



# City of Binghamton Planning Department

SUMMARY OF MINUTES CITY OF BINGHAMTON PLANNING COMMISSION	
<b>MEETING DATE:</b> December 5, 2023	<b>LOCATION:</b> City Council Chambers, City Hall
<b>CALLED TO ORDER:</b> 5:15PM	<b>RECORDER OF MINUTES:</b> Shalin Patel

ROLL CALL		
COMMISSIONERS PRESENT:	PRESENT:	ABSENT:
Nicholas Corcoran (chair)	X	
Joseph De Angelo	X	
Christopher Dziedzic (vice chair)	X	
Mario DiFulvio	X	
Steve Seepersaud	X	
Kelly Weiss	X	
Emmanuel Priest	X	
STAFF MEMBERS PRESENT:	TITLE & DEPARTMENT:	
Tito Martinez	Assistant Director, Planning Department	
Shalin Patel	Planner, Planning Department	
Greg Buell	Zoning Officer, Planning Department	
Elisabeth Rossow	Corporation Counsel	

APPROVAL OF MINUTES		
<b>MOTION</b> to approve the November 7, 2023 meeting minutes as written		
<b>FIRST:</b> Dziedzic	<b>SECOND:</b> Seepersaud	<b>VOTE:</b> Carried (7-0-0)
<b>AYE(S):</b> Dziedzic, Weiss, Corcoran, De Angelo, Seepersaud, DiFulvio, Priest	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>

PUBLIC HEARINGS & FINAL DELIBERATIONS	
<b>ADDRESS:</b> 439 Court St	<b>CASE NUMBER:</b> PC-2023-0029
<b>DESCRIPTION FROM AGENDA:</b> Site Plan Review and special use permit for the establishment of a Cannabis Retail business in an existing commercial building in the C-1 Service Commercial District	
<b>APPLICANT:</b> AOW Construction	
<b>REPRESENTATIVE(S):</b> Al Burgazoli (AOW Construction)	
<b>DISCUSSION POINTS:</b>	
<ul style="list-style-type: none"> <li>▪ Concerns regarding privacy between project property and the neighboring property: there is a pre-existing 8' high solid wood fence on the north side of property that provides privacy between 439 Court St and adjacent properties on Riverside and Bigelow streets.</li> <li>▪ Lighting (on site) was an issue addressed when original A&amp;W was built, and it had been resolved at that time. Light posts are 12' high, opposed to neighbor's 16 and 20' high lights, there is very little</li> </ul>	

light bleed if any onto the neighboring properties because the light posts in the parking lot are quite low in height so that they can light up a parking lot well.

- Contingent upon approval, the landlord has agreed to remove the stones and replace it with seeding or sod along Riverside St and drive thru side.
- Landlord also agreed to install (plant) trees and shrubbery that was originally shown on the Site Plan (C-5, dated 03-31-2015), contingent upon an approval.
- Hours of operation will be limited similarly to other Cannabis locations in the city:
  - Monday – Thursday: 10am to 9pm
  - Fri – Sat: 10am to 10pm
  - Sunday: 10am to 6pm

Note: these hours are considerably less than adjacent businesses. Taco Bell runs 7am to 2am from Sunday to Wednesday, 7am to 3am Thursday to Saturday. Burger King runs 6am to 12am all days throughout the week.

- There are no direct site lines from Calvin Coolidge school to the project location, it is impossible to stand at the school and see the project location. It is located over 1400 feet from the school. Per the Cannabis Management guidelines, the location of Cannabis Retail location cannot be on the same road and within 500' of school grounds. (Defined by section 409.2 of NY Educational Law).
- The drive thru (DT) will allow 8-9 cars of queuing, with very little impact to the parking lot.
- Security drawings cannot be submitted into public record where they are available for public to see, security is paramount at these locations.
- The security cameras will have 360-degree capabilities and will be covering all of the parking lot, the sidewalks onto the roads and everything in front of the building.
  - Security cameras in the back by the DT will not encroach into the neighboring properties due to the 8' high fence.
- **Commissioner (Priest) asked** if there could be camera coverage provided on the western end of the property (parking lot goes all the way to Bigelow St).
  - **Representative (Burgazoli) replied** that is something that could be added, there will be more coverage on that side of the project site.

