



City of Lowell - Planning Board

Planning Board Meeting Minutes

Thursday September 3, 2020 6:30 p.m.

Conducted via Zoom

Ntoe: These minutes are not completed verbatim. For a recording of the meeting, visit www.ltc.org

Members Present

Thomas Linnehan, Chairman
Gerard Frechette, Vice Chairman
Richard Lockhart, Member
Robert Malavich, Member
Caleb Cheng, Member
Russell Pandres, Associate Member
Sinead Gallivan, Associate Member

Members Absent

None

Others Present

Jared Alves, Senior Planner
Natasha Vance, Transportation Engineer

A quorum of the Board was present. Chairman Linnehan called the meeting to order at 6:30pm.

I. Minutes for Approval

August 17, 2020

G. Frechette motioned and C. Cheng seconded the motion to APPROVE the minutes from the August 17, 2020 Planning Board meeting. The motion passed unanimously, (5-0).

II. Continued Business

Site Plan Review and Special Permit: 1201 Westford Street 01851

Full Harvest Moons (FHM), Inc. is seeking Site Plan Review and Special Permit approval to open a recreational marijuana dispensary at 1201 Westford Street, Ste. G1-A. The property is in the Office Park (OP) zoning district and the use requires Site Plan Review approval under Section 11.4.2(8), Special Permit approval under Section 12.4.o, and any other relief required of the Lowell Zoning Ordinance.

On Behalf:

George Theodorou, Esq., Applicant's Attorney
James Alex, Full Harvest Moonz
John Caveney, Caveney Architectural Collaborative
Mike Allen, Chief of Security, Full Harvest Moonz
Matt Hamor, LandPlex, LLC
Kenneth Cram, Bayside Engineering

Attorney Theodorou said they received a response from Princeton Properties and VAI with respect to the traffic. It was a late submission yesterday afternoon. The applicant submitted their materials on August 12. They did receive comments from Ms. Vance. Princeton is talking about the difficulty impeding Trinity Ambulance for the use of Carl Street. He asks that it be stricken since Trinity has not provided any opposition to this application. They are the neighbor next door and in the building. The inference about impeding Carl Street is wrong. There were a number of issues last time that talked about tenancies and confusion about occupying the first floor. You will see the layout of the property again. They need to occupy the entire first floor from the entrance on the Westford St side to the exit on the Carl St side. There has to be a contiguous use of the space for security reasons. They can't have common hallways or other tenants on the floor. They could use much less space but they need to occupy the space for security. The actual dispensary is 1,451 sq. ft. plus ancillary space is 2,300 sq. ft. Regarding employees, they will have 15-20. Only 7-10 will be on the premise at any one time. Operating hours are 10-8pm Sunday through Saturday. They have a parking lot with 51 spaces. 15 are committed to Trinity. Broderick Law Firm will occupy a portion of the second floor. They will occupy 826 sq. ft. They will be required to have 3 parking spaces under zoning, one space for every 400 sq. ft. Those two businesses will occupy the entire second floor. They will have the entire first floor, 4,030 sq. ft. They are required to have 9 parking spaces under zoning. The 51 minus 15, minus 3, then six spaces currently leased to Princeton Properties that they will lose, will have 33 spaces on-site for customers. In addition, they have provided information with respect to an off-site parking agreement for 15 spaces across the street on Carl Street. These will be dedicated for employees. This is a written agreement. They have a total of 48 spaces. They have more parking than required. They will not impact parking on Carl Street. There is an issue with Carl Street, but it will not be created by Harvest Moonz. There are hundreds of apartments that are preexisting owned by Princeton Properties. It is there tenants and guests of tenants who are impacting Carl Street. FHM has taken measures to pay for additional parking spaces to mitigate this problem. They have a letter from the landlord explaining the current tenancies and what will happen after FHM moves in. FHM will occupy the entire first floor. The basement which is occupied by a dance studio. Their lease will not be renewed in February 2021. That space in the basement will remain vacant under an agreement with the landlord. Broderick Law Firm is currently on the first floor and they will move to the second floor. Two other tenants at will on the first and second floor will leave when FHM occupies the building. They have been at this process for two years since they made their first application. Two years prior the citizens of Lowell approved recreational marijuana. DPD and the City Administration spaced out where these facilities can operate. Out of 10 that applied, only 4 were approved after they were vetted. FHM already have an operation in Haverhill that they are building out right now. They are located on 1201 Westford St, near the Chelmsford St. The other location approved is on the other side of the City on Rogers St. Another on Chelmsford. The fourth is on Bridge St in Centerville. The final preexisting location is on Industrial Ave. There will be 14 dispensaries in the immediate area. There will not be a tremendous impact of people rushing here. But they have the ability to generate \$500K for the City per year from 3% gross revenue. There are very few opportunities for a municipality to find any new sources of revenue. There may be little development in this economy. Cities will be stressed to support vital services. \$500K per year injected into the city saves jobs. The opponent who is a direct abutter is doing a public disservice by trying to prevent this.

Mr. Alex said a total of 6% of gross revenue will go to the City including the 3% excise tax.

Mr. Caveney reviewed the floor plans to state why FHM needs to occupy the first floor from an operations and security standpoint. He also showed the future layout of the second floor.

