

Thursday, December 21, 2023
Minutes of Combined Land Use Meeting
Chairman Eric Hafer presiding.

OPEN MEETING – Chairman Hafer announced that adequate notice of this meeting was given by emailing the Courier Post and The Retrospect on January 10, 2023 and posting on the Bulletin Board in the Borough Hall.

FLAG SALUTE – Chairman Hafer lead the meeting in the Pledge of Allegiance and flag salute.

ROLL CALL – recorded as present were Hafer, Kane, Weidler, O’Keefe, Lippincott, Nasuti, Weiss and Barbera; Absent: lerley and Redstreak. Planning Board Solicitor Greg DeMichele was also present. Chairman Hafer noted that a quorum was present.

NEW BUSINESS – Chairman Hafer announced that they would be discussing the Zoning Applications only, not discussing the merits of Cannabis. Comments should be directed upon Zoning Applications and discuss what meets the requirements going forward.

- AAA Smoke Shop – Attorney Stuart Platt represented AAA Smoke Shop. Ali Anse a business partner and tenant at 415 White Horse Pike, Block 5 Lot 6 & 7, which is in the B/C Commercial Zone. The required minor site plan concerns a 1,600 square foot commercial tobacco and convenience store. The application has been deemed complete. Mr. Anse was sworn in by Solicitor DeMichele as were Borough Engineer Jeff Hanson and Borough Planner Dave Benedetti. Mr. Anse stated his name and business address. He is a partner and tenant and leases the building which is vacant. They will sell gifts, t-shirts, hats, tobacco, cigars, glass, chips, candy and lighters. They intend to fix it nice into a typical corner store specializing in tobacco t-shirts. There will be no adult gifts and only prepackaged food. There will be no cooking and no food preparation, and no coffee. Basically, it will all be prepackaged items, cigarettes and cigars. They discussed the layout inside with the middle remaining empty and showcases around. There will be ATM and bitcoin machines, and lottery is approved by State. It is cash and carry with no seating. Mr. Anse stated is experience with Joes Convenience store which you can Google. It is Philadelphia. His partner is in New York and is moving to New Jersey. The hours would be 8 am to midnight seven days per week with four employees, who will work two and two with two at any one time. His partner will be working at the store.

Partner, Balal Alhomaidi – 415 White Horse Pike, who will be working in the store, was sworn in by Solicitor DeMichele. There will be basic van deliveries, with the deliveries occurring from 8 to 5 pm, with no night deliveries. They use private vendors. Trash disposal is in a dumpster in back which includes recyclables and trash. There is an enclosure for the dumpster. There was discussion of the location of the dumpster on the plans and of the dumpster enclosure. Signage proposed is regular green or red, white and blue. They will not construct a new sign, and there will be no signs all over the windows so you can see inside. They will submit for a sign permit to the Zoning Officer. There will be no outdoor displays. That was the extent of the application, and everything is in Borough Engineer Hansons review letter. The landlord is to take care of the handicapped ramp and it was agreed that the ramp will be provided with a parking space approved by construction. There was discussion of parking lot lighting with 1 foot candle. They will comply with parking lighting. A light function test can be done by ERI. Borough Engineer Hanson Jeff visited the site at night and did not note any deficiencies. Borough Engineer Hanson reviewed his letter. There are security cameras which should be discussed with the Laurel Springs Police Department. There was discussion of safety hazards and that property maintenance issues have not yet materialized into a trip hazard, saying it is not broken just deteriorated. It does need to be improved and they will see it is done.

- Chairman Hafer opened the meeting to the Board for discussion. Barbera asked about being open to midnight and security for employees, for which they will provide an internal plat and vet it with eh police department. There was discussion of the other unit and why it is operating as a restaurant and questions regarding adequate parking.

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- Chairman Hafer opened the meeting to the public, hearing no comment, he closed the meeting to the public.
- Motion to approve application of AAA Smoke Shop by Kane, was seconded by Lippincott with Hafer, Kane, Weidler, O’Keefe, Lippincott, Nasuti and Weiss in favor, none opposed and no abstentions.
- Club 420 LLC – Attorney Damien DeDuca introduced himself as representing Club 420 LLC and introduced his team including Consultant Amada Ostrowitz from SLAP Consulting and Engineer Michael Brown from CES. Chairman Hafer questioned the involvement of Avila Engineering which had done a drawing for the landowner to which it was responded that the application does not represent the landowner, his client are tenants. They will be revising the plans and Mr. Brown of CES will submit updated plans. Mr. Avila will be involved in landlord application but will not be testifying in this matter and was engaged with previously submitted material. It was confirmed that the Avila drawing was with the landlord’s applications and that Mr. Hafer is not conflicted in his association with Avila. Material was distributed to the Board that included 1 White Horse Pike aerial photos marked exhibit A1, which shows the west side of the White Horse Pike with an irregular shaped property with a building in northeast corner, two story, a former TDBank. Got 5,000 square feet on the first floor with second floor above with three drive through lanes on the west side with parking and landscaping around. There are 2,500 square feet on the first floor with a second floor above and three drive-through lanes, surrounded by parking. The land survey shows fronts on White Horse Pike, a state road, South, a municipal road, and Stone Road, a County Road. Proposed is 2,500 square feet in existing building by Club 420, LLC a Class 5 Dispensary for the retail sale of cannabis. It is 1.19 acres in the business/commercial zoning district and in the White Horse Pike Redevelopment area with the redevelopment plan designated from October, 2022 by ERI, an overlay zoning district with underlying zoning being business/commercial. It was confirmed that they are applying underlying zoning and not the redevelopment overlay. Exhibit A2 is the Avila Site Plan. Chairman Hafer said the Avila Site Plan was proposed to be a mixed-use requiring redevelopment approval. He asked if that use was completely abandoned, to which it was responded, no. There was explanation that Mike Avila prepared these plans in the past when it was his understanding that the landowner proposed to put in a business called Dream Tile on half of the first floor with residential above. He realizes that some issues were raised with the permissibility of those uses. That application has not been heard or scheduled for a public hearing. These plans were created for that purpose. Club 420 then came forward to be tenants. These plans were already prepared. They filed conditional use and minor site plan application because their proposal when filing was to use the site approvals that were actually in the Avila Plan. If the landowner goes forward with an application that would be for another night and another time. The only application before Board is dispensary. Borough Engineer Hanson asked for clarification saying that Dream Tile did submit a site plan application for mixed use to for use as business below and residential above and their office concluded that they must apply for a use variance which is not granted under the Redevelopment plan, so they need to apply as a redeveloper. They have not heard if they are moving forward with that plan. Counsel for the landowner has not confirmed if they are moving forward and there was question if the application had been withdrawn or if it is dead. They did acknowledge that they need to go through the Redevelopment process, but nothing has been heard however.

