

**Town of Middlebury  
Development Review Board (DRB)  
Meeting/Hearing conducted in person and online via Zoom  
Minutes of May 9, 2022**

Members Present: David Hamilton, Chair, Gary Baker, Jason Larocque (alt.), Kevin Newton, Michael Reeves and Mark Wilch

Members Absent: John MacIntyre

Staff Present: Jennifer Murray, Dave Wetmore

Others Present: David Silberman and Michael Sims (applicants), Kelly Hickey, Lisa and Andy Mitchell, Bryan Phelps. All persons attending did so via Zoom except David Silberman.

**MEETING AGENDA**

1. Application (file #2022-24:066.000-CU) is a request for conditional use approval for a retail store and/or service by David Silberman, dba Park Rec, LLC for the property located at 2 Park Street. This is considered a change of use from the existing business/professional office use. 2 Park Street is identified as parcel ID# 024066.000 owned by Park 88, LLC. The property is in the Central Business District.

**I. Call to Order-** David Hamilton, DRB Chair, called the meeting to order at 7:05 pm. David welcomed Michael Reeves as the newly appointed DRB member and asked Michael to share a little about himself. Michael expressed that he is originally from Rhode Island and he and his family have resided in Middlebury for six years. He is a professor at Castleton College.

David H.- announced that Anne Taylor had recently resigned from the DRB. David thanked her for her many years of service and wished her well.

David H.- reviewed the agenda. DRB members were introduced and David outlined the meeting procedures. Chat feature on Zoom is set to allow one to visit with host only (Jennifer Murray).

**II. Approval of minutes-**

**Motion by Kevin Newton-** Kevin moved to approve the minutes of April 25, 2022 as drafted, 2<sup>nd</sup> by Gary Baker. Discussion- none noted, **Motion to approve minutes, 4 yes, 0-no-** Mark and Michael abstained.

**III. Public Hearing business-** Recording was started.

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David Hamilton – opened the hearing, read warning and asked if any DRB member had a conflict of interest and/or ex-parte communications regarding this application-

Jason Larocque expressed that his firm had completed the potable water/wastewater requirements for the applicants. David surveyed the DRB and those persons attending. No objection was expressed. Jason will act as a voting DRB member tonight.

David H. - administered the oath to applicants- Dave Silberman and Michael Sims, guests Lisa Mitchell and Kelly Hickey, and staff Jennifer Murray and David Wetmore.

David H. - invited the applicants to present an overview of their plans for a retail store at 2 Park Street.

David Silberman – introduced his partner Michael Sims. Michael is a co-applicant to this application.

Michael S.- expressed that he was originally from Shoreham and attended area schools including Middlebury College. He has been in the hemp business for many years and is very knowledgeable of the cannabis and hemp markets. Mike has formed a partnership with David Silberman to bring safe, natural, VT organic THC products to the general public through the Vermont Cannabis Control Board (CCB) licensure requirements. Michael expressed that cannabis is one of the few products not available online and that customer traffic to their store will draw people downtown which will help all downtown businesses. The store will be a bright, safe, welcoming space for customers.

David S.- shared that he is a resident of Middlebury. His specialty as an attorney is cannabis law and the legal aspects of cannabis. He helped draft VT’s cannabis law. The applicants request is to return the former Deppman Law office use back retail use and services. Prior to the law office use, the 2 Park Street space had been continually used for retail purposes since the 1950’s. David and partner Michael Sims propose that the retail space will be occupied by a licensed cannabis retail store as allowed by the State of VT and the CCB. They believe that returning the space to retail use will help support other downtown retail uses. The store front will remain attractive, window covering is simple and required by CCB. David shared that Middlebury voters settled the political question surrounding the retail sales of cannabis in March of 2021. That being the case, applicants are here as any other applicant may be required- requesting conditional use approval for the change of use from the existing professional office use to a retail store and /or service use. Both uses are allowed in the Central Business District (CBD). All allowed uses in the CBD are conditional uses.

David H.- opened to DRB questions.

Jason L. – asked if they will be selling only prepackaged cannabis products. David S. explained that they are seeking licensure as both a retailer and wholesaler. This will allow them to repackage products. It will also allow them to wholesale products to a manufacturer for repurposing in other products.

Michael R. - why was the 2 Park Street location chosen? David S. explained that they had looked at many store fronts, including 51 Main Street, former Ben Franklins, Stationary store and 48 Main Street. Some were deemed too expensive, others small and one owner was not supportive of cannabis. The 2 Park Street is a good fit, providing adequate space, and good lease terms. The applicants expressed their sentiments that retail cannabis sales should not be excluded from the downtown as the zoning amendments propose. The 2 Park Street space is slightly off Main Street and less “in your face” so to speak. There are also CCB requirements that limit where retail sales can be located.

