



City of Lowell - Planning Board

Planning Board Meeting Minutes

Monday, March 4, 2018 6:30 p.m.

City Council Chambers, 2nd Floor, City Hall

City of Lowell, 375 Merrimack St, Lowell, MA

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell.

Members Present

Thomas C. Linnehan, Chairperson
Gerard Frechette, Vice Chairperson
Richard Lockhart, Second Vice Chairperson
Richard Snetsky, Member
Jordan Gys, Associate Member
Caleb Cheng, Associate Member

Members Absent

Robert Malavich, Member

Others Present

Patrick Burns, Associate Planner

A quorum of the Board was present. Member Malavich was absent.

I. Minutes for Approval

2/4/2019

J. Frechette noted that J. Alves did a great job on the minutes and made a motion to approve the meeting minutes from the February 4th meeting. J. Gys seconded the motion with unanimous approval by the Board, 5-0.

II. New Business

Special Permit: 219 Central Street 01852

An application was submitted by The Mandrell Company seeking Special Permit approval at 219 Central Street #1E. The applicant proposes to open a real estate office on the ground floor of the existing building. The property is in the Downtown Mixed Use (DMU) zoning district and requires a Special Permit pursuant to Section 9.3 Downtown Overlay District and Article XII Section 12.8(a) and any other relief required of the Lowell Zoning Ordinance.

Speaking on behalf of the applicant:

Willie Mandrell, The Mandrell Company: We are a real estate office out of the Boston area, we service areas in Lowell.

Chairman Linnehan: Did you post permit sign on address?

Yes, we posted sign a couple days ago. We purchased the office space in end of January, we started the permitting process a week after that. We posted the sign 2 weeks into February in the front window. Our contractor did some work and may have moved it.

T. Linnehan: I didn't notice it when I did a site visit but we can move forward.

W. Mandrell: It is a simple real estate office. We service clients from 9:00 am to 6:30 pm. There is a small space for our realtors. We don't really have set hours, but we probably wouldn't serve clients after 6:30 pm. It's the same business that we operate in Boston, and it's the same process in Lowell.

Speaking in favor of the project:

None

Speaking in opposition

None

J. Gys: What portion of the building will be occupied by customers.

W. Mandrell: The space is 700 sf. We own 1E and 1f which is the basement. The basement would not be for clients but the ground floor space would be entirely for clients.

R. Lockhart: How many agents do you expect in the office at a time?

W. Mandrell: About 4. Our model is virtual. Many are working at home or in coffee shops, etc. I wouldn't expect much more than 4 agents at one time.

R. Snetsky: I think it is an appropriate use for the overlay district.

J. Frechette: I thought the applicant did a good job with the narrative and providing the information. Regarding staff comments and blocking windows; I see a couch on the floor layout. Will that be reconfigured?

W. Mandrell: The couch sits below the bottom of the window.

J. Frechette: Typically in downtown areas we would like to see more retail uses. That being said, I don't think this is an inappropriate use.

C. Cheng: No comments. Everything has been addressed.

T. Linnehan: No comments.

Motion:

R. Snetsky made a motion to approve the Special Permit to open a real estate office in the Downtown Overlay District. The motion was seconded by R. Lockhart with unanimous approval by the Board, (5-0).

Site Plan Review: 3 Foundry Street; 49.1 Marshall Road 01852

An application was submitted by Four Twenty Industries Co. seeking Site Plan Review approval to open a marijuana cultivation facility at 3 Foundry Street; 49.1 Marshall Road. The building is in the Light Industrial (LI) zoning district and needs Site Plan Review approval from the Planning Board under Section 7.10 and any other relief required under the Lowell Zoning Ordinance.