Mr. Allen said deliveries came up at the last meeting. They covered the process for deliveries in the security plan that was submitted to the LPD. The Board has a letter from Deputy Golner stating that the LPD has no issues with the plan. He referred to the site plan. The lined off area by Westford Street will be the area where the delivery vehicle will pull in. Deliveries will occur during daylight hours but the time and day will be randomized. The type of delivery vehicle is a Ford transit style vehicle, so really a delivery van. It's easy to maneuver and it will not block any access. The two agents will unload the product from the vehicle. The product is in locked containers. The product is delivered in hermetically sealed, tamper resistant, opaque packaging. The vehicle itself will not have

any markings on it. The delivery process will happen twice per week. Once the agents bring the product inside and secure it in the vault with onsite security officers. Security officers will do a sweep of the building prior to the vehicle arriving. Any suspicious activity would be reported to LPD and the delivery aborted if needed. Regarding odor control, they supplied a policy from FHM on odor mitigation. There really is no odor to mitigate in dispensaries. He has been involved with multiple dispensaries throughout the state. The product is in hermetically sealed packaging. There is no odor within the facility or coming through the ventilation system to outside the facility. That packaging is the reason for it. No packaging gets done on-site.

Mr. Hamor said that working with the City's Stormwater Team they came up with a mitigation for the current runoff that extends to the easterly side of the parking area. They have a 2x2' infiltration trench along the easterly side of the parking area as well as at the low point for the runoff that is at the center median for the two curb cuts that come off of Carl Street. They also identified that the roof drains terminate into the ground, so there are drywalls in the ground to mitigate surface runoff from the rooftops. Additionally, they have fenced in the dumpster area.

Mr. Cram said he would respond to Ms. Vance's comments and to the written comments from VAI and wrap with a roundup of the express comment responses that they received in the past 48 hours. Ms. Vance confirmed that the traffic counts are good and completed pre-COVID. The second comment was the project tenancy, which Attorney Theodorou described. The actual sales floor area is 1,400 sq. ft. For their analyses they used 2,300 sq. ft. They used the ITE manual to generate the trips for the dispensary. Upwards between 580-600 daily trips on a weekday and a Saturday with anywhere from 24-80 trips during peak hours. This data is based on ITE trip generation manual. As Attorney Theodorou indicated their hours are 10am-8pm, 7 days per week. They will not have any traffic generation during the morning peak hour. He discussed a map showing the other dispensaries in the region. The area will be well-saturated. For the most part they are all in the 3-4,000 sq. ft. range in size. Most have 25-30 parking spaces. Some have flexibility. Attorney Theodorou touched on Ms. Vance's comment #3 regarding employees. There will be 7-10 employees on-site at any given time. Ms. Vance mentioned snow removal. They concur that snow removal on sidewalks will occur. He discussed the parking exhibit. He noted the 15 off-site leased spaces. He discussed the size of the delivery vehicle. Regarding TDM, there are two bus routes that are run by the LRTA that run by the site. The applicant has agreed to provide subsidies to their employees should they decide to commute by public transit. One intersection, Westford St and Technology Drive has a higher than average crash rate. Most of the traffic on Technology Drive is turning right out. Most crashes are with left turning vehicles. They have agreed to restripe the crosswalk across technology drive, install some signage with the approval of Ms. Vance and DPW—intersection ahead signs. Her last comment was the sidewalk on the property adjacent to Westford Street. They will do field measurements and if the sidewalk doesn't comply with ADA requirements, will ensure that they comply. Ms. Vance on 9/1 sent an email with four comments. The first noted that she accepts the responses to their previous comments. #2 the parking is adequate. She suggested that the applicant note on the website and with on-site signage where customers should park. They have agreed to do so. She will be kept in the loop on traffic management. Regarding VAI's memorandum. #1 trip generation is based on land use code 882 and used a 2,300 sq. ft. area because that is the dispensary. The rest of the area is dead space or storage and does not generate trips. #2 claimed 285 trips on average weekday to Carl St. That is based on older numbers. If they are on point with trip distribution, it would be less than that, 116 trips to or from Carl St. They will be split at two driveways. Some will go east, some will go west. At peak hour, the weekday evening there will be 14 additional vehicles over the course of an hour over two directions. On average one additional vehicle every 8.5 minutes. #3 intersections on Westford Street with vehicle queuing. There are a number of unsignalized intersections. Pre-COVID Westford Street corridor carries a substantial volume. They redid the intersection capacity analyses based on the 2,300 sq. ft. number. That indicated that there was not significant increase in queuing caused by this project. They ran this traffic generation comparison scenario as to two other potential uses on the site without requiring a special permit. A convenience store on this site would generate almost three times as many trips. Even a fast food restaurant would generate two times the trips. Used 2,300 sq. ft. for each of these uses which is appropriate for those uses. Regarding capacity at the driveways, any queuing of

vehicles existing the site will be on their site. There is not a significant increase in queuing caused by the project. Based on their projections, during the highest peak hour, which would be on a Saturday would be 34 vehicles through the intersection a less than 2% increase in overall traffic. #7 asked about tenancy which GT summarized. #8 Mr. Allen addressed. #9 VAI stated that when they do marijuana dispensaries they have a traffic management and parking management plan. They agree and have provided information which will coincide with a traffic management plan for the facility. Yesterday, they received their 8/1/29 memorandum from VAI with a few more comments. #1 claims basing it on the 4,000 sq. ft. He used a similar methodology from VAI's traffic memorandum dated 8/1/19 for how they develop trips for a dispensary when it's excess of 3,000 sq. ft. The ITE data today is very limited and based on four studies. He only looked at the two data points for larger facilities as recommended by VAI, which arrives at even fewer trips. They are sticking with the original numbers. #2 VAI referenced a dispensary located in Millbury, MA. No data was provided for this as to when or how the counts were obtained. He doesn't believe its representative of the Lowell area. #3 talks about square footage and volume of traffic on Carl Street. Using their methodology its 134 trips on Carl not 400. #4 they again mention the excess crash rate at the intersection. #5 talk about traffic operations. Delay numbers in VAI memorandum are true in a vacuum. Un-signalized traffic analysis methodology is very conservative. Lastly, they concur with the parking and he doesn't think it's necessary to identify X spaces to park for the tenants. There will be adequate parking for the building. Finally, they must have missed the information on the TDM and operations plan.