It was reiterated that this application was for a Cannabis Dispensary, and whatever the landowner is required to do would be a separate application. New jersey legalized cannabis in New Jersey. Municipalities had to opt in or opt out. Laurel Springs opted to allow certain locations with certain requirements. Under Laurel Springs Municipal Code it is conditional use in the B/C district. Conditional use is permitted if the applicant meets specific stated conditions in the ordinance. If do must approve, if do not must apply for conditional use variance, which they did not because they feel they meet the conditions of the conditional use. A conditional use application was submitted as was a minor site plan application. One of the requirements is that they must submit a minor site plan application. The required site plan review to see if it meets the design standard and

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other applicable ordinance requirements. It is not a popularity contest. It is a narrow-focused review. He said the record will show that he believes they do meet the standards, they do not require any variances or design waivers of which he is aware. The Land Use Board has the limited function to determine if conditional use requirements are satisfied, and if so, if the site plan standards are satisfied. It is not a referendum on Cannabis. The Governing Body adopted a zoning ordinance saying cannabis is appropriate in this location if they meet the conditions. That is the focus and that is what they are asking the Board to consider. They are asked to examine the evidence in the record, and as he is aware those conditions are satisfied.

They have reviewed Mr. Hanson's review letter of December 15, 2023. They spoke that morning. The biggest comment concerned the reconfiguration of the parking lot and landscaping to reduce impervious coverage, to change the circulation and parking patterns. They agree to work with Mr. Hanson to address his comments. He asked to mill and repave the parking lot. They did not think it was necessary, however, after looking at it, Club 420 is willing to do that. They are going to upgrade to a new parking lot and will work with Borough Engineer Hanson's configuration of the parking lot. They agree to work with Mr. Hanson to achieve a mutually agreed upon result.

More exhibits were distributed to the Board. The following is the recap of the numbering of the exhibits: A1 is the aerial photograph. A2 is sheet 3 of the Avila plan. A3 is the floor plan. There is a security overlay which was listed as 4A. A4 is several pages of architectural renderings of improvements to the building, there was discussion of the rendering of the signage not being accurate and should be ignored, and that there will be a quality and extent of improvement proposed to the building. A5 is the street view image of building today, which he recommended be put next to Exhibit A4 for a before and after. The building is not in good condition, it is neglected and needs to be improved and they are committed to doing that and making it a quality business.

Consultant Amanda Ostrowitz, SLAP Consulting, and Engineer Michael Brown, CES, were sworn in by Solicitor DeMichele as were Borough Engineer Jeff Hanson and Borough Planner Dave Benedetti. With Ms. Ostrowitz testifying first. Mr. Hafer asked regarding the floor plan and direction of their main entrance. It was said A4 is an exterior rendering of the entrance to the cannabis dispensary on Stone Road and that the signage was incorrect in the rendering. There was further discussion about the purpose of exhibit A4 and problems with the rendering. Mr. Hafer reiterated for all to understand that the images they are presenting appears to have the entrance on the White Horse Pike, but that is not true, the entrance to the dispensary on the side of the building facing Stone Road. Amanda Ostrowitz said she has been in the Cannabis Industry since 2014, giving her resume and her company and her journey and said they have 35 dispensaries throughout the country with nine in New Jersey. She is the applicant's consultant and her familiarity with the application since day one. She is familiar with New Jersey Cannabis retail dispensaries. She said that Mr. DeDuca's introductory comments were factual. There was discussion of the operation of the dispensary, customer experience from the point driving in and parking until they leave. From the parking lot in through the entrance there is security. Customers come in on the side, with a double stop gap corridor, then a place where ID check is checked. A security person lets people into a waiting area and if there is no back-up then directly onto the floor unless a security issue is deemed to be present. There is ample room in the waiting room. Once cleared they will be let into the showroom for point-of-sale stations. Everything is behind enclosures. The front of house is where you make your purchase and includes reception, waiting area, the show floor and the exit vestibule which is a different space than the entrance area. Nobody can go directly in or accidentally find their way there. There was additional discussion of the several point-of-sale stations, pre-order pickup, drive throughs with point-of-sale stations reiterated.

