

**BOROUGH OF SOUTH PLAINFIELD
PLANNING BOARD MINUTES
July 13, 2021**

Roll Call:

Present:

Mayor Matthew Anesh
Gerry Butrico
Brian Bythell
Suzanne Lepore, Alt. 1
John Mocharski
Vice Chairman Rich Houghton
Chairman Bob Ackerman

Absent:

Council President Derryck White
Jack Pedersen
Michael Pellegrino
Divon Pender, Alt. 2

Also Present: Alex Fisher, Esq.; Stanley Slachetka, PP;

Chairman Ackerman opened the meeting at 7:00 pm at the Borough of South Plainfield Council Chambers stating that this meeting is being held in accordance with the Open Public Meetings Act, by posting a notice to The Observer, The Star Ledger and The Courier News and providing the same to the Borough Clerk.

It is the policy of the Borough of South Plainfield's Planning Board not to hear any new cases after 10:00 pm and no new witnesses after 10:30 pm.

Minutes: None

Resolutions:

A. Case #803 – MFS Consulting Engineers & Surveyors, DPC
Block 476; Lot 4; M-3 Zone
2780 Hamilton Boulevard

Mr. Fisher stated that if the Resolution is to be approved, it is to be approved with the correction that A2 is not identified.

Chairman Ackerman called for a motion of approval for the above-mentioned Resolution. Mr. Mochaski made motion, seconded by Mr. Bythell. Those in favor: Mayor Anesh; Mr. Butrico; Mr. Bythell; Ms. Lepore; Mr. Mocharski; Vice Chairman Houghton and Chairman Ackerman. Opposed: None.

B. Case #804 – 85 Tyler Partners, LLC
Block 467.01; Lot 33; M-3 Zone
85 Tyler Place

Chairman Ackerman called for a motion of approval for the above-mentioned Resolution. Mr. Butrico made motion, seconded by Ms. Lepore. Those in favor: Mayor Anesh; Mr. Butrico; Mr. Bythell; Ms. Lepore; Vice Chairman Houghton and Chairman Ackerman. Opposed: None.

Current Files: None

Informal Hearings: None

Public Hearings:

**BOROUGH OF SOUTH PLAINFIELD
PLANNING BOARD MINUTES
July 13, 2021**

A. Ordinance #2207 - New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act.

Mr. Fisher stated that this is not a Public Hearing. This is the Boards consideration of consistency. Public may listen but not open to Public comment.

Chairman Ackerman asked Mr. Slachetka to make his presentation. Per Mr. Slachetka, has no presentation. Did not prepare the Ordinance.

Mr. Slachetka explained to the Board Members that this is a referral under the Municipal Land Use Law of a proposed amendment to the Zoning Ordinance. The responsibility of the Board is to make a determination as to the consistency of the Ordinance to the Master Plan. Identify any inconsistencies the Mayor and Governing Body who may make the appropriate determination of adoption when it is presented at a Public Hearing for a Second Reading. The Planning Board may make recommendations. The Governing Body can adopt the Ordinance with any inconsistencies noted by the Planning Board with a full majority membership vote. The reason for adopting with inconsistencies can be done as long as the reasons are in writing and on the record. The Ordinance will create two (2) overlays in M-3 district... industrial use that permits the widest range of commercial uses in the Borough. There are a variety uses regarding Cannabis. State Legislature and Governor have allowed, by statute, the municipalities to permit a variety of different Cannabis operations... cultivator, delivery service, distributor, manufacturer, retailer and wholesaler. Municipalities through Ordinances can opt out or permit some uses or range of uses. Provide specific requirements and regulations. This Ordinance permits three (3) types of uses in the overlay district in the M-3 zone. A map accompanies the Ordinance showing the overlay districts. The three (3) types of uses in the Ordinance is: Cannabis Distributor, Cannabis Manufacturer and Cannabis Wholesaler. The Ordinance limits the number of such uses that would be permitted. Limited to two (2) licensed Cannabis Manufactures, two (2) licensed Cannabis Wholesaler and one (1) licensed Cannabis Distributor. Licenses are pursuant to State Statute and Regulations. This is a new use. Last Master Plan Re-Examination was 2014. This type of use was not contemplated. The next Re-Examination of the Master Plan is due in 2024. Required to do a Re-Examination of the Master Plan in a minimum of ten (10) years. The Council is proposing to limit the uses and in areas that industrial uses are permitted. Logical locations where manufacturing, warehouse and distribution are permitted in the zone. No inconsistency from the Master Plan. Planning perspective, to where not want these in residential zones or commercial zones. Retail use not being proposed. Regulations that would govern the setbacks and standard requirements will be the same that are required in these districts.