Chairman Linnehan asked if Mr. Cram read Ms. Vance's memo from 9/3.

Ms. Vance said he did not address that memo.

Mr. Cram discussed Ms. Vance's 9/3 email and response to VAI. She talks about trip generation and traffic volumes. She concurs that Millbury is far away. She suggests a traffic monitoring program and they agree. She addressed intersection of Westford St and technology drive that the city is open to other remedies. She noted that the parking is sufficient and that deliveries will not cause issues. Again, the opening operations plan will need approval from LPD and Ms. Vance. They concur with those comments as well.

Speaking in Favor:

Chairman Linnehan noted that they received one letter in favor.

Speaking in Opposition:

Edward Caulfield, 589 Princeton Boulevard
Jeffrey Brown, Attorney for Princeton Properties
Jeffrey Dirk, Vanasse & Associates, Inc.
Erin Bradley, 39 Carl Street

Mr. Caulfield said there are 28,000 vehicles that travel over the Rourke Bridge Monday through Friday, 14,000 outbound and 14,000 inbound. At approx. 2:30pm the nearby exit on Route 3 is a parking lot. That traffic is ongoing until 7pm. There are six nearby traffic lights. To get over the Rourke Bridge people need to wait in line for those lights. Mandrake the Magician could not come up with a traffic plan. At 1201 Westford St the road is at its narrowest. Location, location, location this is not a good location for this retail store. The location at Industrial Ave, he doesn't have a problem with that. People have access to Lowell connector, Rt. 3, etc. No access to a major highway here. Attorney Theodorou at the last meeting said it would not affect any single-family homes. The Black Brook apartment houses, the houses on Princeton Blvd. Hundreds of people will be affected. Carl Street will be a disaster. It will have to become a one-way street. He is in total operation for this location. He wants to know how many sq. ft. for the lobby for people to wait to be serviced.

Attorney Theodorou said the entry area is 434 sq. ft.

Mr. Caulfield said that's an oversized living room.

Mr. Alex said it can fit up to 30 people.

Mr. Caveney concurred.

Mr. Caulfield said that Technology Drive is an issue. Wood St. Westford St is an issue. It's a horrible location for this type of business.

Mr. Brown said that Princeton is a substantial property owner throughout New England. They have 1,000 apartments within this general area, all affected by the traffic congestion that will be generated from this project. Attorney Theodorou mentioned that their opposition is a disservice to the city. Princeton is the largest landlord and property owner in the City. He doesn't know if they reached the amount generated by this project. He guesses that their property taxes are certainly well within the range. The whole issue that there's a stigma of having marijuana facility next to corporate office is not an issue at all. They accept that five facilities will be in the area. No issue with marijuana facility next door. Have an issue with the impacts that come from that facility next door, how it affects their corporate office and the 1,000 apartments in the area. There is a ripple effect to it. You can't put 10 lbs. of you know what into a 5lb bag. It creates impacts that then spread throughout. That's their position here. This is too intense an operation as relates to the impacts that it spreads throughout the adjacent area and neighborhoods. That's the crux of the issue. It's not that it's marijuana. These traffic impacts affect all of their communities and it's substantial. Under the Planning Board regulations of Site Plan Review the Board must determine that the plan will protect and promote the health, safety, convenience, and general welfare of the city. He reviewed the objectives of Site Plan Review approval, including access to the site and egress from the site. He reviewed the Special Permit approval criteria, specifically traffic flow and safety and neighborhood character and social structures. If the Planning Board focuses on those criteria then they cannot approve the permits. A great deal of the Princeton Properties is affordable and offers benefit to the City of Lowell. Applicant is estimating 582 vehicle trips per day from this project. But applicant's materials do not address this number compared to two previous traffic submittals by Nitsch Engineering that projected traffic at 700+. It's an 18% reduction in traffic from where. On the flipside an 18% factor on the impacts would speak for themselves if the previous reports hold true. Attorney Theodorou said they need the whole 4,000+ sq. ft. of the space for safety reasons. He reviewed the layout and disputed the reasoning that they retract space from the total square foot count. Staff area, office space, inventory space all excluded. Using the true 4,030 sq. ft. get different numbers. His concern is that all traffic is based upon projections. Using 2,300 or 4,000 as the basis, the numbers can vary in the traffic counts up to 42% more traffic depending on which rooms picked. Adding traffic will impact the already constrained intersections and the ripple effects will extend outwards.

Mr. Dirk said they prepared a couple reviews of this projects. Mr. Brown went through a few highlights. He reviews this projects the same way he would do so for projects he has before the Planning Board. There has been a lot of discussion about the square footage of the building. There is a specific methodology used to estimate traffic. Looking at the square footage you do not get to cherry pick the areas to include. It's the gross square footage of the building. Includes the entire interior perimeter. Not just the sales area. Wouldn't exclude storage space and restrooms from a convenience store trip generation analysis. ITE does not let them exclude areas. Architect can net out the common areas, e.g., stairwells. Cannot net out the storage areas. A developer building a supermarket, etc. would not do it this way. If only assume half the space in trip generation calculations, which he numbers are off by 50%. A peer review he did for a dispensary included data from a dispensary in the city of Lowell. Find that it is a pretty good representation of the ITE data. Need to apply it to the entire square footage. Cannot exclude the data points from the ITE data that was presented. Can't just use the larger square footage sites and just use the lower square footage. The ITE data is pretty valid. That data is representative of what was found when they monitored the dispensary in Millbury, just outside of Worcester. It has to be applied to the total square footage of the building. The numbers are off by at least 50%. Looking at the 2,300 sq. ft. they said the vestibule can

accommodate 30 people and sales area can accommodate 66 people. That's 96 people. They want to see what the real traffic numbers are for the building. Can net out the stairwells but can't net out the back operations. The methodology presented to the Planning Board is not correct. Anecdotal information from one of the Lowell dispensaries is fine and would be more representative. Regarding the context. Pre-COVID, Westford Street has 24,000 vehicles per day on a two-lane road. The queues at the intersection back up to Carl Street. Looking at the capacity analysis reports limited delays, but that's not real because those queues back up past the intersections irrespective of the delays. The high crash intersection is not sufficiently addressed by the suggested measures. Want a true look at how much traffic this project will generate using the entire floor of the facility or conduct traffic counts at an open dispensary with or without restrictions at the site. If there are restrictions then the same would need to be applied to this site (e.g., appointment scheduling).