There was description of the back of house. There is employee's area. There is a vault and discussion of the product in the vault which is displayed at limited times. There is a breakroom. There is a manager's office. There are bathrooms. It was noted that these were staff only areas. It was confirmed that they propose using the existing bank vault. They are required by state law to have a vault. There was question about how the age of a customer is determined for drive-through area to which it was responded that it is all set-in advance and

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internally verified ID and verified with arrival and matched. Security protocols are the same inside and in the drive through. It was suggested to hold all questions so they can finish their presentation. She confirmed that the same product and process is conducted through the drive-through as is conducted within the store. There was discussion of dismantling the third drive through. There was question about how many cars get stacked up in drive through, to which it was responded there will be very little stacking because they stagger the time of pick up and set it less so there are no queuing issues. They must preorder and the average transaction time is two minutes. When the customer parks it is 4 minutes on average, so the drive through is faster. The hours of the drive-through will be the same as the retail store. There will never be more than 15 customers in the building at a given time, as they register in the building for wait time. They can seat eight in waiting and with standing room more. There is 100 square feet of waiting space.

There is security video surveillance inside and out with no blind spots. The security is 24/7 with Police officers having remote access in. The video is remote, with 30 days back up into the cloud. There are glass break alarms, panic buttons under all point-of-sale stations and the security desk. There are single and rotating cameras. The State governs and approves the security plan. It was confirmed that it will be submitted.

It was confirmed that the applicant has obtained a conditional license from the State of New Jersey and discussion of conditional licenses converting to annual licenses once local licenses have been obtained. There was discussion of deliveries being 3 to five per week with clarification that sprinter vans are used not trucks. They scatter the delivery times for security purposes. Mr. Hafer asked them to show the path of delivery of marijuana into the vault. The vehicles come in from South Avenue to the north rear door in the drive through with security will greet the deliveries and take it to the manager's office and to the vault. There was discussion of cash in the vault, which is less than a bank and less than \$100,000 with scheduled pick up of what is in excess by armored vehicle all within the business hours. Conditional use limits the hours from 9 am to 10 pm, so they will comply with deliveries in those hours. Waste will be discarded and never removed except by the vendor in separate waste receptacles in vault. The vendor comes and destroys it and removes it from the site. Onsite requirements are next level for best practices and exceed minimum State requirements.

Exhibit A5, a current photo from the White Horse Pike and South Avenue. There was discussion of upgrade proposed for this elevation. All brick will be painted a clean modern white with silver flashing on the soffit which will be modernized with light colors with darker accents siding covered wood grain siding, with a sleek fresh modern look. Mr. Hafer confirmed that it is a wood grain vinyl. Exhibit A4 shows the windows opaque. From White Horse Pike looking in following door on left rear sign is not cannabis entrance. Exhibit A4 floor plan on White Horse Pike elevation adjacent business also has opaque glass on Dream Tile also. They are paying for improvements.

There was discussion of Dream Tile's application. Dream Tile is the owner of the property and occupies the other 2,500 square feet. There is no objection to discussion with him. His business is by appointment only. For the east parking lot elevation, there will be some treatment enhancing the landscaping, and full elevation from parking lot from South Avenue. There was discussion of working out with details with ERI.

The conditional use ordinance items i. through m. were questioned about compliance in detail:

- i. Hours of operation shall be restricted to 9:00 a.m. to 10:00 p.m. - yes
- j. Use or consumption of marijuana is permitted on the premises of an authorized recreational marijuana retail facility only if it is used or consumed indoors and only if the product is purchased at that retail facility. No outside purchases may be consumed on the premises. – no consumption
- k. Persons under the age of 21 years of age are not permitted to be on the premises of any authorized recreational marijuana retail facility at any time. - yes
- l. Advertisements, displays of merchandise, signs, or any other exhibit depicting the activities of the facility placed within the interior of the building or premises shall be arranged or screened to prevent public viewing from outside the building or premises. – yes opaque

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m. Outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to a retail facility, including but not limited to prerecorded or live music or sounds, are prohibited. – yes

Mike Brown, CES, gave his professional background. The Board accepted and concurred that he is a design professional. Mr. Brown agreed that the preceding comments made throughout the entire were accurate. He is familiar with site plans both existing and proposed. He described the site and added that the White Horse Pike is a state road. It is a former bank currently vacant, with 2,500 square feet half for a retail Cannabis dispensary and the other half and upper floors being a prior application that has not gone forward. The site has two-way driveway on South Avenue and a two-way driveway on Stone Road; and two driveways on the White Horse Pike one is an entrance only and one is an exit only. They propose to maintain those driveways in the current configuration except the two-way entrance on South Avenue, which the Borough Engineer has proposed that they make one way, and they agree to make that change. Mr. Hafer requested that he show the traffic pattern going through the parking lot, to which he reviewed Exhibit A2 shows the drive throughs on the west side, which are currently 3 ones to be taken down to two. There was discussion of a conflict with the drive through one way in from South recorded by the Borough Engineer. They concur and propose that it be one way in, which Mr. Hafer questioned if they want to go from the Stone Road entrance and make a left on the White Horse Pike, how would they go? If they want to make a left at the signal they would have to go around the block to the signal on South Avenue. There was discussion of there being no left hand turn onto the White Horse Pike from Stone Road, and there should not be any left turns permitted from the White Horse Pike exit on the parking lot. There was additional discussion of one way out and one way in, but it is all subject to NJDOT. There was discussion of making a left onto the White Horse Pike but is it the jurisdiction of NJDOT. There was discussion of no left turn sign and whether it is currently in the parking lot. There was further discussion of the conflict between the drive-through entrance and the exit out onto South Avenue. The drive through canopy was addressed, as was vacating the 12-foot alley with South Avenue access to eliminate confusion, to which there was no objection. Appropriate striping is to be used. The two-way entrance/exit onto South Avenue was again discussed, with the Borough Engineer saying they will address it better as it is human nature to exit to the light. They did not consider preorder only. Scheduled pickups and preorders will create only a few vehicles at any given time. Four vehicles will fit in each lane.