Speaking on behalf of the project:

Andrew Mutty and Keith Lahamin, 420 Industries:

We have invested most of our life savings and 401k into this marijuana cultivation business. We are proposing a micro business license which allows us to grow up to 5,000 sf. The whole site is 12,000 sf which will allow us to cultivate, manufacture product, package product, storage, office space, movement, vegetation rooms, flower rooms, fertigation, ventilation, and to have clean and dirty spaces for the business to operate. We have been a business for 2 ½ years. We have many patients that we care for. We recently received backing of former Congressman Bernie Frank on the advocacy side and small funding front. We are looking to start up in Lowell. We'd like to have local employment; we will be seeking to have 25% of our staff be part time and full time. We will be growing cannabis in 5,000 sf. of space in the building; the rest will be used for the manufacturing of products. Everything will be sold to licensed retailers. Everything will be controlled to standards that the CCC in Massachusetts has set up. The vehicles, the affidavits, the seed to sale tracking system, our security plan has been signed off by the Lowell Police Dept. The Deputy Fire Chief has also looked at our plan and approved it. We are working with a former Boston Sergeant for the police department on our security plan. He has helped us with our security plan. The scope of our operations will be to have a healthy and sustainable business here. We will not have signage at our location; we will have a nondescript location. For nearby resident's safety and our own safety, we plan to do everything necessary for our business here in town. Thank you.

Chairman T. Linnehan: Did you receive the comments from planning staff dated February 25th?

Andrew Mutty: Is that one in regards to the easement?

T. Linnehan: It has 5 pages; the easement is one of the questions. Do you want to start with that?

A. Mutty: Yes, we have those and we can start with that. May I approach with some graphics?

T. Linnehan: I am talking about an easement. It's a piece of paper on a deed recorded at the Registry of Deeds.

Mutty: Our proposed driveway is on the back side of the building itself.

T. Linnehan: Why don't you show us how people will get in?

Mutty: People will come down Plain Street and wrap around building to negate needing an easement with the other property owner.

T. Linnehan: How are you going to prevent people from going right to the entrance? They are not going to take a left at the entrance and pull right up like I did?

Mutty: We have a safe passageway all the way around the building. We will not have customers

T. Linnehan: How will you direct that traffic to make that whole loop all the way and around and come all the way back and the not back out that way?

Mutty: The only people entering and exiting are employees. It's not a retail business so there will not be traffic. We make sure all of our deliveries know that this is the way you have to go. We will have signage.

T. Linnehan: How are going to direct them to do so? I visited there and didn't do that.

Mutty: we will have signage at the corner of the building in the front and we will also have a sign in the rear directing people follow the path.

T. Linnehan: You don't think the average person isn't just going to take a left and go to the front? That's how we all did it.

Mutty: It's a great possibility, but I can't control what people do.

T. Linnehan: We are going to need a signage plan showing that.

Mutty: I can provide that.

J. Frechette: Looking at the property that is Mass Electric, the area shown show you have to pass through parking.

T. Linnehan: Wasn't there also a request for new parking layout?

Andrew: We provide here, Exhibit A and we will be restriping.

T. Linnehan: Can you show us the 11 spots? I don't see that on the plan I am looking at. XXX

Mutty: Right here.

T. Linnehan: Is that on the plan that was submitted to us?

Mutty: The plan has been was changed within the last 48 hours. Getting in contact for the easement could take months and years and that's why we changed our plan to direct traffic around the building.

T. Linnehan: So we don't have a new parking plan, correct? So that won't count. Go ahead, anything else that you want to add? We don't have the information submitted before us. You didn't answer a lot of question that staff asked. You are just submitting information now which isn't enough time to review anything.

Joseph Paley: I own Foundry Industrial Park and portions of the adjacent property that was purchased by the railroad about 12 years ago. The Foundry building was built in 1870-1880; we purchased it in 1970, and built 5 more buildings with permits and permission from the Planning Board. This was originally a place where mercury was stored. I had been trying to purchase the railroad property on the side for 25 years and finally did 12 years ago which gave us much more access around the building. Prior to that, we have 2 feet between the property line and the building. Now, we have 35-50 feet. We received a Special