Ms. Bradley said she has the same concerns as she expressed at the July meeting. She agrees with Mr. Brown and Mr. Dirk. She has been to the dispensary in Lowell. It was wild. There were queues out the door. There were tents up and a queue like you would see at an amusement park. She doesn't know how this location could be appropriate. The math they showed with the current and planned dispensaries and the surrounding communities may come into Lowell to take advantage of the city's regulations. In the long run, the City might gain money from the dispensary but at what expense. Pissing off the people who live around here. Residents contribute to the community via taxes and shopping in the area. Really appreciate the communication of the City of Lowell in sharing meeting updates.

Mr. Brown said a previous comment was about traffic on Carl Street being related to Princeton's tenants. There are two other apartment communities that come off of Carl Street. It's public parking. That problem with two-way traffic on Carl Street is not entirely attributable to Princeton.

Discussion:

Chairman Linnehan said that when they look at the site plan and the special permit, they do not look at the economic gain. It's not indicated. They do look at traffic and congestion.

Member Malavich, said his initial reaction to the traffic data, after 40 years working in city planning and being aware of zoning regulations he always thought that parking was based on total square footage of the facility. He thinks there is an error here with the applicant cutting a portion of the back space as being not part of their facility. He thinks they are wrong. He agrees with VAI.

Member Lockhart, asked what was included in the applicant's number to calculate traffic impact. He asked if it is 2,300 sq. ft.

Member Malavich said that's what he thought it was based on. The rentable space is about 4,000 sq. ft.

Member Lockhart said that he agrees with Member Malavich. It's hard to make a decision based on this unclear picture of the impact. The numbers that were used are wrong apparently.

Member Frechette asked Ms. Vance to comment. The Planning Board members are not traffic engineers.

Ms. Vance said that for convenience stores and groceries stores typically use the entire building for trip generation. For applications for marijuana dispensaries, Patriot Care only looked at the square footage of the dispensary. One of the challenges with the ITE data is that only four dispensaries are listed for trip generation in Colorado and Oregon. The ITE cautions against its use. She only received VAI's letter this afternoon. She didn't have time to do significant research. She looked at other communities that approved dispensaries. There is a lot of disagreement in the traffic engineering world for marijuana dispensaries. Arguments can be made both ways.

Both traffic engineers made compelling arguments. In general, throughout the city when looking at site plan review almost always have existing traffic problems and congested streets. Look at mitigation based on the size of the project. If this was a Market Basket, would want them to evaluate the adjacent intersections. Whether 700 or 500 trips per day. It's a fairly small number. That's something she factors in when looking at mitigation. She thinks traffic monitoring would be appropriate at this location.

Member Frechette said the data is still developing across the country. They have a local facility. Can see both of these facilities drawing on same customer base therefore diluting trips. He knows that the congestion is terrible there. He doesn't know if the true impact will be at the height of the commute, the number of customers at 5pm during the weekday. By right can put a restaurant and offices, with shift changes. He lives in a neighborhood with massive shift change. People would go for dinner at a restaurant causing quite an impact. He asks how the traffic would disperse.

Mr. Dirk said he has 12 hours of data for the Millbury site. This location will draw from New Hampshire. In terms of dispersal, the peak period for traffic and customer coincides with the weekday evening peak hour. Also during the Saturday midday period. The data suggests that numbers are much higher than what has been estimated using these actual traffic counts. It will be something less than applying ITE to full square footage of the building, but it will be well over 100 trips.

Member Frechette asked if there was another facility near to the Millbury one. Because a nearby location will remove some of the impact.

Mr. Dirk said there is not. He agreed that competition leads to dispersal of trips. However, there proximity to Route 3 is important. That will influence the destination. Proximity to a highway does have an influence. It gets back to whether the data is representative of the site. Applying the ITE methodology the correct way will lead to higher traffic numbers than estimated. Absent any other data, data from another operating facility ends up with higher traffic numbers than estimated. All of the data points suggest these numbers will be higher than presented. Need to look at numbers appropriate for this location.

Member Frechette said he is concerned that they are not going to come up with a standard that everyone will agree with. Three traffic engineers have different conclusions. That presents a dilemma for the board.

Mr. Dirk said he doesn't want to be in the Planning Board's seat. Want to come up with something reasonable. To put proper conditions on a project, the Board needs to start with good numbers.

Mr. Cram said that during a course of a project's history the size of the project changes quite often. That's what happened in this case in developing the square footage of the retail area. The rest is back office and storage, which includes the employees who are already in the traffic generation numbers. Mr. Dirk's memorandum from August 1, 2019 in terms of how he calculated the trips. He knows that he's a good traffic engineer. But he looked at the traffic generation based on the dispensary itself. The ITE data is limited. Looking at the traffic generation for the two sites that are over 3,000 sq. ft. on a weekday daily basis and project the 4,000 sq. ft. then generating trips four times as much as the two ITE sources. Need to look at the all the data and make the best engineering judgment. Even if the re-ran the numbers, the impact would not be huge. A one car queue might go to two. They haven't discussed if FHM, the landlord is at will to fill the space with whomever he wants. Could generate the same amount of traffic with no mitigation or discussion whatsoever.