Mr. Brown answered questions from the Conditional Use Ordinance items a through h:

- a. An Authorized Recreational Marijuana Facility shall be permitted only in the White Horse Pike Corridor Redevelopment District. – yes, it is in the district
- b. No Authorized Recreational Marijuana Facility shall be located within 200 feet of any property used for Borough school purposes or which is owned by or leased to any Borough elementary school, secondary school, or school board. – no, it is Lindenwold across.
- c. No Authorized Recreational Marijuana Facility shall be located within 50 feet of the Residential District or an adjacent community's residential-only zoning district. – this was omitted from the ordinance by Borough Council.
- d. No Authorized Recreational Marijuana Facility shall be located within 200 feet of another similar facility. – no, it is not.
- e. Notice of the application has been given, and publication made, pursuant to N.J.S.A. 40:55D-12. - yes
- f. A site plan application has been made for the lot, and the Board has approved such conditional use, and the requirements and conditions of the site plan/conditional use have been met. – yes and it meets requirements.
- g. The proposed facility shall be so located and of such size and character that, in general, it shall be in harmony with the existing development in the general area in which it is proposed to be situated, and the use shall be free of nuisance characteristics detectable to normal senses beyond the boundaries of the property (including noise, vibration, dust, odor, light, and sanitation). – no nuisances. All is indoors.
- h. In addition to the above:
 - 1) The location, size, activity, site layout, street access, pedestrian and vehicular movement and possible assembly of people shall be harmonious with surrounding land uses. – yes
consistent – yes

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noise and traffic problems – no
size, layout, bulk requirements – yes
front yard setback – existing building does not conform. It is
preexisting nonconforming.

- 2) The location and height of buildings, fences and landscaping shall not discourage the appropriate development and use or materially affect property values in the adjacent properties. – no, it will not

Improve landscape and building – yes it will.
Parking lot striping – significant improvement
Consistent – yes

The traffic analysis is submitted. They considered parking for the apartments and other businesses. The dispensary has less peak hours. ITE trip generation program rates were used. The results of the study for the total dispensary numbers retail and other for Dream Tile are 31 trips for day, 64 trips for night and 88 trips for Saturday. These numbers were in and out. The numbers are 30% decrease than banking traffic would be. The numbers are based on current ITE rates for 2021. The bank was open in the 90's which would have been more. Bank traffic has fallen off. ITE is updated every few years with supplements. There was discussion of changes in traffic rates since COVID.

When asked about conditional use of a dispensary having adverse effect he responded no. When asked about adequate site circulation he responded yes. When asked how many parking spaces onsite he responded 34 spaces. If asked if the existing parking lot was poor, he responded that striping upgrades are required and impervious cover he is in coordination with Borough Engineer Hanson. Properly 34 spaces are minimum, 34 would be the worst case, either way the bulk requirement table shows 26 are needed. The cannabis parking requirement is 10 with so many additional for future assessment. There was discussion of parking spaces, which require nothing specific for the cannabis use. For the record they would increase the spaces above the minimum and would deal with any issue requiring more spaces at the time should it be required. With regard to comments 10 and 11 of Borough Engineer Hanson's letter. The applicant is a tenant, and the comments predate their involvement, but abatement of the violations outstanding being abated as a condition of approval. They were not sure what the details were, but will be addressed, and the renovation would address violations as well. There was acknowledgment that the outstanding violations will be resolved with no objection.

On page 5 of Borough Engineer Hanson's letter regarding the parking lot, or questions 3 – 12. Changes to parking layout, pavement, drive aisle and curbing requested will be addressed with Mr. Hanson, and if they cannot agree they will come back before the Board. Circulation will be clear and concise; striping or curbing will be worked out; they will take out the pneumatic and leave the canopy where it is. There was conversation about the handicap accessible route, based on the spaces required, which is two directly across from the entrance. 90-degree spaces will be provided with the appropriate surface grade for ADA compliance. They will confirm that the electric vehicle charging stations are per state law and utilize existing utilities which are adequate for usage. Deliveries will be nothing greater than a delivery van. Fire Truck access must be provided. Comments 22 through 29 involve landscaping, and they will work with ERI to address. There is a licensed landscaper at ERI to defer to. If there is anything from the Board, please let ERI know. With regard to the lighting plan, they will comply and add to it if necessary. For signage they will use existing signage and will apply for a permit for placement in existing sign box. They will comply with the conditional use ordinance and will comply with everything in Borough Engineer Hanson's letter.

The following matters were posed as questions by the Board. With regard to the landlord, no position is taken by Club 420, and there is no use issue now because of mixed use in future applications. The applicant has an LOI with the owner, not a signed lease. With regard to the State requirement for two electric vehicle chargers, Mr. Brown will double check the State requirements, but he thinks it will require one, maybe two. The State allows one to be counted as two parking spaces, so it bolsters the amount of parking spaces. They will work with ERI on location. With regard to public access toilets, it was said that it would be a building code issue and confirmed that all codes will be complied with, and all laws and regulations complied with. With regard to security, there must be physical presence per state statute, a licensed security guard, and one officer armed complies with state law, inside not outside security. There is one officer in inside reception primarily, with all staff trained in security. Reception will not leave its post. Reception pushes security buttons. Reception and security are different. The door cannot open until first entrance is closed. They were asked why there were not two security guards and if panic buttons are directed to the police department. The maximum number of people would be 24 when they would be at absolute capacity. If they are browsing it could be 10 minutes, but the average time would be seven minutes, with four minutes for pick up. Concerns were expressed about the Bellmawr dispensary where there could be 100 people lined up around the building, an instance of