Permit for Sherman Williams to store paint from the Planning Board. 15-20 years ago, we went with Phoenix Infrared, they made a process which involved very dangerous gas. They were a tenant until recently. We are trying to replace that with this cultivation use. This building is on city's water system and has high level of sprinkler control. In 1995 the power company came to me and we were asked for a license. We have a copy of that. Approximately 2 years ago, we installed one thousand solar panels. The power company is not happy with that. Municipalities are pushing solar and the power company are fighting back. We still use that property, the power company knows we use the property, it has never been a problem, and we've gone before the Planning Board numerous times. Because this time, somebody requested the status of our right to cross and recross, we have come up with an alternative way to do around the property because we don't want to deal with power company if we can avoid it. They have been extremely hostile to us. The Fire Dept. uses it to cross and recross. I also stand ready if the Planning Board requires it to remove 12 feet off the building so that we don't have to have any involvement with the power company. I think there were some other requests that were made. If the engineering office wants additional lighting we will do what they require. If they want fenced in dumpster storage, we will do that.

T. Linnehan: Well you should have submitted a lighting plan as part of the site plan review application.

Mutty: The lighting would be for wherever there is a camera, we will have a light.

T. Linnehan: What you should do is give us a copy of that lighting plan and we should be all set.

J. Paley: Whatever lighting the Board wants we can do. It's pretty well-lit now. As a matter of fact, Marshall Road has a street light on it. As far as dumpsters go, we can do that. There was a request that we keep catch basins clear, we will do that and we can put that in writing. All of the requests from the Engineering office seemed reasonable. On the side where Andrew is considering going, there are no residences so it shouldn't be a problem to put any lights. Does the Planning Board have any guidance on lights?

T. Linnehan: You will have to submit something to staff and they will provide it to us. Another comment was about snow storage. The memo included a picture of snow blocking the garage door.

J. Paley: My crew plows it. We only had 2 ½ acres to begin with, we bought 1.1 acres from the railroad, we can certainly put snow on the former railroad land. If you would like us to designate snow storage on a plan, we can do that. I am not trying to make light of the requirements.

J. Paley: I think this is a good use better than before which was Phoenix Infrared. It's a benign use with little traffic. It's an existing building. There are no noxious chemicals that I am aware of. We pay our taxes.

Speaking in favor of the project:

Jamelle W., co-owner of Mill City BBQ at 1018 Gorham Street:

I met these gentlemen in June of last year when they started to do community outreach. They went out and asked of complaints. I have seen a lot of positivity as far as what's been happening. These guys are doing something great. I live in the area as well. My business is going strong too. This is actually helping the area little bit more. These guys have been making us feel safe of what's going on. They have been taking steps and gaining support of local community

Brian Hayes: I am not a Lowell resident; I am from Greenfield, MA. I have been to these events with these folks. They have made me feel better in educating folks to be successful in this category not only in Lowell but in other communities. I am excited about it.

Discussion:

R. Lockhart: Looking at the memo dated February 28th, from Jared, you submitted security plans to the police department. It indicates that staff is waiting for confirmation from that department. Item C is that solid waste and recycling had reviewed and recommended changes. Have you received those comments?

R. Snetsky: We did receive confirmation that they received approval from the Fire Department.

Mutty: The lighting plan was part of the security plan that we submitted.

T. Linnehan: That goes to the police department, but the police don't do lighting, we do. We can't approve it without a lighting plan.

R. Lockhart: The comment memo notes that there is a potential area of conflict with the box truck swept path analysis and the parking spaces. Are you familiar with that situation?

Mutty: Yes, the parking spaces have been adjusted.

R. Lockhart: But nothing is reflected on the plans that are in front of me.

Mutty: No.

R. Lockhart: Just to make a comment, in trying to avoid the easement with mass electric and going around the building; I am not comfortable with that. You have to address the easement and give us a status of that which is critical to the project.

R. Snetsky: My main question that I have is regarding odor abatement. I know I heard clearly from several people that other facilities do have odors. I understand that the systems are still being developed and controlled by CCC. I would like to know at this point, what is your plan to be certain that you are providing adequate equipment to abate potential odors in the area. I understand that's a potential problem with these facilities. I am sure it could be handled. But what are you doing?

