

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, DECEMBER 6, 2022 – 7:00 PM

MINUTES

The meeting was called to order at 7:03 PM by Mr. Doshna.

Present: Mayor Driver-remote, Mr. Parker, Mr. Doshna, Mrs. Engelhardt, Mr. Cook, Ms. Giffen, Ms. Weitzman-remote, Mr. Levitt, Attorney Kaczynski, Planner McManus, Traffic Engineer Troutman, Engineer Clerico

Excused: Mr. Campion, Mr. Hill

1. **Public Comments:** None
2. **Mayor Comments:** None.
3. **Council Comments:** None.
4. **HPC Comments:** None.
5. **Approval of minutes for the November 22, 2022 regular meeting.**

Motion to approve the minutes was made by: Cook, seconded by: Engelhardt.

Ayes: Driver, Doshna, Cook, Engelhardt, Giffen, Weitzman, Levitt

Nays: (None)

Abstain: Parker,

Motion passed: 7-0-1

6. **Resolution: Family Promise of Hunterdon County, Inc.** – block 19, Lots 7 & 8

Ms. Kaczynski to prepare the resolution for the next meeting.

Mrs. Engelhardt was recused from the next agenda item.

7. **Review: Council Ordinance 2022-30:** Amending a Portion of the “Global Agway Redevelopment Plan” as Adopted by Ordinance 2017-1 of the Borough of Flemington

Ms. McManus discussed the amended Redevelopment Plan which instead of being the entire Global Agway area was just now the southerly Lot 1 which would include multi-family housing and small non-residential development which was proposed with largely structured parking and the center of site for recreational use with a mix of multi-family and townhouse uses with structured parking along Park Avenue. A concept plan was attached as exhibits A and B provided in Redevelopment Plan, any future redevelopment shall be consistent with concept plans which included architectural renderings and an overall design with the commercial uses intended for the corner with conditional uses similar to any use permitted in DB general retail, restaurant, brewery to be located in this area on the concept plan. Density would have 115 housing units maximum where a portion would be affordable housing not less than 15%, with some flexibility on affordable housing that could be supportive housing opportunities; there were a number of site designs and bulk regulations as well as street scaping and signage to further

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reinforce concept plan. Ms. McManus found the Redevelopment Plan to be consistent with Master Plan with some goals and objectives to be relevant with the 2015 Reexamination Plan adopted to utilize density and uses to enhance the downtown, and include areas to be used by the public along with other goals to specifically integrate residential and commercial development to create vibrancy to the downtown area which was not inconsistent with the Master Plan.

Ms. Giffen asked if the changes to the Plan could be highlighted. Ms. McManus explained that this was a new document that pertains to just the one lot for residential development on the site which included specific planning for the property instead of just a density which reflected negotiations between developer and Borough with the biggest change being the increase in density and specificity, in terms of the rendering noting that this was not a public hearing before the Planning Board but was a Council document. Ms. Kaczynski discussed that the Board was to provide a consistency determination with the Master Plan and provide recommendations on the plan back to Council where this was not substantially the same plan but was replacing the old Redevelopment Plan. Ms. McManus confirmed that there was no need to review 2017 Redevelopment Plan. Ms. Giffen did not have enough time to review for questions. Mr. Doshna discussed procedures which was similar to the Liberty Village Redevelopment Plan which was a negotiated concept between Council and the developer. Ms. Giffen had a concern that once this was in place it restricts what comes to the Planning Board. Mr. Doshna noted that Council could take the recommendations or not and that they are not required to revise the Plan per the recommendations. Ms. Giffen would like more time and discussed that this was thrown in at the end of the year. Council would have the public hearing on December 12, 2022.

Mr. Doshna discussed the train depot historic aspect. Ms. McManus noted that the Plan does not make definitive plans for train depot where it does not prohibit uses or relocation of the train depot but does not make it required. Mr. Cook discussed that they were here to determine if the Plan was consistent with Master Plan not whether we like it and can make recommendations to pass along to Council. Mr. Cook asked if the park would be open to the public. Ms. McManus noted that the developer said that was the intention. Mr. Cook asked there would be any sustainable practices required. Ms. McManus discussed that there were goals included for green buildings, meeting flood & stormwater requirements and architectural items.

