

BOROUGH OF RARITAN
Planning Board SPECIAL Meeting
MINUTES
March 8, 2023

CALL TO ORDER & FLAG SALUTE

The meeting was called to order at approximately 6:31 p.m. in the Borough of Raritan Municipal Building. Chairwoman Thomas read the Open Public Meetings statement into the record.

ROLL CALL

Present

Chairwoman Thomas
Councilman Carra*
Ms. Carra
Mr. Cunningham
Ms. Carra
Mr. Delacruz
Mr. Brown
Ms. Goetsch
Ms. Sherwin
Ms. Windrem

Also Present

Larry Cohen, Board Attorney
Stan Schrek, Board Engineer
Joe Bronsen, Van Cleef Engineering

Absent

Mr. DeCicco
Mayor Bray **

*In the absence of Nancy Probst, Councilman Carra assumed the duties of Board Secretary. Ms. Thomas announced that professional/ad hoc committee reports would not be provided due to a limited Agenda. Mayor Bray was not called for roll.**

HEARINGS/APPLICATIONS

- **Char Steakhouse**
Block 33, Lot 1 (777 Route 202)
Minor Site Plan

Michael O'Grodnick, Esq. entered his appearance on behalf of the applicant. Mr. O'Grodnick provided an overview of the proposal to add a covered bar and louvered pergola over a portion of an existing patio. He provided historical context with respect to the business and prior approvals and advised that the existing area to the West would remain uncovered.

Mr. O'Grodnick advised that no additional variances were being requested and that they would honor any condition of approval requiring compliance with all prior approvals. He confirmed that proper Notice had been given. Mr. Cohen acknowledged and affirmed Board jurisdiction.

Mr. O'Grodnick provided handouts identified as "Exhibits A1 and A2" to be used in architectural testimony.

Rocco Campanella, AIA was sworn and qualified. Mr. Campanella identified plans entitled Exhibit A1P and A2P which he identified as floor plan and elevations. These were later marked into testimony as **Exhibit A1** (Floor Plan) and **Exhibit A2** (Elevations).

Mr. Campanella described the proposal which he related was intended for customer convenience. He advised that the existing retaining wall would be rebuilt (essentially same size/same place). He discussed the terrace elevations, which he explained which be open but had the potential to be closed. Making reference to colored

renderings in the handouts, Mr. Campanella identified them as 6 views of and around the trellis and explained how the trellis ties into the existing structure.

Mr. Campanella confirmed that no extra/additional seating was proposed. Mr. Cohen asked for clarification. Mr. Campanella confirmed that they would maintain the same quantity of seats but that the arrangement/configuration might change. Mr. Brown explained how concerns about seating equate to concerns about parking.

Mr. Campanella confirmed that the patio would be the same size but that it is being “squared off slightly” in order to create a bar.

Mr. Campanella confirmed that use of the [mechanical] louvered ceiling would be weather dependent and that it would be stationary/connected to the building in response to questions from Ms. Thomas and Mr. Schrek. He confirmed that the use of outdoor heaters would continue (“same as what is there now”).

Mr. Cohen marked the handouts containing photos as **Exhibit A3**. It was noted that the first two pages of this exhibit contained [previously marked] Exhibit A1 and A2.

Mr. Campanella confirmed that “the slats” are open/not a solid wall in response to a question from Ms. Thomas.

Mateo Ingraio identified himself as one of the owners of Char and was sworn in. Likening them to blinds and comparing them to the type used at Tommy’s Tavern in Bridgewater, Mr. Ingraio described the sides as “basically shades that go up and down.” He testified that there was no plan to provide live entertainment in response to a question about same from Mr. Goetsch.

Ms. Thomas solicited questions from the Board and professionals. There were none. She opened the floor to questions from the public for this witness. Seeing none, she closed the question period. The hearing was closed and Mr. O’Grodnick provided a brief summation.

Motion by Mr. Cunningham **seconded** by Ms. Goetsch and unanimously carried to approve the application for Minor Site Plan.