Member Frechette said that's a valid point, there are some by right uses that could generate as much or more traffic at the peak hours. However, they are reviewing he project before them. To vote they will need to fully understand the impact. He would be looking for Ms. Vance... the marijuana ordinance was crafted as the result of the vote taken by the citizens of MA and Lowell. It was modified as it came forward understanding that some of

the security plan should not be shown to the Planning Board for privacy sake. He is looking for more guidance from Ms. Vance on the proper application of how to determine the usage of the square footage as pertains to traffic generation and whether or not it effects the parking. Everyone seems to think the parking is adequately addressed. He understands that little data exists across the country. He would like to see a formula that the City would feel is applicable. On the Special Permit, there are six factors traffic is one and often the most contentious. Social, economic, and community needs to be looked at, listed on DPD's memo and page 117 of the zoning ordinance.

Ms. Vance said she would like to take a closer look at other applications for dispensaries in the city and review the methodologies that they used. In the Patriot Care instance they had a giant facility and they only used the smaller square footage, but not sure whether that smaller amount included any back office space. She would prefer to do some investigating. It's not unreasonable to talk with Patriot Care and see if the trips that they are seeing match what they projected. Mayflower Medicinals would open on Manufacturers Street. She agrees that adding dispensaries will disperse traffic. She agrees that Route 3 will bring traffic off the highway. She asked if they have an idea about the reasoning for the peak for Millbury.

Mr. Dirk said they did not have customer surveys. They have 10-12 hours of traffic counts. The peak hour of generation coincides with weekday evening peak hour. Whether stopping there on way home, that could be the case. But they didn't do any customer surveys.

Ms. Vance said that Patriot Care has had lines out the door when she has driven by the facility. She has been by there at various times throughout the day and it seems to be unceasing, but she would prefer to have the data.

Mr. Cram asked if any of the other dispensaries in Lowell have monitoring program.

Chairman Linnehan said that they had a monitoring program conditioned for Patriot Care. The company had an agreement with the Police Department to have officers on-site. The agreement with the LPD specified the duration for the officers to be on-site.

Mr. Cram said that the monitoring would be physical counting of cars in and out.

Chairman Linnehan said for Patriot Care it was about controlling parking, etc.

Mr. Cram said that's typically part of any operational plan for a dispensary. He asked if Mr. Dirk would share traffic count info from Millbury.

Mr. Dirk said he would provide the Millbury data and the Patriot Care data from Haverhill site.

Member Frechette said he can't see how they could move forward without establishing a baseline.

Member Lockhart said he agrees with Member Frechette.

Member Gallivan said she lives on Princeton Blvd and is on the street quite often. By reading through Ms. Vance's responses, she would be in support of the project if the client implemented a traffic monitoring program and then mitigate traffic if they find a big increase. They have noted that it's a less than 2% increase in traffic and it's an existing building. There are currently tenants in there and no change in the footprint of the building.

Mr. Cram said that in 2 years there will be 14 dispensaries in this general area. The traffic will be dispersed. He's not an expert on the marketing of dispensaries. Whoever has the shiniest tool regardless of location will get the customer draw.

Chairman Linnehan said that location is important too.

Member Pandres said he has nothing further to add.

Member Cheng said that traffic remains the key issue. He acknowledges that the applicant has addressed the parking issue. He acknowledged that the applicant has addressed the dumpster screening and stormwater. He defers to the traffic engineers, with a note that the applicant might have to consider some way to mitigate... might be more significant restrictions or mitigation measures required if the traffic generation is high.

Chairman Linnehan said that prior traffic study was 700+ and decreased.

Mr. Cram said that the previous study used a slightly larger retail area.

Chairman Linnehan said they used a closer to 4,000 sq. ft. for the 700+.

Mr. Cram said that the previous area had a slightly higher retail area than 2,300.

Member Frechette said he would continue the hearing. There is a meeting scheduled for September 24 and then on October 5. They would need a methodology and then to determine the methodology.

Ms. Vance said that 9/24 seems reasonable to make a decision and for Mr. Dirk to get numbers to Mr. Cram.

Attorney Theodorou said they would like some guidance. When they hear that Patriot Care used the retail space. He doesn't see how dense storage space creates trips. There must be a theory behind it. There are other alternatives that they may want to explore. A formula to put together for the board is a good recommendation.

Member Frechette said that this isn't going away, so it's important to establish a standard.

Mr. Cram said that 9/24 would work.

Member Frechette said that he take exception to traffic data coming just a couple days before the meeting.

Mr. Dirk said that's enough time for him too. He committed to getting data at least a week in advance of the hearing.

Motion:

G. Frechette motioned and R. Malavich seconded the motion to continue the hearing to the September 24, 2020 meeting. The motion passed unanimously, (5-0).

Special Permit: 414 Broadway Street, 51-55 Willie Street 01854

Ryan Rourke is seeking Special Permit approval to convert 414 Broadway Street into a three-family home and construct three townhouses at 51-55 Willie Street. The properties are in the Urban Mixed Use (UMU) zoning district and the use requires Special Permit approval under Section 12.1.c and for any other relief required of the Lowell Zoning Ordinance.