Goals in the 2000 and 2014 Re-Examination of the Master Plan:

- Goal #1. To protect the public health, safety and welfare of all lands in the Borough. Logical placement of this use. Advancing the goals of the Master Plan.
- Goal #4 - Provide adequate commercial uses to serve the needs of the community. Not a retail use but a commercial / industrial use. Zone plans contemplates the wide range.
- Goal #11 - Maintain an adequate number of industrial uses. Proposing anew use the industrial area.

Mr. Slachetka stated he believes it is not inconclusive with the Master Plan. General goals and objectives being advanced. Planning perspective has logic with these uses with the limitations in the Ordinance in those portions of the M-3 district.

Chairman Ackerman stated there are six (6) items that pertain to the Ordinance. Proposed by the Borough Council, Item #2 - Cannabis Manufacturer License, #3 - Cannabis Wholesaler License and #4 - Cannabis Distributor License. in the M-3 zone. Board Members discussed the areas on the map... South Clinton Avenue and Metuchen Road area.

Ms. Lepore asked why the Borough is not considering retail. Mayor Anesh stated that the Governing Body with the Council President formed a community to examine the passing of the law by the State. There was not enough support for retail and cultivation. Believes cultivation could be a problem. Can be grown inside. Problems have arisen from other towns allowing medical cultivating... smell to name one. A concern.

BOROUGH OF SOUTH PLAINFIELD
PLANNING BOARD MINUTES
July 13, 2021

Mr. Fisher stated that Readington converted a Walmart into a cultivation for medical cannabis. There are many complaints from neighbors regarding the smell.

Mayor Anesh stated the Commission has been formed, but have not identified the actual rules and regulations. Mr. Fisher stated there is nothing stopping the Borough from going back and do a re-determination regarding retail once all rules and regulations have been established.

Mr. Bythell stated why not voting no for everything until the rules and regulations were established. Mayor Anesh stated that was brought forth, but not enough support. Mayor Anesh explained that if nothing is done, the Borough is 'locked-in' for five (5) years for every type of Cannabis item. However, if something is passed in the Borough it has to remain for five (5) years but has room to be adjusted. Mayor Anesh stated everything can be banned, then can go back in a year and allow it. Some support, but not enough.

Mr. Bythell asked regarding the licensing.... Does it go through State or Municipality? Mr. Fisher stated it goes through State with the support of the Municipality.

Mr. Mocharski asked if the licensing is limited to a certain amount in the Borough similar to a liquor license. Mr. Bythell stated per the Ordinance it is governed to allow only two (2).

Mayor Anesh stated that the State allows Recreational Marijuana, but the towns have the option to prevent it. Not the case for most industries.

Mr. Houghton stated that Marijuana retail stores cannot deposit their funds into a Federal Bank. Mr. Fisher stated that the Cannabis Commission will have to address those issues. Regulations will be very long. Mr. Houghton stated until the regulations have been drafted, doesn't believe any of this should be decided.

Mr. Slachetka reminded the Planning Board is to evaluate if the Ordinance is consistent with the Master Plan. It is free to make recommendations.

Mr. Fisher stated that he writes a letter stating it is consistent or not consistent. Believes that the focus should be does it make sense in these locations.