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overdosing, problems with security and people drawn to that building. There was discussion of if that would happen here, to which it was responded that saturation is different going from that one single store to 1,000 stores. There was discussion of small number of stores to now over 200 stores and the novelty having worn off with more stores. There was discussion of stores in surrounding community and discussion of the Bellmawr dispensary being in an industrial area; and there has been a huge increase in security and visibility. There were questions about how many stores per 1,000 or density to allow it to sustain in that marketplace, to which it was responded that it was one per 10,000 here, which is significantly reduction from the market consultation initially when it was one for 200,000. It was confirmed that one for 10,000 to 1 for 30,000 is the current market. There was discussion of artistic rendering. It was confirmed that the name of the store is Club 420 and per state law, that is all they are allowed to put on the sign. The reason Mr. O'Keefe asked was because across the street you have the school, and he understands that it is in Lindenwold, but, if it were in Laurel Springs would it be within 200 feet, to which it was responded that it depends on how you measure it, and that the Laurel Springs ordinance does not specify, but Mr. DeDuca said that from property line to property line the school is 80 feet, from building to building it is approximately 250 feet and that door to door it is approximately 350 feet as a straight line, but that nobody goes in a straight line, because it is the White Horse Pike and nobody goes in a straight line. If you follow the pedestrian route of travel it is longer. The ordinance does not specify but those are the numbers which Mr. Brown confirmed. Mr. O'Keefe asked if the kids across the street will know if it is a pot store, to which Mr. DeDuca replied they are not going to see pot, weed, cannabis, they are not going to see in the building they are going to see Club 420. There was disagreement about the Security Guard being at the front door, that he sits by the receptionist, and that the receptionist may see people at the door on camera but they can get in the building, to which it was responded that if an elementary school child walks in the building there will be nobody out front to stop them, but if they get inside the building they will be leaving the building they will not get inside the premises, and they will not be anywhere where they can see cannabis. Mr. Hafer said there has been a lot of discussion about the school and distances to the school, and Solicitor DeMichelle was asked and clarified that it is the same as the property owner notification distances for a hearing which is property line to the "school grounds" which is the language in the ordinance, so there is no discussion that it is closer than 200 feet, and the Board has rendered a definition of it. What they do not have a definition of, and what is bothering him is the language "any Borough school." He has been told by some people that any Borough school is intended to mean any school in Laurel Springs Borough. However, why would there be an ordinance for 200 feet inside Laurel Springs Borough when the only school we have inside Laurel Springs Borough is over 1,000 feet away from any site that could possibility be a cannabis site. Was not that 200 feet meant to address the school that is across the street within 200 feet of the cannabis district. That is his question. He tried to get clarification and has been getting different response from Council, to which Mr. DeDuca clarified that he meant Borough Council. Mr. DeDuca clarified that the discussion had been going on the last two days trying to understand what is going on as the application came in quickly. They are There has not been any discussion as a Board the discussion have been going on with Council. This is new to this board, and they have not even considered this. He feels they must go back to Borough Council to clarify what their intent is where it does not make any sense. He would prefer Council strike this since there is no State ordinance to govern this. If Borough Council truly intends that it only affects Laurel Springs why is that distance in there, which is why it must mean 200 feet to any school. It is not defined in the ordinance. He needs a legal interpretation from the approving body or a judge. Is it really saying that students in Laurel Springs deserve to be protected but students in Lindenwold do not? He does not understand what the intent was, to which Mr. O'Keefe concurred that they need clarification. The applicant's attorney and the applicant are protected by the law as is everybody in this room and the applicant strongly objects saying that what he is requesting, not because of improper purpose, but it is not kosher and permitted under the law. Mr. DeDuca quoted the law, stating what the ordinance says, "No Authorized Recreational Marijuana Facility shall be located within 200 feet of any property used for Borough school purposes or which is owned by or leased to any Borough elementary school, secondary school, or school board." The Municipal Land Use Law does not allow the Board to go back to Borough Council for interpretation. It is the Zoning Board's job to interpret and apply the legislation as adopted, and interpretation to ambiguous terms, not to discover legislative intent for the language used in ordinance. The courts do not allow that. Mr. DeDuca said that "Borough" in the ordinance refers to Laurel Springs was explained by the removal of the 50-foot residential buffer language which was item c. which states "or an adjacent community's residential-only zoning district." If the legislative body here intended to have cannabis 200 feet from any school they would have used the language "adjacent community's". They used that term there, they did not in condition b. If they wanted to have this language applied to all schools regardless of what town they were in, all they had to do was take out the word borough in two places in condition b. because then it would say they "No Authorized Recreational Marijuana Facility shall be located within 200 feet of any property used for school purposes or which is owned by or leased to any elementary school, secondary school, or school board."