On Behalf:

Kevin Murphy, Applicant's Attorney
Kenneth Lania, Cornerstone Land Associates

Attorney Murphy said they are seeking Special Permits to maintain the existing 3-family at 414 Broadway St and on an adjacent lot to construct 3 townhouses. Previously appeared before the Zoning Board to obtain variances for frontage and parking requirements. They have received those approvals by the Zoning Board. They have attached certain conditions to that approval which they have incorporated into the plan and have submitted to the Planning Board. Their engineer is present to discuss any detailed aspects. A couple salient points: prior to this development there was no off-street parking for 414 Broadway. Now they will have 5 off-street parking spaces. In addition, with the construction of the three townhouses, they will provide 6 off-street parking spots. He believes they have done a great job in providing off-street parking that didn't exist prior to this development. The updated plan shows that the suggestions of the Zoning Board have been incorporated. First, the parking has been rotated in compliance with Members' suggestions to make them safer. Secondly, the snow storage island is removed and now there is not going to be an island there will be striped area. Regarding the snow storage, the stormwater suggestion of the engineer and as suggested by the City now shows... will accept the condition that the stormwater team has suggested. No runoff whatsoever to the adjoining lot. The stormwater runoff has been alleviated. No negative impact whatsoever. Finally, have added a handicap ramp a striped crosswalk at the intersection of Broadway and Willie Street which the Zoning Board has asked them to include. The Historic Board approved this proposal. They have made certain suggestions as to the construction of these units. Comments from Steve Stowell and the Historic Board as part of the approval is that the proposed project is consistent with the review standards of the Acre Neighborhood District for new construction and infill. The Historic Board has approved the design and issue a historic permit. This is a good development. They are providing more off-street parking which is a big issue for the neighbors. Based on the fact that the Zoning board has approved the project and that the Historic Board has approved the project, they are asking that the Planning Board issue the special permits to allow the project to proceed.

Mr. Lania said he can speak briefly to the drainage concerns. A concern was raised primarily about any additional stormwater flow to the rear portion of the site at 420 Broadway St. They did their best in designing this to ensure that they would not exacerbate any of the drainage problems. They provided curbing in the rear of the parking area for 414 Broadway St. Drainage would be captured in a closed drainage system that would consist of a catch basins that outlets into a detention, retention facility that would infiltrate into the ground. Designed for a 25-year storm. City review asked for a 5-year storm retention. Overflow to 420 Broadway would only occur in a 50 year storm event. Review from the City suggested tying overflow into the City drainage system on Willie Street. He looks favorably on that proposal. They had a stipulation in the Zoning Board approval that would require repairing some areas on the sidewalk. While doing that, they could easily redirect the overflow to the city system. He was glad to receive that review from the city. There will be almost a zero runoff into the adjacent property at 420 Broadway St. As Attorney Murphy pointed out, the property traffic flow will be entering on Willie and exiting onto Broadway. That will be a one-way traffic pattern.

Chairman Linnehan asked about the changes of the parking on the plan.

Mr. Lania said that originally the parking for the area to the rear of 414 Broadway St was going North-South and was tucked in closest to the property to the rear at 59-61 Willie. There was a concern about vehicles backing up and potentially hitting the deck area. So following Mr. McCarthy's suggestion, they rotated the spaces so that they face the side yard and west of the property at 420 Broadway. In addition, another suggestion by Mr. McCarthy was to remove the original island for snow storage and just stripe it. That gives those three spaces some additional room to back out without needing to maneuver too tightly. They also installed concrete bollards along the existing deck and stairwell for the egress to the three unit building to protect the deck.

Speaking in Favor:

None

Speaking in Opposition:

David Ouellette, President, Acre Coalition to Improve Our Neighborhood (ACTION)
Jay Lee, Common Ground Development Corporation
Anibal Fontanez, 58 Willie Street
John Tsoumas, 62 Willie Street

Mr. Ouellette said the neighborhood had some concerns. At the zoning meeting he heard someone mention neighborhood approval. He didn't even know about the project so there was no neighborhood approval that he knew of.

Mr. Lee said they are not present to speak in opposition to the proposed density or number of units. He heard Attorney Murphy speak to the creation of 11 new spaces. With those spaces in the back of the residences, 6-7000 sq. ft. additional impervious surface the concern is the drainage. He has a question about the drainage plan. He understands that curbing is proposed. Asked about the height. There is a tree that is grown in the middle of some fencing and how that might be addressed. There is also concerns about the existence of only one catch basin to capture of all the water flow. Drop of 55 ft. at northeast corner down to 52-ft. where the properties intersect. Lastly, regarding the snow with 11 spaces and cars, he is unsure whether the proposed areas are adequate. He wonders whether there is a backup plan for off-site snow removal in the event of a large storm.

Mr. Lania said that the curbing would be 6" tall. The one catch basin in that corner collecting 6,000 sq. ft. would be sufficient up to a 25 year storm event. Engineering wise it is sized appropriately. As was required by the City, they had requested only a 5-year, 24 hour storm event. They have designed the system to handle a 25-year, 24 hr. storm event on-site without any overflow onto the property. The City's stormwater team reviewed the drainage was accommodating to the design, but to ensure no burden placed on your property they have suggested to allow them to tie into the catch basin onto Willie St. Almost no flow in any stormwater rain event on their property regardless of the amount of pavement. Regarding the tree, it is going to have to be worked around. It's not the intention of the applicant to remove the tree. If the tree was requested to be removed, then maybe the two of them could work it. Ultimately the grading of the site works from Willie St to the catch basin in the rear of the structure at 414. That has raised it to an elevation of 53-ft. An extra foot added to that area that would need to be graded down to their site. 6" curb along whole length of parking area adjacent to their parcel and building at 414. Snow removal. It's a congested area and a tight spot for everyone. Regular storm events would use the snow storage areas. Would have to be a condo association that would have snow plowing contract would be outlined in the contract. Would anticipate that like similar properties, large snow storm event exceed 1.5-ft. would need all material of snow removed via some trucking. Would look into in condo documents.

Mr. Lee asked about the eastern side of the project along Willie St. He asked if the rain and stormwater runoff from the street would enter the property. He asked about curbing along the property lot line.