ROLL CALL

AYE: Ms. Thomas, Ms. Carra, Mr. Cunningham, Councilman Carra, Mr. Brown, Ms. Goetsch, Ms. Sherwin, Mr. Delacruz, Ms. Windrem

NAY:

ABSTAIN:

- **Valley Wellness**
Block 41, Lots 2 & 3 (405 Route 202)
Amended Site Plan/Parking Variance

Seth Tipton, Esq. entered his appearance on behalf of the applicant and provided an overview of the application which included historical context on the business. Mr. Tipton spoke at length about the prior approval, with a focus on how the subsequent adoption of recreational cannabis affected it. He explained that they were appearing now in connection with a condition of the prior approval under the same Zoning Ordinance that required application for further relief if seeking to add adult use.

Mr. Tipton explained that Valley Wellness submitted an application to the Cannabis Regulatory Commission (“CRC”) for expansion in January, 2023 that required the support of the Borough (including amendment of the Zoning Ordinance to allow recreational cannabis as a permitted use). He related that this was received via resolution on 12/20/22 and that Ms. Trent anticipates that the CRC will act on her application on April 13. He

related that since their initial appearance, more retail licenses have been issued as a result of changes in the law which equates to more competition with other facilities opening or set to open nearby.

Ms. Thomas clarified that they would not be discussing legalization or their ability to sell cannabis as this had already been decided by Council. Rather, she offered they were returning as a result of the Board having the foresight during the prior approval to impose conditions making it mandatory for them to do so, knowing that this would be inevitable.

A brief discussion about completeness ensued. Mr. Tipton indicated that they received a completeness determination by way of letter the day prior. Mr. Cohen asserted the Board needed to act on completeness. Mr. Schrek advised that there had been no change to the application that would affect completeness, with the exception of parking. Mr. Cohen added that the modifications to the Site Plan were minor.

Motion by **Ms. Carra**, seconded by **Ms. Goetsch** and unanimously carried to deem the application complete.

ROLL CALL

AYE: Ms. Thomas, Ms. Carra, Mr. Cunningham, Councilman Carra, Mr. Delacruz, Mr. Brown, Ms. Goetsch, Ms. Sherwin, Ms. Windrem

NAY:

ABSTAIN:

Mr. Tipton confirmed that proper Notice had been given. Mr. Cohen acknowledged and affirmed Board jurisdiction.

Sarah Trent identified herself as the owner of Valley Wellness. She explained that she appeared approximately one year ago for a parking variance in order to operate a medical Alternative Treatment Center (“ATC”) and was returning in order to ask for similar relief in connection with the operation of an expanded ATC. She offered that she managed construction well over the past year, calling the Construction Office pleasant to work with.

Ms. Trent explained that she currently employs a staff of 13 and over the course of the three months since opening, has successfully operated the business and maintained the property. She spoke about the Grand Opening on 12/9/22 which was attended by 75 people and stated that she is proud/hoping everyone is enjoying the improved façade.

Ms. Trent testified that the facility currently operates from 10am – 6pm. She explained that the new proposal includes modified hours (8am – 7pm), which would still be in line with what is permitted by ordinance. She discussed onsite security which is also dictated by ordinance.

Ms. Trent discussed access and provided detailed testimony on operations/procedures for parking, check in, paperwork and floor access. She advised that customers can call ahead to place an order on the floor using an iPad which she related was a fulfillment style model which has been shown to improve turnaround time. She explained that all product is kept in the fulfillment room; not on the floor.

Ms. Trent asserted that she has been able to manage parking despite seeing double what she averaged with employees parking on site. Nonetheless, as a result of the potential expansion and as a result of the last TRC, she explained that offsite parking for employees has been secured at the Raritan Mall via a 6 month lease. Citing recognized underutilization, she related that she is also negotiating with NJ Transit for parking in the train station lot. She testified that 2 spots would be designated for patients only and 2 for Uneda customers.

Ms. Trent advised that installation of an electric vehicle charge port was part of the amended application and spoke to the location. She advised that the Fire Chief, Dan Lawson had toured the facility prior to opening and helped with placement of the lockbox which he has a personal code to. Referencing multiple conversations with Chief Nolte, she spoke about utilization of an off duty officer for the Grand Opening and advised that she supplied

the Chief (as well as all local law enforcement in Somerset County) with the CRG (Critical Response Graphics), as suggested by her Chief Security Officer.

Ms. Trent spoke about her projections. Referring to prior testimony, she shared that the maximum expectation of 83 customers per day is not being realized as they are seeing (on average), 40. She testified that she does not expect to hit the maximum number, citing recently opened competitors. She speculated that the expectation under the new proposal would be to see an average of 50 patients and 100 adult use customers per day with the new 8-10am timeslot being reserved for medical patients only.