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They did not, they put the word Borough in there. It has plain meaning. There is no definition of Borough in the ordinance. It was emphasized that it is the language “any borough” that is troubling, to which Mr. DelDuca said if they Borough Council meant that, they could have just taken the word Borough out. The next sentence in the conditional use ordinance There is no reasonable inference to be made to Borough. The inference that is to be taken is that by inserting the word Borough it applies to all communities when in the next sentence they refer to “adjacent communities” for another condition. Why would they use different language to mean the same thing? Mr. DelDuca said there was more. While there is no definition of the word Borough in the definition portion of the land use ordinance there are many references to Borough, and gave highlights, the first section of ordinance 270-1 Title and Content it says dividing “the Borough” of Laurel Springs into districts for such purposes adopting a map of “said Borough” illustrating the classification, etc. and the development of land within “the Borough”. The ordinance is replete in 270-1 and 270-3, reiterating that there is no question these references to Borough are Borough of Laurel Springs. There is a definition of Borough in Minor Subdivision, with regard to Borough facilities. Does the Board mean to tell him that this is a reference to the Lindenwold Borough facilities? Mr. DelDuca said of course not, and addressed Chairman Hafer saying that the ordinance does not mean what he alluded to. and that as a matter of law they cannot ask Council. They cannot call time out and say “Council, what did you mean when you said what you said in condition b. That is not just his opinion that is the law. The law states that in determining the intent of the Governing Body in enacting an ordinance, testimony of intent given by members of the Governing Body is not admissible. Thus, testimony of members of the Planning board or of the Governing Body as to specific intent is not admissible before a board. Mr. DelDuca said they cannot consult with Council as to what they intended when they adopted condition b. As a Zoning and Planning Board they are charged with the obligation to discern the intent of condition b. in the ordinance without referring to Council. They are not allowed to do that. We look at the language of the ordinance and if it is vague and unambiguous you can look for evidence of intent. There has to be evidence in the record. You cannot rely on discussion you had outside this meeting with a Council member, which is something they should not be doing. It must be something in the record. That is the rule for the municipality. So, it is their job not Councils to determine the intent of the ordinance. Another thing is that you think they should change the ordinance, and you do have a right and as the Chair of this board to make a recommendation to the Board, but that change does not apply to this application. So, at the time of this application, they are entitled to apply the law as it is existing at the time of their application where they have met the conditions of a. through m., with c. having been eliminated from the condition use ordinance. If you ask the board to change the ordinance it does not have an effect on this application. Mr. DelDuca felt it would be inappropriate to table the application for that reason, or have discussion with Council for that reason. The case law he used is before planning board and they are not allowed to have statement from governing body as to what they thought because that is your job, and I don’t have the right to cross exam those people. Mr. O’Keefe reiterated that Mr. DelDuca said it is up to this board to interpret the ordinance, to which Mr. DelDuca said it is, but they have to apply the plain meaning of the words, and if this Board concludes that the two references to “Borough” in condition b. mean “any Borough” or “any town” including Lindenwold and therefore the school catty corner from the property, it would be an abuse of their discretion, and an improper interpretation of the ordinance, and they would have no choice but to challenge that, not because they want to, but because its plain on its face that that is not what it means. If that is what Borough Council wanted, then they would have and should have stated it. In the condition they should have taken the word “Borough” out. Mr. O’Keefe asked if he felt it was their intent to make an awkward circle, to which Mr. DelDuca said, let me ask you a question what do you think their intent was when they put the word “Borough” in there with two capital “B’s”, to which he said he did not know, because they did not put Laurel Springs or Lindenwold in front of the other Boroughs, to which Mr. DelDuca said that in all the references he saw, and no one else offered any other references, that “Borough” was always referring to the Borough of Laurel Springs. He had not seen one reference in our ordinance and believe him, he looked to the word “Borough” anywhere in their ordinance, where is applied to anybody in a contextual common-sense fashion other than the Borough of Laurel Springs. Maybe you think the Governing body made a mistake, that is a personal opinion of yours, and you are entitled to it, but as a Board member you are sworn to uphold the law, and you are not allowed to use that personal judgement to conclude that it means something other than what it says, and if they meant to include Lindenwold, they would have said it or taken out the word Borough and they would have added the language they put in the next sentence, and they didn’t do that, and that decision has consequences, and these are the consequences. Mr. O’Keefe said that the Board needs to figure out the intent, just like everybody is trying to figure out the intent of the declaration of independence, to which Mr. DelDuca said you must apply the ordinance as plainly written. If there is a question of intent, you are allowed to consider it, but in this case there is no such question of intent reasonably.

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Mr. DeDuca also said he did not agree with the conclusion that it is property line to property line, to which Mr. Hafer confirmed that he had spoken to Solicitor DeMichele to find out what that meant comparing it to alcohol requirements it was defined as door to door, The State has a law that you have to be 200 feet from a school or church for alcohol consumption. It is a current State law. He asked about this to see if was the same door to door, and the answer was no. It is a schoolyard, and without further clarification we measured from property line to property line. In the same way notification would be given. Solicitor DeMichele clarified the terminology schoolground is with respect to the state requirement for advertising. With no definition, so it is safe to assume the school yard because of advertisement purposes. He also said the Board is within its rights to table to digest the matter but cannot speak or discuss the matter with Borough Council or ask Borough Council for anything at this point in time. Solicitor DeMichele said they are allowed to digest the complexity of the situation. Mr. DeDuca said that the definitions of measurement distances are not set forth in the ordinance, so they do not agree. He said he would recollect a case where the ordinance did not specify. Ordinances are reviewed and changed over time, but current law measures on cannabis being door to door and thinks the evidence is enough to support that position saying he has litigated that position. He emphatically said it was door to door. Mr. Hafer asked if there was case law, which they could not recollect, but said it is dictated by what their ordinance says. He agreed it is not crystal clear, but what it says is that the facility shall not be located within 200 feet of any property used for borough or school purposes, etc. So, it does not mention anything about how you measure that, and there is case law that says when an ordinance is silent that you do not measure it property line to property line, but they do not feel they have to get to that issue because of the reason that he stated, and he will not repeat them. The condition does not apply, and they satisfied the conditions because it does not apply to Borough of Laurel Springs schools. Although he agrees with Mr. DeMichele that generally boards have the right to table applications to get additional information if needed or if there is some reasonable question as to the evidence in the record as it relates to the application. He is not aware of any reason where that needs to occur, because this issue, of interpreting the ordinance is a legal issue. The Board has to apply the ordinance as written, and that is not going to change in the next thirty days. So, they think the board has enough evidence. The Board obviously has to hear from the public, and they do not think there is any reason to table the application.

