appeared to be some confusion introduced by members of the public who spoke during the public comment period, issues that, in the interests of justice, can and should be clarified at a rehearing. For instance, public commentators repeatedly falsely stated that the height of the bench surrounding the Katyn Monument was 7’ high when in fact the height is 5’6”. There were also repeated false assertions that no public meetings were held to discuss the proposed plaza plans, that the project did not comport with the Local Public Contracts Law, and that the treatment of the Katyn Monument was somehow disrespectful, assertions that are patently untrue and which the Applicant would like an opportunity to clarify.

Upon rehearing, the Applicant intends to introduce additional evidence that clearly demonstrates its thoughtful engagement with several neighboring property owners, stakeholders, various City offices and the general public to develop the final plaza designs including: (i) five public meetings dedicated in part to the public plaza design, each publicized in accordance with the Open Public Meeting Act; (ii) a community meeting, with newspaper notice and mail notice to adjoining property owners, on August 19, 2020; (iii) individual meetings with Mack-Cali, the

owners of Plaza 10 and the Hyatt House Hotel, and (iv) multiple design meetings with NJ Transit, the Port Authority, City Planning, City Fire, Public Safety, Cultural Affairs, City Engineering, the Historic Paulus Hook Association, the Powerhouse Neighborhood Association, and the Colgate Commercial Property Owners Association.

Most significantly, upon rehearing, the Applicant will introduce evidence demonstrating that, notwithstanding the comments made by the public at the hearing to the contrary, and as requested by City Council in connection with the controversy surrounding the earlier proposal to relocate the monument, it met repeatedly with the Committee for the Conservation of the Katyn Monument & Historic Objects (“CCKMHO”) and others, on one occasion drawing out the dimensions of the plan in chalk on the plaza, and ultimately received not only the approval of the committee, but its gratitude for the level of cooperation. Attached is a newspaper article authored by Alice Wozniak, Chairman of the Board for the Committee for the Conservation of the Katyn Monument & Historic Objects and Wojciech Stan Mazur, V-President of Business Affairs of the CCKMHO, confirming its involvement in meetings hosted by the Applicant at which the architectural landscaping plans were presented. The committee stated that with respect to the open forum of the meeting, it was “particularly impressed that the designers listened to the combined input of the CCKMHO, the residents of Jersey City and the Polish Community over the last year. We were also delighted to see that a number of individuals spoke up and expressed their approval for the plan.” Of particular importance is the acknowledgement in the article that “the plan shows a peaceful and serene area with low growing plants and bushes around the [m]onument rather than the trees initially proposed that would have obscured its view. In addition, a semi-circular seating area is proposed for behind the [m]onument to provide a place of reflection on the heroes lost in the Katyn Massacre, Siberia and the Twin Towers.”

Continuing, the article notes that “[a]nother concern that most all of Polonia had as expressed by the CCKMHO “was that they would still be able to assemble in front of the Katyn Monument for Commemorative events throughout the year”, acknowledging that this concern was addressed by the designers by providing an oval surrounding the [m]onument that would lead into a larger space in front of the [m]onument closer to the waterfront walkway. We were advised by the planners that this space would easily accommodate up to 200 people and that if additional space were needed that a designated paved stage area near the Hyatt Hotel could also be used. In summary, the CCKMHO recognized the long road traveled, ultimately thanking the Exchange Place Special Improvement District, especially its Executive Director, Ms. Elizabeth Cain, her assistant Mr. Martin Schmid as well as the Board of the EPASID and its Chairman Mr. Michael DeMarco for their efforts and cooperation.

Had the Board been privy to this information at the prior hearing, it would have been clear to the Board that any concerns over the treatment of the Katyn Monument were fully and satisfactorily addressed to the satisfaction of the CCKMHO, notwithstanding the self-serving, false comments made by certain members of the public to the contrary that, left unaddressed as they were at the prior hearing, had an outsized and inappropriate influence on the Board in rendering its findings.

For the foregoing reasons, we ask that the mater be relisted for hearing and introduction of additional evidence at the next regularly scheduled Planning Board meeting.

Sincerely,

/s/ Donald M. Pepe

Donald M. Pepe
FOR THE FIRM
DMP/ab
Encl.

cc: Santo Alampi, Esq.

cc: Exchange Place Alliance District Management Corporation