

Minutes of Planning Board Meeting  
Town of Whately, MA  
Town Offices Building, 4 Sandy Lane  
January 15, 2019

Members Present: Don Sluter, Judy Markland, Nicholas Jones, Sara Cooper  
Members Absent:: Helena Farrell

Attending:

Chris Chamberland, Berkshire Design  
Attorney Dick Evans, representing Toro Verde III  
William Beetz, Toroverde  
Blake Gilmore, Toroverde  
Joe Kachouri, Toroverde  
Suzanne L. Nelson  
DeWitt Thompson, Full Bloom and Happy Valley Organics farms

I. Call to Order, 6:33p.m.

The meeting was not recorded.

II. Old Business – Hexagon Energy application withdrawal

Referencing an email request dated 1/11/2019, from Meredith Savage of SWCA Environmental Consultants, Chair Don Sluter moved to accept Hexagon Energy's withdrawal without prejudice of their application for site plan approval for the Juniper Solar power generation project. Nicholas seconded and the board voted unanimously to accept the withdrawal without prejudice.

Discussion – Potential zoning bylaw changes

Judy submitted two draft documents from the Town of Williamsburg, one dated 12/13/18 and headed, "Proposed Zoning Bylaw (2019) – Transient Lodgers", and the other dated 12/17/18 and headed, "Proposed General Bylaw – Transient Lodgers". The board discussed these in connection with possible changes to Whately's transient lodger bylaws, especially due to the emergence of new lodging business models such as Airbnb. Judy mentioned having talked with Fran Fortino, of the Board of Health, about this. Further discussion was postponed until later in the meeting.

III. PUBLIC HEARING: Toroverde (Massachusetts) III, Inc.

Application for Site Plan Approval to use an existing commercial storefront for retail sale of adult-use marijuana, on premises located at 424 State Road, Unit A (Sugarloaf Shoppes)

At 6:45 p.m., Don opened the hearing. Toroverde submitted a copy of the Host Community Agreement, and a sheet listing Whately's site plan review requirements. Attorney Richard Evans, representing Toroverde, William Beetz (sp?), of Toroverde, and Christopher Chamberland, of

Berkshire Design, introduced the project with a Powerpoint presentation and discussion points from the project narrative. Blake Gilmore, Director of Security for Toroverde, said that he had met with Chief of Police Sevigne and Fire Chief Hannum, and that each had agreed to send the board a letter stating that they had no safety objections to the plans for the project. A plan was shown that indicated the 500' radius from the project, and the board was told that no "sensitive uses" fell inside the boundary. Another radius drawing showed the 1000' boundary, and the board was told that the company was still checking on two "conflicting uses" (a daycare center and a possible religious site) that are located within that area. Joe Kachouri, marijuana operations expert for Toroverde, said he had selected the site and that parking would be adequate. An on-screen slide showed the interior of an existing store similar to the one planned for Whately. Mr. Kachouri explained the interior design and said the products will be displayed and sold like varieties of wine. He talked about a classroom where employees learn product lines and applicability to various medical complaints. He also said there would be an educational component to help people who come the free community outreach sessions. He noted that there will be no distinction made between medical and non-medical sales.

The board and the project representatives discussed points which included the following:

- Lighting: Lighting will not change. Route 5's lighting will be enough for the security cameras. This includes the back of the building – ambient light there will be enough.
- Odor: Controlled by an air purification system. The company will verify compliance and successful operation before the store opening, to guarantee that there is no odor. At harvest, 85% of the odor is dissipated, said Joe Kachouri. 10% - 12% more odor is sealed up in packaging, he said, stating that people will only smell the product inside the store (but that this will only be 10% or so of the original amount of odor). Asked about product specifications, Chris Chamberland explained that their process oxidizes the odors, and that printed information is provided inside the application package. Although both agreed that the edible products don't smell, Don mentioned that in the Greenfield and Northampton marijuana stores the bud is kept in containers that are opened up and handed to customers, and that this releases odor to the outside when the doors are opened. He said Toroverde's planned pre-packaging would solve that problem, but noted that if they also plan to custom-package orders they, too, would have escaping odor. Joe Kachouri stated that they would indeed custom-package some orders but that there would be very few, and that their operation will minimize the smell as much as possible.
- No hazardous materials will be involved.
- The only signs will be as allowed by the zoning bylaws. The wording hasn't yet been determined.
- There will not be a waiting room for children if their parents arrive with them. Parents should not bring children.
- Operating hours will be 8:00 a.m. to 7:00 p.m.
- Access control: There will be multiple doors, with greeters to accompany customers into the store. IDs will be taken, and the customers will then pass through additional doors. Employees will be restricted to their assigned parts of the store only.
- Security: If an alarm or panic button goes off, a remote monitor will contact a staff member at the store during business hours, or will contact the police. Cameras will cover all parts of the property and can be controlled by remote monitor. Alarms will sound only if there is a break-in; someone would have to intrude physically and in that case, police would arrive

with lights. The security arrangement is similar to that used by many ordinary stores.

