

A REGULAR MEETING OF THE PLANNING/ZONING BOARD OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, AND STATE OF NEW JERSEY WAS HELD ON MONDAY, OCTOBER 16, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: DiRenzo, Pearson, Brothman, Wojcik, Daschko (7:23 p.m.), Smith, Morgan, and King

ABSENT: Walter and Breitz

ALSO, PRESENT: Cory Stoner, Board Engineer
Jonathan Frodella, Board Attorney

The meeting was called to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of meeting in the N.J. Herald, posting copy of notice in the Borough Hall and on the Borough website.

MINUTES:

A MOTION was made by Mrs. Wojcik, seconded by Mr. Pearson to approve the minutes of the meeting held on August 21, 2023. Opened to discussion and closed without comment. Upon roll call the following votes were cast: AYES: Pearson, Brothman, Wojcik, Morgan and King. NAYS: None. ABSTAIN: DiRenzo and Smith. Motion carried.

AUDIENCE PARTICIPATION: None.

CORRESPONDENCE: None.

FORMAL APPLICATIONS:

APPLICATION #: PZ – WSP - 04-2023 – Hampton Square Health – 219 Main
APPLICANT: Hampton Square Health LLC
ADDRESS: 219 Main Street, Andover NJ 07821
BLOCK/LOT/ZONE: Block 28.02 Lot 1 Zone: C1
PREVIOUS USE: Vacant office space
PROPOSED USE: Office Use

Mr. Scott MacKenzie, CEO and founder of Hampton Square Wealth appeared with his attorney Linda Peoples and was sworn into the testimony. Mr. MacKenzie testified that there will be no new changes to the building. His business serves about 250 homes and comprises of five employees. They are moving into this location to expand his business. They would be occupying the front of the warehouse office space and would have eight parking spaces plus one handicap. Four of the employees would be on premise. Some clients would be coming this this location, however, the majority of the business they do are now through video or zoom call. The hours of operation are generally five to seven days a week from 9 a.m. – 5 p.m., but as owner he may work 7 a.m. to 7 p.m.

A MOTION was made by Mr. Smith, seconded by Mrs. Wojcik to approve the waiver of site plan as presented. Upon roll call the following votes were cast: AYES: Wojcik, Brothman, Pearson, DiRenzo, Morgan, Smith, and King.

There was a 5-minute recess. During this time Mrs. Daschko arrived and was entered into record.

APPLICATION #:	PZ-02-2023 – Andover Therapeutics, LLC – Site Plan Application
APPLICANT:	Andover Therapeutics, LLC
PROPERTY OWNER:	Pio Costa Enterprise, LP
BUSINESS NAME:	Andover Therapeutics
ADDRESS:	2 & 4 Lenape Road, Andover NJ 07821
BLOCK/LOT/ZONE:	Block 11 Lots 3 & 3.01 Zone: C1
PREVIOUS USE:	lot 3 vacant building / lot 3.01 Ride Bike Shop
PROPOSED USE:	Cannabis Dispensary

Wendy and David DeRing, owners of Andover Therapeutics LLC, appeared with their attorney Richard DeAngelis. The applicants were sworn into testimony. Mr. DeAngelis introduced Mr. Frank Matarazzo, Engineer for the project. Mr. DeAngelis clarified that documents were submitted to update the board as per Mr. C. Stoner’s report per elevations and landscaping. Mr. DeAngelis reported that Exhibit A-1 as marked created in April 2023 and last revised on 7/13/23 is the plan we will be reviewing this evening.

Mr. & Mrs. DeRing testified to their professional experience and licensure with the NJCRC. Mrs. DeRing is the President and her husband is the Vice President. They live in Chester and have multiple years in business, from computer logistics and property ownership.