Ms. Sherwin asked about the offsite parking for employees at Raritan Mall. Ms. Trent explained that their security guard would shuttle employees and alternatively, a local taxi service would facilitate transport, if needed (with guaranteed pricing/pick up already having been discussed).

Ms. Sherwin asked about parking at the train station should that scenario come into play. Ms. Trent stated that at .3 miles away, it was walkable. Citing concerns about pedestrian safety, Ms. Sherwin asked about sidewalks on the route. Mr. Schrek offered that the question of a sidewalk connection was valid. Ms. Thomas suggested that the arrangement being proposed for transport from the mall be extended to the train station scenario.

The length of the lease term was brought into question by Mr. Cohen. He asked Ms. Trent about the number of employees. Ms. Trent advised that they have permission to park 10 offsite and that the maximum number at one time would be 7. She explained that they would be working with a split shift in order to accommodate the logistical challenges associated with the arrangement.

Ms. Trent responded to a question from Ms. Thomas who asked whether the 6 month term was relative to her anticipation of an agreement with Transit.

Mr. Cohen reviewed the parking requirement of 40 spaces for the combined use as compared to the 24 existing, inclusive of the EV space. He explained that they are compensating for a 16 space deficiency with employee parking but asked how it would be monitored, particularly since there is only a 6 month lease with the Mall and approval from Transit pending. Ms. Trent offered that she has always been "very forthcoming" and compliant.

Mr. Tipton offered that they would be willing to accept a condition of approval relative to offsite parking. Calling it a "logical next step," Mr. Cohen continued to express concerns over challenges with monitoring, adding that the Board considered a substantial variance previously for the medical use alone which would now be exacerbated. Mr. Tipton lamented that they would prefer closer parking for employees like any business. Mr. Cohen asked whether the price for the 10 spots was high. Ms. Trent related that it was reasonable. He then asked whether they would provide a longer lease term since its not lucrative for them. Ms. Trent explained that the owner of the Mall is hopeful things will happen on the site so does not want to be locked in. Asserting that apartments are not going to be built there in 6 months, Mr. Cohen asked what would happen after 6 months. Citing a lack of ability to control the owner of the Mall, Mr. Tipton stated that "no matter what," they will have a lease for offsite parking and that any requirement to maintain same, would be adhered to.

Mr. Cohen asked whether they would close if after 6 months there was no agreement with Transit and offsite parking could no longer be secured. Mr. Tipton indicated that they would understand that they would no longer be in compliance with the resolution. Mr. Schrek offered that despite NJ Transit being receptive to the idea based on conversations with the Borough Administrator, it would take a long time and the sidewalk is not finished. He suggested that they continue to look for alternatives. Ms. Thomas added that a heavily trafficked section of Anderson St. is not sidewalked. Ms. Trent assured the Board that there are other options she is pursuing, including having contacted Burlington Coat Factory. Mr. Schrek confirmed that Burlington does have a parking count on file in response to a question from Mr. Cohen about the availability of excess parking there.

Ms. Goetsch commented about a lack of issue with the current parking situation which was said to include 4 employees parking on site. Ms. Trent reiterated that it has been working for the medical use. She added that she feels it could potentially work for the combined use but wants to ensure it will. Mr. Cohen commented on the increase in customers from 40 to 150 spread out over 3 hours. Mr. Tipton asserted that Mr. Masol would speak to this. He reiterated that the applicant would abide by a requirement of offsite parking if applicable.

Ms. Thomas opened the floor to questions from the public of the witness.

Roger Copt of 1120 Route 22 commented that parking should be provided on site and compared this to the “flood plan” tied to an unrelated application. He was redirected for making comments instead of asking questions. He asked Ms. Trent how she was going to obtain a long term lease to satisfy the parking. Ms. Trent stated that she would continue to negotiate with the owner of Raritan Mall and continue to look for additional/more convenient parking. She then stated that she would not operate without offsite parking for her employees.

Wayne Ingram, P.E. (previously sworn and qualified) entered his appearance. He explained that the changes to the plan which show as built conditions result from installation of a charging station between 2 stalls closest to UNEEDA, designated as EV accessible which complies with ADA requirements/State regulations, resulting in a small parking credit. He testified that everything from the prior application was installed in accordance with the site plan with the exception of the vestibule which turned out to not be needed. Mr. Ingram advised that EV accessible spaces are not mandated so other cars are not restricted from parking in them.