Mutty: When we started, we hired a consultant. Think of it as layers of insulation. Inside of our building we are going to have containment units. Those units will be where the product is being grown where the centralized smell is coming from. Each containment has its own infiltration system inside. The building itself has its own ventilation. You are controlling it internally and then there is an ionizer and pump. Everything is controlled by an internal environment. Secondarily, anything that escapes will go through another filter.

R. Snetsky: The regs. for odor abatement are still being developed by the CCC. Have you received guidance on that?

Andrew: The data has been set up tiers based on how much you're growing. There are a certain number of carbon filters and ionizers you need as you step up on the tier level. We are at the smallest level of

growing space. There is about 3400 sf of plan that will not omit anything. A lot of that smell will be mitigated right there at the internal facility.

R. Snetsky: Do we have anyone on staff that would be qualified to review this and render an opinion?

Staff: Not sure at this time.

R. Snetsky: This is new to all of us. I just want to make sure it's done right. I've heard a number of comments of other facilities where the abatement is not sufficient. I am not criticizing, I am just asking right now.

J. Paley: My office is in an Industrial Park, the Planning Board granted a Special Permit that no odors be released. The city has not received any odor complaints. I know that the marijuana industry is new. I would look to my tenant and his track record. We will continue to have no problems.

R. Snetsky: I just want to make sure that we are considering everything and that the facility has appropriate levels of abatement. I'm sure the city could evaluate that. It's a concern not a criticism. If we grant this permit, I want to know that we've done everything and that everything has been adequately addressed.

David Plath, Facility Manger: It's going to be a state of the art facility. A mechanical engineer would be the person to review odors. We'll completely mitigate any odors. You really have 2-3 layers of infiltration that any odors would be caught in. As far as a supplier, we are going to be having a chilled water system. We are still in the design phase. It will be the newest and greatest technologies.

R. Snetsky: I just want to make sure that we as a Board are comfortable with it. That will require a higher level of expertise from the city we may request something like a peer review. It's not a criticism, but we just want make sure that we've done our due diligence. It's my understanding that we rely on the standards promulgated by the CCC.

Staff: Correct

Mutty: There is a cultivation site in town already.

T. Linnehan: We've had problems with that. The Board of Health has looked into shutting it down because the odors in the area. People in neighborhood are complaining. That's the update I got.

R. Snetsky: In order to move forward we would like to see that plan, if we have someone on staff in the city, who is capable to review this is fine, if not, we would ask applicant to fund independent peer review.

D. Plath: As part of the final construction documents that would be identified.

R. Snetsky: In order for us to approve this, we need a design reviewed by a qualified engineer showing it is technically adequate to abate any odor.

T. Linnehan: Do you have to submit this to the CCC? Why don't you submit that to us and we will have someone look that over.

J. Paley: We can do that.

TL: We're asking that whatever you've submitted to the CCC, you submit to us. We will have someone else take a look into it.

R. Snetsky: Perhaps, what you submit will be adequate, we are not in a position to know that.

J. Gys: My first question is what times of day would you be expecting deliveries?

Mutty: We have a 9-5 schedule.

J. Gys: Have you considered putting wheel stops between spaces, and a revised plan showing 11 spaces. The site plan doesn't indicate snow storage. A plan will have to be submitted. The plan doesn't show lighting, which will need to be resubmitted. J. Gys reads solid waste and recycling comments. That would need to be shown in revised site plan.

J. Frechette: I think we have established we cannot make a decision this evening. I do have a relative that lives near the other facility and I have heard them complaining of the odor. It is part of our approval process to make sure we address this. Based on what you've brought before us, staff or traffic engineering hasn't had an option to review this. The quickest and most direct access is what makes sense, which is what I did and the other Board members did. Cars were sticking out in the parking area. I'd like to have a better idea of where your deliveries are going. Are you going to have some retail deliveries?

Mutty: We will have contracts; there will be vehicles that leave the property twice a month to deliver the product.