Mr. Doshna discussed that the Master Plan required development to deal with climate change and sustainability and asked if there were any concerns that what was proposed would not comport with the State regs and what the Borough wants to see adding that language could be added regarding stormwater regulations. Ms. McManus noted that flood hazard/stormwater regulations were in place regardless and it did not suggest noncompliance with flood standards adding that the developer was

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doing research to make sure it could be built to those standards noting that there were no first floor uses and that this was why there was parking structures on the first floor.

Ms. Giffen discussed that the ordinances looked to prevent deterioration of historic elements and asked has this been passed by HPC. Ms. McManus noted that Plan was not obligated to be before HPC where they have commented on the Master Plan adding that there was no plan in place to demolish and there was some discussion to move train depot to somewhere else in the Borough. –Ms. McManus noted that the Redevelopment Plan would supersede and current ordinances and thought that language of the Redevelopment Plan means that the train depot was not to remain on this property even if Borough ordinance says otherwise but could be moved to another site. Mr. Cook clarified that there would be no more than 115 dwelling units on the 2 acre lot for a density of 55 units per acre where the old Plan called out for 60 per acre.

Mr. Cook found from a Master Plan consistency point of view: 1. 5 stories for the building was inconsistent; 2. No parking for retail retail use was inconsistent. 3. Preservation and protection of historic resources where both buildings were historic but not contributing was consistent with the Master Plan and was therefore inconsistent. Mr. Doshna asked if the Plan might be largely be consistent with those exceptions. Ms. McManus discussed that was the judgment for the Board to make where she made some general objectives the Board would need to decide if the project was overall consistent with items of inconsistency or if those items override to make the Plan inconsistent. Mr. Cook noted that the recent ordinance stated that the train depot cannot be torn down where this will override the ordinance and where the Plan was ambiguous on the fate of the train depot. Mayor Driver added that the developer had a study done which concluded that the train depot was about to fall down on itself and was not savable with structural deficiencies due to lack of roof and fire damage. Mr. Cook noted that if building was to be moved they could shore up the structure which feels similar to Union Hotel noting that the goal was to preserve the building noting that the study did say the building could be salvaged. Mr. Doshna found the Redevelopment Plan largely consistent with strong recommendations on historic preservation as this was a gateway project with the right density with light retail which deals with stormwater with apartments provided on a walkable part of town noting that he did have concern with the preservation piece.

Ms. Kaczynski suggested a motion to find the Redevelopment Plan was not inconsistent with existing Master Plan with the exception of building height and with clarity of historic preservation of structures and parking however overall the Redevelopment Plan was not inconsistent with the Master Plan recommendation to Council to address the ordinance regarding preservation of historic buildings. Mr.

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Cook found the Plan consistent mostly with exception of historic resources which was just passed by Council.

Motion made by Cook, to find the Redevelopment Plan not substantially inconsistent with Master Plan as a whole but that there were 3 inconsistencies that should be addressed including: the historic preservation element not addressing use of either building and would recommend that the train depot be given priority for relocation and reuse based on study; building height was inconsistent; and the lack of parking for non-residential uses; which was seconded by: Parker.

Motion to find the Plan not substantially inconsistent with the Master Plan with 3 inconsistencies as discussed that are recommended to be addressed including the historic element; building height and lack of parking for non-residential uses was made by: Cook seconded by: Parker

Ayes: Driver, Parker, Doshna, Cook, Weitzman, Levitt

Nays: Giffen

Abstain: Engelhardt

Motion passed: 6-1-1

Motion to amend the agenda to incorporate resolution 2022-11 as item 8 was made by: Cook, seconded by: Parker.