Mr. Cunningham asked about any intention to install additional EV parking with respect to the credit. Mr. Ingram explained that regulations only allow for a 10% reduction and that the actual parking deficiency is only reduced on paper. Referencing the Township Ordinance, Mr. Ingram testified that expansion of the use is not actually creating any additional demand. He explained that they are appearing before the Board merely to provide justification for the variance since they asked for a deviation in the first place. He testified that all design waivers and setbacks were the same as previously approved with respect to Mr. Schrek’s review memo. Mr. Schrek affirmed this.

Referencing Ms. Trent’s testimony regarding Fire and Police personnel, Mr. Ingram asserted that she cooperated with them. He advised that ADA requirements have been met and that they are not aware of any changes to storm water on site as a result of the new rules. He testified that no issues/backups were found when he visited the site on rainy days as per the prior approval and could provide a certification to this effect.

Mr. Ingram spoke about outside agency approvals and advised that the County exemption and DOT letter of no interest were both in effect. He testified that from the perspective of the DOT, there was no change.

Chairwoman Thomas opened the floor to questions of the witness.

Juan Alvarez identified himself as owner of 100 Valpeck Avenue and Chair of the Environmental Commission. He asked whether the EV station was a Level 2. Mr. Ingram confirmed that it was and responded to another question from him about access in relation to a wall shown on the property that would appear to cause it to hang over the curb and potentially impede pedestrians. Mr. Ingram advised that the area in question is not a sidewalk/walkway, but rather a 2’ narrow area.

William Masol, Traffic Engineer reviewed his report in detail. He explained that he looked at the effect of the minor changes to the site plan on floor area or parking requirements. He confirmed that there were no changes to the building or changes in Code that would impact the parking requirement. In short, he offered that they are in the same situation as they were before with a requirement of 40 spaces.

Mr. Masol advised that parking counts conducted every 10 minutes (supported with sales data provided by Ms. Trent) resulted in a finding that they were “right on the money,” in their prediction of 9 spaces needed for Valley

and 7 for Uneeda. Mr. Masol testified that at peak (on a Saturday), 9 spaces were being used by Valley while Uneeda got up to 10.

Mr. Masol explained that using the same process/methods as they did for the prior approval, they looked to the NTE manual for traffic generation but found limited data which is specific to Colorado and a limited sampling which equates to a wide range of projections, making data unreliable. He testified that the actual rate is 7.19 spaces per 1000 s.f. which is the same as what was calculated last year. He indicated that the ITE calculation of 21 spaces for Valley Wellness is less than the ordinance requirement of 24.

Mr. Masol advised that the facilities studied last year in Union and Paterson which were medical only have since been converted to expanded ATC's and as such, were suitable for comparison purposes. He provided the following data with Valley Wellness being just over 3000 s.f., located in Raritan which has +/- 9,000 residents with another +/-48,000 nearby Bridgewater and in Somerset County which has a population of +/-345,000:

As to the Union facility:

- 11 spaces occupied at peak onsite and 5 offsite for an equivalent of 1 space per 110 s.f.
- Previous equivalent = 1 space for every 715 s.f.
- 5000 s.f. in size
- Population +/-60,000, located in Union County with a population of +/-572,000

As to the Paterson facility:

- Peak demand of 40 for the equivalent of one space per 70 s.f.
- 2800 s.f. in size
- Population of +/-158,000, located in Passaic County with a population of +/-518,000.

Mr. Masol spoke about comparability given the different dynamic in communities based on population. He explained that averaging the two sites resulted in data similar to ITE of 22 spaces and further advised that last year, the entirety of their conclusions were based on operations which turned out to be over due to the opening of other facilities. He shared that he expects this trend to continue.

Mr. Masol suggested that their previous finding of 10 minutes for turnover time is still appropriate based on facility operations using Ms. Trent's data of 50 for medical and 100 for adult use. He advised that last year they found an average of 7 minutes with the number actually being 9. He related that a 50% increase was also assumed and added in 7 employees projected by Ms. Trent which resulted in a requirement of 11 spaces at peak, combined with 10 from Uneeda for a total of 21.