Mr. Lania said there is an existing curb line along Willie St that they will be modifying. Taking some vertical curbing out and installing new curbing to bound the entrance. They are creating a berm, a 55-ft. contour on their side of the curbing. What ends up happening is that they will make a small berm. The sidewalk area would be 55.5 or so. Any of the roadway drainage would stay on the gutter of the road line which has an elevation of 54.58. Roadway drainage intended to stay on road and driveway drainage stay in the driveway.

Mr. Fontanez said it's a big property. His biggest concerns are parking. He knows they are saying 11, come snow time it will go to 10 or 9. It will lead to street parking. He asked about trash removal, whether a dumpster or public. Regarding power in the area, there was concern about a lack of power a few years ago. He asked if that has been addressed. Parking is the biggest of everything in area. There are bunch of businesses in the area. Will make it tough in the winter time. He has been a resident for about 30 years plus. He is not against something going there, but wants something right. He feels the project is a little too big. He wishes they would just build two.

Mr. Lania said the trash will be barrel style pickup. Barrels will be put out to the right of 414 Broadway and to the left of the condominiums. Condo docs will require all residents in both structures store all barrels inside after collection. Regarding the power, Mr. Rourke has already updated the power from the existing pole on Broadway to the building on 414 Broadway. Was told that there was sufficient power for the new homes.

Mr. Tsoumas said he has lived in the area all his life. He remembers when the original building burned down in 1978. The person who owned the three family wound up buying the vacant lot. That lot was the three family's parking. That was not a problem. He received a notice for this meeting. When they had the one back in June he didn't get a notice on it. His neighbor told him about the meeting. He asked if they publish after in the newspaper when the meeting is.

Chairman Linnehan said that there are letters to abutters and it's in the paper. It runs twice. He said he can't speak what happened at the Zoning Board.

Mr. Tsoumas said it was published in the paper after the meeting.

Chairman Linnehan said he could understand the frustration.

Mr. Tsoumas said the sign says Wednesday instead of Thursday.

Chairman Linnehan said it had the right date, but the day wrong. He knows that Mr. Tsoumas and Mr. Fontanez were at the last meeting too.

Mr. Tsoumas asked about greenspace.

Mr. Lania said there is greenspace. There is a decent portion associated with 414 Broadway St coming out of where the back deck is and for about 8-10 feet on the right side of the structure. Two greenspace islands that define the driveways for the condo units. The remainder of the greenspace is just on the edge of the exterior of the parking line. Removed one island of greenspace per the ZBA request to allow for parking flow and access to the spaces.

Mr. Tsoumas asked if they have a landscape plan.

Mr. Lania they provided a note regarding the landscaping on the site plan. A condition of the Zoning Board was that the applicant would work with DPD prior to obtaining a certificate of occupancy and provide an updated plan at that time.

Mr. Tsoumas asked about a percentage of greenspace.

Mr. Lania said in this zone there is no requirement for greenspace.

Mr. Tsoumas asked about the barrels.

Mr. Lania said they will be to the right side of Broadway St, where the electrical meters are now. To the left side of unit 1. The barrels will need to be inside until trash day pickup.

Mr. Tsoumas said that with the Zoning Board looking at all four corners, 3/4 have angles on the corners. This one didn't have it. Would've liked to have it be angled to be symmetrical and have it better for vision.

Mr. Lania said the architect designed it and worked it out with the Historic Board, there's no proposed angle on unit 3. Tried to keep the units consistent. It was approved by the Historic Board.

Mr. Tsoumas said that the Zoning Board mentioned attic window or attic space. It says in the plan not to be slept in, but there won't be bed checks. He suggests removing the window from the attic. Then if they want to put in an illegal bedroom a window would appear over the weekend.

Mr. Lania said that he applicant worked with the Historic Board on the specific design. He wasn't as involved with the building review, so he can't speak to whether it was required by the Historic Board. If the window is there it was probably something discussed at the Historic Board.

Member Lockhart said unfortunately he wasn't present at the meeting but it would've been covered by Mr. Stowell and whomever he had to evaluate the plans.

Mr. Tsoumas asked about the sidewalk on Willie Street. It's in tough shape.

Mr. Lania said they are relocating the outlet structure for the proposed drainage system. His intention is too ultimately to connect the drainage system to the catch basins. Would also upgrade the sidewalk to city standards.

Mr. Tsoumas asked about the elevation and the old chain link fence near 414. That elevation is 40 inches different than Willie St. He asked about the plan to eliminate the hill to the water going to CTI's property.

Mr. Lania said they will be dropping the parking. The rear looks pretty level and the sharply drops off where the old property line. They are regarding the lot to have a consistent 2% slope from Willie St to the catch basin at the western most side. There won't be any hill drop. They are adding that fill to accommodate the underground system. It will appear pretty flat.

Mr. Tsoumas and **Mr. Lania** continued to discuss the fence.

Mr. Tsoumas said he would prefer two units there, three is six gallons of water into a five-gallon bucket.

Discussion:

Member Cheng said that Mr. Lania has addressed his concerns. Regarding the comment about the third bedroom. He took a look at the floorplan and he agreed with Mr. Tsoumas' concern that merely having language "not to be used for sleeping" would hardly prevent people from sleeping there. He would hate to see the room without windows, but if they are looking at the parking requirements for a 2-bedroom unit then that would be a concern.

Member Lockhart asked if they got a resolution on the landscape plan.

Chairman Linnehan said that it was approved by the Zoning Board to have it approved by DPD.

Member Lockhart said they do not have one there. He does not have any other issues. His main concern was the runoff into the adjacent property. Mr. Lania covered it thoroughly.

Chairman Linnehan said they received a report from Greg Coyle at the Lowell Regional Wastewater Utility indicating what they would like done and Mr. Lania referred to it.

Mr. Lania agrees with the proposed condition from Mr. Alves.