Ayes: Driver, Parker, Doshna, Cook, Giffen, Weitzman, Levitt

Nays: (None)

Abstain: Engelhardt

Motion passed: 6-1-1

8. Resolution: 2022-11: Regarding Consistency and Recommendations to Amendments to Global Agway Redevelopment Plan.

Motion to adopt the resolution was made by: Cook; seconded by: Parker

Ayes: Cook, Parker, Driver, Doshna, Weitzman, Levitt

Abstain: (None)

Vote: 6-0-0

9. Public Hearing: Aunt Mary's Dispensary, LLC – Block 49, Lot 1, 9, 10 & 11 (Shoppes at Flemington)

Ms. Kaczynski discussed that the notices provided were reviewed and found that the Board had jurisdiction to proceed into the public hearing for the application which was previously deemed complete and with all items incorporated into the plan that was sent to Mr. Clerico. Mr. Doshna noted

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that the applicant had provided for a court reporter who was attending remotely and asked the Board to please note who was speaking.

Attorney Michael McQueeney appeared for the applicant for a change of use with no exterior changes proposed and introduced a collective team for Aunt Mary's with 3 witnesses including a client representative, the architect and a traffic engineer. Exhibits were entered: A-1: The application and supporting documents and A-2: the notice of hearing. All witnesses were sworn in for testimony as well and the Board professionals.

Robert Pease, principal and chief financial officer for Aunt Mary's, cannabis dispensary, appeared the discussed the required licensed obtained for vertically integrated cultivation, manufacturing and dispensing cannabis. On site licensing would be limited to only dispensing the adult use of cannabis, where medical cannabis licensees can expand to a dispensing license of recreational adult use where the remaining actions required to sell medical marijuana included a site visit; a full operating manual for standard operating procedures under all State regulations and they need site plan approval from the Board. Mr. Pease discussed that the applicant was compliant with all State regulations and compliance requirements in detail with every element, to comply with laws and regulations including ID checks, medical patients licenses, and adult use and described the retail facility which had a secure area before anyone was allowed onto the sales floor with security met with all perspective buyers and discussed the access controls; reception area; on site security; facility design; construction of a sally port at the rear of the building for delivery with protocols for any deliveries to be secure with no multiple open doors and no product inventory on the sales area but was all stored in the vault until transaction was final. Mr. Pease discussed that they were operating as an alternative treatment center where they would be grandfathered into adult recreational use operations, the facility has a dedicated consultation which would remain for medical use in a private setting with private points of sale for medical patients including hours for patients only. Hours of operation were to be determined but would not go beyond the 9am-9pm hours per ordinance with no drive-thru adding that the ordinance also required that there be no more than 2 retailers in the Borough where there were no others known to be in the Borough at this time. Mr. Pease discussed the waste management where they would not dispose of any cannabis products that would be returned to the cultivator by secure transport with any other materials to be disposed of similar to other retailers.

Ms. McManus asked how the application met the conditional use requirements: Mr. McQueeney discussed that all State licensing required including a provisional license were on track to be issued with the last requirement being site plan approval; the applicant was complying with all medical and adult

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use cannabis act laws including site inspection through the State; only 2 cannabis retailers in the Borough was met; Site plan approval was ongoing; maximum permitted hours of operations would be met; no cannabis consumption lounge on site or in adjacent areas: where the applicant would not allow consumption on site or any in nearby areas and will have a security guard one site and would call police if necessary; and agreed to no drive thru.

Ms. Kaczynski asked for a review of the standard operating procedures including: a visit for the fit out from the State and asked if a condition of any approval would be the State issuing a final license prior to issuance of a CO. Mr. McQueeny noted that there was a CO already and suggested that the final sign off and site inspection and agreed to provide evidence of approvals when we get them noting that they would first open for medicinal purpose. Mr. Pease discussed that the State had been visiting all along and will need final inspection prior to issuance of the license. Mr. McQueeny noted that adult recreational use differs where they would need to provide a patient access plan so no future visit would be needed. Ms. Kaczynski asked if there would be delivery services. Mr. Pease discussed that delivery would not be available at first but they may look at it down the road noting that retailers are permitted to delivery with no additional license required adding that they would be buying wholesale as well as from cultivators.