Referencing Ms. Trent's testimony as to 6 spaces being opened up (1 reserved for shuttle) as a result of offsite parking for employees, Mr. Masol spoke about turnover time affect on projections which would be the equivalent of changing the transaction time from 10 minutes to 36. He suggested that the parking lot could accommodate that (and could actually accommodate 470 adult use customers).

Ms. Thomas offered that the key then is lowering transaction time and asked how that could be facilitated. Ms. Trent spoke about online ordering capability which helps prioritize patients as that is always a priority, together with 3 designated terminals and 1 designated register for patients. She explained that there are multiple ways to expedite, including use of I pads in the lobby and adult use online orders being expedited in the pickup que. She suggested that the turnaround time is now around the 7 minute mark and probably wouldn't get better, in response to a question from Ms. Thomas about estimated times using that system. Ms. Trent advised that delivery is still an option/is being planned for as it is permitted but needs State approval and that curbside pickup for medical is already utilized and intended for recreational as well.

Mr. Masol confirmed that there are now 23 shared spaces at the behest of Ms. Sherwin. He confirmed that they plan to assign 2 for medical only and 2 for Uneeda. Ms. Sherwin referenced Ms. Trent's earlier comments about having to shut down the parking lot at the Grand Opening. Ms. Trent explained that more people were invited than the interior could accommodate so a tent was erected, with permits. She advised that the event was on 11/1/22 and confirmed that attendees used off street parking/walked over. Ms. Sherwin commented that they did so with no sidewalk. Mr. Brown advised that there is a sidewalk leading directly to Uneeda towards Thompson Street.

Ms. Carra asked whether the 13 employees were/would be told about the offsite parking. Ms. Trent explained that they are At Will Employees and that she has been informing them/expecting they will adapt. Ms. Carra asked what would happen if they were to park on the street. Ms. Trent stated that there is a 2 hour parking limit and asserted that she would know if someone doesn't show up for shuttle.

Ms. Goetsch about medical patients pre-ordering. Ms. Trent advised that about 50% do at this time but that repeat customers would be more inclined to do so.

Mr. Cohen asked for clarification on the turnaround time. Mr. Masol confirmed that it was 10 minutes and provided further explanation based on Mr. Cohen's question about his statement regarding a 50% increase.

Mr. Cohen asked about a designated loading space. Ms. Trent explained that her deliveries were small/carry able while Uneeda has a normal delivery schedule and uses a loading dock in the rear for their trucks. She explained that there is a receiving door along the side so cash deliveries and pickups aren't coming through the front door and that delivery vehicles are onsite for approximately 15 minutes; not taking up space. Mr. Cohen asked whether Uneeda's loading dock was counted as a space. Mr. Masol testified it was not.

Mr. Schrek asked whether the turnaround time was based on time in store or in the space. Mr. Masol testified that it was based on time in the space. Mr. Cunningham commented that medical use costs have gone down drastically. Ms. Trent explained that the medical program is struggling because of recreational and offered that it comes down to taxes. She thanked the Council for not imposing a tax on medical cannabis and related that Raritan is the only place in the State that does not do so.

Mr. Brown asked about anticipated promotions for the recreational sales. Ms. Trent stated that there would be no fanfare so that they we can "smooth out operations." She related that they would limit sales hours for the first week in order to control flow. Mr. Brown clarified that he meant in terms of advertising. Ms. Trent advised that there were advertising restrictions in the Green Act so they are very limited/ must go through a State Monitor for approval.

Mr. Brown asked about variety. Ms. Trent stated that it is increasing and that because of limits on the wholesale side, products on the recreational side will be almost identical to medical. She related that products cannot be available for sale on the recreational side that patients don't have access to.

Mr. Cohen asked about the number of Uneeda employees. Mr. Masol related that it was 2 or 3. Ms. Trent clarified that it was 2 and mentioned the 1 box truck. Mr. Cohen clarified that the max counts at peak included employees and truck parking. Mr. Brown speculated there might be more employees given a help wanted ad he saw on Facebook. Ms. Trent explained that someone was retiring. Mr. Brown offered that counts were taken in February so likely did not take into account the Presidents Day sale. Mr. Masol affirmed that the weekday count was on Wednesday, 12/21 and the peak (Saturday) count was on 1/7.

Mr. Cunningham explained that the biggest concern was safety, specifically someone pulling in and not finding a space. He asked whether they would have space to turn around or if they would have to back out. Mr. Masol testified that they would have the ability to turn around. Mr. Cunningham asked about the generator. Mr. Masol related that it was already installed. He then suggested that the loading area, full stall restricted due to the fire

connection and ADA stall would make turning around a non issue. Ms. Goetsch offered that there is always the ability to pull out because of a gap from the nearby light.

Chairwoman Thomas opened the floor to questions of the witness.

Mr. Alvarez asked whether her permit is null and void if she can't secure another lease after the 6 month lease expires/is terminated. Mr. Cohen explained that there would be an ongoing condition of approval that she must provide proof of offsite parking. He confirmed (at the behest of Mr. Alvarez), that a month or so prior to expiring, they would have her provide proof.

Mr. Alvarez asked whether her employees were full time or part time. Ms. Trent related that they are now part time with only one or two being full time. Mr. Alvarez said he assumed she did not lawfully have the right to ask them as an employer how they would be arriving. Mr. Cohen advised that she has a legal right to make it a condition of employment which would not be a violation of law.

Referencing prior testimony from Ms. Trent, Ms. Thomas asked whether anyone was using the incentive she offered for using the train. Ms. Trent indicated that while it is still being offered, no one is using it right now. She related that she also offers bike reimbursement.

Mr. Alvarez commented that there is no way to enforce it if employees choose to park elsewhere. Likening it to hours, Mr. Cohen suggested that an employer can stipulate to it as a condition of employment. Mr. Alvarez asked what would happen if someone who is normally a commuter reverts to using their car. Mr. Cohen offered that this is the best that can be done under the circumstances.

Ms. Windrem suggested that employees would likely be trustworthy/subject to background checks. Mr. Cohen asked whether the industry was stricter than others. Mr. Tipton explained that they are required to be "badged" which is an intense regulatory process and that any violation of employment terms could affect badge status.

Joyce Fritchie of 445 Vandever Rd. congratulated Ms. Trent and then asked what would happen in a situation where the Security Guard was busy/not available. Ms. Trent explained that the security guard would only be utilized off hours on the first and last run and that they are planning to add assistant managers into the mix. She confirmed that the car is owned by the security company and advised that Raritan requires an onsite security guard by ordinance which is common in most facilities.

Mr. Brown expressed concerns about cash and asked whether it was an armed guard. Ms. Trent reiterated that Raritan requires a security guard. She related that while they do have an armed guard, they can choose to have an unarmed guard. She explained that they accept 2 forms of debit payment as well as QR code and ACH and are still actively looking for ways to limit cash exposure. She then explained that their deposits go to an FDIC insured facility and that the cash transport agency is approved by the bank. She added that she does not have the ability to make a deposit, even if she wanted to. In response to a comment from Mr. Brown, Mr. Tipton explained that there is no prohibition on federally insured banks doing business with Cannabis; just additional requirements and expenses that make many of them choose not to.

Mr. Alvarez asked whether the majority of payments have been cash since opening. Ms. Trent offered that about 1/3 are via debit terminals.

Seeing no further questions from the public, Ms. Thomas deferred to Mr. Tipton who indicated that would be asking Mr. Ingram to return in order to speak to the justification for the variance.

Mr. Ingram testified that all positive and negative criteria are still "in play." He offered that it comes down to the testimony of the traffic expert who believes the property works on its own after reanalysis, taking a "really

conservative” approach. He mentioned the benefit of the offsite parking as well as 1 less stall deficit on paper with respect to the existing variance.

Mr. Ingram said there would be less of a deviation in terms of the Ordinance and offered that negative impacts can be mitigated because of the reduction in demand and testimony provided by the Traffic Engineer. Mr. Cohen referenced the increase in use. Mr. Ingram stated that this is why the traffic testimony was key. Mr. Cohen asserted that the variance was being exacerbated and that there would be a greater deviation because of the additional use. He offered that the justification used last time comported with c2 variance criteria and that purposes were found to be advanced as a result of granting the variance. He asked specifically what purposes of the MLUL were being advanced by the exacerbation.

Mr. Ingram offered that there is site suitability and that the creation of transportation routes reducing congestion is one of the main purposes of zoning related to the parking variance. He offered that the existing site is already set up for the use and is running smoothly. He added that the highway location will reduce traffic impacts so any deviation has to be mitigated with the techniques she is employing. Mr. Ingram acknowledged that while there is an increase in customers, it is how she is coordinating given that it is a self regulating business. He asserted that offsite parking will improve parking on site.

Mr. Cohen asked whether it is fulfilling a need authorized by the State. Mr. Ingram affirmed that it was.

Mr. Cohen suggested that the Chairwoman open the floor to questions of the Planner. Ms. Thomas asked if the Board had any questions. Ms. Trent responded to a question about the imposition of sales tax on medical cannabis, explaining that the State does not but that they do on recreational, and Raritan will also impose a tax on recreational.

Mr. Brown asked whether product pricing was set by the State. Ms. Trent stated that she has flexibility.

Chairwoman Thomas opened the floor to public comment.

Mr. Copt commented that they were given a generous variance for parking “at medical” when they needed 40 but were granted 25. He asked how they can come back to get a variance for another variance when they originally didn’t have enough and now want to “significantly increase” the number of people and ask for another. Mr. Copt advised that he drove in there and found that it is not that easy to turn around. He made reference to the parking deficiency at Randazzos where he shared, people can be seen backing up. He stated that Uneeda is the same situation having a “small lot” that is “tough to get in and out of.” Mr. Copt commented that Route 202 goes from 3 lanes to 2 a little before Uneeda. He offered that the applicant has sufficient means to open anywhere in Raritan where there are empty businesses with sufficient parking and with 206 being a “perfect spot.” He offered that what he was hearing is confusing with parking, particularly with respect to EV parking. He stated that “cars are cars.”

Mr. Copt went on to say that there is no guarantee to have a lease to park their employees. He stated that it would be a “dangerous practice” to start giving out variances where employees cannot park on site and have to find a place in town. He added that Raritan residents are always complaining that streets are clogged up with people parking and then commented on the potential for parking at the commuter station. He asked where they will go in the event there are more commuters. He asserted that he thinks its “wrong” and that there are other alternatives in Raritan for this. His issue, he said is parking. He added that he is also concerned about “the other” application with flood relocation and stated that people in the audience at the last meeting (specified not him) are accusing the Board of being a Board that “passes everything.”

Ms. Thomas explained that the ordinance limits the sale of marijuana to Routes 206, 28 and 202 and that, as such it is not allowed on Main Street.

Mr. Tipton provided a brief summation which included a request for flexibility in the condition associated with maintaining offsite parking in perpetuity. He requested that a specific location not be stipulated.

Mr. Cohen suggested that the applicant could return in the future in order to request removal of the condition. He then clarified that the approval would include granting an amendment to the Site Plan despite only a minor change, in addition to a variance for parking where 40 spaces are required but 23 (24 with the EV credit) are being provided. He explained that the change to the prior relief is the addition of off premise parking for employees which would probably amount to 6 more spaces for customers. He advised the Board that their decision should be based on whether they believe the applicant has made a case for granting of the variance and whether they feel the condition of off street parking for employees is going to be impactful. He suggested that the Board deliberate and discuss prospective conditioning.

Ms. Thomas agreed that a discussion was in order and opened deliberations.

Mr. Cunningham offered that a suggestion was made during TRC which the applicant followed through on. He lamented that the applicant has been "above board" with everything brought before them and reiterated that his major concern is safety. He stated that the only reason the application is before the Board is parking and that moving forward, there will there be a safety concern.

Ms. Goetsch commented that it comes down to envisioning the offsite component. Mr. Cohen asked whether the Board would concur on granting the relief if the condition on offsite parking was imposed. No one dissented.

Ms. Thomas solicited final comments from the Board.

Ms. Sherwin indicated that she would be fine with offsite parking but asserted that the owner must provide a safe way to get to the site from it. She asserted that she did not see a pedestrian safe way to get to the building from Anderson or Thompson, suggesting that this could present a legal risk for the Borough. Mr. Cohen stated that the Town has broad immunity but that their concern is safety, not liability and given the current plan to shuttle the employees, would seem to not be problematic. He asserted that they can't prevent anyone from taking the train or walking. Ms. Sherwin held that the employer should still offer the amenity.

Mr. Cohen asked whether if parking changes (assuming DOT approval), the Board would still want to require vehicular transport to offsite parking. Ms. Goetsch clarified that their concern was to provide offsite parking. Mr. Cohen reiterated that the applicant can always make application to amend the condition.

Mr. Tipton related that they would be comfortable with providing vehicular transport given the distance but would prefer no vehicular transport from the transit spaces, if secured. Mr. Schrek stated that he did not think they should encourage a situation in which people would wind up walking on Route 202. He offered that if this were the case, they would have to talk about sidewalks. Mr. Cohen suggested that off street parking at the Raritan Mall with vehicular transport be provided initially and the applicant would have to notify them if that changes, retaining the right to apply for removal of the condition by way of letter rather than full application.

Ms. Thomas offered that it was not just about safety, but about property owner concerns such as people traversing lawns. She asserted that it was not a good location to begin with but that the Board listened and the testimony provided which turned out to be correct, in validation of their decision. She went on to say that they are now asking for recreational sales when there is not enough space and that it is going to be busy which means there will be stress on properties located on Anderson Street. She related that she was looking at the matter from the perspective of owning a home on Anderson Street. Ms. Thomas lamented that she liked the idea. She stated they bent over backwards but was confident in the new information they received this evening. She asserted that it should be done the right way to allow for safe arrival and the only way to ensure this would be by vehicle.

Mr. Cohen asserted that vehicular transport is needed regardless of where the offsite parking is situated. He reiterated that the applicant always has the right to return and thought better of allowing them to do so by way of just a letter request. Ms. Thomas asserted that it should require vehicular transport for offsite parking unless she returns to the Board.

Ms. Thomas indicated reluctantly that she was going to allow an audience member to comment. Mr. Cohen discouraged comments during Board deliberations. There was a brief exchange between the audience member and Mr. Cohen who asserted that members of the public should not be involved in a Board discussion/decision.

Mr. Shrek mentioned the possibility of the applicant approaching the owner of 130 Anderson for sidewalks. Mr. Cohen referred to testimony about the 6 month lease which he stated he presumed was written. He asserted that at the end of the 6 months, they would need an extension or another location. He then asked whether the Board wanted to require additional proofs at the end of the 6 month period which would start when recreational sales begin. No one dissented. He asked for clarification again. Ms. Sherwin stated that it did not matter where the offsite parking was. Mr. Cunningham offered that the applicant has the opportunity to return in order to show another 6 month lease. Mr. Cohen again asked for further clarification, asking specifically whether they wanted to require proof that the applicant has offsite parking at the end of the 6 month period. Ms. Thomas asked for a motion with conditions which she went on to state.

Motion by Ms. Goetsch, **seconded** by Mr. Cunningham to approve the application with conditions, as enumerated by Ms. Thomas (with offsite parking/vehicular transport in perpetuity and a return to the Board in the event of any change therein). Mr. Cohen added that this includes approval of the amended Site Plan.

ROLL CALL

AYE: Ms. Thomas, Ms. Carra, Mr. Cunningham, Councilman Carra, Mr. Delacruz, Mr. Brown, Ms. Goetsch, Ms. Sherwin, Ms. Windrem

NAY:

ABSTAIN:

Mr. Cohen confirmed that there would be 6 spaces offsite.

PUBLIC COMMENT

Chairwoman Thomas opened the floor to public comment.

Mr. Alvarez commented on the parking deficiency and the number of spaces allotted to employees at the offsite parking location. Ms. Thomas explained that to help the parking situation, they suggested getting 7 people out of the lot by shuttling them elsewhere.

Reminiscing about a sign that read "Welcome to Raritan – a friendly town of friendly people," Mr. Copt stated that the "Mayor and Council and Planning Boards" have "turned this into a living hell covered totally in apartments." Mr. Copt advised that he attended the meeting about the Granetz building, "parking cars in flood zones." He asserted that there was not enough parking and that after giving them a "really good deal the first time around," that they were given "another one." He asked what would stop them from coming back to get more parking. He concluded in saying that "politicians are all bullshitters."

Seeing no further public comment, Ms. Thomas called for a motion to adjourn. **Motion** by Ms. Goetz, **seconded** by Mr. Carra and unanimously carried to adjourn at 8:54.

Respectfully submitted,

Nancy Probst

Nancy Probst, Planning Board Secretary

Date of Adoption: 4/26/23