**PUBLIC COMMENT:**

- **Susan Papastrat (resident at 8 Bigelow St) spoke in opposition of the project.** Ms. Papastrat had following to say about the project: one of the main reasons for opposition from neighbors in regard to this project stems from safety of the children and students that frequent the neighborhood surrounding the project location. Calvin Coolidge Elementary school can be seen from a corner, not from the site, but a corner of the project location, hence it does not seem appropriate to have a cannabis store at this location. Not against the legal sale of cannabis, rather does not think it should be sold in a somewhat residential neighborhood where there is an elementary school visible and park just a few blocks away. Pick another location, the Rocket Plaza, there is tons of adult entertainment businesses located there with vacancies, the Binghamton Plaza too has similar vacancies. Also is very concerned about traffic issues, it is already extremely busy during lunch times and other events. Is the exit from the DT of cannabis going to be on Bigelow St? That would be a very big concern if so. Referring back to Chair of the Planning Commission's comment regarding "residents knew the area was labeled commercial before they moved in." It was somewhat of a correct statement, but not completely true, when I moved there 20 years ago on Bigelow St, there were residents on bottom of Court St, due to the 2006 and 2011 floods, those homes were demolished. The local residents do not want this business in the area, the council should respect and strongly consider concerns of the tax paying residents of the local neighborhood.

- **Bill Berg (Robinson St) spoke in opposition of the project.** Mr. Berg had following to say about the project: the distance from the border of the project site to the first house on Riverside St is 14 feet. This case is more about the quality of life. If this was in your neighborhood, you got the decision to make based on the sale of cannabis within 2.5 Football fields of an elementary school, what would your vote be? The comment about site line to the elementary school is insignificant because what you need to worry about is the youth of the city. Those who use cannabis for the incorrect reasons, think how easy it would be for someone with the wrong intentions to drive-up to Calvin Coolidge elementary school and let their mind wonder from there.
- **Don and Marlene Hodgson (residents at 5 Riverside St) spoke in opposition of the project.** Mr. and Mrs. Hodgson had following to say about the project: Mr. Hodgson says he is happy with the changes/concessions made by the applicant from the last meeting. He would just like the applicant to improve on the lighting, so it does not reflect back into their backyard. Ms. Hodgson commented, the Court St cannabis location hours are fewer than what was stated by representative (Burgazoli) for 439 Court St. None of the other cannabis locations in Broome County are drive thru, there is only one drive thru location in the whole state, which is located in NYC. The other problem in itself is the drive thru. There would be a high recommendation of a barricade entrance into the shop and out. Every night, there are multiple cars in the drive thru aisle smoking, drinking beer, making out, throwing bottles, throwing rocks, all the time. "It is approximately 15' from my building to the property line and 26' from my building to the drive-in window." The cannabis location will be there because it is state funded, never had a problem with the A&W, they were there for about a year. The problem came after A&W was gone, there were broken windows, drugs, kids fooling around, same thing in the back, where drive up is. There were approximately 4 outdoor lights, security cameras on the corners of the building. No cannabis location in the Broome County is opened past 10pm at night. If there is going to be a drive-in, how do you know who is in the car getting the drugs? Do you know their age? Also, Mr. Dhillon did not live next to the property with the lights, the lights need to have a baffled in front of them then it is no longer shining into the neighboring property like an airport.
- **Jamie Mandel (resident on East Frederick St) spoke in favor of the project.** Ms. Mandel had following to say about the project: she does not have any issues with the cannabis shop being at 439 Court St, that part is a very dark side of Court St. Has a 19-year-old son who works at McDonald's and walks home, from it being a dark area, you do see a lot of different things such as drugs. Personally, would like to see a business at 439 Court St, again citing due to it being a dark place. There is a cannabis shop on Broad Ave as well, not really sure on the hours, but they are open about 6 days a week and close before 10pm, used to be called Higher Standards. Would be comfortable with the cannabis shop at 439 Court St with the hours they are looking to be open at. Lists names of the people who were not able to attend the meeting, but who are in favor of the project, including Kelly Ansen, Tim and Brooke Bouts, Natalie Elely, and Donovan White.
- **Carrie Wenban (Attorney with Coughlin and Gerhart, representing the owner of the property at 439 Court St) along with one of the owner representatives (P. Dylan) spoke in favor of the project.** Ms. Wenban had following to say on the project: the city opted in to allow cannabis related businesses within the city of Binghamton with 3 different classification, retail, industrial, and on-site consumption. The city zoning map and districts for cannabis are covered by this location (439 Court St), which we know Court St is a heavily commercial area to do that, as indicated by the C-1 district, which was approved for both retail and on-site consumption of cannabis. The applicant is only seeking an approval for only retail sale of cannabis and not for on-site consumption. In this area within a half mile of the elementary school, including on Robinson St, there is a bar and tavern located on Robinson St where the students are walking through, in

addition to the gas station, the bar & grill and then the liquor store within the Weiss complex with the shopping center. There are visible advertisement and signs that can be seen through windows, for alcohol, vaping, and tobacco related products. On Court St, as mentioned, there is a presence of adult entertainment venue, so within this commercial district and the surroundings, there is a number of these uses that exists in this area. The property has created a hardship to the owners for a number of years and the property has been vacant for 6 years now as indicated earlier, and there has not been a local or a national tenant that has expressed willingness to lease that location. The current property taxes are \$31,000 annually, with insurance and maintenance, and with other carrying costs with the mortgage, the estimated yearly costs are \$90,000 for calendar year 2023. The property has come to give a significant hardship, over 13 years of ownership of property, the owners have invested roughly 2.5 million dollars into the property for improvements. P. Dylan commented, when we bought the property, we never had any intentions of not doing something nicer with the property at 439 Court St. Due to the floods, there were couple of houses that went down, we bought those houses, at that point there was no A&W lease, but thought could use that property to do something with it. But no one was taking care of the houses and there were rodents due to the flooding, and we took of extra loss to adding those houses to our bucket list. Spend tons of money to improve the site and get it approved at the time for A&W and also had approached 10 different national food franchises to be tenants at the location, nobody wanted to be there. It is important for kids to be able to live and move around in an environment where you do not want to live through those negative things. But then I am not sure from a school, how you can bars, gas stations displaying their signs, can sell vape openly, there is no security guards there, no ID checks, we just depend on the cashier at the counter to look at the ID. Not sure how the DT is being looked through different eyes, it is not a fast-food menu system where you get a selection and get in/out in a minute. There is a system in place, IDs will be checked by security present at the location just to be let into the store.

- **Manjot Dhillon (resident of 49 Coventry Ln; owner of 439 Court St) spoke in favor of the project.** Mr. Dhillon had following to say about the project: we have had to deal with people stealing a lot of stuff (including shingles, plumbing, copper pipes, cabinetry all stolen) and breaking of glass to gain entry into all of our properties as they lay vacant. We cannot keep on fixing the damage, neither insurance nor myself as the property owner have funds to continue to fix the property that keeps on getting broken into by kids and people in general. The new cannabis retailer will be providing approximately 20 jobs, it is a clean business, it provides a safer avenue to acquire a product that would not require you to go to a corner and buying the product. We have not had any other tenant besides a cigarette, vape, liquor shop tenants approach us that are ready to rent from us and pay the cost of maintaining a business. The problems that the neighbors are facing could be resolved by having a business present at 439 Court St.
- **No letters received**

**APPLICANT RESPONSE TO PUBLIC COMMENT:**

- As mentioned previously, there is no marketing and/or signage outside (in regard to marketing the product to school age children), you will not know what this is other than the name of the business outside (no logo, just the name). 2.5 Football fields length distance away from school was mentioned multiple times and that would be ~750 feet, but the actual distance apart is over 1400 ft. Usage of cannabis, going through the drive thru and bringing it to school and distributing, it would be highly unlikely considering the expense of the cannabis at these locations. They are not cheap, they go through state testing, there would be additional taxing on it. "From my point of view, if someone were to distribute it at school, they are not going to purchase it through a licensed retailer, they would be buying it illegally from somewhere else. As for baffled light posts, I

believe there are 2 light posts that are along the drive-through side of the property that border the property just north of the drive-through lane.” Those 2 light poles are rectangular in shape, would be able to have a bent metal made up in dark bronze color that would be similar to the head of the lamp, hang onto the existing lamp post fixture, which should give some relief to the neighbor. This location is not asking to be opened past 10pm for business (reference to someone mentioning no cannabis store in the Broome County is open past 10pm). Of course, there would be no problems while there was an active business such as A&W that was present on site because vacant spaces are a playground for havoc, while active spaces deter that from happening. For the drive-thru use, the ID of the buying consumer will be checked and scanned for a purchase to be made. The ID of the consumer will get registered into the system when they make a purchase of the product. The IDs of the rest of the vehicle would not be required by the law to be scanned/registered/checked. The purchaser of the product has to be of a legal age, what happens after the purchase is on the buyer. Any area that you are allowed to smoke a cigarette in, you are allowed to smoke cannabis, it is a NY State law now, unless the city has additional rules and regulations. There are two exits from the site, one onto Court St and another onto Bigelow St; it is same exiting pattern as it was for when A&W was present at the site.

- **Staff (Martinez) commented**, one thing to add is that you cannot smoke and then drive. If the purchase of the product is a driver buying it via the drive-thru, then they smoke it in the parking lot of the establishment, they cannot drive afterwards, they could be stopped by police.
- **Commissioner (De Angelo) commented** wanting the applicant to find a way to secure the parking lot off-hours so that there would be no concerns of people parking freely and partying and raising concerns for nearby residential neighbors.
- **Applicant replies**, the major deterrent to crime is that there are cameras everywhere and they are visible. There are no gateways or mechanics to stop people from doing same on Taco Bell or Burger King parking lots, it would not make a vast difference when there is an active business in place with security.

**VOTING**

**MOTION** that the requirements for Site Plan Review and Special Use Permit have been met and therefore the application has been met and conditionally approved, subject to the following:

- The stone(s) to be removed in areas of possession with ripraps, and sod and seed be installed to return it back to lawn
- All the landscaping show on the original plan dated March 31, 2015, is installed or maintained as originally approved
- Hours of operation are amended as the following:
  - Monday – Thursday: 10 am to 9 pm
  - Friday and Saturday: 10 am to 10 pm
  - Sunday: 10 am to 6 pm
- Installation of an additional camera to cover the portion of the parking lot (on western end of the property, near Bigelow St) that is not covered in the graphic shown to the Planning Commission
- Applicant must install baffles on lights (in the manner described by the applicant) that would affect the neighbor directly to the north of the site

<b>FIRST:</b> Corcoran	<b>SECOND:</b> Dzedic	<b>VOTE:</b> Carried (4-3-0)
<b>AYE(S):</b> Corcoran, Dzedic, De Angelo, Weiss	<b>NAY(S):</b> Seepersaud, Priest, DiFulvio	<b>ABSTENTION(S):</b>

**PUBLIC HEARINGS & FINAL DELIBERATIONS**

**ADDRESS:** 200 Court St, 32 Fayette St, 38 Fayette St, 34 Stuyvesant St, 25 Rutherford St

**CASE NUMBER:** PC-2023-0031

**DESCRIPTION FROM AGENDA:** Site Plan Review and special use permit for the conversion of a vacant industrial building into a mixed-use Multi-Unit Dwelling with 110 units and Social Services facility, including the construction of an addition onto the rear of an existing building and the resurfacing of parking areas in the C-1 Service Commercial District and R-3 Multi-unit Dwelling District

**APPLICANT:** CSD Housing LLC

**REPRESENTATIVE(S):** Shauncy Maloy (PASSERO ASSOCIATES, PE)

**DISCUSSION POINTS:**

- The main project was approved at the August 09, 2021, Planning Commission meeting
- The reason for a modification to the plan is due to space constraints, to meet the building code and make it a useable space
- Reduction of parking spaces from 110 as originally approved to 91 spaces according to modified plans
- It is a \$25 million project to renovate a vacant building at 200 Court St into affordable and supporting housing
- Part of the building was built in the 1940s and was added onto and renovated through 1980s and is considered a historical building – applicants have been working with SHPO and national park service to maintain the character of the building and make it a functional and aesthetically pleasing to the public eye.
- 111 housing units – mixture of studio, 1 bedroom, and 2 bedrooms apartments
- This type of housing typically has 50% or less people who own/drive their own vehicles, there is no anticipation of residents needing more than ~55 parking spaces
- Other minor changes: remove bits of a sidewalk to make things fit due to NYSEG’s requirement for a ground mounted transformer and different configuration in the parking area (increasing ADA spaces according to HSA during their review of the application), which are some of the reasons for a reduction in parking spaces.
- **Vice-chair (Dziedzic) asked**, what are required number of parking spaces for the project, if a parking waiver is not approved?
  - **Staff (Martinez) commented**, 110 spaces. The parking spaces in the driveway would not count if they were stacked, which they are not, they are parallel, so 3 spaces on the driveway aisle would count to equal 91 spaces.
- **Vice-chair (Dziedzic) commented**, based on the nature of the potential residents and only half of them (based on estimation and/or studies, etc.) will own or drive their own vehicles. Is there a number of the potential staffing in building, on site, during heavy weekday hours?
  - **Representative (Maloy) commented**, there is really no concrete answer to this.
  - **Vice-chair asked, what would potentially happen if the board does not want to grant the waiver?**
  - **Representative (Maloy) commented**, what would be requirement from the board would be to grant the modification request? **Staff (Martinez) added**, the applicant would have to find parking elsewhere to make up to 110 spaces.
- **Chair (Corcoran) commented**, “this building has been vacant for a long time, and it has sort of become a problem for the community. If the applicant were to ask for a waiver for all the parking spaces, it would be a yes from me, absolutely. This building is very huge, weirdly configured, and the fact that somebody is willing to do something with it, I am absolutely willing to grant the waiver.”

- **Commissioner (De Angelo) commented**, there are other nearby avenues and/or sites (such as St. Mary's, Columbus School, near the baseball stadium, etc.) where the applicant can look for parking spaces for their staff.
- **Staff (Martinez) commented**, the applicant acquired 4 additional parcels beyond the parcel (200 Court St) where the main building resides upon to provide parking, so they made an effort to provide as much parking as possible. They are not asking for a complete waiver of parking spaces, only for some spaces due to the changes they are required to make.
  - It is known in the Planning Department, one of the biggest barriers to provision of affordable housing is parking requirements, because it drives the cost up so much to acquire and pave land, etc. This being an affordable housing development, in a professional opinion representing the Planning department, this would be an appropriate time to grant a parking waiver.

**PUBLIC COMMENT:**

- No one spoke in favor/nor in opposition of the project
- No letters received

**VOTING**

**MOTION** that the Planning Commission is a lead agency, and the action is Unlisted under SEQR

<b>FIRST:</b> Corcoran	<b>SECOND:</b> Seepersaud	<b>VOTE:</b> Carried (7-0-0)
<b>AYE(S):</b> Corcoran, Seepersaud, Dziedzic, Weiss, De Angelo, DiFulvio, Priest	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>

**MOTION** to issue a negative declaration for SEQR

<b>FIRST:</b> Corcoran	<b>SECOND:</b> Weiss	<b>VOTE:</b> Carried (7-0-0)
<b>AYE(S):</b> Corcoran, Seepersaud, Dziedzic, Weiss, De Angelo, DiFulvio, Priest	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>

**MOTION** to grant a waiver for 20 parking spaces

<b>FIRST:</b> Corcoran	<b>SECOND:</b> Weiss	<b>VOTE:</b> Carried (6-1-0)
<b>AYE(S):</b> Corcoran, Seepersaud, Weiss, De Angelo, DiFulvio, Priest	<b>NAY(S):</b> Dziedzic	<b>ABSTENTION(S):</b>

**MOTION** that the requirements for Site Plan Review and Special Use Permit have been met and therefore the application has been met and approved

<b>FIRST:</b> Corcoran	<b>SECOND:</b> Weiss	<b>VOTE:</b> Carried (6-1-0)
<b>AYE(S):</b> Corcoran, Seepersaud, Weiss, De Angelo, DiFulvio, Priest	<b>NAY(S):</b> Dziedzic	<b>ABSTENTION(S):</b>

**OTHER BUSINESS**

**DESCRIPTION:** Approval extension for the construction of a mixed-use building with 65 dwelling units and 4,300 square feet of commercial space and two ancillary parking at 162, 180 and 184-186 Henry St, and 77 Pine St. The project was approved last fall, the approval just expired; the applicant is still working with state agencies to wrap up the funding. There are no changes taking place to what was previously approved for the project.

**MOTION** to approve a one-year extension of the previous approval for abovementioned project by Kearney Realty and Development Group

<b>FIRST:</b> Corcoran	<b>SECOND:</b> Weiss	<b>VOTE:</b> Carried (7-0-0)
------------------------	----------------------	------------------------------

<b>AYE(S):</b> Corcoran, Seepersaud, Weiss, De Angelo, DiFulvio, Priest, Dzedzic	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>
--	----------------	-----------------------

<b>ADJOURNMENT</b>		
--------------------	--	--

<b>MOTION</b> to adjourn		<b>TIME:</b> 6:42 PM
<b>FIRST:</b> Weiss	<b>SECOND:</b> Seepersaud	<b>VOTE:</b> Carried (7-0-0)
<b>AYE(S):</b> Corcoran, Seepersaud, Weiss, De Angelo, DiFulvio, Priest, Dzedzic	<b>NAY(S):</b>	<b>ABSTENTION(S):</b>