Ms. Nasuti had a question regarding them having a letter of intent, but they say they do not have a signed lease. She said a lease would contain an allocation of the responsibilities, and if they do not have a lease they are not established yet, and who is paying for what and who has the legal duties. She said that in order to apply for the annual license there must be a demonstration of ownership interest. To which Mr. DeDuca said they are negotiating the lease and going back and forth with the owner, and those division of responsibilities, he understands she is interested in them as a board member, but they do not relate to any of the conditions in the conditional use ordinance and they do not relate to the site plan standard which they meet. However, they will include provisions as to who will maintain it, which he feels that his client will, but knows that all that needs to be signed before they get the annual license. Ms. Nasuti clarified that she wants to know about all this work that is to be done on the site and who is paying for it and taking responsibility for it and if the owner agrees. They have agreed to address everything in Mr. Hanson review letter and are in discussion with the owner over these issues, to which Ms. Nasuti said that the Board does not know. To which Mr. DeDuca said, with respect, it is not a Board issue. Ms. Nasuti said that the site plan and all the improvements they are making is a Board issue, to which Mr. DeDuca concurred and said they have to install what the approval says, and if not they cannot open. They understand that. Mr. Hanson said they will not sign the final plans unless they are completed. They are going to undertake the landscaping and any public improvements that are necessary. The plans will be agreed to, and they cannot open until the plans are signed off on, to which Ms. Nasuti said she understands their intent, but, there is another party here, and he is not here. which is the owner, and they do not know his position on another site plan that they have not seen. What of that owner's intent? Borough Planner Benedetti said that this applicant will front those cost and they will have to go back to the owner, to which Ms. Nasuti asked what representation the owner had made, to which Mr. DeDuca said it could take different forms such as reimbursement or some other form, but reiterated that it was not relevant, not because he is avoiding the questions, but because they are negotiating his responsibility now, the bottom line is that there will be no dispensary unless these matters are addressed. Ms Nasuti said she is just not comfortable with the just the letter of intent.

Mr. Brown was asked to reiterate the measurements which were 80 feet property line to property line. 250 feet from building to building, and 330 feet door to door. Mr. O'Keefe asked why they looked into that. There was discussion of what kind of school it was, which was confirmed to be a Public Pre-K. There was discussion about students walking down Park Avenue because that area on the other side of Stone Road is also Lindenwold. There was discussion of concerns about pedestrian entrances through parking lot and the customer door. On the south side parking lot with motorists, pedestrians are walking down the sidewalk to which it was said that there is a walk that goes to the door. Clarification was requested on the 12-foot alley which has been referenced for many decades.

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They will investigate. There was discussion of waste recycling which is cardboard and non-cannabis waster. They contract privately for pickup, which is staged for no waste storage so must be stored.

There was discussion of the lack of plans prepared nine months ago and that it is unknown what will happen with the rest of the building, they must come before the board and for other uses they must come before the board. Nothing is proposed. The owner is not making representation. The owner signed off on the application. Question on plan from CES answered as working with Mr. Hanson.

Chairman Hafer asked the board if they had anything further, to which, Mr. Weiss asked if the officer who was present would comment. Officer Franco Lombardi was sworn in and asked questions about security. He commented that a dispensary does have long lines and call volume. He believes it will increase traffic in a high accident-prone area. It was responded that ERI had reviewed 15 cannabis dispensaries in Atlantic City, and they work with police. One hour before opening and one hour after closing is recommended. There was discussion of queuing outdoors, and corralling, for which it was recommended that security be put in place as needed outside. It was reiterated that security would be one hour before opening and one hour after closing, and if queuing outside they will call in extra security. They will provide and agree with conditions and will be addressed with security to watch pattern. They will address any special event. DelDuca cross examined Officer Lombardi, asking how long he was a police officer and if he was there to give testimony or there for security reasons, to which he responded security. Mr. O'Keefe asked if the last exchange was about security being outside an hour before and an hour after closing, to which Mr. Hanson said it was for queuing outside if the waiting room has overflow. At prime time if they are inundated they will call an officer in. If a pattern of this, they will work with the Borough to resolve. He just wanted to clarify if they were putting an officer outside. There was discussion of pedestrians across parking lot. Traffic off of Pike subject to NJDOT review. Quick right hand any concerns no more than other sites with no specific concern with this site. It was reiterated that the decision for the Board is: Do they meet conditions? He understands other conversations and interests, but the questions are do they meet the site plan standards? They do comply or they don't they.

Chairman Hafer opened it to the Public. Mr. DelDuca asked for clarification before the public speaks on whether the matter was going forward, as he had mention the possibility of tabling, he just wanted to know what they were doing and get clarity, to which Mr. Hafer responded that what he was going to do is let it get open to the public and let the people who are here tonight speak and then bring it back to the board, and then take a recommendation from the board either to table it or approve it, which is where he was headed, and asked if that was okay with Mr. DelDuca, to which he responded yes. The Board clarified that they could move to table and vote yes or no to table it or move to approve and vote yes or no on the application. But, everybody came out tonight and he wanted to give them the opportunity to speak, whether we are going to table it or not, because they have sat through the meeting and have the right to say something.