J. Frechette: Will retailers go to the site to pick up?

Mutty: No we do the deliveries, unless they want to pick up.

J. Frechette: So retailers can pick up? So retailers could pick it up at different times.

Mutty: We are wholesalers. Technically, yes. With product availability on a limited basis we can structure how many times they come a month. The goal is to have it only be twice a month.

J. Frechette: You are going between two parking areas that service two buildings. I would never imagine in a millions years that that was your access to the loading dock. In reality, unless you have a barrier, cars are going to go directly to the left.

Mutty: We could do a fence or some sort of barrier.

J. Frechette: I am interested to see that you come up with when you sit with staff and traffic engineer. Based on the plan, you will have to take a corner of the building. The space between where you're asking for an easement vs. the corner of the building is not very large.

Mutty: There is discussion to take off some of the building if the easement is not granted.

J. Frechette: In the lighting, there is concern that lighting not be directed onto other properties. There is a security reason for lighting but also other external reasons why the Planning Board would be looking at that. I think we are in agreement that you will be coming back.

C. Cheng: I have a question on the turning radius study based on the easement plan. Are trucks going to be able to go around the building?

Mutty: When the new proposal for the new drive has been implemented, the turning radius should have been reflected where the new traffic would flow. That is a piece we missed and we will address that.

C. Cheng: Under the site review plan requirement, it mentions it is to provide safe and convenient access for pedestrians and bicyclists too. The building might be a little bit more of a concern. When you do a new plan, you have to incorporate that. Walking in a parking lot without a sidewalk is not very safe. The memo mentioned including have continue review, if the design changes, you have to work with them and finalize a security plan. I know the Fire Dept. would like to have a fire code analysis so please respond to those comments.

T. Linnehan: There are several things that we haven't received: the parking spaces, signage, snow storage, access plan. The question is how you are going to address the easement. Staff says we can't approve it without the easement. Is there a date the applicant can get back to us?

Mutty: We will provide options.

T. Linnehan: The property owner owns a section in the back. The proposed road is to take out the fence and pave around to get to the other side.

J. Paley: The reason we are doing this is that we believe we can work with power company. But that can take a long time. The new plan will show revision and hopefully the power company issue will become mute. Most of the heavy trucks now go between the two buildings. The truck traffic will be less than what is there now.

Mutty: Can we be granted a continuance?

T. Linnehan: Certainly, you will submit plans to staff and staff will send them to fire, transportation engineer, city engineer, etc. We need comments from them too. We can put it off 2 weeks and request another continuance or we can give you a solid date and hopefully you can have everything in line and act in one meeting.

Mutty: We feel we can get that done in the next two weeks and hopefully the next time is last the time to seek the approval we need.

J. Frechette: The next meeting is the 18th. The meeting after that is April 1st. We need adequate time for everyone to review this.

Mutty: Can we take the meeting after that?

R. Snetsky: It would be April 18th. I think that meeting would be better. Someone will need to review the odor abatement report.

Mutty: Let's continue to April 18th.

Motion:

J. Gys made a motion to continue the hearing to the April 18th meeting. R. Snetsky seconded the motion with unanimous approval by the Board, (5-0).

III. **Notices**

IV. **Further Comments from Planning Board Members**

R. Lockhart: We've have a number of personal changes. I'd like to thank Deb Grossman who was our representative from the Greater Lowell Bar Association who is being replaced by Kerry Regan Jenness. Also, Peter Aucella, Asst. Superintended of the National Park is retiring. He is being replaced by Christine Bruins. There are a number of other new people, but those two have given a lot to the Historic Board and they will be missed.

Our next meeting is March 11th. We have a petition from the National Grid because they want to tear down the building on School Street and it is in a Historic District. The need approval for that.

Chairman Linnehan: I'd like to welcome our new member, Caleb Cheng.

C. Cheng: Thank you.

V. **Adjournment**

Member Gys motioned and Member Frechette seconded the motion to adjourn the meeting. The time was 9:00 p.m.