Kevin N. - asked if the use/conversion of the 2 Park Street space will require compliance with the Dept. of Public Safety. David S. confirmed that Josh Maxham, Fire Marshall is scheduled to meet with them next week. Yes, this space will be required to comply with all life safety requirements.

Kevin N. - asked about anticipated odors from retail cannabis products? Applicants noted that they are not manufacturing products and all retail products will be stored in sealed containers and/or sold in sealed packaging to preserve freshness. It is the manufacturing process that creates the most potential for odor. The odors, if any, are expected to be very minimal. In addition, the applicants are installing a carbon air filtration system to maintain indoor air quality as well as eliminate any odor escaping their space.

Kevin N. - asked about exterior lighting? No changes are currently planned. If needed all lighting will conform to the Towns requirements.

Mark W. - asked about expected customer traffic? Applicants responded that market rollout is still occurring and there is not much information available. A recent VPR survey suggest that 35-45% of residents have an interest in cannabis products. This would suggest that upwards of 15,000 Addison County residents are potential customers. David presented statistics related to Oregon and Massachusetts, both very different in how they operate. Mark asked how/does this relate to parking requirements? David S. stated that Middlebury Zoning Section 760 has requirements for determining retail parking requirements. They plan to use only 500 sq. ft. for retail sales, another 300 sq. ft. will be used for reception area. The combined space 800 sq. ft. would require 6 or 7 parking spaces, well below the 12 required for the existing office use. Applicants also noted that Owner has dedicated parking behind the building for this space. This was the same for Deppmans Law offices. These 2 spaces do not take away parking for residential occupants.

David H.- asked about outdoor storage needs. Applicants responded that the Owner provides a dumpster at the rear of the building. No additional outside storage is anticipated.

David H.- Will you host outside/porch type events? Not likely, it would be difficult given the regulations around cannabis.

David H. - opened to Staff comments:

Jennifer Murray- asked who the owner of the property is and are Dave Silberman and Michael Sims considered co-applicants? Park 88, LLC is owned by Matthew Bonner. Dave and Michael are partners and co-applicants to this application.

Dave Wetmore- asked about other entry/exits to the space. David S. explained that there is a rear entrance at the street level space and there is also an exit through the basement as well. The basement entrance is shared with others. The applicants' space, off of the shared access, is a locked dry space and if allowed by the Fire Marshall may be used for storage purposes. The CCB requires a security system for the entire facility. Every exterior door and window will be under 24 hour video surveillance.

Dave W. - asked about disposal of waste cannabis products? If there is some, it can be sold via their wholesale license to a licensed manufacturer and incorporated into other cannabis products. The CCB requires that any waste product must be made unusable before disposal.

David H. - opened the hearing to the public for questions/comments.

Andy Mitchell- expressed full support for the use.

Kelley Hickey- questions have been answered, she was most concerned about parking.

Dave H.-asked if there were more questions/comments- none expressed

Dave H. - closed public comment

Dave H. - asked DRB how they wanted to proceed. Kevin stated he is ready to vote.

**Motion by Gary Baker-** I move that the Middlebury Development Review Board, having reviewed the application submitted and having heard and duly considered the testimony presented at the public hearing on May 9, 2022, approve this request for conditional use approval for the retail store and/or services use of the 2 Park Street space as presented in the application by David Silberman and Michael Sims, dba Park Rec, LLC on parcel # 024066.000, subject to conditions outlined. 2nd by Kevin Newton- no discussion. Motion approved 6 –yes and 0-no

David H. Closed hearing at 7:50 PM

**V. Other Business- Election of Officers**

Kevin moved to nominate David Hamilton as DRB chairperson for the coming year. 2<sup>nd</sup> by Gary. No further nominations. Motion called. 5-yes, 0-no. David abstained

David H. moved to nominate Kevin Newton as DRB Vice Chairperson for the coming year. 2<sup>nd</sup> by Gary. No further nominations. Motion called. 5-yes, 0-no. Kevin abstained

**VI. Adjournment**

**Motion by Jason Larocque-** Jason moved the DRB to adjourn at 8:00 PM, 2nd by Gary Baker. **Motion passed, 6-yes, 0-no.** Meeting adjourned at 8:00 PM.

Minutes submitted by Dave Wetmore