- Holly Morrison – 222 Fairmount Avenue – said the law does not allow use in parking lots or on premises, how is that enforced, to which it was responded that the law is enforced by law enforcement.
- Cathy Moncrief – 323 Fifth Avenue, Lindenwold, President, Lindenwold Board of Education. She had a letter, which she referenced. She was just made aware of this, so she is trying to respond. She is very concerned about children walking to school from all sides of Lindenwold as our communities are together here, and crossing through Laurel Springs, and crossing the parking lot to where people line up. They are concerned that it is only 80 feet from property line to property line where they are playing outside. Parents come and drop kids off and are also concerned. They remain very concerned about this process and unfortunately because it is on their border they have very little control of that. They do appeal to the Board. She hears the Board say something that made her realize that they do understand that they honor all kids and the safety of all kids, which does not stop at the borderline of communities and asked them to consider their situation. Mr. Hafer said he appreciated that and asked her to tell a little about the school, to which he confirmed that the school serves all preschool students for Lindenwold come to that school. It is currently a leased property from the church. They have been there for five or six years already. They use buses and walk. She confirmed that the children who live within a half mile walk. There are children walking on the Pike and from Park Avenue coming up to the school from that area. She expressed that she understands that this may be an unintended consequence, and that hands are tied. She expressed that the ambiguities in the words do have credence. There was reiterated conversation that the use of a capital letter in Borough does mean Borough of Laurel Springs and if the Borough violates the law the applicant has recourse, and they may not have a choice in the matter. She said she appreciated him hearing her, and he expressed appreciation in her coming out. Mr. DelDuca cross examined her, confirming that she is President of the Lindenwold Board of Education, and the school is that is across the street is the Lindenwold Public Pre-school and does include 3- and 4-year-olds, operated by the Lindenwold Board of Education. Hours of operation are from

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9 am – 4:15 pm. When Mr. DelDuca asked about the licensure, she reiterated that it is a public school. He asked again if it has any licenses, to which she said no it is not necessary it is part of their district programs. He asked if Lindenwold operates Elementary Schools to which she responded yes, on Chews Landing Road behind Kings Row Apartments and at 801 Egg Harbor Road. He asked about secondary schools to which she responded they have a middle school and a high school saying their middle school is currently grades 5 through 8, and the high school was grades 9 to 12. Ms. Moncrief was offered a chair and asked to sit. He asked where the Lindenwold Board of Education officers were, to which she responded 801 Gibbsboro Road, and confirmed that is their only office. The three and four year olds that are at this location, for which he apologized that he could not remember the name of the school, which Ms. Moncrief said was Lindenwold Pre School with a big sign on the building, do those children receive any instruction required by State law, to which she responded yes, that in New Jersey, school districts are required to educate students 3 and up. Special education students are estimated to be 100 out of the 380 attending preschool. The district uses the established curriculum for a pre-k through 12 school district and this is part of the established curriculum program.

- Sam DelPidio – 539 Park Avenue – his concern about this application in case the board was not aware Council had picked another license for cannabis and he does not want Laurel Springs to be the Jewelers row of cannabis dispensaries and hoped the Board would take that into consideration. And with regard to this application, he thinks the school is a real concern regardless of how the ordinance was written or understood and would hope that the Board is not bullied by Mr. DelDuca telling them what must and must not do. Saying you are entrusted by your friends and entrusted by your neighbors to do what is right and encouraged them to do what is best for the community. The applicant’s attorney asked to place on the record that Mr. DelPidio is a Council Member
- Carolyn Redstreak – 733 Park Avenue – she has a problem with the ordinance as her son went to that school before it was a public preschool and said it does not matter if you are a resident of Lindenwold or Clementon, but every child across the street should be treated same. She said it is bad enough that it is out there in the world, it should be out there in front of a school.
- John Simon – 64 Carver Avenue, Lindenwold Knights of Columbus was there to oppose the application because of the proximity of the school and parish across the street.
- Richelle Boyle – 501 DiFrancesco Circle, Glassboro – she was awarded a resolution of support on November 13th and feels it would be unfair and unjust for the board to grant conditional approval tonight. Her resolution was awarded first, and she has incurred damages. In that she went ahead and spent money on engineers and architects. The owners and his code violation are not relevant, she disagrees with that. If they approve this tonight, because of the 200-foot proximity, there is a chance that she may not get to the finish line. She feels that they should submit a site plan that addresses the engineer points and resubmit prior to a vote. There was discussion that they should get testimony from owner as the board cannot speak to the owner, whereas she will have Site control fully funded with no extensive renovations and will buy her building outright with 2,420 square feet, to which Solicitor DeMichele said that it was a matter that was not relevant to this hearing or application. It is something that is not before the board. Only thing to discuss is the application that is currently before the board and has nothing to do with the owner, to which she responded that this application could knock her out, and she is fully funded and has total site control by buying the building.
- Resident of 814 Norcross Avenue, Lindenwold – had questions regarding the timeline, and how long to open for either location or the plans for the school. The applicant estimated with the process in approvals June 2024. Construction would be 16 – 18 weeks, even though the construction timeline is not relevant to applicant. They can start the improvements before license but must complete renovations before license. Conditional License received they will work until site is correct for annual license. They confirmed that it is common to share building space.
- There was a motion to approve by Weidler, which did not receive a second.
- There was a motion to table to the January meeting at which time they will review a site plan submitted by CES by Kane, which was seconded by Nasuti, with Hafer, Kane, Weidler, O’Keefe, Lippincott, Nasuti and Weiss in favor, none opposed and no abstention.

OLD BUSINESS

- Approval of Minutes of September 21, 2023 – the motion by Nasuti to approve, was seconded by Kane, with all in favor none opposed and no abstentions.

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CORRESPONDENCE/OTHER MATTERS

PUBLIC PORTION – Chairman Hafer opened the meeting to the public for questions or comment, hearing none he closed the meeting to the public.

ANNOUNCEMENT - The next meeting of the Laurel Springs Combined Land Use Board is scheduled for Thursday, January 18, 2024, at 7:00 p.m. in the Laurel Springs Recreation Center.

ADJOURNMENT – the motion to adjourn by Nasuti, was seconded by Lerley at 9:59 pm, with all in favor and none opposed.

Respectfully submitted,

Dawn T. Amadio, Secretary