Mrs. DeRing pointed out the location they are looking to develop at 4 Lenape Road, known as the “old bank building”. Board Attorney, Jonathan Frodella, clarified for the applicant that this planning board has already granted two other “D1 conditional use variances”. Mr. DeAngelis clarified that they know that no licenses have been issued by the municipality. This application is seeking both a D1 and D3 variances. One for the cannabis use and the other for the driveway. Mr. DeAngelis continued to opine that he had a theoretical discussion with the municipal attorney. There was some discussion regarding “approval” through not only the planning board, but also the governing body for support in order to be granted a class 5 license by the NJCRC. Mr. DeAngelis confirmed that his applicant was well aware of the circumstances regarding approvals granted by the board. He had his client, Mrs. DeRing, confirm her understanding that they only need the governing body support or local approval as they’ve applied for an Annual License with the State.

Mr. Stoner clarified the conditional use and variance matter for Mr. King. Mr. Stoner explained to the Board the conditional use request before them.

Mrs. DeRing opened the hearing by explaining her hours of operation were 9 a.m. to 9 p.m., hours that were allowable by code and may be modified. She continued to testify that there would be five point of sale registers on the counter. Two will be self-service “ipad” type services. Two manned terminals and manned drive-thru window. The Board Secretary asked that she point these locations out to the board on the plan provided. Mr. DeRing continued her testimony. She explained that they would be utilizing the drive thru by on-line order only. Mr.

DeRing explained that the time slots are soft-ware driven. Mr. DeRing explained they would modify this model as needed. He did not consider a stacking plan for the drive-thru. Mr. DeRing testified that utilizing the drive-thru would allow them limit business indoors and control the flow which would be covered by cameras inside and outside for security.

Mr. DeRing, explained the flow showing that customers would enter a vestibule in the front of the building. They would be held there to check ID's and then buzzed in. The in and out doors are next to each other. Mrs. Brothman asked if they thought having those doors next to each other couldn't cause a problem with illegal access because they are so close. The applicants did not think that was a problem. Mr. DeRing explained the windows would be closed and bars put in place as well as panic buttons. He continued to explain that cameras would be "all over". Mrs. DeRing spoke up saying, "There are fourteen cameras on the inside and eight on the outside". The basement will contain an employee break room, office area and secure the computer equipment for security. There will be a monitoring display system on the first floor.

They explained the three to four people at a time can be within the vestibule at a time. Mr. DeRing further explained the picking and packaging procedure. The Board Attorney asked if they foresee a que forming, Mr. DeRing did not think that was a possibility. He expects about one hundred customers a day, which is about eight per hour. Mr. Stoner asked how the distribution of one hundred vehicles per day would work. Mr. DeRing testified he expected lunch hour, after work and maybe first thing in the morning to be their peak hours. Mr. Frodella asked how they determined one hundred customers per day. Mr. DeRing stated that is what they have observed in other businesses.

Cannabis business as prepared by NJCRC was submitted and marked A-3. Mr. DeRing read from that report stating that between 100-150 customers per day were served. Mr. DeRing continued to explained the modifications to the building. They would expand the vestibule and build a wall on the left side of the building to separate the area because it's one open space. A hallway would be built out on the right for employees to access the back area. This would be by card access only. The vestibule interior door are man-trap doors.

Deliveries would be through the front door. This is the same door that customers enter. Deliveries would be maybe two a week until product mix was determined and then about once a month. It can only be twelve times per year. They need to determine what people will buy. There is no time set aside for deliveries. They cannot schedule deliveries. Mr. Stoner asked how that would work. The door to storage room on the left of the vestibule is blocked by the front door. Mr. DeRing felt the transaction would be quick and not be an issue. When asked, Mr. DeRing explained that the product is a mix of edibles, flower and some accessories. The method is pre-order or pick from a menu.

The board asked for more information on the entry area. Members were concerned that there was an impracticality and awkward flow. Mr. Stoner asked if both doors could be modified to better the flow. Mr. DeRing explained the guard on duty should be able to control that flow. Mr. Stoner confirmed that this testimony includes a guard one duty at all times. Both Mr. and Mrs. DeRing confirmed an unarmed guard would be present. He expects to hire a retired law enforcement officer.