Mr. Cook asked if they need conditional use approval. Ms. McManus confirmed that they do not need relief. Mr. Cook asked if the employees were required to be over the age of 21. Mr. Pease discussed that the employees do need to be over 21 adding that they are heavy on education and medical uses training for staff to be consultative on products and that all employees have background checks.

Mr. Parker asked if there would be a security guard outside to check IDs and then let you in to a see a consultant with a concern for a line of people outside. Mr. Pease does not want people waiting outside, they have a large waiting room where they will manage customers.

Mrs. Engelhardt asked if they were coordinating with the manager of Shoppes and neighbors to not create interruptions to other businesses. Mr. Pease would coordinate noting that the waiting room could hold 8-10 people but they can snake lines out if it get busy. Mrs. Engelhardt asked about disposal and if there was an expiration date on the products. Mr. Pease noted that some did expire and some did not with any product that was not used would be transported to the cultivator.

Mr. Doshna discussed that banking was complicated and asked if there would be security for cash. Mr. Pease would have a legitimate banking transport similar to brinks truck take cash straight to the bank.

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Mr. Pease discussed security problems in other States and confirmed that the applicant did not have any other facilities in NJ but were involved in manufacturing and cultivation in other states including: Missouri, Colorado, PA, NV, Utah. Ms. Weitzman asked if there would be online sales with pickup times. Mr. Pease would have pickup sales but it would not be the majority of the business.

Michael Metzger appeared and gave credentials as a licensed architect and was accepted as same. Mr. Metzger was the architect of record for this application for fit out for operations with interior renovation of the existing space of 5200 SF, a waiting area for 10 people, sales area, bathrooms, secure side entry, a sally port in the rear with a locked entrance door to exterior to locked rooms, private office, a cash vault, a product vault, all secured structurally, with no exterior renovations to the facility. Ms. Giffen asked if the facility had security from adjacent units Mr. Metzger confirmed that it was a secure facility.

8:58 pm Board recessed

9:05 pm Board resumed - all members returned with a roll call vote.

Douglas Polyniak appeared and gave credentials as a licensed professional engineer with a focus on traffic engineering and was accepted as same. Mr. Polyniak discussed the peak hours studied and increase in customer cars concluding that there would not be a substantial increase but more than a more common use with an almost imperceptible impact felt. For parking generation he performed parking observations and found that there was more than sufficient parking on site for the facility with no detriment to the circulation for the 136,800 existing floor area of the shopping facility.

The Exhibits were entered: PB-1 Mr. Clerico completeness report dated 11/11/2022; PB-2 Ms. McManus report dated 12/2/2022 and PB-3 Mr. Troutman report dated 12/6/2022.

Mr. McQueeney summarized that the applicant met all conditional use conditions and requested that the Board grant approval.

Motion to close the public hearing was made by: Cook, seconded by: Giffen.

Ayes: Driver, Parker, Doshna, Cook, Engelhardt, Giffen, Weitzman, Levitt

Nays: (None)

Abstain: (None)

Motion passed: 8-0-0

Ms. McManus confirmed that all conditions were being met and that no variances were required so no relief or testimony was necessary. Mr. Troutman found that it was good to see this in a large facility

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where there was a lot of parking instead of in a small neighborhood with no parking. Ms. Giffen found this a simple application which met all conditions in a good location.

Motion to approve the site plan was made by: Cook, seconded by: Driver

Ayes: Driver, Parker, Doshna, Cook, Engelhardt, Giffen, Weitzman, Levitt

Nays: (None)

Abstain: (None)

Motion passed: 8-0-0

10. Discussion: Master Plan Draft

Mr. Doshna discussed that all notice requirements had been met to be on the agenda for next week for public hearing and possible adoption.