Security measures are not shown on the plans because the company does not want to share those details with anyone but the police department; they are, however, described in the narrative

- Parking: 75 or so parking spaces will be available. 86 spaces are striped on the lot for the whole condominium building. 35% to 40% of the spaces are near the store's door.
- Traffic: A privately placed stop sign will be replaced by the project owner, who will also fix the fence in front, between the property and Rtes 5 & 10. However, the board was told that according to Highway Commissioner Keith Bardwell, a missing stop on Old State Road must be replaced by the state, since the first 30' of Old State Road is owned by the Commonwealth of Massachusetts, with the balance owned by the town. It was noted that traffic from the north will enter by means of a dedicated left turn lane. Chris Chamberland said that traffic is expected to be heavy, but not as bad as the first days of the Northampton marijuana store. He said that they hope to open their store in about six months and that by then, additional new stores should be available to take some of the pressure off the first stores. He noted the project owner would hire off-duty police as necessary for traffic control, and added that satellite parking with shuttle service would be available if needed. Asked about estimates of how many customers are expected, Mr. Chamberland said that there are no marijuana numbers, but for liquor or "specialty retailer" stores (such as high-end apparel, small restaurants, etc.), these numbers may serve as indicators for a 5,000 sq ft store:
  - 220 trips per day (one person in OR one person out).
  - This lines up well with their expectations of 110 people in and 110 people out.
- Exterior changes: No plans to change anything about the exterior. May plant some small ornamental improvements. When Don asked whether there would be solar panels added to the roof, the answer was that the company does not own the roof.

Don read aloud an email dated 1/15/2019 from Donna Wiley of the Whately Historical Commission, stating that since no exterior changes are planned, the Commission is not concerned about possible disturbance of archaeological material. The letter also asked for the opportunity to comment further if the application should be modified in the future to include such disturbances.

Don asked whether there were any further questions from the audience, and there were none. Don then closed the public comment portion of the hearing. The board continued to discuss the matter, noting that letters from the Fire and Police Chiefs would settle any safety concerns regarding the property. The matter of traffic safety was re-visited. It was moved to approve the site plan subject to the following conditions:

1. Cannabis Control Commission approval
2. Zoning Board of Appeals Special Permit approval
3. Written approval of safety officials
4. Every effort shall be made to facilitate traffic flow – and traffic details to be assigned as the Whately police deem necessary

Sara seconded, and the plan was approved unanimously.

#### IV. Nelson ANR, Dickinson Hill Road

Suzanne Nelson submitted an amended version of the plan originally discussed at the meeting of December 18, 2018. Nicholas] moved to endorse the ANR. Judy seconded, and all voted to endorse. The plans were stamped and signed as required. The check was given to Don.

#### V. Other

DeWitt Thompson, of Full Bloom and Happy Valley Organics farms, came forward to discuss plans he is working on with a group experienced in marijuana cultivation, to use his greenhouses for that purpose. He submitted two pages of plans of his land and the copies of pages 85 – 87 from the Whately Zoning Bylaws. He and the board reviewed bylaw requirements, and discussed the need for a variance from the Zoning Board of Appeals because the end of one greenhouse extends onto land that is fewer than 500' from the ballpark. He explained that this part of the greenhouse can't be moved to the other end because it contains the boiler, which is the heart of the system. Mr. Thompson asked that the board write to the ZBA with guidance on the intent of the bylaw. Judy explained that in writing the bylaw language that pertains to the variance requirement, the Planning Board's intent had been to avoid being too rigid and to give the ZBA maximum flexibility. She noted that any letter to the ZBA should first be reviewed by the entire board. Don said that he and Judy will draft a letter to approve at the next meeting, on January 19, 2019.

#### Old Business, continued from earlier in the meeting:

Judy submitted a draft outline for a proposed Historic Building Conversions bylaw. The board discussed the document in connection with the "blue school" at the corner of Christian Lane and River Road. The board will continue to think about what the document should contain. In the meantime, Judy will show it to Peggy Sloan at the Franklin Regional Council of Governments, and will ask for her help in refining it.

#### VI. Adjournment: At 9:05 p.m., the board voted to adjourn.

#### Documents Reviewed (kept in the Planning Board files)

1. An email to Don Sluter dated 1/11/2019, from Meredith Savage at SWCA Environmental Consultants, RE: withdrawal of Hexagon Energy's site plan approval application for Juniper Solar
2. A 3-page document drafted by the Town of Williamsburg, dated 12/13/2019 and headed, "Proposed Zoning Bylaw (2019) – Transient Lodgers
3. A 2-page document drafted by the Town of Williamsburg, dated 12/17/2019 and headed, "Proposed General Bylaw – Transient Lodgers
4. A set of Toroverde III application materials including:
  - An application form for site plan approval dated Dec 6, 2018
  - A plan of land dated November 27, 2018, and labeled "Toro Verde III, Inc., 424 State Road Marijuana Retail Store, Neighborhood Plan", produced by Berkshire Design Group

5.

- A 4-page letter to the Whately Planning Board from Christopher Chamberland, P.E., Civil Engineer, Berkshire Design Group
  - A single page bearing two photos of the premises exterior
  - a 2-page specifications sheet for the air purification system sold by Smell Fresh Arizona, LLC.
  - An 18-page undated document headed, “Cannabis and Community”
5. Five pages, the first four of which comprise the “Town of Whately Host Community Agreement”, and the fifth of which is the “Host Community Agreement Certification Form” from the Cannabis Control Commission, Commonwealth of Massachusetts.
  6. A single page list headed, “Whately Site Plan Review Requirements”
  7. An email dated 1/15/2019 to Don Sluter from Donna Wiley of the Whately Historical Commission, in reference to the Toroverde III project
  8. A Form A, Application for Endorsement of a Plan Believed Not to Require Subdivision Approval (ANR) in the name of Suzanne L. Nelson, 50 Dickinson Hill Road.
  9. A plan of land on Dickinson Hill Road surveyed for Suzanne L. Nelson by Mary Ann R. Milewski, PLS
  10. A 2-page plan of DeWitt Thompson’s land at the intersection of Rtes 5/10 and Christian Lane, with copied pages 85-87 of Whately Zoning Bylaws section 171-28.6
  11. A document headed, “Draft outline for proposed Historic Building Conversions bylaw

Mary McCarthy  
Secretary  
Planning Board  
Town of Whately, MA