Mr. Stoner asked if there was an additional information they wanted to provide on the security. Mr. and Mrs. DeRing felt they covered the items, security door, panic buttons, cameras, security guard. Mr. DeRing testified the cameras have no dead spots and that there is not a thing within the building that they could not see. Mr. Stoner asked who will monitor the cameras, the state? Mr. DeRing stated that he thought the state may and that he would also.

Mrs. Daschko asked if there were any other questions. Mr. DiRenzo asked how they would control the flow. Mr. DeRing stated the security guard would. Mrs. Wojcik asked since you're using the same door to get in and out and the door needs to be buzzed to get in, does it have to be buzzed again to get out? Mr. DeRing stated that state fire code requires a door to push out, so no. Mrs. Wojcik said if the guard is busy with those that have just come in, and someone is leaving after purchase, the door is not manned and anyone can walk in.

Mrs. Brothman asked if the applicant had any study to present to help the board understand how this flow would be sufficient. Both applicants testified that this is how other businesses they've looked at work, with one door in and out. Mrs. Brothman asked if the access was handicapped accessible with the way the doors swing. Mr. DeRing explained that the space is small and he would hope that ADA clients would use the drive-thru. He showed on the plan that providing ADA access would present other concerns. The Board Attorney asked if the applicant was willing to consent as condition of approval, to make the building ADA compliant? Mr. DeRing stated, "yes".

Mr. King asked if there was a way to put a second door for egress. Mr. DeRing explained that was a major expense. Mr. DeAngelis stated there is no requirement by NJCRC code to have a second door. The matter of the panic button and where it alerts was asked. Mr. DeRing replied the State Police.

Security S.O.P. was marked as Exhibit A-4.
A-2 was the set of plans and architectural drawing.

Mr. DeRing showed the proposed garbage area and proposed loading area. They are also proposing installing additional plants in the front and side as well line painting for parking as necessary.

They would be utilizing the existing sign along the road way. He showed an actual photo of the sign, the garbage enclosure and plantings. Mr. Stoner stated that his plans did not include the graphics. The date on the plans were 10/10/23.

Mr. DeRing showed the parking provided on the front and back of the property. There are thirteen total. The balance of the parking is on 4 Lenpae.

Mr. DeAngelis, applicant's attorney, asked Mrs. DeRing to testify on the following requirements:

Concerning odor control, there should be no odor. There is a plan for mitigation in place. This S.O.P. is required as part of their NJCRC application. The Emergency Services action plan follows OSHA guidelines for all emergencies. All employees will be trained on the emergency procedure. This is also part of the application process with the State. Waste disposal, there

should be minimal waste. They will encourage their customers to return containers and perhaps do some incentives to encourage reuse. The environmental impact plan concerns recycling and disposing of product which they will follow. If a cannabis product becomes waste, there are companies used for that disposal.

Mrs. DeRing testified that they did not hire any cannabis consultants and are doing that research themselves.

The matter was opened to the public.

Mr. F. William LaVigne, introduced himself and identified himself as a cannabis applicant license holder. He asked the applicants the following questions:

If they applied for and received conditional license status. They stated that they applied directly for annual licensure, so no they have not received conditional approval as it is not a conditional license.

He asked: "ave been assigned an investigator by the NJCRC?". They have, his name is Sean Keys.

He asked: "How far they are with their investigator, have they done background checks and been fingerprinted?" They have.

He asked: "Have they filed for a micro business or regular license?" Mrs. DeRing reported they have not. Only a regular annual license.

He asked: "Do they knew they needed land use approval before obtaining town council approval?" They did.

He asked: "Do they knew there were two licenses available within the borough?" They did.

He asked: "Do they believed that it is an accepted practice with the CRC to seek licensure in a town when two have already been approved?" Mr. LaVigne did not require a response. There was none.

He asked: "Have you consulted with a professional experienced in cannabis regulation to help them with their presentation?" They stated they have not as they've done their own research.

He asked: "What is the square footage of the building on the plan?" It is 1185 square feet on first floor.

He asked: "Have you selected employees?" No.

He asked: "Have either of you been certified as a budtender?" No. They have not obtained any certifications.

Mr. Bryan Januzzi, stood from the audience and asked "What is the license situation? Have you asked the governing body meeting?" The Board Attorney stated the questions are pertaining to the testimony.

Mr. Januzzi felt the doors were a "major problem" as it has only one entrance. He asked how they would handle a delivery in peak hour. Mr. DeRing stated that the issue would be handled by the security guard and perhaps locking the door to the public may be part of the solution if necessary. He did not think it was "a big deal". Mr. Januzzi felt that the one entrance is an issue because active supply would be passing by customers. Mr. DeRing said I guess there is potential to be "robbed". Mr. Januzzi stated he was trying to figure out what would be approved.

Amanda Aulicino asked "being from the local community, and knowing they are from out of county, do you have local support? And, why did they name the business Andover

Therapeutics?" Mr. DeRing stated they are new and hope to become an active member. They thought it was a good idea to name it after the town. Ms. Aulucino asked if they had this site when they started to become interested in the cannabis industry? Mr. DeRing stated they were looking for another venture and found a suitable location.

Mr. DeAngelis wanted to clarify for the testimony, the parking on lot 3.01 have been secured to be used on lot 3. Mr. DeRing stated it is part of the lease agreement.

Mr. Frank Matarazzo, Engineer for the applicant, was sworn into testimony and provided his engineer qualifications in civil engineering. He is present as both an engineer and planner for this testimony.

Mr. Matarazzo presented his site plan and described the lots 3 and 3.01. He testified the lot is an undersized lot as 20,000 sq. ft. is required and there is 16,000. He continued to describe the bulk requirements: frontage is 120 ft. / needs 60 ft. There is 89.6 frontage / needs 100 foot. The building was a former bank building and pharmacy. He described the entrances from westerly side along Route 517/Lenape Road and egress on the South easterly side again on Route 517/Lenape. He described the lighting as shown on the plan. Not all are operational at the time, but will be made operational which was agreed to be part of the condition of approval. Parking would be shared with lot 3.01. There are 23 spaces on the site. On lot three (3) there are only a few, 15 spaced on lot 3 and 6 on lot 3.01. The site meets the conditions for the use of cannabis except for front yard setback, specifically that there is 35 feet and 50 is needed. The dumpster on the plan is the proposed dumpster on this business. There is no walk-up to the drive-thru window. For the D3 variance, Mr. Matarazzo testified that there will be no substantial detriment with respect to this use. He felt there would be no impact to the zone plan or community as it is a retail operation replacing a retail operation. The

Board Attorney asked if the cannabis use differs in terms of trips generated and traffic. Mr. Matarazzo was not sure, but the use is very similar to the pharmacy use. Between the two properties, the use is only for lot 3, but there is an agreement with the lot next door. Mr. Matarazzo felt that utilizing the drive thru for this applicant, as it was used by two other tenants would not be a detriment. Mr. Matarazzo pointed out the setback as requested by Mr. DeAngelis showing that it was more than 50 feet from the door. Mr. Matarazzo stated they picked the loading space as it is conforming to the size of vehicle that can visit the site.

Mr. Stoner clarified that the shared parking between lots 3 and 3.01 met the code. Ordinance requires retail sales to have 1 space for 200 square feet. The property owner is available this evening. The preferred parking is next to the building, but not space specific. A new dumpster will be placed in the location and enclosed as on the plan.

Mr. Matarazzo testified that the dumpster for the cannabis business would be in front of the barn. Mrs. Brothman was not sure about the location of the proposed dumpster as that location is a grassy area. Mr. Pio Costa, representative of Pio Costa Enterprises, the property owner, was presented. He testified there is no pad for the proposed dumpster. Mr. Stoner attempted to clarify the locations/enclosures of the dumpsters and requested an updated plan showing that information.

Mr. Stoner asked if there was any way to conform to D3 setback variance. Mr. Matazarro stated there is, but part of the building would have to be demolished. Mr. Stoner asked of the D3 for drive thru use. Mr. Matazarro reported that the drivethru as it is could stack about eight vehicles. He showed that use as coming through the adjoining lot. Mrs. Brothman asked, how that plan can include a lot which we are only reviewing for parking, not the drive-thru use? She asked if vehicles come in to the bike shop entrance on Route 206, would they become part of the flow? He thought they could. Mr. Stoner confirmed several vehicles could back up unobstructed. Mr. DeAngelis stated that they were not seeking any approvals for along Route 206.

Mrs. Brothman asked if there was a formula or plan to show how this action plan is calculated to work? There was not. It is based on expected sales. Mrs. Brothman was interested in seeking how the stacking would be proposed to work on a site plan. Mr. Stoner asked Mr. Matarazzo to show that on the plan. Mr. Stoner thought it looked to be about three. Mr. Matarazzo thought two to three. It was clarified that only those who have a time slot would be in the drive thru que.

Mrs. Brothman expressed some concern that a new owner of the larger lot which is providing the necessary parking may not want to share that parking anymore. Mr. Stoner confirmed that deed restriction would be a necessary condition of approval and would only run the length of the lease.

Mr. King asked if landscaping could be at the reasonable discretion of the engineer. They agreed.

Signage was discussed. There is an existing free-standing sign in the front of the building which is 45x32. The other front signage is "enter" and "exit". There will be no building signs. Mr. Stoner thought there was a second sign. Mr. DeAngelis agreed that there was one on the original set of plans, which is on the bike shop lot. This is not part of the application. The applicant was asked if they were going to remove the sign. They asked if they could add it. The board secretary clarified it was off site and requires a variance. Mr. Stoner asked if they wanted to revisit it? Mrs. Brothman was concerned that this would leave a sign with no approval. Mr. Stoner agreed it should be removed.

Mr. DeAngelis requested an additional variance for the use of that sign. The board agreed. Mr. Matarazzo reported that adding this off-site premise use would be covered by their advertising and that there would be no change in the size or location. It would be replaced in kind and new graphics added.

Mrs. Brothman asked if the applicants how the board should trust their calculations with new professionals to offer expert testimony. Mr. DeRing provided his expertise in business. Mrs. Brothman asked if the owner can show the intensity of the business. Mr. DeRing stated that the business is too young. He could not from this State.

In reviewing the information, Mr. Stoner asked how long it would take to process an order. Mr. DeRing stated 3-5 minutes. He thought 3 spaces and the drive thru is what he expected at any one time. Half if the ten proposed it taken up by employees. Mr. DeRing did not think this

would be an issue. Members of the board expressed concern over the parking plan and traffic usage. There was no professional traffic plan included.

When asked, Mr. DeRring testified that he has spent about 40-60 hours observing other retail cannabis businesses. Mr. Stoner asked if the applicant would consider creating a second means of egress on the building. They agreed they could by utilizing a window.

The evening was drawing near the end, some members of the board asked if the review for suggested alteration could be moved to the next meeting. Mr. Pio Costa, the property owner asked if it could be at the Board Engineer's discretion. The Board did not agree. Mr. Stoner pointed out that traffic studies did come with most prior cannabis applications.

The discussion was opened to the public.

Mr. Michael Ziccola, Ridge Road, Lake Lenape asked if the security guard would be leaving his post to help the delivery and management the in/out of patrons. He stated that it was hard for him to understand how the traffic would be controlled when entering from the other portions of route 206 and how customers would know the drive thru is for pre order only. He was told signage would be used.

F, William LaVigne, Andover asked: "How you received County approval yet?" No, not yet.

"Have you made an application to the State because the location is along Route 206?" They have not, they do not believe it is along Route 206.

"Where is the handicapped parking space?" They showed it designed at space #1.

"Is the entrance conforming to current ADA requirements?" If it is not, the applicant has agreed to make this change as part of his conditions.

"Do you have a lavatory for customers in the building and are they handicap accessible?" No. There is no bathroom for customers.

"Is there a landscaping plan?" Yes, as submitted within the exhibits.

"Do you propose to come in with a traffic study?" No.

Bryan Januzzi, asked what the decision on the door was? What happens if there is a fire? Mr. Pio Costa explained the building is lawful for only one entrance.

Mr. Januzzi asked what is to stop someone from coming early or late?" Nothing, it could be that they don't get served.

"What prevents someone from stealing a bag at the drive thru?" It's no feasible.

"Why are they basing the traffic report on something that is from 2022?" It is the latest information available.

"Have you talked with vendors after Sept. 2022?" Yes, but not since Sept. 2022.

Mr. DeAngelis addressed the board that this application is for an existing facility that has been sitting empty for years. The board has heard testimony that the D-1 and D-3 variances will not be a detriment to the property or community. There is no requirement to submit a traffic study. There is no basis to believe there will be an onslaught of demand to the use of this property. He hoped the board would stay focused on the testimony provided and the knowledge as presented by the expertise that this applicant has earned. Their contribution is to be out of pocket to bring this sight up to date. They were told by the NJCRC to get local approval which

is a requirement of the Borough. His clients would like the proceed to a vote with the evidence as submitted.

Amanda Aulicino, co-owner of Buddy's Dispensary appeared and showed concern that someone who comes from a micro business that this plan with a drive thru has a different tone to it than the Borough may be able to handle. She has worked locally and is concerned that traffic will be impacted in the intersection.

F. William LaVigne spoke to the member's presents. He received approval for his plan and he does not think the applicant tonight has shown the evidence that he and Mr. Januzzi were required to show in their plans. He does not feel the evidence is sufficient for the board to render a favorable decision.

Bryan Januzzi spoke and felt that the testimony presented was standard information and that the application misrepresented time and capacity. He felt there was no firm plan and that they back tracked.

Mr. DeAngelis clarified for the Board that the decision is whether sufficient proofs have been submitted for this application.

Mr. Carmen Pio Costa stated that this property has been empty for a long time. It has a high intensity use and it could have another. The previous uses were pre-existing. We are using it as it was approved by the board and it should be taken in consideration.

Mr. Michael Zicolla, Andover, felt that the business presented is very different in intensity than what was there before. He has been a medical patient for years and his experience is that he takes about 15 minutes to go through the line saying "4:20, that's a holiday!".

Mr. Stoner assured the applicant that while the application meets the code, being concerned about parking is valid as the industry is just emerging. This is not standard retail use. Being a conditional use variance, the impact has to be considered. Members of the board were interested in a traffic study. The applicant was not favorable to provide one.

A MOTION was made by Mrs. Wojcik, seconded by Mrs. Daschko to approve the application and variance requests as presented. AYES: Pearson. NAYS: Brothman, Daschko, DiRenzo, King. ABSTAIN: Wojcik. Motion failed to carry.

OLD BUSINESS:

The Mayor reported that the Municipal Clerk contacted the government liaison with the NJCRC to find the status of approved cannabis applications. The process after municipal approval seems slow going and could take many months. The Mayor asked Mrs. Brothman to contact the District 24 Legislatures for help to try to help the applicants move forward in their process.

The Planning Board Secretary reported that she will be trying to help with the zoning portions of the hazard mitigation plan.

NEW BUSINESS: The secretary reported that the next meeting is scheduled for 9/18/23 and she expects a formal application on the agenda. Members should let her know if they will not be able to attend when email is sent.

AUDIENCE PARTICIPATION: None.

RESOLUTION: None.

ADJOURN:

A MOTION was made by Mr. King, seconded by Mr. Pearson to adjourn the meeting. AYES: All in favor. NAYS: None. Motion carried.

Beth Brothman
Board Secretary