Ms. McManus presented the Master Plan Amendment to the Land Use element, Economic Development element and Goals and Objectives element with community input for the Master plan including the recent survey and other studies by FCP and discussed the broad categories for recommendations to enhance commercial activities, make the site physically enhancing, simplifying land development ordinances and correcting any inconsistencies provided details.

Mr. Cook discussed that this was for corrections and clarifications. Ms. Kaczynski noted that any amendment would require a new plan be placed on file with the Board secretary and this was the time to correct typos such as Avenue vs Road or East vs West where any amendment will make the matter continue to the next meeting and be on file 10 days prior to the hearing date.

Mr. Cook suggested some corrections: page 37 DBII district referenced should be DB district – Ms. McManus noted that this was not a correction and discussed that the districts were almost similar, Ms. McManus to clarify by adding a “see section xx” of the ordinance for identification. Mr. Cook noted that on page 37 the cut glass site had a recommendation to add properties to south of cut glass in the DB district as well as lots to the south and found that the sentiment was there but Block number was missing. Mr. Cook recommend change from is to was – this would remain; Mr. Cook found an omission in the rezoning of the Spice Factory & Hermann Capp to HR that there were 2 little properties on Broad Street now in HC district which should be absorbed in TC district disconnected not on HR zone. Mr. Doshna discussed that this would be substantive and that Council would do ordinances based on Master Plan where they can note that this was technically missed in the Master Plan. Mr. Cook discussed that although they did not pay for other elements to be prepared he would have preferred to have an appendix attached of the other current elements. Ms. McManus found that would be substantive and

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suggested that a single version of all most current Master Plan elements be packaged as one entire pdf document separately and posted.

Ms. Giffen noted that they only were looking at 3 elements with the other elements not discussed in detail and asked if they are still relevant as standalone elements. Ms. McManus discussed The Master Plan where the other items such as the circulation element remains and suggested that all elements be bundled into a pdf with each date adopted.

Mr. Cook noted that Central Avenue was now known as Central Station by Council via an adopted resolution – this would be corrected.

Ms. Giffen discussed the summary on pages 75-76 and asked for clarification. Ms. McManus clarified that the narrative provides more detail on other pages. The Board discussed. Mr. Cook suggested that the summary be removed to clear up any confusion. Ms. McManus found that would be a substantive change. The Board discussed live/work units, structured parking, flood sensitive areas, murals and ADU unit locations. Ms. McManus noted that the Master Plan provides guidance not specifics adding that if the Board had any comments or concerns to contact her.

11. Chair Items:

- Next meeting December 13, 2022: Agenda items to include the resolution for the Family Promise application; resolution if possible for the Aunt Mary's Dispensary, LLC application; and Master Plan public hearing.
- Reorganization meeting: January 10, 2023
- Ms. Giffen discussed that a Planning Committee was being formed and asked for more details. Ms. McManus explained that the Borough was a Designated Center which has benefits including access to grant funds where the plan needed to be endorsed by a Planning Committee which was created by Council with the community or the center designation would expire and the funds would no longer be available.
- Mrs. Engelhardt mentioned the Annual Report to be prepared.

12. Bills:

Motion to audit the bills was made by: Cook, seconded by: Giffen
Ayes: Driver, Parker, Doshna, Engelhardt, Cook, Giffen, Weitzman, Levitt
Nays: (None)
Abstain: (None)

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Motion passed: 8-0-0

13. Professional Reports: None.

14. Executive Session:

10:43 pm Motion to adopt Resolution 2022-12 to enter executive session to discussed the 2023 Professional Contracts was made by: Cook, seconded by: Engelhardt.

Ayes: Driver, Parker, Doshna, Engelhardt, Cook, Giffen, Weitzman, Levitt

Nayes: (None)

Abstain: (None)

Motion passed: 8-0-0

Ms. Doshna noted that the Board would not come out of executive session for adjournment and confirmed that no formal action would be taken. The webinar was locked and the recording stopped.

15. Adjournment in Executive Session:

At 11:15 pm. Motion to adjourn was made by: Cook, seconded by: Engelhardt. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary