

Joint Land Use Board
1200 Mountain Ave., Middlesex, NJ 08846
Minutes
March 8,2023

1. Call to Order

Chairperson Sherr called the meeting to order at 7:05 pm.

2. Open Public Meeting Act Statement

Chairperson Sherr read the Open Public Meeting Act Statement.

3. Roll Call

The following members were present:

CLASS IV MEMBERS:

FRANK RYAN DEC/2024 [PRESENT]	MARK KRANZ DEC/2023 [PRESENT]
JOSEPH DESCENZA DEC/2024[PRESENT]	JOE CARUSO DEC/2026 [PRESENT]
ROBERT SHERR DEC/2026 [PRESENT]	PAUL WOSKA DEC/2023[PRESENT]
TODD NICOLAY DEC/2023 [PRESENT 7:35] ALTERNATE 1	
SPENCER DURKIN DEC/2024 [PRESENT] ALTERNATE 2	

MAYOR JOHN MADDEN DEC/2023 [PRESENT] CLASS I MEMBER
STEPHEN GRECO DEC/2023 [PRESENT] CLASS II MEMBER
MICHAEL CONAHAN DEC/2023 [ABSENT] CLASS III MEMBER

4. Minutes

Mayor Madden made a motion to approve the February 22,2023 minutes with amendment, seconded by Member Descenza. Vote: All in favor. Motion passed.

5.Old Business

JLUB 2022-010

Major Preliminary and Final Site Plan

MB1 Industries

262 Lackland Dr East
Block 293 Lot 8

Mr. Sullivan stated that the applicant was heard on February 8, 2023 and there were some specifics that would need to be addressed.

Mr. Sullivan stated that the security concern has been addressed as the applicant has arranged to have the current occupants of suite 1 vacate prior to this applicant leasing the space; revised floor plans have been submitted.

Mr. Sullivan stated that the other tenant auto body use (D & J Collision) has a Borough certificate to occupy at this site; a copy of the certificate was submitted with the revisions.

Mr. Sullivan stated that parking has been addressed, the applicant's lease has been amended and the parking clarified; the parking calculations have been revised.

Mr. Sullivan stated that the applicant would do a general clean-up of the site and install landscaping, seal, and restripe the easterly side of the parking lot, restripe parking, have lockable dumpsters and the inlets would be clean and jetted, refurbish handrails, and a backup generator would be installed.

Mr. Sullivan gave the state definition of premises; licensed area only-all public and private at the location used in business.

Mr. Sullivan stated that there would not be common corridors for this suite since the applicant would be the only tenant on this side of the building.

He state that "premises" would not include 262 Lackland Dr. based on the NJ state regulations definition.

Mr. Sullivan stated that they have submitted odor mitigation detailed plans and a revised layout.

Mr. Sullivan stated that the report measures the carbon filters on odor control.

Mr. Sullivan stated that the applicant has submitted a revised security overlay.

Ms. Cathy Mueller, Applicant's Engineer (still under oath) stated that after talking to the owner of the property, the use was determined to be industrial use for welding and assembly, the parking calculations were revised.

Ms. Mueller stated that with the two uses the parking requirement would be 17 parking spaces and the site does have 21 parking spaces. The applicant's lease will state they have dedicated parking spaces. She stated that the applicant doesn't need a parking variance.

The Board continued with the February 2, 2023 Collier's Engineering Report:

- The applicant will work with the Engineer regarding landscaping and street trees.
- There will be a general clean-up.
- The applicant will stripe all the parking and seal coat the entire property.
- Applicant is proposing undersized parking stalls and to keep curbing.
- Applicant is not proposing bollards.
- Applicant is not proposing screening of the lockable dumpster.

Member Woska asked if the screening of the dumpster was a requirement for the Borough.

Mr. Ricci stated that the code requires dumpsters to be screened.

Ms. Mueller stated that the applicant is seeking a waiver to have the dumpster screened.

Ms. Mueller stated that the loading dock will be cleaned up and the outside railings will be refurbished.

Ms. Mueller stated that the applicant isn't proposing the depressed curbing as they are only tenants.

Mr. Ricci asked how the applicant determined the use was industrial rather than automobile repair/service as pertains to the parking calculations.

Mr. Sullivan stated that the certificate has the use permitted as reassembly and cleaning of vehicles not issued for auto repair work.

Ms. Mueller explained her reasoning and how she did the parking calculations.

Mr. Ricci confirmed that there would only be four employees and questioned the use applied for on the certificate of leased occupancy for D & J Autobody.

Chairperson Sherr opened the meeting to the public for questions, there being none he closed the public portion and the Board continued with the application.

Mr. Barr (still under oath) stated that the book bindery was no longer allowed to sub lease and they would be vacating the spot as of April 1, 2023.

Mr. Barr stated that they would lease the entire side; the front space where the book binder was will be turned into a locker room and general area next to the bathroom.

Mr. Barr explained the Odor Mitigation Plan.

- 6 carbon filters in each flower room
- 2 carbon filters in the dry cure room
- 2 carbon filters in the mother-clone propagation room
- 3 carbon filters in the cultivation common area
- 2 carbon filters in the general office

Mr. Barr explained the five staged wall mounted air treatment system; showed where the three additional upright units will be placed.

The Board reviewed the Collier's Engineering Report dated March 6, 2023.

The applicant agreed to the recommendations in this report.

Applicant agreed to the action item- any exhaust fans used for negative pressure control or CO2 purge should be equipped with carbon filtration.

Applicant agreed to the action item-ensure any positively pressurized ductwork and equipment on exterior of the building are sealed such that there is no leakage.

Applicant agreed to the action item-provide carbon filtration on restroom and other supplemental exhaust systems.

Applicant agreed to the action item- in addition to incorporating design elements discussed, the applicant should confirm the building vapor barrier is adequate or provide new.

Mr. Barr explained the wall between the two units is cinder block and has been painted to make non-porous.

Mr. Robertson duly swore in Dr. Kenneth Hughes. Mr. Sullivan asked Mr. Hughes to state his education and credentials.

Mr. Hughes stated his education and experience with HVAC and worked with cannabis facilities in numerous states.

Mr. Robertson asked if specify dealt with odor mitigation.

Mr. Hughes explained his experience with similar business in Colorado and provided advice for this odor mitigation plan.

Mr. Ricci asked what Dr. Hughes had a PhD in.

Dr. Hughes stated his PhD was in Chemistry.

Mr. Robertson asked if had testified in front of any board or commissions specifically on odor mitigation specifically with cannabis odor mitigation.

Mr. Hughes stated he hadn't appeared in front of a commission like this.

Mr. Robertson asked what expertise Mr. Hughes has with odor mitigation and design testimony.

Mr. Hughes stated the combination of the HVAC background and the chemistry background and also he has designed systems.

Chairperson Sherr asked if the sites he had designed had been by residential areas.

Mr. Hughes stated where the locations are.

The Board accepted Mr. Hughes as a witness.

Mr. Hughes referred to page 5 of the odor mitigation, explaining that cannabis plants emit essential oils called terpenes this is where the odor comes from.

Mr. Hughes stated that essential oils are safe and stated example of limonene smells like lemon, and pinene etc. and when they are all mixed it smells like marijuana.

Mr. Hughes states that these essential oils are used in everyday products.

Mr. Hughes stated that activated carbon absorbs the plant carbon.

Member Descenza asked about the life span of carbon.

Mr. Hughes stated that the carbon would last more than a year.

Mr. Hughes stated that the carbon filters would be changed every nine months.

Mr. Hughes stated that these rooms would be "scrubbed" 60x an hour, once a minute normally it is 10x an hour; this would be six times more than normal.

Mr. Hughes stated that there would be six filters in each room to take the terpenes out of the air.

Mr. Hughes stated that they would be able to provide barriers; thick walls with latex paint that won't let the smell out, and air curtains to keep air from moving outside.

Mr. Hughes stated that oxidative degraded molecules such as UV light and peroxides can also help control smell.

Mr. Hughes stated that negative pressure is used to prevent air leaving the interior; to keep the molecules in the room so that they are scrubbed by carbon filters.

Mr. Hughes stated he has been at places where you can tell it is a cannabis facility and also been at facilities that you would have no idea what they do because of how they control odors.

Mr. Hughes stated another way to control odors by oxidate decomposition by using ultra violet light, peroxides and ozone to scrub air.

Mr. Hughes stated it is the opposite of surgical room that uses positive pressure, the cannabis rooms would use negative pressure.

Mr. Bucco stated that there was a meeting with the applicant's professionals on March 1, 2023. He stated after this meeting and reviewing of submissions the March 6, 2023 Report was issued.

Mr. Bucco stated at the end of the Report dated March 6, 2023; it concludes with the statement that the actions and carbon filtration system final design would be reviewed by Engineering before construction if the Board was to approve the application.

Mr. Ricci asked if the air curtains would be installed by the delivery room door and the main door.

Mr. Hughes stated that the air curtains would be on each door and the rooms would have negative pressure to keep air in to be scrubbed by the carbon filters.

Mr. Costa asked about the size of the staff and the maintenance plan for the carbon filtration system, if there would be fans in the building.

Mr. Hughes stated that there would be a schedule to change carbon filters. He stated that there would be air curtains, fans would have filters and if a person was able to smell marijuana then they could change filter instead of waiting for the scheduled time.

Mr. Costa confirmed there would be a maintenance plan in place and documentable.

The Board asked if the maintenance plan would have a daily check and if records would be kept.

Chairperson Sherr asked Mr. Hughes to review page 19 of the odor mitigation plan.

Mr. Hughes referred to page 19 of the Odor Mitigation Plan; staff will be trained in odor control, logging daily, and maintaining the level of scrubbing needed.

Chairperson Sherr explained to the applicant how the Borough currently deals with odor complaints from residents, his concerns are with odor escaping outside the facility, didn't want to see it get to odor complaints.

Mr. Hughes stated if needed you could add another absorbent (another carbon filters) if it was necessary always add another absorbent (activated carbon filter)

Mayor Madden stated he disagreed with putting a time frame on changing filters (every 9 months), due to compounds because of weights and capacity overload and asked if filters could be monitored.

Mr. Hughes stated it was difficult to monitor but the manufacturer recommends a yearly filter change so would have to use a change out system.

He stated that since they are taking a conservative approach, they are saying they would change filters after 9 months so shouldn't have breakthrough odors.

He stated that scrubbing would happen 6x more than recommended.
Mayor Madden stated that another facility in town has carbon filters and continues to be an issue.

Mayor Madden asked what type of carbon filter are to be used.

Mr. Hughes stated that it would be a small pore-coconut shell carbon filter.

Mayor Madden asked how many days the doors would be open for deliveries.

Mr. Barr stated that deliveries would be once a week.

Mayor Madden and Mr. Hughes discussed odor and types of carbon.

Member Woska asked if the employees would be wearing protective clothing

Mr. Hughes stated that the employees would be wearing particle masks.

Member Woska asked how much water was generated.

Mr. Hughes stated that a gallon a day would be generated and collected by a humidifier and recycled.

Member Woska asked if there was a leak (air).

Mr. Hughes stated that the room would be sealed off.

Member Caruso asked what would happen if the scrubbing- odor mitigation system did not keep up.

Mr. Hughes stated that there would be a certain number of plants in a room and if the system didn't keep up you would smell the plants.

Chairperson Sherr opened the meeting to the public questions on Mr. Hughes testimony.

John Ellery, 701 Lincoln Blvd, stated his concerns regarding odor from the site as his restaurant has an outdoor dining area. He asked who would regulate the filters being changed every nine months.

Mr. Sullivan stated that the applicant needs to comply with NJ state regulations as well as the Borough. The applicant can be inspected at any time by the State.

Mr. Barr stated that the State inspects yearly.

Mr. Ellery stated the site used to be a flavor and foods manufacturer and could smell different scents. He stated his concerns about odors affecting his business.

Bill Melchione of Supreme Heating, Middlesex, stated his company installed the BMS(Building Management System) for the cannabis facility in Boonton and stated there are ways to control odor.

Joe Sabino, 216 Short Hill Dr. had a comment not a question, would make comment later.

Mr. Sullivan stated before the Planner would testify; he wanted to review the definition of the word premises by state regulation.

Mr. Sullivan stated that premises- is a building in which housing operation is limited to this particular unit, premises is limited to what is licensed.

Mr. Sullivan stated for the security purposes of the ordinance; the Board can only look at their side of the building, the 262 Lackland Dr (auto body side) doesn't get involved according to the state definition.

Mr. Sullivan stated that this is an indoor facility, and they can't do anything outside.

Mr. Robertson stated that premises would include the lot.

Mr. Sullivan states the application meets the requirements, so they don't need a use variance.

Mr. Ricci asked if Mr. Robertson agreed.

Mayor Madden asked if the loading and unloading area was part of the application.

Mr. Ricci asked a question about the security staff.

Mr. Sullivan stated that security will be present during the hours of operation.

Mayor Madden asked a question about biomass weights.

Mr. Hughes stated that the weight was 1500 parts per million.

Chairperson Sherr asked if there were any questions regarding the premises as defined and stated a D variance was not required.

Mr. Robertson duly swore in Mr. Michael Pessolano, Applicant's Planner. He stated his education and credentials.

The Board accepted Mr. Pessolano as an expert; he has appeared before the Board on numerous applications.

Mr. Pessolano stated he would use the exhibit to show the bulk variances as the conditional use conditions have been met.

The Board marked the Odor Mitigation Plan as Exhibit A1 3/8/2023.

Exhibit A2 3/8/23 was entered as a ten-page packet:

- Page 1- The subject property highlighted in yellow on the tax map.
- Page 2- Aerial view subject property highlighted in yellow.
- Page 3- Photo taken by Mr. Pessolano – east side (left side)
- Page 4- Photo of existing park and field.
- Page 5- Photo of the building with overhead door.
- Page 6- Photo of the right side of the building used by D & J Autobody.
- Page 7- Photo of the land use to the east.
- Page 8- Photo of the building from Lackland Dr.
- Page 9- Photo of industrial building similar to the subject property.
- Page 10- Photo looking north across from the building.

Mr. Pessolano stated that there were no detriments for conditions, no changes to the front yard, rear yard and maximum building coverage. He stated the driveway and the parking in the front of the building are existing conditions. He stated there were no detriments to having these conditions continue.

Mr. Pessolano stated that this was permitted in the Master Plan and an asset to the community.

Chairperson Sherr opened to the public for questions.

Mr. Joe Sabino, 216 Short Hills Dr. Bridgewater, stated that the other cannabis operations are massively bigger than 100,000 sq.ft. He stated the cannabis facility in Boonton is 75,000 sq.ft. He also stated he didn't believe the Spray Tek rooms were sealed.

Mayor Madden commented that the cannabis facility in Whitehouse has odor complaints if the technology exists the why does it smell.

Member Ryan wasn't sure why there was an odor from the Whitehouse cannabis facility. He commented that everything looks good on paper but it is about the what ifs and then the Borough is stuck with problem.

Mr. Costa stated that the Whitehouse cannabis facility is very large facility, and he believed the ventilation was installed later. He suggested having the commitment in

writing in the Resolution; so if there was a problem in the future there would be meetings to resolve issues.

Mr. Sullivan stated that the applicant has gone above and beyond on odor mitigation and will work with the town. He stated it is legal in this location and if they don't have the best practices the state would have enforcement actions against them, they would be fined.

He stated that this is a small cannabis operation, there will be 21 carbon filters in 4,500 sq. ft. area, this is a small operation.

Chairperson Sherr asked if the application was approved then would the applicant agree to have the Police Department review for security. He stated that the applicant had only been reviewed for traffic. He also wanted Middlesex County Health Dept to review the application.

Member Kranz stated that the Board was comparing two different size facilities. The Whitehouse cannabis facility is 20x bigger than this facility. He stated that the rooms would be scrubbed 6x the normal rate and that there would be carbon and hepa filters, sealed rooms. He stated it was an unfair comparison.

Mayor Madden stated that Spray Tek made promises, and these promises have been broken and the company pays a small fine and continues to operate as usual.

Mr. Sullivan stated that Board can't compare another site as Board Members can only judge and vote on what is before them through testimony and the odor mitigation plan.

Mr. Robertson reviewed the conditions discussed: Compliance with the Engineer and Planner report, Compliance with the Engineering letter dated March 6, 2023, final odor mitigation design subject to the Board Professionals, additional site improvements stripe and seal parking lot, install one shade tree, 10 parking spaces designated, comply with licensing, waiver for dumpster screening, forward application to police department for security review, forward application to Middlesex County Health Department, keep maintenance schedule documentation, have lockable trash enclosure, work with Engineer to clean up landscaping, condition of any future odor issues have annual audit, change filters every nine months, grant preliminary and final site plan with bulk variance, waiver for parking dimensions, hours of operation Monday to Friday 9-5 allow for a 7 day operation. Member Descenza made a motion to approve application with conditions stated, seconded by Member Kranz: Vote: Member Descenza-yes, Member Woska-no, Member Ryan-no, Member Kranz-yes, Member Caruso-yes, Member Mayor Madden-no, Member Greco-no, Member Nicolay-yes, Chairperson Sherr-no. Vote: 5-no and 4 yes. Motion failed.

Member Kranz left the meeting.

7. Board Discussion

A. Middlesex Borough- Grove Ave- Proposed Subdivision

Mr. Costa stated that the Borough would like to subdivide the property and reviewed the setbacks. Mr. Robertson will send correspondence from the Board.

B. Pop Up Tent Business

Mr. Costa asked the Board to give a recommendation to the Governing Body. Mr. Costa stated that Chapter 327 addresses seasonal sales only of Christmas Trees. Mr. Ricci would send NJSA 21-3 regulations to Mr. Costa. The Board would recommend language limiting time of sale to a week in certain zones to the Governing Body.

8. Correspondence

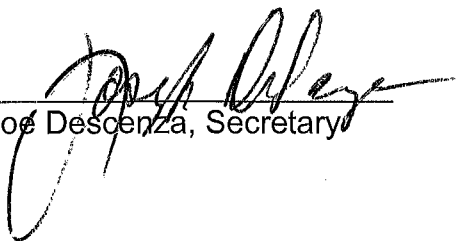
A. JMT- Plainfield Regional Sewerage Authority- NJDEP Permit

No Action Required by the Board.

B. JLUB 2022-012 New Hope Family Enterprises LLC- Lincoln Blvd Block 314 Lot 11- request to be carried to April 12,2023 meeting.

Chairperson Sherr read the request from the Applicant's Attorney, Mr. Sullivan asking for the application to be carried to the April 12, 2023 meeting without having to re-notice. The Board granted the request so the applicant can submit revised plans.

There being no further business, Member Greco made a motion to adjourn the meeting at 9:52pm, seconded by Member Caruso. Vote: All in favor. Meeting adjourned.



Joe Descenza, Secretary



Karen Wick, Board Clerk