Mr. Slachetka stated that this needs to be consistent with the Land Use Law, Master Plan and Housing Plan.

Mr. Mocharski stated the areas that is designated along with the three (3) types of uses is an effort made by the Governing Body to control this type of use.

Mayor Anesh believes if there is an option that must be taken, what is proposed is the best option. All regulations are in need to be developed and passed. Believes there will be many regulations regarding 'driving under the influence of cannabis.' Similar to 'driving under the influence of alcohol'.

Mr. Slachetka stated that the three (3) uses that are being proposed does not allow consumption. Mayor Anesh added that was one (1) of the issues that was brought up regarding retail... consumption at the retail location and then driving.

Mr. Fisher stated the act allows the prohibiting consumption in public areas. Chairman Ackerman asked if the Municipality prohibits consumption in public areas, can the State 'override it'.

Mr. Bythell stated that there is a tax 'built into' the Ordinance. Asked if other Municipalities are doing the same. Per Mayor Anesh, it is allowed and believes other Municipalities will do so. Ms. Lepore asked if any percentage can be added. Mr. Fisher stated that is the maximum that is being allowed by law. Mr. Bythell asked if the taxed amount must go towards something specific. Mr. Fisher stated no, any part of the Municipal budget.

Ms. Lepore questioned if there can be restrictions put in place for the type of manufacturing. Mr. Fisher read the definition of 'manufacturing.'

**BOROUGH OF SOUTH PLAINFIELD
PLANNING BOARD MINUTES
July 13, 2021**

Mr. Houghton asked if this overlaps with Medical Cannabis. Mr. Fisher stated some does, but much of the Medical Cannabis Act may not be needed.

Ms. Lepore asked if anyone knew what Piscataway or Edison may consider. Mayor Anesh stated that Piscataway is not going to allow any forms of Cannabis. Was not sure what Edison was doing. May be on their election ballot. Mr. Fisher stated that every County in the State voted for the passing of Recreational Marijuana on the previous ballot.

Chairman Ackerman along with Mr. Fisher called for a motion to 'find the Ordinance is substantially consistent with the Master Plan and the Board has not identified any inconsistency with the Master Plan'. Mr. Mocharski made motion, seconded by Ms. Lepore. Those in favor: Mayor Anesh; Mr. Butrico; Mr. Bythell; Ms. Lepore; Mr. Mocharski and Chairman Ackerman. Opposed: Vice Chairman Houghton.

Old Business: None.

Chairman Ackerman stated regarding Colonial Oaks, no completed reports. Had spoken to many Department Heads. All still reviewing. Advised Mr. Smith, the Applicant's Attorney. Mr. Fisher stated he is recused. Asked when Application was deemed complete. Per Mr. Slachetka, April. Mr. Fisher believes it may be time to schedule. Will speak with Mr. Warner regarding the matter. Mr. Slachetka stated that the site is subject to a Settlement Agreement between the Borough and the developer / property owner. There are provisions in the Settlement Agreement that are inconsistent. There have been conversations regarding the Boroughs' Housing Plan. Does not know if that affects deadlines. This is a site subject to a Settlement Agreement between the developer and the Borough in accordance with the Court Approved Housing Plan. Mr. Fisher stated that an applicant is deemed complete once all items on the checklist are submitted by Ordinance. The Board may state it is lacking in information to make a decision. The Board may ask for an extension.

Committee Reports:

- A. **Street Naming Committee** – Bob Ackerman – report progress.
- B. **Environmental Committee** – Rich Houghton & Bryan Bythell – report progress.
- C. **Council Reports** – Council President White – report progress.
- D. **Mayoral Updates** - Mayor Anesh – report progress.

Minor Site Plan: None

New Business: None

Correspondence:

Letter from the NJ Environmental of Protection dated June 10, 2021.

Audience Comments: None

Executive Session: None

Adjournment: 7:50 pm.

Respectfully Submitted,
Joanne Broderick
Planning Board Secretary