Member Gallivan said he agrees with Member Cheng's comment. She is at a bit of a loss of how to not call that third story a bedroom. It has a dormer too. That would impact the parking. Overall she thinks it is good for the site. She thinks the front elevation is nice and it's proportioned. It's scaled appropriately for the size. She is a little disappointed that in the review of the DPD and Historic Board that there weren't more elements on the Street elevation both on Broadway and Willie. It's a tall building. She would've hoped that it would've been caught during the design review.

Member Frechette said he has the Zoning Board's conditions and he didn't see the landscape plan, so he would like to add it. It was mentioned incorporating it into the condo docs, but in event of major snowstorm that the snow would be removed off-site to prevent loss of any parking spaces on site. Repair sidewalk to city standards. From a design perspective, he has some different opinions from what the Historic Board approves. He thinks Member Gallivan hit it right on the street elevation. He likes the rear and front perspective. Eliminating windows... the rhythm of the windows has to do with the aesthetic look of the building. Getting rid of the windows would look terrible. It's always a challenge with the attic room and not converting into a bedroom. It's difficult to regulate. Overall it's a good looking building and project. Overall he doesn't think it's a bad design. It's an area where the density has been established. There is more parking on-site than anything around it. He likes the changes that the Zoning Board recommended. Letter from DPD mentioned discussion about barrels. He would like to condition it. They will be stored inside. Overall it's a good project and the Zoning Board did well. Overall it's not a bad design.

Member Malavich said this is a good project. The architecture of the sides of the building leave a lot to be desired. He knows it's a functionality of what's going on inside. He thinks having put the parking on-site helps the neighborhood. It's a good project and he has not real problems with it other than the architecture. He defers to the Historic Board expertise.

Member Pandres said everything has been covered. He shares concerns about conversion of attic space into an extra bedroom. It's a tough regulatory issue. Generally it's a good project. Adds housing to the neighborhood. It will be an improvement.

Chairman Linnehan asked about suggestions regarding the attic.

Mr. Lania said it's a tough call. He doesn't want to take away the ability to have extra living space, whether as an office or a bonus room for a play area. You try to limit the use as third bedroom to mitigate parking issues. Ultimately there's not much to be done. It's a flex room. It could be storage, office, playroom, game room. It's like having a living room and a dining room. Could make one a bedroom and still have the other.

Member Malavich said that when building permit issued it's as a two-bedroom and taxed as two-bedroom unit. So the taxes based on it being a two-bedroom condo. Maybe the Assessor's Office could have some control over the third floor use.

Member Lockhart said generally it's a good project. It should be conditioned. Unfortunately, he was not present when the window was designed that way. It was likely done with an architect and not the full board being present. He is not sure about it. He thinks it's as good project. He wants clarification from Mr. Stowell.

Chairman Linnehan could condition that it remain as a two-bedroom unit.

Member Frechette said it's permitted for two-bedrooms, that's the policing. The Special Permit is to construct it. To revoke the Special Permit they won't tear the structure down. The policing is approved and taxed as a two-bedroom, permit issued for a two-bedroom. Would need to comply with the permit on file with Building Department.

Motion:

G. Frechette motioned and R. Lockhart seconded the motion with these conditions:

1. Prior to obtaining a Certificate of Occupancy for the new units in Lot B, the applicant must execute an easement allowing the users of Lots A and B to use the access drives and curb cuts of the neighboring lot and for the residents of Lot A to use the parking spaces labeled 2A in the site plan dated May 21, 2020. The applicant must work with DPD to ensure adequate signage for these parking spaces.
2. Prior to obtaining a Certificate of Occupancy for the new residences in Lot B, the applicant shall in conjunction with the City Engineer construct the missing crosswalk at the intersection of Broadway and Willie Street. The crosswalk must have ADA compliant detectable panels at the curb ramps on each end of the crosswalk.
3. Prior to obtaining a Certificate of Occupancy for the new residences in Lot B, the applicant must add pavement to the extent necessary to provide four feet of clearance around the utility pole on Broadway Street.
4. The applicant shall provide plans to DPD demonstrating that the site can provide detention for the first two hours of a 5-year, 24-hour storm.
5. The driveway access shall be one-way with the entrance on Willie Street and the exit onto Broadway Street.
6. The applicant must provide a plan to DPD showing compact parking spaces in place of the spaces labeled 3A in the site plan dated May 21, 2020 that alleviate the unsafe condition with the egress stair to the existing building at 414 Broadway Street.
7. Prior to applying for a building permit, the applicant must receive approval from the City's Stormwater Review team by demonstrating that the site can detain the occurrence of runoff for the first two hours of a 5-year, 24-hour storm and comply with the requirements outlined in an email dated September 3, 2020 by Gregory Coyle, Staff Engineer, Wastewater Utility to prevent overflow of runoff into abutting properties.
8. The condominium documents must require residents to store their trash and recycling barrels inside after collection.
9. In the event of a major snowstorm, the condominium documents must require the removal of all snow off-site to prevent the loss of any on-site parking spaces.
10. Prior to applying for a building permit, the applicant must submit a landscape plan for review and approval by DPD.
11. The applicant must repair the city sidewalk adjacent to the site to city standards if required the City's Engineering Division.

The motion passed unanimously, (5-0).

III. New Business

IV. Other Business

Signatory Authority: Francesca Cigliano

T. Linnehan motioned and R. Malavich seconded the motion to grant signatory authority to Francesca Cigliano. The motion passed unanimously, (5-0).

V. Notices

VI. Further Comments from Planning Board Members

Member Lockhart said that the Historic Board has not set another meeting.

VII. Adjournment

R. Lockhart motioned and R. Malavich seconded the motion to adjourn the meeting. The motion passed unanimously, (5-0). The time was 10:00 PM.